NY Gov. Cuomo Bemoans High Taxes, Regulations That Are Forcing Wealthy to Leave

By Bonner R. Cohen

New York State tax revenues will fall $2.3 billion short of budget projections, Gov. Andrew Cuomo announced at a news conference.

Cuomo rejected calls to raise taxes on the rich as a way to fill the gap. “We have the second highest millionaire’s tax in the United States of America,” Cuomo said on North Country Public Radio and was quoted in multiple news reports. “And you have some people saying we should be number one—raise taxes even more.

“This is the flip side: tax the rich, tax the rich, tax the rich, the rich

HIGH TAXES, p. 8

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The Bottom Line

Freer Cities Grow Faster
Metro areas with low taxes and reasonable regulation are more prosperous and have growing populations.  Page 14

Sheriffs Say ‘No’ to Gun Law
More than half the county sheriffs in Washington State say they won’t enforce the state’s controversial new gun law.  Page 11

NY Minimum Wage
New York City restaurants are laying off workers as the state’s mandated minimum wage increases.  Page 10

State Tax Avoidance
Baseball player Bryce Harper is saving $10 million by signing with the Philadelphia Phillies instead of a California team, exemplifying the talent flight out of high-tax states.  Page 20

Making School Safer
Child Safety Accounts would empower parents to move their children to safer schools after incidents of bullying or violence, says a Columbine survivor.  Page 6

West Virginia Education Choice Bill Scuttled After Teachers Strike

By Bonner R. Cohen

West Virginia lawmakers withdrew a bill aimed at improving educational opportunities for the Mountain State’s public-school students after two days of a strike called by teachers’ unions to protest the bill.

The strike forced schools in 54 of West Virginia’s 55 counties to close on February 20 and 21.

The omnibus legislation would have created education savings accounts (ESAs) for some students, established a nonrefundable tax credit parents and teachers could use for children’s educational expenses, and autho-

EDUCATION CHOICE, p. 4
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Local Opposition Squelched New York’s Amazon Deal, but Other Subsidies Remain

By Sarah Quinlan

Opposition from residents, activists, and local politicians toward tax incentives for the giant online retailer Amazon led the company to drop its plan to build new corporate offices in New York City, but New York offers plenty of subsidies for other businesses.

New York City and the state had offered Amazon $1.2 billion in tax credits and a cash grant of $325 million over 10 years if the company were to reach its hiring and building targets, amounting to more than $60,000 in tax breaks and subsidies per new job created.

The cancellation of Amazon’s HQ2 will mean fewer job opportunities for New Yorkers, says Seth Barron, associate editor of City Journal and project director of the NYC Initiative at the Manhattan Institute.

“Amazon’s decision not to establish a major official presence in New York City is unfortunate for a number of reasons, not least of which is the loss of potentially tens of thousands of professional-level positions and the development of a long-forsaken corner of western Queens,” Barron said.

‘Picking Losers’

The state government in Albany offers generous subsidies for economic development, says Barron.

“[T]he money being offered to Amazon was actually minor in the context of corporate subsidies already offered in New York State … and would have easily been made up for by additional tax revenue,” Barron said.

The incentives offered to Amazon were a small portion of the sums New York has spent to lure new business development, says William Bredderman in an article for Crain’s New York Business.

“[U]nder the umbrella of Empire State Development, … Cuomo has given away $5.4 billion … while the New York Power Authority, which the governor also controls, gives away hundreds of millions annually in discounted electricity,” Bredderman wrote.

Aggrieved Politicians

Politicians who were not included in the Amazon negotiations responded negatively to the company’s decision to come to New York, says Barron.

“Local politicians who were aggrieved at not being included in the bargaining process … took a demagogic stance of opposition to it afterward, focusing on details like a corporate helipad as evidence that the project was an elitist thumb in the eye of the average struggling New Yorker,” said Barron.

The officials who led opposition to the Amazon deal favor other corporate tax breaks, says Barron.

“These … same officials applaud other forms of direct corporate subsidy such as tax rebates on film and television production,” Barron said.

New York has subsidized ventures that have not yielded results, such as the Tesla solar factory in Buffalo, says Barron.

“[New York State] is notorious both for its crony capitalism and for picking losers, as in the case of the solar panel factory it spent $750 million on upstate,” said Barron.

Touts ‘Limited-Government Outlook’

There are alternative policies that would create a better climate for business development, says Todd Gabel, an associate professor of economics at the University of Texas at Arlington and a policy advisor to The Heartland Institute, which publishes Budget & Tax News.

“Market solutions to public policy should generally not involve subsidizing or giving tax credits to firms but rather provide a climate where entrepreneurs are free to take risks and innovate while bearing the losses or profits in doing so,” said Gabel.

Greater economic freedom would be more beneficial to New Yorkers, says Gabel.

“Low taxes, respect for private property, and commonsense regulation will foster the greatest economic growth. By contrast, artificially imposing barriers to this activity by picking winners and losers in the marketplace, ‘crony capitalism,’ … will reduce it.”

TODD GABEL
ASSOCIATE PROFESSOR OF ECONOMICS
UNIVERSITY OF TEXAS AT ARLINGTON

By Sarah Quinlan

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UNIVERSITY OF TEXAS AT ARLINGTON
W. Virginia Education Choice Bill Scuttled After Teachers Strike

Continued from page 1

rized the state’s first charter schools. It also included a 5 percent pay raise for teachers, on top of a 5 percent raise they received after a strike in 2018.

The bill passed the state Senate but failed in the House of Representatives after a contentious debate and the teachers strike.

No Choice
The proposed ESAs would have allowed parents of children with special needs a chance to customize the child’s education. Up to 1,000 students could have had state money deposited in accounts that could have been used for private school tuition, online learning, special education services and therapies, and textbooks. Parents could have rolled over unused ESA funds from year to year.

ESAs would give students with special needs or disabilities a badly needed increase in educational opportunities, says Tim Benson, a policy analyst with The Heartland Institute, which publishes Budget & Tax News. “ESAs offer families improved access to high-quality schools that meet their children’s unique needs and circumstances,” said Benson. “Moreover, these programs improve access to schools that deliver quality education inexpensively.”

ESAs are currently available in five states, according to the reform organization EdChoice.

The bill would also have authorized seven charter schools, which are publicly funded but independently managed. Forty-three states have enacted charter school laws.

‘Defeat for the Children’
The West Virginia House of Delegates did not take up the state Senate’s omnibus bill in the wake of the teachers’ strike. That was a defeat for students in the state, says Jeanne Allen, founder and CEO of the Center for Education Reform.

“Teachers' unions would like to paint this as a victory for teachers, but it’s really another defeat for the children of West Virginia,” said Allen. “Year after year, politicians kill hope for charter schools in the Mountain State,” Allen said.

‘Falsehoods and Misinformation’
Opposition to the bill was driven by a political agenda, says Lennie Jarratt, state government relations manager at The Heartland Institute, after witnessing the legislative argument.

“During the debate on the House floor, it was obvious this was about political ideologies, and not what was best for the children of West Virginia,” Jarratt said. “Falsehoods and misinformation abounded throughout the 10-hour debate, pushing students to the back of the agenda bus,” said Jarratt.

Status Quo, ‘Powerful Allies’
With millions of children attending charter schools or participating in other choice programs across the nation, it’s a shame children in West Virginia don’t have that choice, says Garrett Ballengee, executive director of the Cardinal Institute in Charleston.

“Sadly, West Virginia’s children will have to wait another year, at least, before they have the same access to educational opportunities that millions of children across the United States have had for years. The status quo and its powerful allies have prevailed once again.”

GARRETT BALLENEGEE
EXECUTIVE DIRECTOR
CARDINAL INSTITUTE

Back of the Pack
West Virginia ranks 46th out of the 50 states in the National Assessment of Educational Progress measurement of 8th grade mathematics achievement. In reading levels for eighth graders, the state’s students rank 45th nationwide.

The poor performance of the state’s government schools is unacceptable, says Allen. “Year after year, the state’s schools rank as some of the worst in the nation,” said Allen.

“While unions and legislators are content with the status quo, parents and students should not settle for an education system that deprives them of real opportunity,” Allen said.

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.

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‘Strong Economic Performance’ Continues, Council of Economic Advisers Reports

By Bonner R. Cohen

The U.S. economy “outperformed expectations” in 2018, for the second year in a row, states a new report from the Council of Economic Advisers (CEA).

Jobs and economic output are now growing faster than at any other time since the Great Recession ended in 2009, the CEA reported in its summary of the 2019 Economic Report of the President. CEA released the report on March 18.

“The strong economic performance in 2017 and 2018 constituted a sharp break from the previous pace of economic and employment growth since the start of the present expansion,” the report’s authors wrote.

There were “more job openings than unemployed [persons] in 2018 for the first time on record,” as both wages and employment have been rising, the CEA summary says.

‘Triumph of Free Enterprise’
The improving U.S. economic performance reflects an unleashing of the private sector, says Dr. Tim Huelskamp, president and CEO of The Heartland Institute, which publishes Budget and Tax News.

“This economic report is not only full of positive economic news for Americans and our economy, but it also reflects the triumph of free enterprise over big government,” Huelskamp said.

Increased investment resulting from the lower burden on capital and the cutting of red tape led to robust employment growth, Huelskamp says.

