Janus v. AFSCME
Supreme Court Rules for Workers in Forced Union Dues Case

By Leo Pusateri

In a landmark decision, the U.S. Supreme Court ruled governments may not deduct union dues from the paychecks of public-sector employees without their consent.

In Janus v. American Federation of State, County, and Municipal Employees, the Court affirmed the right of individual government employees to decide whether to accept membership in labor unions and contribute money to them. The suit was brought by Illinois Department of Healthcare and Family Services Child Support Specialist Mark Janus.

The June 27 decision reverses a 40-year-old Supreme Court ruling, Abood v. Detroit Board of Education, which had denied government

Arizona Voters to Decide Whether to Impose a Wealth Surcharge

By Samantha Fillmore

Arizona voters will decide in November whether to levy a tax surcharge on high-income households. The initiative, called the Investment in Education Act, would place a 4.54 percent tax surcharge on individuals with an annual income of $250,000 to $1 million, on top of the existing 4.46 percent income tax. Those earning more than $500,000 with household income exceeding $1 million would be hit with a 5.46 surcharge.

About 60 percent of the revenue from the new surcharge would be earmarked for salary increases for government

The Bottom Line

Supreme Court Overturns Quill
The Supreme Court’s ruling in Wayfair v. South Dakota allows states to collect taxes from non-resident business owners.

Arizona Wealth Tax
Arizona voters will decide whether to levy income tax surcharges on high-income households, doubling the tax to 9 percent on some and raising it to 10 percent on others.

Indiana Considers Highway Tolls
Indiana is considering whether to place tolls on interstate highways.

Leaving the ISP Business
After years of cost overruns, Salisbury, North Carolina voters approved a measure to lease the city’s taxpayer-funded internet service provider.

The New Space Race
A new book follows Elon Musk, Jeff Bezos, and other modern-day titans of industry as they race to the stars.

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House Budget Committee Approves ‘Brighter America’ Spending Reforms

By Leo Pusateri

A comprehensive resolution setting federal government spending recommendations for fiscal year 2019 approved by the U.S. House Budget Committee would reduce the federal deficit by $8.1 trillion over the next 10 years.

Most of the savings would come from a $5.4 trillion reduction of spending on entitlement programs such as Medicare and Medicaid.

The House Budget Committee approved the concurrent resolution on the budget for fiscal year 2019, titled “A Budget for a Brighter America,” on June 21.

The full House has not yet scheduled a vote on the resolution. The Congressional Budget and Impoundment Control Act of 1974 requires Congress to approve a concurrent resolution for the upcoming fiscal year on or before April 15 of each year.

Suggests Market Fix

Peter Ferrara, a senior fellow at The Heartland Institute, which publishes Budget & Tax News, says the model for fixing Medicare is already in place.

“You need to change the way the program operates, so that it operates more efficiently and at less cost,” said Ferrara. “Medicare comes in four parts: A, B, C, and D. In C and D, the government offers you some money and you can use that money for the service provider of your choice. In Medicare Part C, you can choose private insurance for all your benefits. In Medicare Part D, you choose your private health care plan for your drug benefits.”

Those reforms are saving the federal taxpayers tons of money,” Ferrara said. “The drug benefits are costing far less than originally projected, because it’s actually used in the free market, where there’s more competition, innovation, and consumer choice.”

Ferrara says Congress should use these proven free-market principles to reform health care.

“The way to reform Medicare is to extend the reforms of Parts C and D to Medicare Parts A and B,” Ferrara said. “You have to shift it all to private-market competition, like you have in C and D.”

‘Deep Financial Trouble’

If Congress fails to fix Medicare, warnings issued by the Medicare Board of Trustees, the government board responsible for administering the program, will become much louder, says Robert Moffit, a senior fellow in domestic policy studies at The Heritage Foundation.

“We know Medicare is in deep financial trouble,” Moffit said. “General revenue funding is going to exceed 45 percent of the total cost of the program. If that happens, under current law, the trustees must then submit a ‘Medicare Funding Warning.’ Then, within 15 days of submitting his budget, Donald Trump must submit a plan for dealing with Medicare’s excessive costs.”

‘It’s Not a Spending Cut’

Moffit says the concurrent resolution is a spending reform, not a reduction, and the Medicaid element should not be a partisan issue.

“It’s not a spending cut,” Moffit said. “It is a budget proposal talking about putting Medicaid spending on a per-capita basis, just like [President] Bill Clinton proposed back in 1995. It would apply to different types of Medicaid patients.”