“Entrepreneurs and businesses created millions of new jobs, in large part because of President Trump’s efforts to reduce regulations and cut taxes,” Huelskamp said.

Growth Exceeding Projections
“The U.S. economy has created 5.3 million jobs since I was elected to office,” said President Donald Trump in his report to Congress. “Wage growth continued in 2018, with the lowest-earning workers experiencing the strongest gains.

“By the fourth quarter of 2018, real disposable personal income per household was up more than $2,200 from the end of 2017,” Trump said. “The national unemployment rate reached a nearly 50-year low of 3.7 percent in September 2018, hovering at or below 4 percent for 11 consecutive months—the longest streak in nearly five decades.”

The economy outperformed official Congressional Budget Office forecasts, says Merrill Matthews, a resident scholar with the Institute for Policy Innovation.

“The Trump economy has exceeded many of the CBO’s projections,” Matthews said. “By contrast, actual results during the Obama administration were usually much lower than CBO projections.”

‘Tax Cuts Are Working’

Pro-market policy changes led to increased capital formation and higher worker pay, says Adam Michel, a senior policy analyst at The Heritage Foundation.

“Deregulation and then tax cuts created clear signs that caused investment and wage growth to increase significantly,” Michel said.

Buybacks of company shares by some corporations led to more profitable uses of capital, says Michel.

“What are investors doing with their stock buyback dollars? It appears they are reinvesting that money in new, more innovative businesses,” said Michel.

“Stock buybacks and the resulting significant increases in investment actually show the tax cuts are working as intended, by refueling a resurgence of American investment and productivity, which are the main drivers behind the current, highest wage growth rate in a decade,” Michel said.

Energy Boom Drives Economy
America’s booming energy sector has helped fuel this economic growth, says Matthews.

“The president’s efforts to free up the production of crude oil and natural gas have goosed an already thriving market,” said Matthews. “This has allowed the United States to surpass Saudi Arabia and Russia to become the largest crude oil and natural gas producer in the world.”

Forecasts 3 Percent Growth
If the president’s program is implemented fully, the economy will grow at a substantial rate over the next decade, the report states.

“The Trump Administration’s policy-inclusive forecast (which assumes full implementation of the Administration’s economic agenda) is for real GDP to grow at an average annual rate of 3.0 percent during the 11 years between 2018 and 2029,” wrote the report’s authors.

If the United States follows an agenda that attracts capital investment, economic growth will continue to improve, says David Ranson, president of HCWE & Co. and a policy advisor to The Heartland Institute.

“[Those policies are] a low, stable, and simple tax-rate structure; tranquil capital markets; the lifting of excessively burdensome regulation; and a stable and strong dollar,” said Ranson.

“Historically, the economy has never had any difficulty growing sustainably at or above 3 percent when those policies are followed,” Ranson said.

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.

Sources: Bureau of Economics Analysis; Bureau of Labor Statistics; U.S. Census Bureau; CEA calculations. Note: All trends are estimated over a sample period covering the entire preelection expansion from 2009:Q3 (2009, July) to 2016:Q4 (2016, November). Figure I-4 represents the average nominal weekly earnings of goods producing production and nonsupervisory employees in nominal dollars. Trends are estimated on compound annual growth rates and levels reconstructed from projected rates.
Four out of five students report violent school students report being bullied. "Around one in five middle- and high-school students, still remains a pressing issue for too many students today," said Alger. "Families choose schools based on safety," said DeAngelis. "No parent wants their kid to end up in a dangerous school. And private schools must cater to the needs of parents if they wish to stay in business. On the other hand, public schools hold a strong monopoly that shields them from competitive pressures."

**Immediate Relief**

Child Safety Accounts (CSAs)—education savings accounts parents can use to pay for tuition, fees, and other education-related expenses at government schools, private schools, or homeschooling—would bring much-needed relief, says Alger. “CSAs would allow parents to move their children immediately to a safer school—be it private, parochial, or public—as soon as they feel the public school their child is currently attending is too dangerous to their child's physical or emotional health,” said Alger. Parents should be allowed to move their children without delay, says Alger.

By Joe Barnett

The mass shooting at Columbine High School 20 years ago this April 20, and many subsequent incidents of violence in government schools, have led parents and policymakers to look for ways to make schools safer for their children.

Bullying and physical violence are common problems today, says Vicki Alger, a senior fellow with the Independent Women’s Forum and a policy advisor to The Heartland Institute, which publishes Budget & Tax News. “We mustn’t forget that school safety still remains a pressing issue for too many students today,” said Alger. “Around one in five middle- and high-school students report being bullied. Four out of five students report violent incidents at their schools.”

**Options in Florida**

One state has already taken a step to provide students an escape hatch, says Alger. “Florida’s Hope Scholarship program empowers parents to act without having to wait for permission from school officials,” said Alger. “Any student who’s been subjected to any of a wide range of school safety incidents is eligible for a scholarship to another public or private school of their parents’ choice,” Alger said.

For example, the most recent incidents of bullying are tragically too common in our public-school system, but students and their families should not feel helpless. That is why I have introduced the CSA legislation.”

**By Joe Barnett**

**Tragically Too Common**

The Child Safety Account Act would challenge the norm and provide safer education for students in Colorado, says Neville. “Incidents of all forms of bullying are tragically too common in our public-school system, but students and their families should not feel helpless,” said Neville. “That is why I have introduced the CSA legislation.”

High-income parents have safer school options, and this bill would give that to others, says Neville. “The freedom of choice in education that is afforded to wealthy families should be extended to all families,” said Neville.

Joe Barnett (joepaulbarnett@att.net) is a research fellow with The Heartland Institute.

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REPRESENTATIVE ISAAC LATTERELL
SOUTH DAKOTA
NY Gov. Cuomo Bemoans High Taxes, Regs That Are Forcing Wealthy to Leave

Continued from page 1

leave,” Cuomo said. “And now what do you do?”

The outbound migration of residents noted by Cuomo in his February 4 statement and subsequent comments highlights a nationwide trend of people and businesses moving from high-tax states such as New York and Illinois to low-tax places such as Florida and Texas.

‘Federal Subsidy’ Reduced

Cuomo blamed the current budget woes on the new $10,000 limit on the deductibility of state and local taxes (SALT) on federal tax returns in the Tax Cuts and Jobs Act of 2017. The cap on “SALT was an economic civil war,” said Cuomo, The Wall Street Journal reports.

The SALT cap rightly requires taxpayers in high-tax states to bear more of the burden of state taxes, says Adam Michel, a senior policy analyst at The Heritage Foundation.

“The cap on state and local tax deductions reduced the federal subsidy for high state tax rates, so now residents of states with uncompetitive, high tax burdens will actually have to pay those rates, rather than passing the cost along to federal taxpayers,” said Michel.

The SALT cap is increasing people’s awareness of their state tax burdens, says Robert Klein, a regional director of Inertia Advisor Services Group and a policy advisor to The Heartland Insti-

tute, which publishes Budget & Tax News.

“The SALT reduction pulled the sheet off of the proverbial corpse,” said Klein. “You cannot hide behind high taxes by saying, ‘but you can deduct it.’ Smart money will leave, and those that stay will keep voting for this insanity.”

Officials ‘Failed to Anticipate’

Contrary to the governor’s “tax the rich” lament, he certainly isn’t opposed to high tax rates on the wealthy, says E.J. McMahon, a senior fellow at the Empire Center of New York.

“The same budget includes a five-year extension of the state’s millionaire’s tax,” said McMahon. “The highest 1 percent [of taxpayers] pay 40 percent of our total income tax.”

The SALT limit didn’t cause the budget shortfall, says McMahon.

“They simply failed to anticipate the fall in capital gains tax revenue due to the 15 percent fall in the stock market,” McMahon said.

Tax Cuts ‘a Game-Changer’

Many states experienced a surge in revenues after enactment of the 2017 federal tax reform, says Jonathan Williams, chief economist and vice president of the Center for State Fiscal Reform at the American Legislative Exchange Council.

“The untold story of federal tax reform’s success is the opportunity the new law has provided policymakers across America’s 50 ‘laboratories of democracy,’ where unexpected tax receipts that are directly linked to changes [in] the federal tax code have been a game-changer in many state capitols this past year,” said Williams.

Some states seized the opportunity provided by the 2017 federal tax reforms to improve their competitive standing, says Williams. Taking advantage of the revenue windfall, lawmakers in Georgia, Idaho, Iowa, Missouri, and Vermont lowered tax rates in 2018.

“These state tax reforms continue to build on a trend, as states look for ways to become more competitive,” Williams said.

Committed to High Taxes

The migration of people and money to low-tax, low-regulation locales “highlights the robust relationship between tax policy and economic health of a state,” a new study coauthored by Williams reports.

While many states stand by their commitment to free markets and limited government, others continue their preoccupation with high taxes and bloated government,” reports the 11th annual edition of Rich States, Poor States: ALEC-Laffer State Economic Competitiveness Index, by Arthur B. Laffer, Stephen Moore, and Jonathan Williams, released by ALEC on January 31.

‘Exceptional State’

New York ranked dead last in the ALEC competitiveness index, whereas Utah ranks first.

It isn’t surprising that Utah finished first, says Derek Monson, vice president for policy at the Sutherland Institute in Utah.

“Utah is an exceptional state for many reasons,” said Monson. “First and foremost, it’s our policymakers’ recognition that it’s the private sector, not the government, that produces jobs, income, and growth. This recognition prevents overregulation. Our state’s fiscal conservatism leads to well-managed budgets and a reasonable tax burden.”

‘A Terrible Place’ for Business

There are a host of state policies that prevent overregulation, says Seth Barron, associate editor of City Journal, published by the Manhattan Institute.

“New York State is simply a terrible place to do business,” said Barron.

“The governor’s anti-growth energy policy, including a ban on fracking in some of the resource-richest areas of the country, hasn’t helped. Hyper-regulation, powerful unions, and a high minimum wage do nothing to incentivize economic growth upstate.”

Seth Barron
Associate Editor
City Journal

INTERNET INFO


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Bonner B. Cohen, Ph.D. (bcoben@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.
California Supreme Court Upholds Pension Reforms, but Problems Remain

By Joe Barnett

The California Supreme Court upheld reforms to the state’s pension plans for public employees, which will save taxpayers billions of dollars but leave the system with hundreds of billions of dollars in unfunded obligations.

The court’s March 4 ruling upheld Gov. Jerry Brown’s 2012 reform curtailing the practice of allowing employees to purchase service credits in order to increase their pensions. Brown also raised the amount employees must contribute to retiree health care coverage. The changes will save $29 billion to $38 billion over the next 30 years, reports the nonprofit news service CALmatters.

California has two state retirement systems: one providing pension incomes and health benefits for local and state government employees, and one for government school teachers. The systems have total estimated unfunded future obligations of $400 billion, based on 2016 data, CALmatters reports.

Nationwide, the unfunded liabilities of state and local public employee pension plans total about $4.4 trillion, according to Investors.

Lower Expectations for Returns

The reason public pension systems in California and other states are underfunded is that governments make overly optimistic assumptions about the rate of return on investments, says Olivia S. Mitchell, a professor of business economics and public policy at the University of Pennsylvania’s Wharton School of Business.

“Public pensions should use a discount rate consistent with the public sector’s cost of borrowing money,” said Mitchell.

“So, for instance, instead of the far-too-high 7.5 percent to 8 percent current rates, they should be closer to 4.5 percent to 5 percent,” Mitchell said. “Of course, this change would massively blow up funding costs, but this is a fairer picture of what is actually owed to public employees.”

Joe Barnett (joe paulbarnett@att.net) is a research fellow with The Heartland Institute.

Indiana House Passes Self-Defense Lawsuit-Immunity Bill

By Ashley Herzog

A bill to protect individuals from civil liability for defending themselves against crimes is under consideration in the Indiana legislature.

Indiana H.B. 1284, sponsored by state Rep. Jim Lucas (R-Seymour), would provide immunity from civil lawsuits by the perpetrators of violent crimes seeking money from people who defended themselves or those who came to their aid. The proposed law would award attorney’s fees to a civil defendant when the justified use of force is successfully raised by the defendant being sued.

The bill passed the state House of Representatives on February 11 and was referred to the Senate.

‘Victimized Twice’


“Kystie Phillips saw the conservation officer getting attacked and shot the attacker with her legally owned gun to end the struggle. In a sense, people like Phillips are victimized twice. First they’re traumatized by a violent crime, and then they are slapped with a frivolous lawsuit by attorneys representing the criminal.”

Jim Lucas
Indiana State Rep. (R-Seymour)

Attackers ‘Weaponize the Courts’

Although criminals can file civil lawsuits against their victims who act to defend themselves, such lawsuits can be a form of harassment, says Joseph Greenlee, a fellow in constitutional studies and firearms policy at the Millennial Policy Center.

“Attackers can initiate civil actions against their victims for injuries they sustained when the victim resorted to self-defense,” said Greenlee.

“Put differently, victims, after fending off unprovoked and deadly violence, would sometimes then face civil liability and costly legal fees for defending their lives,” said Greenlee.

“It is common sense that a violent attacker should not be able to weaponize the courts to continue abusing their victims.”

‘Castle Doctrine’ Success

An immunity law in Pennsylvania that expanded the ‘castle doctrine’—the right to defend one’s home—has worked, says Greenlee.

“Pennsylvania passed a similar law in 2011 when it expanded its castle doctrine,” said Greenlee. “Since then, it does not appear that a single one of these frivolous lawsuits has been brought by an attacker against his victim in that state.”

“This is strong support for the argument that such laws deter abusive civil actions,” said Greenlee.

‘Prohibit and Punish It’

The victim of a violent crime can incur big legal bills defending against this type of lawsuit, thus compounding the injury, says Greenlee.

“In addition to subjecting their victims to deadly attacks, the perpetrators then inflict emotional distress and potentially bankrupt their victims by forcing them to defend against civil lawsuits,” said Greenlee.

“This constitutes an egregious abuse of the justice system, and legislatures are correct to prohibit and punish it,” Greenlee said.

Ashley Herzog (aebristow85@gmail.com) writes from Avon Lake, Ohio.
State Minimum Wage Is Costing Jobs for New York City Restaurant Workers

By Sarah Quinlan

The minimum wage in New York City, which rose to $15 an hour on January 1, 2019 as the latest in a series of increases under state law since 2015, is causing job losses in the city’s restaurant industry, data shows.

The $15 minimum wage currently applies to all New York City businesses with more than 10 employees. In 2020, it will apply to NYC workers in businesses with 10 or fewer workers.

The $15 minimum wage will be phased in across the state over the next few years under a 2016 law signed by Gov. Andrew Cuomo. If the $15 standard were in force statewide in 2020, it would cause the loss of 45,031 jobs, a January 2019 Employment Policies Institute (EPI) study found. If a $15 minimum wage were required nationwide in 2020, the job losses would be two million, the EPI states.

Rising labor costs have led to job losses at full-service and fast-food restaurants in New York City, an Investor’s Business Daily editorial stated on February 20.

“In NYC, combine statutorily rising minimum wage has risen, the New York City Hospitality Alliance reports.

More than one-third of the city’s full-service restaurants eliminated jobs in 2018, and nearly half expect to cut jobs this year, a Hospitality Alliance survey conducted in November and December of 2018 found. Half of the city’s limited-service, or fast-food, restaurants surveyed reported cutting jobs in 2018, and more than half said they will eliminate positions in 2019.

Cutbacks Documented

Both full-service and fast-food restaurants have reduced the number of workers they employ as the mandated wage has risen, the New York City Hospitality Alliance reports.

More than three-fourths of the New York City restaurants surveyed cut worker hours in 2018 to offset that year’s wage hike, and three-fourths say they want to cut hours this year, the survey found.

Cutbacks Documented

The New York City Council is considering amendments to the city’s Administrative Code that would specifically apply to fast-food restaurants and make it more difficult for employers to fire workers or eliminate positions.

Fast-food employers would be prohibited from laying off employees without a “bona fide economic reason” such as “the full or partial closing of operations or technological organizational changes to the business resulting in the reduction in the volume of production, sales, or profit,” states Council Member Adrienne Adams’ local law bill No. 1396. The bill would also require layoffs to be conducted in reverse order of seniority, known as last in, first out.

Council Member Brad Lander’s local law bill No. 1415 would prohibit fast-food employers from terminating any employee without “just cause.”

Expanding the Scope

New York’s regulations are speeding the process by which rising labor costs created by government mandates spur greater automation in the fast-food business, thus eliminating jobs permanently, says Thomas Hemphill, an economics professor at the University of Michigan-Flint and a policy advisor to The Heartland Institute, which publishes Budget & Tax News.

“By the end of last year, there were fewer restaurant workers in the city than in November 2016. In just the last three months of last year, 4,000 workers lost jobs at full-service restaurants, Bureau of Labor Statistics data show.”

Unskilled Workers Hit Hardest

Inexperienced and unskilled workers, which includes many food service workers, bear the brunt of the job-killing effect of minimum wages, says John Phelan, an economist with the Center of the American Experiment.

“Economists David Neumark and William Wascher reviewed all the evidence,” said Phelan. “They show that minimum wages do have a negative impact, and these impacts are disproportionately felt by less-skilled employees.”

Such employees receive less pay because they are less productive than others, which means the minimum wage punishes them for not being more sought after, says Phelan.

“All the minimum wage does is outlaw employing anybody whose productivity per hour is below whatever the minimum wage might be—say, $15 an hour,” Phelan said.

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FEBRUARY 20 EDITORIAL

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Nebraska Considers Massive Alcoholic-Beverage Tax Increases

By Lindsey Stroud

The Nebraska Legislature is considering a bill that would fund property tax relief with huge increases in excise taxes on beer, wine, and spirits, a $1.50 increase in the cigarette tax, and hikes in other taxes.

The bill would increase the tax on beer by 345 percent, on wine by 1,032 percent, and on distilled spirits by 227 percent. It would hike the tax on wines produced in the state by 4,267 percent.

L.B. 497 would raise the state’s tax on beer from 31 cents per gallon to $1.38 per gallon, on wine from 31 cents per gallon to $3.51 per gallon, and on liquor from $3.75 per gallon to $12.28 per gallon. Wines produced by Nebraska farm wineries would be taxed at a slightly lower rate, increasing from 6 cents per gallon to $2.62.