ROBERT MOFFIT
SENIOR FELLOW
THE HERITAGE FOUNDATION

‘A Rough and Terrible Justice’

Moffit says the federal spending problem will only worsen with time, unless addressed soon.

“There is kind of a rough and terrible justice to all of this, because it doesn’t make any difference what people think,” Moffit said. “It’s like arguing with the ocean. The reality is we are faced with an enormous entitlement challenge, and we’re either going to have to raise taxes very high, cut benefits, or find another way of doing it.”

‘A Far Better Medicare’

A reformed Medicare program would be better for recipients as well as taxpayers, Ferrara says.

“They may say this is the end of Medicare as we know it, to which I would say, ‘Thank God!’” Ferrara said. “You’re getting a far better Medicare when you get the freedom to choose your own medical insurance in the private sector, at less cost.”

Leo Pusateri (psycheist@fastmail.fm) writes from St. Cloud, Minnesota.
ment workers the right to fully opt out of paying union membership dues if employed in an office where workers are unionized.

Larry Sand, president of the California Teachers Empowerment Network, says the Court’s Janus decision increases government employees’ freedom. “This is a victory for all public employees,” Sand said. “As a former teacher, it’s important for me to see teachers free from forced unionism. People should have the freedom to choose.”

Predicts Unions’ Survival
Jeffrey Schwab, a senior attorney with the Liberty Justice Center, says the Janus decision does not portend the end of public-sector unions, despite what some critics have claimed. “From the union’s perspective, I think the results will be a lot less severe than what you’re hearing,” Schwab said. “Certainly, in terms of collective bargaining, it’s not going to be the end of public-sector unions. It may result in them having a little less money, but that’s to be expected when you’re forcing people who don’t want to pay you to pay you.”

Leveling the Playing Ground
Sand says compelling individuals to pay dues to an organization they don’t want to join is unreasonable. “Why, if I want to be a teacher, should I be expected to fork over a thousand dollars a year to an entity that I want nothing to do with?” Sand said. “The unions say, ‘Well, we advocate.’ If I’m a gun owner, the NRA doesn’t demand I join them because they advocate for gun owners. When I bought my last car, AAA didn’t say, ‘Well, we advocate for you, so we’re going to take out a certain amount of money from your bank account each month.’ Why should it be any different for a teachers union?”

Predicts Better Union Service
With government employees no longer compelled to join a union, labor organizations will have to serve dues-payers better, Sand says. “If you don’t want to belong to a union or contribute money to a union, you shouldn’t have to do that,” Sand said. “Basically, they’re going to have to woo their customers, just like any other business does. They didn’t have to do that before, because they had a forced membership.”

“In the short run, I think it will reduce the size of unions, but there’s no reason to think that in the long run the unions can’t convince people that they provide valuable services and have people continue to pay them that want to,” Schwab said. “Maybe the beneficial result of that is that unions will act more in the interests of their members because their members have the choice to join or not, and so only people who agree with the unions’ mission and goals will join, so maybe the members will have a little bit more of a voice.”

Leo Pusateri (psycmeistr@fastmail.fm) writes from St. Cloud, Minnesota.

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Supreme Court Overturns Online Sales Tax Standard

By Samantha Fillmore

States can require out-of-state businesses to collect and remit sales taxes on purchases made by in-state consumers, the U.S. Supreme Court ruled.

The U.S. Supreme Court’s 5–4 decision in Wayfair v. South Dakota overturns the Court’s 1992 decision in Quill v. North Dakota, which had established the “nexus” standard for business taxation.

Under the new standard, a business may be required to pay sales taxes to a state or local government even if it has no physical location, or nexus, in the taxing jurisdiction.

Court vs. Competition

Charles Steele, an associate professor of economics at Hillsdale College and a policy advisor for The Heartland Institute, which publishes Budget & Tax News, says the court’s ruling undermines market competition and bails out relatively inefficient businesses.

“This is purely a story of market competition, and the tax issues are a marginal matter,” Steele said. “SCOTUS ought not to be interfering with market competition. Consumers are hurt.

“The alleged tax disadvantage for brick-and-mortar establishments is brick and mortar,” Steele said. “They have high overhead costs, and they also have high labor costs associated with sales staff and tend to be poor innovators compared with online merchants. Shopping mall vacancies are the highest they’ve been in six years, and this is in a booming economy. People simply prefer shopping online.”

Steele says remote sales have been a part of the U.S. economy for a long time.

“The [Court’s] majority opinion claims that sellers without a physical presence is a new problem because of the advent of internet commerce, but that’s false,” Steele said. “America has had robust mail-order commerce since the mid-1800s. Sears and Montgomery Ward are famous examples.”