The bill would generate $523 million to fund increased state aid to local districts in order to reduce property tax rates, state the bill’s sponsors. The alcohol tax hikes would raise an estimated $121 million annually.

The bill, one of several competing property tax relief proposals, is sponsored by 12 state senators in the 49-member unicameral, or one-house, Nebraska Legislature, and was introduced in January.

Craft Beer Boom

Local craft breweries that produce small volumes of beer are growing in popularity nationally and in Nebraska, says Jarrett Dieterle, director of commercial freedom policy at the R Street Institute.

“The craft beer industry is booming across the country,” said Dieterle. “In 2017, craft breweries created the second-most manufacturing jobs of any industry in America.”

“Nebraska is no exception,” Dieterle said. “Nebraska has 3.5 breweries per 100,000 people, which puts it in the top 15 states for breweries per capita. Overall, breweries had a $465 million economic impact in the state.”

“The craft beer industry will shrink if Nebraska moves forward with this tax hike, says Dieterle.

“Research has demonstrated that increasing taxes on products like beer can lead to a decrease in brewpubs and breweries in a state,” said Dieterle.

Says Sin Taxes Are Unreliable

States can’t count on the expected revenue from sin taxes meant to discourage use of such products, says Matthew Glans, a senior policy analyst at The Heartland Institute, which publishes Budget & Tax News.

“You can’t rely on sin taxes,” said Glans. “The revenue will decrease over time, which is essentially the goal of the tax.

Crossing Lines

Hiking taxes on alcoholic beverages will lead to illegal importing from other states, says Edwin Hudgins, research director at The Heartland Institute.

“Nebraska’s alcohol tax hike will likely not result in the expected revenue, because of both the black market and smuggling,” said Hudgins.

“The road between Omaha and Iowa will get a lot of use,” Hudgins said. “Nebraska policymakers might want to look to the Washington, DC, suburban Maryland, and Virginia area. Citizens regularly cross state lines to take advantage of lower costs between jurisdictions.”

‘Will Harm the Less Prosperous’

Sin taxes are regressive, putting a greater burden on lower-income people, says Hudgins.

“This [tax] will harm the less-prosperous citizens,” said Hudgins. “After a hard day’s work, a relaxing beer will become a luxury.”

Lindsey Stroud (lstroud@heartland.org) is a state government relations manager at The Heartland Institute.

Most Washington State Sheriffs Refuse to Enforce Disputed Gun Law

By Owen Macaulay

The sheriffs of more than half the counties in Washington State will not take steps to enforce new state regulations on semiautomatic rifles, the constitutionality of which are under dispute in a federal lawsuit, according to court records.

Washington State’s Initiative 1639, passed on November 6, 2018, raised the minimum age to purchase a semiautomatic rifle from 18 to 21, effective January 1, 2019. Provisions requiring buyers to pass a safety course before purchasing a firearm, expanding background checks, and setting gun storage requirements take effect July 1, 2019.

The National Rifle Association (NRA) and the Second Amendment Foundation (SAF) have filed a federal lawsuit arguing the measure is unconstitutional.

Exercising Discretion

Government officials often exercise discretion in enforcing laws, says Len-nie Jarratt, a project manager at The Heartland Institute, which publishes Budget & Tax News.

“The right of a sheriff or other law enforcement officer to ignore certain laws is still a question that is going to eventually be worked out in court,” said Jarratt. “While some argue they must enforce every law, that simply cannot happen with the number of laws being created all the time,” Jarratt said.

“Then there is the consistency argument,” Jarratt said. “In some states and localities, sheriffs refusing to enforce immigration laws is deemed appropriate. Refusal to enforce laws restricting the Second Amendment has a much stronger constitutional justification and is therefore far more justifiable.”

Sheriffs will ultimately be held accountable at the ballot box, says Jarratt.

“For elected officials, listening to the voters is a long and proud tradition,” said Jarratt. “If the voters don’t like this lack of enforcement, they will vote the official out of office at the next election.”

Arguing Constitutionality

The NRA-SAF lawsuit argues the Washington law misclassifies ordinary recreational firearms in common use as assault weapons and denies young adults their right to self-protection.

“The NRA is committed to restoring the Second Amendment rights of every law-abiding Washingtonian,” said Chris W. Cox, executive director of the NRA Institute for Legislative Action, in a press release.

“The NRA will fight to overturn this unconstitutional initiative,” said Cox. “We will not sit idly by while elitist, antigun activists attempt to deny everyday Americans their fundamental right to self-defense.”

The NRA-SAF filed the lawsuit in the U.S. District Court for the Western District of Washington in February.

Owen Macaulay (omacaulay@hillsdale.edu) writes from Hillsdale, Michigan.
Civil Asset Forfeiture Reform Under Consideration in Texas

By Bill Eastland

Two bills to reform Texas’ civil asset forfeiture laws are being considered in the state legislature.

H.B. 404, introduced by Rep. Senfronia Thompson (D-Houston), would end civil asset forfeiture and transition the state to a criminal-asset forfeiture process.

H.B. 182, introduced by Rep. Terry Canales (D-Edinburg), and the identical S.B. 247, by Sen. Juan Hinojosa (D-Edinburg), would increase the government’s burden of proof in performing criminal asset forfeiture.

Texas’ civil asset forfeiture laws are rated among the worst in the nation, receiving a grade of D+ in a report by the Institute for Justice (IJ), a legal reform group.

Burden on ‘Innocent Owner’

Texas sets a low bar for seizing property, IJ reported in its 2015 study on Policing for Profit: The Abuse of Civil Asset Forfeiture.

“The standard of proof required to forfeit property in Texas is just preponderance of the evidence, and an innocent owner bears the burden of proving that she was not involved in any crimes associated with her property before she can get it back,” the study states.

H.B. 182 would improve the forfeiture process in Texas, says Matthew Glans, a senior policy analyst with The Heartland Institute, which publishes Budget & Tax News.

“Under existing law, Texas law enforcement officials only have to prove by a preponderance of the evidence that property is associated with criminal activity to seize it,” said Glans. “Property owners must prove that they had no involvement with the criminal activity associated with their property when they seek to recover it.”

H.B. 182 would raise the burden of proof prosecutors must meet from “a preponderance of the evidence” to “clear and convincing evidence.”

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H.B. 182 would increase the government’s burden of proof in performing criminal asset forfeiture. Texas’ civil asset forfeiture laws are rated among the worst in the nation, receiving a grade of D+ in a report by the Institute for Justice (IJ), a legal reform group.

“Since 2014, 24 states have comprehensively reformed their forfeiture laws, and 14 states now require a criminal conviction before assets are seized. Three states have even banned the practice altogether.”

MATTHEW GLANS
SENIOR POLICY ANALYST
THE HEARTLAND INSTITUTE

Perverse Incentives

Texas police agencies are rewarded for asset seizures because, when the property is sold, they are allowed to keep the money for departmental use, the IJ report states.

“In cases where a default judgment is entered—as is the case in the majority of forfeiture actions—agencies retain up to 70 percent of forfeiture proceeds,” the report states. “In contested cases—those in which the property owner challenges the basis for the seizure—agencies retain up to 100 percent of proceeds.”

To address the incentive for law enforcement to seize as much property as possible, H.B. 404 requires all proceeds from seizures be deposited in the general fund of the county where the agency is located.

Federal Loot-Sharing

Texas law enforcement agencies have been among the most active participants in the U.S. Department of Justice’s (DOJ) equitable sharing program, placing 47th in IJ’s national rankings.

Under equitable sharing agreements, a local law enforcement agency classifies a suspected criminal activity as a federal crime, and federal and local officials divide the seized assets. The federal agencies often receive 10 percent to 20 percent of the value of the seized assets, and the local police keep the remainder.

From 2000 to 2013, Texas law enforcement agencies received $349.7 million in DOJ equitable sharing proceeds, averaging $25 million per year.

“This disconcerting arrangement allows local law enforcement agencies to ignore state law and circumvent the will of state legislatures and citizens,” said Glans.

Both H.B. 404 and H.B. 182 would prohibit state agencies from participating in federal forfeiture unless the amount is $50,000 or more, there is interstate activity, and federal law allows the forfeiture.

New Constitutionality Questions

A recent ruling by the U.S. Supreme Court raises questions about the constitutionality of forfeiture, says Justin Haskins, a research fellow with The Heartland Institute.

The U.S. Supreme Court ruled in Timbs v. Indiana on February 20 the Eighth Amendment’s excessive fines clause applies to the states under the 14th Amendment’s due process clause.

The court also found the forfeiture of Timbs’ assets was an impermissible excessive fine because the value of the vehicle seized was four times the maximum monetary fine that could have been assessed under Indiana law.

“I think there could be some very interesting repercussions, such as what makes a fine excessive and what makes a punishment excessive,” said Haskins.

“For a long, long time, states have had the ability to make that determination themselves; they’ve decided what’s excessive,” Haskins said. “Now they don’t have the ability to do that. So, how do you make the determination of what’s an excessive fine and what’s not an excessive fine, what’s a penalty that’s unjust and what isn’t?”

Reform Efforts Widespread

The legislation would add Texas to a growing roster of states that have reformed this process, says Glans.

“Since 2014, 24 states have comprehensively reformed their forfeiture laws, and 14 states now require a criminal conviction before assets are seized,” said Glans. “Three states have even banned the practice altogether.”

The Texas Legislature meets through May.

Bill Eastland (eastland@reagan.com) writes from Arlington, Texas.
Paying for pensions and other retiree benefits for former government employees could leave many Illinois local governments without the ability to provide basic services, a new report states. “[P]ension and other post-employment benefits... reduce budgetary resources available for core government services,” writes Marc Joffe, a senior policy analyst at the Reason Foundation, in an analysis published on February 6.

“In extreme cases, this crowd out effect can lead to a municipal bond default or a bankruptcy filing,” Joffe states. “More often, crowding out results in a condition known as service insolvency in which the government entity continues to pay its bills but is unable to provide public services at the level residents might reasonably expect.”

Pension plans managed by many local governments in Illinois have funded less than half of the benefits they have promised public employees, based on analysis of the latest available data from the Illinois Department of Insurance, Joffe states in his article.

Numerous Problems

Pension underfunding in Illinois and across the nation has been driven by a few key factors, says Leonard Gilroy, director of government reform at the Reason Foundation.

“These factors include underperforming investment returns, the global drop in interest rates, inadequate methods of amortizing and paying down unfunded liabilities, unrealistic actuarial assumptions, and, in some cases, governments failing to make their full actuarially determined contributions to pensions in one or more years,” Gilroy said.

Multiple parties are responsible for pension underfunding, Gilroy says. “The reality is that pension underfunding is the byproduct of many years of many different types of decisions made by policymakers, pension boards, professional actuaries, and other stakeholders,” said Gilroy. “We didn’t get where we are overnight, and it will take a long time to wind out of the problem in many places.”

Promises, Promises

The fundamental problem is that the pension systems were not designed with an eye toward what is fair and affordable, says Adam Schuster, a budget and tax researcher at the Illinois Policy Institute.

“Benefits were overpromised compared to what’s affordable and what retirees in the private sector can expect,” Schuster said.

This overspending includes providing retirement benefits to people who are far below the retirement age for most workers, says Schuster.

“For example, while the full retirement age for Social Security is 67, public sector workers have been able to retire as early as 50 or 55,” said Schuster.

In addition, public pensions in Illinois increase at a rate well above inflation, a benefit other retirees don’t receive, says Schuster.

“While private sector workers [may] get an annual cost of living adjustment [COLA] that just keeps pace with inflation, ... Illinois government workers have a guaranteed 3 percent compounding COLA regardless of how fast prices are rising,” Schuster said.

Unrealistic Assumptions

Another problem is that public pension plans assume investments will earn unrealistic profits, Schuster said.

“For example, Illinois pension funds assume an annual investment rate of return between 6.75 and 7.25 percent, but the 10-year average actual rate of return is only about 4.6,” Schuster said.

The people responsible for this problem are the politicians who guaranteed these excessive retirement incomes, says Schuster.

“Government workers are not to blame,” Schuster said. “Pension reform is not about breaking promises to retirees; it’s about protecting government workers’ retirement security from irresponsible politicians.”

Calls for Constitutional Amendment

The solution to Illinois’s pension crisis must start with an amendment to the state constitution to create a distinction between past and future benefit accruals, says Schuster. An Illinois Supreme Court ruling in 2015 decreed the state could not ever change employees’ retirement plans once they are hired.

“Everything a retiree has earned to date can be protected, but increases going forward should be subject to reasonable changes for current workers and retirees,” said Schuster. “This is an idea that has received bipartisan support in the past,” Schuster said.

“Pension reform passed a General Assembly controlled by Democratic supermajorities in 2013 and was signed by a Democratic governor,” Schuster said. “Unfortunately, the courts struck down that reform in 2015, which is why we now need a constitutional amendment.”

Other States Reforming

Though reforms can slow or stop the growth of unfunded liabilities, governments won’t escape their established obligations, says Gilroy.

“So long as you ensure you continue to pay down legacy unfunded liabilities, there is a lot of discretion for creative thinking around plan design,” said Gilroy. “For most places, the unfortunate reality is that there is no solution that will not require additional resources to be dedicated toward pensions. It will be impossible for plans to simply grow their way out of solvency problems.”

Other states have addressed their state and local pension challenges, says Gilroy.

“We’ve seen some real progress in the states on pension reform in recent years, in states like Colorado, Michigan, and Arizona, where very thoughtful, nuanced, and bipartisan reform proposals have been successfully enacted since 2016 to bring targeted solutions to fruition,” said Gilroy.

“Reform need not boil down to an antiquated and false ‘pensions versus defined contribution’ binary choice,” Gilroy said. “Each of those states has one or more major categories of public worker that are now, as part of reform, offered a choice of retirement plan designs for the first time.”

By Ashley Herzog

INTERNET INFO


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ADAM SCHUSTER
BUDGET AND TAX RESEARCHER
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Ashley Herzog (aebristow85@gmail.com) writes from Avon Lake, Ohio.
Report: Metro Areas with Lower Taxes and Regulations Are More Prosperous

By Bonner R. Cohen

U.S. metro areas less burdened with taxes and regulations “tend to have higher per capita incomes and faster population growth,” a new report states.

The “U.S. Metropolitan Area Economic Freedom Index” uses measures of state and local government policies that affect the economy to produce an overall score for each of the nation’s 382 MSAs.

The Reason Foundation report by Dean Stansel, an associate professor at the O’Neil Center at Southern Methodist University and a policy advisor to The Heartland Institute, which publishes Budget & Tax News, was released on January 31.

“Metro areas with higher economic freedom tend to have more prosperous economies,” Stansel told Budget & Tax News.

Best and Worst

The index is based on measures of government spending, taxation, and labor market regulation. It separately ranks the 52 largest Metropolitan Statistical Areas (MSAs) with populations over one million, and the 330 smaller MSAs.

The nation’s five highest-rated large metro areas on economic freedom are, in order, Houston, Texas; Jacksonville, Florida; Tampa, Florida; Richmond, Virginia; and Dallas-Fort Worth, Texas. The lowest-ranked, in descending order, are Riverside, California; Rochester, New York; Buffalo, New York; New York, New York; and Cleveland, Ohio.

The top three smaller metro areas in Reason’s index are Naples, Florida; Midland, Texas; and Sebastian-Vero Beach, Florida. At the other end of the rankings are the bottom three metro areas: El Centro, California; Kingston, New York; and Visalia-Porterville, California.

State Policies Remain Important

Although there is considerable variation in the economic freedom of U.S. cities within the same state, state policies have a huge influence, the report shows.

The San Jose MSA, for example, scores much higher in economic freedom than the Los Angeles MSA, though both are in California. In Tennessee, Nashville’s MSA far outshines metropolitan Memphis.

Despite those in-state variations, the Golden State’s top performer, the San Jose MSA, still finishes lower than Florida’s worst performer, Panama City.

Florida emerges as the state with cities having the most economic freedom overall. In 35 states, the economically freest area has less freedom than Florida’s lowest-rated metro area, Panama City.

Freedom as Income Booster

Greater economic freedom is associated with faster population growth, says Stansel.

“Per capita income was 5.7 percent above the MSA average in those freest areas, but 4.9 percent below average in the least-free areas,” Stansel said.

Greater economic freedom is also associated with higher incomes, Stansel says.

Using Subsidies to Compensate

Cities with slower economic growth tend to react by subsidizing some business investments, says Adam Michel, a senior policy analyst with The Heritage Foundation’s Center for Economic Freedom.

“The New York metro area won half of the new Amazon headquarters with large subsidies to compensate for its fourth-to-last standing in the Reason freedom rankings,” said Michel. “Amazon subsequently decided not to locate in New York City, after numerous protests from politicians and activist groups.

“New York’s high tax rates and burdensome regulations are not easily compensated for, and when they do try to compensate, they have to hand out politically motivated subsidies,” Michel said.

Businesses are realizing they can’t rely on deals with government, which are unpredictable in comparison with broadly applied government policies, says Michel.

“The precarious nature of government central planning exploded as Amazon couldn’t rely on the deals it had cut to last long enough to make any meaningful investments,” Michel said. “The Amazon example shows that companies and individuals are realizing that broadly applied low taxes and sensible regulations are good for everyone.”

Bonner R. Cohen, Ph.D., (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.

“In the freest quartile [25 percent of MSAs], population grew 4.8 percent in the most recent four years, compared to only 1.2 percent in the least-free quartile.”


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Washington Legislature Considers Governor’s Capital Gains Tax Proposal

By Ashley Herzog

The Washington State Legislature is considering Gov. Jay Inslee’s proposed budget, which includes a 9 percent tax on capital gains, despite a state constitutional ban on income taxes.

The proposed tax would apply to any profit made when selling stocks, bonds, or other assets with a purchase price above $25,000 for individuals and $50,000 for joint filers. Retirement accounts and sales of homes, farms, and forests would be exempted. The governor’s proposed 2019-21 budget includes the tax.

The capital gains provision would raise $975 million in revenue during fiscal year 2021, states Inslee’s budget plan, released on December 12.

Legislators are considering other tax measures, such as a fee on carbon dioxide emissions, as part of the budget process.

Skirting the Constitution

Inslee falsely claims the proposed levy is an excise tax in order to avoid constitutional provisions against income taxes, says Jason Mercier, director of the Center for Government Reform at the Washington Policy Center.