Burden on Small Businesses

Andrew Moylan, executive vice president and director of the Interstate Commerce Initiative at the National Taxpayers Union, says owners and customers of small businesses will bear the costs of the Court’s decision.

“What makes this so crucial for small businesses is that your larger retailers will find this difficult to comply with, but not particularly, because these are multibillion-dollar companies that have teams of attorneys and accountants,” Moylan said. “It would be a nuisance for them, but it wouldn’t disrupt their commerce. Many smaller, locally owned businesses would potentially have to face up to 12,000 taxing jurisdictions across the country, audits in 45 different states, and potentially be dragged into courtrooms across the country if they can’t navigate all of the different sales taxes and regulations.”

Moylan says the court’s ruling creates a big advantage for brick-and-mortar retailers and large online companies.

“The majority opinion assumes it is not that difficult for sellers to comply with sales tax laws, but this is entirely misleading,” Steele said. “Sales taxes are not limited to states. There are a variety of local, county, and state taxes on a wide variety of goods. A brick-and-mortar establishment can easily learn what tax laws apply in its jurisdiction. Large firms have economies of scale in dealing with taxes and regulations and will benefit at the expense of their smaller internet competition.”

Disputing Court’s Premises

Moylan says the Wayfair decision will inhibit the spread of prosperity.

“One of the biggest success stories we have from the free market is the invention of the internet, which allows any small business owner or innovator making something out of their garage or home to reach a national market, versus being confined to a storefront that would have a very limited market,” Moylan said. “The internet really democratized retail, and this new Supreme Court decision undoes the entire development.”

Samantha Fillmore (samantha.heartland.org@gmail.com) writes from Chicago, Illinois.

Dept. of Labor Report: ‘Quit Rate’ Sets 17-Year Record

By Jesse Hathaway

The number of Americans quitting their jobs for higher-paying positions elsewhere hit a record high, according to the U.S. Department of Labor (DOL).

DOL data published on July 10 reports more than 3.56 million workers, about 2.4 percent of all employed individuals, quit their jobs in May, setting a 17-year record.

“This labor measurement is considered a proxy for people’s general economic confidence, The Hill reporter Emily Birnbbaum writes.

“Rising ‘quit rates’ are considered positive because they often indicate employees are leaving their current positions for jobs with higher wages and better benefits,” Birnbbaum wrote.

Jesse Hathaway (jhathaway@heartland.org) is managing editor of Budget & Tax News.
Santa Monica, Calif. Commissioners Recommend Subsidy Expansion

By Ashley Herzog

The Santa Monica, California Rent Control Board is asking the City Council to approve a large expansion of the city’s rent subsidy program for the elderly.

Board commissioners on June 14 approved a resolution asking the City Council to increase annual funding for the Preserving Our Diversity housing subsidy program, from $200,000 to $2 million.

The city launched the program in 2017, subsidizing housing for low-income older residents already living in apartments or homes with government-regulated price ceilings.

Many Taxed, Few Benefit

Adam Summers, a research fellow at the Independent Institute, says housing subsidies increase the cost of apartments for most people so a chosen few can pay less.

“Rent subsidies, such as those the city of Santa Monica is experimenting with for senior citizens, may make housing more affordable for a small number of people, but there will never be enough subsidies to go around,” Summers said. “They will make housing less affordable for the many others who have to pay for the subsidies through taxes and higher housing costs.”

Sanford Ikeda, a professor of economics at Purchase College–State University of New York, says rent subsidies can cause the very problem lawmakers intend to solve.

“The result is usually a shortage of housing for people who try to find housing at the cheaper rent but can’t find any,” Ikeda said. “A disproportionate number of those tend to be people with low incomes and not much political clout.”

Suggests Regulatory Reduction

Summers says government can lower the cost of housing by removing the regulations that reduce the supply of housing and drive up prices.

“To truly address the problem of housing affordability, you need to get to the root cause: the restriction of housing supply caused by various government interventions,” Summers said. “In Santa Monica, like many other coastal California cities, housing supply has been limited through zoning restrictions, from limitations on where and what kind of housing can be built to restrictions on building height; policies like rent control, high development fees, and affordable housing mandates; an oftentimes lengthy and costly planning process; and an atmosphere of NIMBY-ism, where ‘not in my backyard’-types are able to exert enough political pressure to scuttle development.”

Rebuilding the Supply

Ikeda says lawmakers can promote housing affordability by reducing government regulation and encouraging developers to build more living spaces.