“There is no debate,” said Mercier. “A capital gains tax is an income tax,” Mercier said. “The IRS and every other tax authority in the country are in agreement that a tax on capital gains is an income tax.”

‘Third Rail’ of State’s Politics

The state would have to pass a constitutional amendment to implement a capital gains tax, and the public has continually rejected the idea, says Mercier.

“The voters have been asked to approve an income tax eleven times, and they have rejected it every single time,” Mercier said. “An income tax is the ‘third rail’ of Washington politics. No one has wanted to touch it until now.”

The budget plan states “earned income from salaries and wages is not capital gains and would not be taxed at all.”

That distinction is false, says Edward Hudgins, research director at The Heartland Institute, which publishes Budget & Tax News.

“Washington State Democrats perhaps think that because it’s not salary income they can tax it and get around their state’s constitutional ban on taxing income,” Hudgins said. “That’s unlikely. Capital gains are clearly income by every tax code definition.”

Headed for the Courts?

Inslee may hope to get a court to ignore the state’s constitution, says Mercier.

“The governor’s only option is to get a judge to rule that a capital gains tax is not an income tax,” Mercier said. “Gov. Inslee and the Democrats are hoping to get a judge to impose a tax that has been repeatedly rejected by the people of Washington.”

“Capital gains is a special target because it is not salary income but income from investments individuals make that can help them secure their own financial future well-being without the aid of politicians,” Hudgins said.

Relying on capital gains tax revenue would be a mistake, says Hudgins. “Such income, as a source of state revenue, is volatile, and states relying on it could find more budget shortfalls,” Hudgins said.

Ashley Herzog (aebristow85@gmail.com) writes from Avon Lake, Ohio.
Ohio Governor DeWine Proposes Big Gas Tax Hike

By Hayley Sledge

Gov. Mike DeWine of Ohio is proposing an 18-cent increase in the state’s tax on gasoline and other motor fuels.

Ohio’s gas tax would rise from 28 cents per gallon to 46 cents, in DeWine’s proposed $7.4 billion, two-year transportation budget presented to lawmakers on February 21.

The increase would take effect on July 1 of this year and would be adjusted annually to account for inflation. It would raise an additional $1.2 billion a year to fund road and bridge repair and construction, according to DeWine’s budget.

The Ohio House of Representatives, controlled by Republicans, passed a bill raising the tax on gasoline by 10.7 cents over two years and on diesel fuel by 18 cents over three years, on March 8, and sent the bill for consideration by the state Senate.

Calls for Offsets

Any gas tax hike should be offset by reductions in other taxes, says Greg Lawson, a research fellow at The Buckeye Institute.

“The first thing to say is we want to make sure that Ohioans are not paying more taxes tomorrow than they are today,” said Lawson. “So, if they’re going to raise the gas tax, if that’s the decision that’s made, there need to be offsets,” Lawson said. “Ohioans should not pay more.”

The infrastructure needs of the state should be a priority, says Lawson.

“We do think that when [the government] spends money, it should spend money on roads and highways,” said Lawson. “That’s definitely one of the things it should spend money on.

“In Ohio we have the fourth-largest number of highways of any state,” Lawson said. “That means we do think the infrastructure and roads and highways [are important] and certainly want them.”

‘Reforms First’

Before the state raises the gas tax, the Ohio Department of Transportation (DOT) should make sure its operations are efficient, as should any state DOT, says Baruch Feigenbaum, assistant director of transportation policy at the Reason Foundation.

“I recommend states take the following five steps,” said Feigenbaum. “Make sure that they prioritize state of good repair over new construction; use a metric-driven decision-making process; examine staffing; work with the private sector; and eliminate diversions.

“After [taking] these five steps, they may still need additional revenue, but they need to implement these reforms first,” Feigenbaum said.

Fairness and Technological Change

Technology is increasing the energy efficiency of cars, and as a result, states must find other ways to fund highways and roads, says Lawson.

“The fuel standards are getting better, and hybrids and electric vehicles are starting to become part of the vehicle fleet,” said Lawson. “That now is creating a wedge between how much you drive and how much gas you might be buying, and that is a problem that has to be addressed in the long run.”

The solution has to be fair to all drivers, says Lawson.

“If you start to just raise the gas tax over and over again, you’re going to start hitting people who are typically less affluent. They might not be the ones buying the big Teslas. So, we are going to have to think about how we fairly pay for this as technology continues to change the game.”

Greg Lawson
Research Fellow, The Buckeye Institute

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Climate Change Reconsidered II: Fossil Fuels


Hayley Sledge (hayley@sledges.us) writes from Dayton, Ohio.
Montana Legislature Moves to Regulate ‘Tiny Houses’

By Joe Barnett

A bill before the Montana legislature authorizing local governments to regulate and tax tiny houses used as permanent residences would also apply to travel trailers, as currently drafted.

H.B. 494, introduced by State Rep. Zach Brown (D-Bozeman) on February 12, authorizes local regulation and taxation of 200-to-300 square-foot “tiny” homes, which are currently subject to building codes and zoning regulations designed for regular-sized housing.

“Montana wants to allow local communities to regulate and tax tiny homes as residences,” said Lennie Jarrett, a project manager at The Heartland Institute, which publishes Budget & Tax News. “They say they want to do this as a way to combat homelessness and home affordability problems.”

As written, the bill would allow local governments to tax tiny houses on wheels as residences and to require the structures to meet building codes for conventional homes if they are put on foundations.

Amendments to the bill are being drafted to address the concerns that have been raised.

“The bill is intended to provide a framework for local regulation and establish minimum standards for tiny homes used as permanent residences,” Brown told Budget & Tax News.

‘Some Unintended Consequences’

Stuart Doggett of the Montana Manufactured Housing & RV Dealers Association pointed out the problems with the bill at a hearing of the Montana House Local Government Committee on February 19.

“We oppose the bill as drafted because we think there are some unintended consequences,” Doggett told the committee.

Brown’s bill as introduced would allow local governments to apply the same taxes to tiny homes on wheels, in addition to ones built on foundations, as they impose on other properties. Recreational vehicles currently are not subject to property taxes in Montana.

The definitions in the bill ‘would inadvertently capture most travel trailers or RVs,’ Doggett told the committee.

‘More Regulations ... Less Affordable’

Doggett says building codes are unclear on the requirements for tiny homes.

“There are no national standards under [the American National Standards Institute] that apply to tiny homes or tiny homes on wheels,” said Doggett. “There is now an annex, what I’ve been told, under the [Uniform Building Code] that addresses tiny homes used as a permanent housing source, and perhaps that could be considered as an alternative in the bill.”

“The more regulations put on the construction of tiny homes, the less affordable they will be,” said Jarrett.

Tiny-home builder Nicolas Cole says the state’s current law created problems when he built a cluster of eight one-room structures in East Missoula in 2018.

“Cole said he found that county regulations forced him to spend as much on building permit fees and parking space as he would if he were building large homes,” the Missoulian reported.

Joe Barnett (joepaulbarnett@att.net) is a research fellow with The Heartland Institute.

Official Connections:

Gasoline taxes are ineffective and have increasingly left transportation systems shortchanged. In recent years, the rise of fuel-efficient cars has decreased motor fuel tax coffers and disproportionately shifted the burden to low-income drivers, a group that typically owns older, less-fuel-efficient vehicles.

Matthew Glans
Senior Policy Analyst
The Heartland Institute

L.A. City Council Votes to Require Contractors to Disclose NRA Ties

By Ashley Herzog

The Los Angeles City Council has voted unanimously to require city contractors to disclose financial ties to the National Rifle Association.

“For the sake of transparency, the city's residents and stakeholders deserve to know how the city's public funds are being spent, and whether taxpayer funds are being spent on contractors that have contractual or sponsorship ties with the NRA,” the motion to approve the ordinance states.

Contractors would be required to disclose under affidavit any relationship they have with the NRA, under the new ordinance approved on a first reading by the council February 12. It would become municipal law after a final vote and approval by Mayor Eric Garcetti.

First Amendment Issue

The proposed ordinance amounts to blacklisting and is a violation of contractors' First Amendment rights, says a law firm representing the NRA in a February 4 letter to the council.

“The First Amendment protects the right to free speech and association,” states Tiffany D. Cheuvront, an attorney with Michel & Associates.

“The proposed ordinance specifically blacklists those who affiliate with the NRA and is an unconstitutional effort to restrict and chill an individual’s right to associate and express their political beliefs,” Cheuvront states in the letter.

‘Attempt to Censor’

The ordinance is clearly intended to discourage affiliation with or support of the NRA, says Lennie Jarratt, a government relations manager at The Heartland Institute, which publishes Budget & Tax News.

“By making this disclosure of NRA ties part of the application process, this information will now be public,” said Jarratt. “This will allow others to target and harass these companies. It is an attempt to censor any company that wants to work with the city.”

‘Disgusting and Un-American’

The NRA will see an injunction to prevent the ordinance from going into effect, the letter states.

Courts might decide the ordinance is constitutional, but that wouldn’t make it right, says Alan Gottlieb, founder and executive vice president of the Second Amendment Foundation.

“It might pass constitutional muster because they’re not actually forbidding companies with NRA ties from having contracts with the city,” said Gottlieb. “However, it’s clearly intended to have a chilling effect on free association, and I think that’s disgusting and un-American.”

‘Pure Political Intimidation’

The proposed ordinance is meant to put political pressure on contractors, says H. Sterling Burnett, a Heartland Institute senior fellow.

“This is the city council’s attempt to suppress speech and political association and to blacklist businesses that associate with the NRA,” said Burnett. “This is pure political intimidation,” said Burnett. “They could do the same thing to anyone who gave to Trump’s campaign, or to anyone else with political views they personally dislike.”

The law unfairly burdens people for holding a particular viewpoint, says Jarratt.

“This ordinance is clearly discriminatory based on political views,” said Jarratt.

Businesses that support the NRA are unlikely to be intimidated by the ordinance, says Gottlieb.

“Many of the businesses in L.A. that have NRA sponsorships are probably gun stores,” Gottlieb said. “The city council is not going to intimidate them out of supporting the NRA, despite their best efforts.”

Expects Cost Increases

The proposed ordinance would make city projects more expensive by discouraging many companies from bidding on contracts with the city, Jarratt says.

“With fewer companies competing for business, contract costs will increase,” Jarratt said.

Ashley Herzog (aebristow85@gmail.com) writes from Avon Lake, Ohio.

Minnesota Governor Proposes Big Gas Tax Hike

By Hayley Sledge

Gov. Tim Walz of Minnesota is calling for a nearly 70 percent increase in the state’s tax on gasoline and other motor fuels.

Walz, a Democrat, proposed raising the excise tax from 28.6 cents per gallon to 48.6 cents per gallon, in his two-year budget plan for fiscal years 2020-21 released on February 19.

The budget plan is currently under consideration by the state’s legislature, which is split between a Democrat-controlled House and a Republican-led Senate.

Follow the Money

The burden imposed by government in Minnesota is already very high, says John Phelan, an economist at the Center of the American Experiment.

“Minnesotans are already some of the most heavily taxed citizens in America,” said Phelan. The governor should first examine how the state spent previous funds, says Phelan.

“Before dipping deep into their pockets once more, Gov. Walz should find out what happened to all the money the government has already had,” Phelan said. “The Minnesota state government’s revenues are at near-record highs in real terms and in real per capita terms. On top of this, they have a projected $1 billion budget surplus for the next biennium.

“Yet, Gov. Walz claims that he cannot fulfill a core function like road maintenance without a vast tax hike taking Minnesota’s gas tax from 28th nationally to fourth,” Phelan said.

Declining Revenue Source

Increasing gas taxes is not a sound policy in the long run, says Matthew Glans, a senior policy analyst with The Heartland Institute, which publishes Budget & Tax News.

“Gasoline taxes are ineffective and have increasingly left transportation systems shortchanged. In recent years, the rise of fuel-efficient cars has decreased motor fuel tax coffers and disproportionately shifted the burden to low-income drivers, a group that typically owns older, less-fuel-efficient vehicles.”

That trend will further reduce gas tax revenue, says Glans.

“As sales of fuel-efficient vehicles continue to expand, motor-fuel tax revenues will decline more rapidly,” said Glans.

Hayley Sledge (hayley@sledges.us) writes from Dayton, Ohio.

“Gasoline taxes are ineffective and have increasingly left transportation systems shortchanged. In recent years, the rise of fuel-efficient cars has decreased motor fuel tax coffers and disproportionately shifted the burden to low-income drivers, a group that typically owns older, less-fuel-efficient vehicles.”

Matthew Glans
Senior Policy Analyst
The Heartland Institute

H. STERLING BURNETT, SENIOR FELLOW, THE HEARTLAND INSTITUTE
Civil Asset Forfeiture Reform Advances in Michigan Legislature

By Owen Macaulay

Bipartisan legislation to reform civil asset forfeiture procedures has been passed by both houses of the Michigan State Legislature.

The state Senate passed S.B. 2, sponsored by Sen. Peter Lucido (R-Shelby Township), which would require officers to show probable cause before seizing a suspect’s assets and to return the assets if the individual is not convicted of a crime. The law would apply to seized money or property valued at less than $50,000. The bill passed the Senate on February 13.

H.B. 4001 and H.B. 4002, sponsored by Reps. Jason Wentworth (R-Clare) and David LaGrand (D-Grand Rapids), respectively, have provisions similar to the Senate bill but are not identical to it. Both House bills passed on February 28.

The state House and Senate must approve a final bill with identical language before it can be sent to Gov. Gretchen Whitmer for her approval. Both House bills passed on February 28. The Senate bill but are not identical to it. Both House bills passed on February 28.

Transferring Assets to Government

Civil asset forfeiture can take the property of innocent people, says Jarrett Skorup, director of marketing and communications at the Mackinac Center for Public Policy.

“Civil asset forfeiture is the process by which law enforcement transfers assets linked to criminal activity from people to the government,” said Skorup. “In theory, this is supposed to transfer illegal proceeds, but in practice, because most states do not require a criminal conviction prior to forfeiture, it can ensnare the assets of innocent people.

“The bills being debated in Michigan would require a criminal conviction or a person abandoning their property prior to prosecutors being able to forfeit it,” said Skorup. “This will do a better job of protecting the rights of individuals.”

Most Taken Without Convictions

Michigan State Police data for 2017 show the use of asset forfeiture is extensive in the state, Skorup and Kimberly Buddin, policy counsel for the Michigan American Civil Liberties Union, write in the Detroit Free Press.

“In 2017, the latest year we have data, law enforcement agencies across the state took more than $13 million in cash or property from Michigan residents,” Skorup and Buddin write.

“For the majority of the more than 6,000 forfeiture cases, assets were taken from people who were never convicted of a crime,” Skorup and Buddin write. “And in about 1,000 of those cases, 736 people were never charged, and 220 were found not guilty.”

Eliminating Civil Asset Forfeiture

Michigan and other states should consider further reforms, says Skorup.

Wisconsin Governor Proposes School Choice Freeze

By Bonner R. Cohen

Gov. Tony Evers is proposing to cap school choice programs in Wisconsin.

Evers’ Executive Budget, released to the public on February 28, would freeze the number of students receiving tuition scholarships to attend private schools and suspend the creation of new charter schools until 2023.

“According to the budget document, students currently participating in choice programs would not be affected by proposed changes,” states an analysis by the Wisconsin-based think tank the McIver Institute. “However, the ban on adding new seats or students will almost certainly lead to school closures,” states McIver.

Denying Special-Needs Children

The proposed budget would cap enrollment in the Special Needs Scholarship Program established in 2015, which gives students with special needs scholarship grants to attend private schools, says McIver.

“Currently, 662 students participate in the program, more than triple the enrollment just two years ago when the program began,” the McIver analysis states.

“A 2019 audit by the nonpartisan Legislative Audit Bureau (LAB) showed that parents reported strong satisfaction with the program, including improved behavior from their children and more positive relationships with peers compared to their experiences in public schools,” the McIver analysis states.

Praise for Charter School Competition

Charter schools are an important education alternative, says Timothy Benson, a policy analyst at The Heartland Institute, which publishes Budget & Tax News.

“Nationally, charters have provided a way out of failing traditional public schools for nearly three million children, and they provide competition for a bloated, sclerotic, unaccountable, union-run government-school system,” said Benson. “This competition helps improve outcomes not just for the children who take advantage of school choice programs but also for those who remain in their neighborhood public schools.”

Evers’ proposals are unlikely to make it through the Republican-controlled state legislature, says Wisconsin Senate Majority Leader Scott Fitzgerald (R-Juneau).

“Wisconsinites should have more choices when it comes to the education of their children, not fewer,” Fitzgerald told the Milwaukee Journal Sentinel for a February 25 story. “We will not support a budget that includes this proposal.”

Bonner R. Cohen, Ph.D. (bcohen@nationalcenter.org) is a senior fellow at the National Center for Public Policy Research.
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High-Tax States Are Striking Out with Professional Athletes

By Bill Eastland

High state income tax rates are giving professional athletes an increasing incentive to accept contracts from teams in other states as the money they are being offered rises.

Professional baseball player Bryce Harper, formerly of the Washington Nationals, became a free agent after the 2018 season and signed a 13-year, $330 million contract with the Philadelphia Phillies, the largest deal in Major League Baseball (MLB) history.

Offers from the San Francisco Giants and the Los Angeles Dodgers were slightly lower, but the large tax burden in California made the offers far less competitive, according to Robert Raiola, director of the Sports and Entertainment Group at PFK O’Connor Davies, a talent management firm.

“After federal, state, and local taxes, Harper will be compensated roughly $184 million from the Phillies,” states Raiola in a Fox Business article. “By comparison, the Giants’ $310 million offer would have netted the slugger approximately $161 million.”

Higher and Higher
California has the nation’s highest state personal income tax rate, the Tax Foundation reports.

Taxpayers with middle-class incomes face relatively high burdens in California. Single filers with adjusted gross incomes of about $54,000 or more paid a 9.3 percent tax in 2018, the same rate as joint filers with an income of approximately $108,000, the Tax Foundation reports.

California takes an additional 1 percent from taxable income over $1 million, bringing the maximum rate in 2019 up to 13.3 percent, according to the Federation of Tax Administrators.

Pennsylvania, by contrast, has a 3.07 percent flat rate for every taxpayer, regardless of income.