“Free-market solutions on the supply side include liberalizing zoning restrictions to allow for more housing units on a given plot of land, liberalizing minimum-lot size and minimum-parking regulations so that builders can build what people actually want to be built, and generally removing privileges from those who live in a particular area so they can’t use the law so easily, as they do now, to exclude people from living in their neighborhoods,” Ikeda said.

“Any of those approaches would tend to lower the cost of construction, increase the supply of housing, and lower rent,” Ikeda said.

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

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Michigan Repeals Prevailing-Wage Law

By Joshua Paladino

In a move that will reduce the cost of government construction projects, the state of Michigan is repealing its prevailing-wage law.

The Michigan Legislature decided on June 5 to approve Legislative Initiative Petition 2, a proposal to rescind the state’s prevailing-wage law, which sets artificially high wages for workers on government projects, after a ballot initiative campaign submitted 268,403 valid signatures for the petition.

After a sufficient number of signatures for a ballot initiative are submitted, the legislature has 40 days to enact the proposal or reject it and place the question before the voters in the next election.

The decision does not require Gov. Rick Snyder’s approval and cannot be vetoed.

‘No Productive Function’

Matthew Glans, a senior policy analyst for The Heartland Institute, which publishes Budget & Tax News, says prevailing-wage laws increase the cost of government works projects without providing benefits to taxpayers.

“Prevailing-wage laws establish labor costs with no consideration for the exact type of work or the skill of the employees,” Glans said. “They serve no productive function in government contracting, but rather encourage more waste and cronyism.”

State Sen. Tonya Schuitmaker (R–Lawton) says Michigan’s prevailing-wage law required the state to consume resources that could have been used on other government functions.

“It was costing Michigan taxpayers huge amounts of money,” Schuitmaker said. “Estimates from the Senate caucus were that it was costing $2.24 billion over the last decade. That’s money that could have built over 317 new elementary schools. Construction costs were inflated and running 10–15 percent higher than usual. It doesn’t make any sense to build a building in the private sector for $1 million and then have that same building cost 15 percent more because it’s a government building.

“In my opinion, that money could be better used to pave roads, build school buildings, and get money into the classrooms at lower cost,” Schuitmaker said.

‘More Opportunities’ for Workers

Jarrett Skorup, director of marketing and communications at the Mackinac Center for Public Policy, says repealing the prevailing wage will promote prosperity for construction workers.

“For new skilled laborers, there will be more opportunities and better growth,” Skorup said. “Because Michigan’s economy is so desperate for jobs and workers right now, it’s probably not going to have a large impact on wages. The unions should make their argument that they have better service and better products, like everybody in the private sector has to do.”

Schuitmaker says the prevailing-wage law benefitted government contractors and their workers while adding to the taxpayers’ burden.

“Obviously, if you got more money for a construction project, you did better,” Schuitmaker said. “I don’t agree with that. There’s no justification to pay more, and the law acted as a ‘hyper-minimum wage’ for state-funded projects. The prevailing wage was in no way protecting taxpayers.”

Looking to the Future

Glans says what happened in neighboring Ohio shows Michigan’s taxpayers will benefit greatly from the prevailing-wage reform.

“Since the Ohio General Assembly exempted school construction projects from the state’s prevailing-wage law in 1998, construction costs imposed on taxpayers have been greatly reduced,” Glans said. “In 2002, the Ohio Legislative Service Commission examined the effects of this change and found exempting Ohio schools from the prevailing-wage law saved the government $487.9 million over a four-year period, from 1998 to 2002.”

‘We’ve Done a Lot’

Schuitmaker says Michigan lawmakers have made many pro-growth reforms over the past eight years.

“Michigan has come a long way,” Schuitmaker said. “We’ve passed right-to-work, we’ve passed prevailing-wage repeal, and we are putting more accountability with work requirements of Medicaid. We’ve done a lot in the past eight years.”

Joshua Paladino (jpaladino@hillsdale.edu) writes from Hillsdale, Michigan.

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Arizona Voters to Decide Whether to Impose a Wealth Surcharge

Continued from page 1

teachers, in addition to the 19 percent pay hike already included in the state’s biennial budget, the initiative states.

Foresees Revenue Reversal
Arizona state Rep. Vince Leach (R–Tucson) says the state government’s revenues have been increasing quickly and the proposed tax hike would reverse that trend.

“Arizona has had an incredibly productive fiscal year,” Leach said. “We saw a 7.5 percent growth rate, as of June 21. We have seen increased revenues and increases across the board, although this would destroy that.”

‘Would Devastate Arizona’
Despite being labeled a “millionaire’s tax,” the surcharge would be levied against many people who are by no means among the idle rich, says Victor Riches, president of the Goldwater Institute.