‘Players Really Get Hit’
California baseball teams are at a big disadvantage, says Harper’s agent, Scott Boras.

“The Giants, Dodgers and Padres are in the worst state income tax jurisdiction in all of baseball,” Boras told the Los Angeles Times. “Players really get hit.”

Playing in a no-tax or low-tax state brings in much greater net income.

“There’s a significant boost to players’ earnings being in the AL West vs. the NL West,” Boras told the Los Angeles Times, referring to the tax rates applying to teams in the two MLB divisions.

‘Doubling Down on Bad Policies’
People are moving out of states such as California to those with lower taxes, says Dean Stansel, a research associate professor at Southern Methodist University’s O’Neil Center for Global Markets and Freedom and a policy advisor to The Heartland Institute, which publishes Budget & Tax News.

“States that have excessively high levels of taxation and government spending are doubling down on bad policies,” Stansel said.

“If they would learn from the states where all their people are moving to, they could turn around their economies and get the moving vans headed in their direction again,” Stansel said.

Bill Eastland (eastland@reagan.com) writes from Arlington, Texas.

INTERNET INFO

Many Teachers Love the Choice That Union Leaders Loathe

By Robert G. Holland

As legislative debate builds in states such as Arizona and Tennessee over the possible expansion of education savings accounts (ESAs) to empower more families with educational choice, it would be wrong to assume from media reporting that teachers unions speak for everyday public-school teachers in expressing hostility to all such efforts to extend the benefits of choice more widely.

The ESA is the latest innovation in choice, and quite likely the most promising for bringing about enduring reform of K–12 education. It empowers families, not merely with school choice but with full-range educational choice, because parents can draw on their state-funded savings accounts to select from and pay for a wide range of options their children might need.

These options include tuition, therapies, online instruction, dual enrollment, tutoring, and advanced courses. In short, parents can use a portion of their child’s allotment of state funds to customize the child’s education by using multiple or single providers as they see fit.

Strong Support Among Teachers

Consider the results of the 2018 Schooling in America Survey, which for the first time in the six-year history of this annual report asked public school teachers their take on reform issues.

Conducted by the respected Braun Research, Inc. polling firm in partnership with EdChoice, the survey showed strong support among teachers for ESA-enabled parental choice in education, a cause the teacher unions routinely fight with all the venom and money they can muster.

About three of every four parents of school-age children (76 percent) favored ESAs in the national survey. But guess what? An even higher percentage of current public-school teachers (78 percent) favored the ESA approach as well.

EdChoice, an Indianapolis-based organization dedicated to carrying forward the Nobel Prize-winning economist Milton Friedman’s mission of bringing universal choice to education, candidly acknowledged the wording of survey questions can affect the answers.

For that very reason, interviewers asked about support or opposition to ESAs in two different ways: a straight-up question about choice without explanatory materials, and another that included a detailed description. ESA support climbed by about 20 percentage points when respondents received descriptions. But even without the added language, ESAs drew majority support.

Teachers Support Universal ESAs

In a footnote included in the report, the research team explained its descriptive question casts the ESA as a “universal, broad” policy rather than specifying (as some states do) that parents must withdraw their children from a public district or charter school in order to participate.

Across-the-board access is a reasonable approach if the big goal is to bring about the broadest choice possible.

The possibility of ESAs being open to public-sector as well as private vendors may have appealed to some teachers, but consider also that many teachers are parents themselves and therefore might appreciate the beauty of using ESAs to customize education to the needs of each child. That would be truly personalized learning, as opposed to the digitized and robotic “personalized” learning brands being pushed by ed-tech gurus.

Teachers Exercise Choice

Significant numbers of teachers already show affinity for free choice by sending their own children to private schools. Among several national studies was a nationally representative one done under the auspices of Education Next magazine a few years ago that reached the following conclusion: “School teachers are much more likely to use a private school than are other parents.

“No less than 20 percent of teachers with school-age children, but only 13 percent of non-teachers, have sent one or more of their children to private school,” state Paul E. Peterson and Samuel Barrows in an article for Education Next. “Teachers are also just as likely to make use of a charter school or to homeschool their child as other parents.”

Dedicated teachers who work hard in government schools do not deserve to be branded as hypocrites when they send their own kids to a private school. All parents should be able to choose the kind of education that best suits their own children.

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INTERNET INFO


Paul E. Peterson and Samuel Barrows, “Teachers More Likely to Use Private Schools for Their Own Kids,” Education Next, January 11, 2016: https://www.educationnext.org/teachers-more-likely-to-use-private-schools-for-their-own-kids/
Wealth Inequality Is the Greatest Enemy of Poverty

By John Tamny

The late Jimmy Breslin liked to bring his readers very close to major news stories, and did just that during the Crown Heights, Brooklyn riots of 1991. The three days of tumult and violence took place in the aftermath of a tragic car crash in which a vehicle driven by an Orthodox Jewish driver struck and killed a seven-year-old black child while seriously injuring his cousin.

Breslin, being Breslin, took a cab right into the middle of the rioting. His subsequent column referenced the impoverishment of the black Crown Heights residents who surrounded the car he was in, and how they desperately needed “money.”

“My” is placed in quotes simply because Breslin missed the point. No one wants “money” as much as they want what money can be exchanged for. Money can’t be eaten—rather, credible money can be exchanged for goods and services. What Breslin really meant is that Crown Heights citizens desired goods and services not commensurate with the dollars in their pockets.

Wealth-Creation 101

Washington Post columnist Catherine Rampell thinks Sen. Elizabeth Warren’s (D-MA) wealth-tax plan is a fine idea, and that it “could correct past mistakes.” That Rampell is unwittingly arguing with herself in her column. Warren’s (D-MA) wealth-tax plan is a fine idea, and that it “could correct past mistakes.” That Rampell is unwittingly arguing with herself in her calls to neuter the unequal.

Rampell asserts that “Over several decades, U.S. policies have facilitated a systemic upward redistribution of wealth.” No, that’s so untrue. Wealth is a function of investment, and the capital gains tax that penalizes investment has risen from 15 percent earlier in the 21st century to 23.8 percent when we factor in the Affordable Care Act surcharge.

No doubt the capital gains tax is lower than what prevailed in the slow-growth 1970s, but it’s hardly been declining as much as Rampell’s column suggests. To be fair, the capital gains tax should be zero. There are quite simply no companies and no jobs without investment first, so in a reasonably sane world no one would be charged for putting wealth to work.

While Rampell is incorrect about the direction of policy, she also misses the “why” behind the wealth surge. The latter is plainly an effect of technological advances that Rampell would likely be very frustrated if forced to live without. Simply stated, the internet and other leaps that have figuratively shrunk the world have made it possible for genius-es like Jeff Bezos to meet the needs of exponentially more people around the world.

Product of Brilliant Minds

Thanks to the internet, wealth wasn’t “redistributed upward” as much as it was created by brilliant minds touching more and more of the world with their unparalleled ability to serve. Assuming Rampell really wants to shrink a rising wealth gap, a gap that plainly signals a massive reduction in the lifestyle gap between the rich and poor, her columns would be most effective if she made them about abolishing the internet.

Unaware of what she’s actually proposing, Rampell naively aims to put a halo around her own head in her calls to neuter the rich. Implicit in her desire to harm a whole class of people is that in pushing down those with means, she’d like to lift those without.

In calling for a forced transfer of money from the havens to the have-nots, Rampell is less artfully committing the same error that Breslin did nearly 30 years ago. She presumes that “money” is what the poor need. No, the poor need what money can be exchanged for—the more the better.

From Luxury to Commonplace

Crucial here is that the rich become rich precisely because they mass-produce former luxuries. In their failure to understand this truth, this is where Rampell and the wealth redistribution crowd shrink to arguing with themselves. While expressing a desire to essentially geld those who’ve created wealth, they’re unwittingly seeking to penalize those who’ve gotten rich through their transformation of scarce goods enjoyed by the few into common goods enjoyed by everyone.

In 1991, a computer that we’d all arrogantly turn our noses up at today cost $10,000, the most primitive of mobile phones retailed in the thousands such that they could generally only be found in Beverly Hills, Manhattan, or the Hamptons, and a simple 30 minute phone call (on a landline no less) from Baltimore to Washington, DC set the common man back $10 to $20. Rampell believes the poor want money, but like us all, they want things. The rich get rich by virtue of democratizing access to things.

Raising All Boats

Today’s newly rich required investment to vivify in the literal sense their desire to democratize access to what solely the rich used to enjoy. This is where inheritors of wealth come in. Unless they’re stuffing the wealth passed on to them under mattresses, they’re investing it.

Get it? For Rampell to cheer wealth taxes is for her to cheer the shrinking of the capital that’s necessary for entrepreneurs to turn ideas into real living-standard advances.

Rampell wants the poor to have more money, but money’s only useful insofar as it’s exchangeable for the goods and services that we all really want. The rich get rich by virtue of making what’s dear rather cheap, thus helping the poor the most. Inequality is poverty’s greatest enemy.

Rampell seeks to neuter the unequal. She’s arguing with herself. 

John Tamny (jtamny@realclearmarkets.com) is editor of RealClearMarkets and a policy advisor to The Heartland Institute. This article was originally published at RealClearMarkets and is reprinted with permission.
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