“Although this is called a millionaire’s tax, the standard is set at $250,000 or more, which is not truly that wealthy, especially if one is filing with a small business,” Riches said. “This is all a bad deal, especially when considering how many truly wealthy people that are living in Arizona will leave if this passes, creating a diminishing return in terms of taxpayer dollars. This, paired with the disincentives to move here, will ultimately create a problem that won’t get better with time.”

Riches says the proposed tax surcharge would destroy Arizona’s appeal to small business owners and workers.

“This Investment in Education Act would devastate Arizona, in terms of the economy, and would make it one of the worst states in the country in terms of income tax and overall tax burden,” Riches said. “Almost doubling the income tax for those who make more than $250,000 creates a situation where there is literally no incentive for anyone to ever relocate their lives, relocate a business, or start a small business in the state.

“It is, all around, a tremendous disincentive for any type of economic development in Arizona,” Riches says.

Says Measure Discourages Migration
Arizona’s economy is growing because of the state’s hospitable tax structure, and the proposed targeted tax hike would reverse that trend and encourage people to leave for other states, Leach says.

“We absorb somewhere between 162 to 200 people a day in the state of Arizona,” Leach said. “We can tell that these are young people coming here to work, due to our unemployment level dropping. These people are coming from states with harsher tax codes, like California, Illinois, New Jersey, and New York.

“If this initiative passes and we get these income tax increases, these people will go to states that have better tax codes,” Leach said. “We won’t get doctors, we won’t get tech companies, we won’t get startups, and we will lose our workforce.”

No Revenue Problems
Riches says raising taxes would not solve any of the state’s education problems.

“There are clearly cases that could be made that the allocation of funding could be reformed, although increasing spending and increasing taxes is not the answer,” Riches said. “Arizona spends $10 billion on K-12 annually. The Arizona legislature just passed a 20 percent teacher pay increase. There is actually no reason for this proposed tax increase, because everything is already funded.”

Repeal ‘Virtually Impossible’
If the tax surcharge is approved, there may be no going back for Arizona residents, Leach says.

“What makes this even more troubling is that due to the voter initiative program that we have in Arizona, these ballot measures are ‘voter protected,’ which means that if this passes it goes directly into the state’s constitution,” Leach said. “If that happens, it cannot be changed unless a three-fourths supermajority in the House and Senate vote against it, which is virtually impossible.”

Riches says the tax hike would permanently cripple the state’s ability to attract new residents and job-creators.

“This huge increase in income taxes for those who make more, in a situation where income taxes couldn’t ever be lowered in the state, would be a disincentive for any type of economic development in the state,” Riches said.

Samantha Fillmore (samantha.heartland@gmail.com) writes from Chicago, Illinois.
San Antonio Increases Campaign Finance Reporting Requirements

By Madeline Fry

Political campaigns in San Antonio must now collect and disclose the names, employers, and occupations of individuals donating $100 or more to candidates running for city office.

The ordinance, which took effect on July 1, requires candidates for municipal office to report the personal information of donors to San Antonio’s Office of the City Clerk. The ordinance did not require the mayor’s signature in order to go into effect.

Punishing the Powerless

Bradley A. Smith, a professor of law at Capital University Law School and a policy advisor for The Heartland Institute, which publishes *Budget & Tax News*, says San Antonio’s new campaign-finance rules will facilitate political vigilantism and silence less-powerful people.

“In various states, people have been hounded from their jobs, and by that, I mean their employers have been boycotted or picketed until finally the employer has to fire the person or the person quits,” Smith said. “We live in an era of Twitter mobs, where all kinds of information can be found out almost instantaneously, so I think it’s probably as important as it’s ever been for the ability of people to support unpopular causes and to voice different opinions that are out of the ordinary, without fear of people retaliating against them.”

No Free Lunches

Paul M. Sherman, a senior attorney at the Institute for Justice, says people commonly view campaign-finance regulations incorrectly.

“Too many people view disclosure as a cost-free regulation, and unfortunately, that’s just not the case,” Sherman said. “Any time you impose a new disclosure requirement, you are not just burdening the privacy of people who want to contribute to campaigns, but you’re imposing a new paperwork burden on the campaigns themselves.”

Big Effect on Small Donors

Smith says blanket campaign-finance laws such as San Antonio’s unnecessarily intimidate people who have little political power.

“How many people say, ‘When I make a political contribution, I’m speaking for my employer’?” Smith said. “If we’re talking about the CEO of a big corporation who’s giving $5,000 or $10,000 or something like that, that can be easily found out. If you have somebody who’s an assistant manager at a bank and he writes a check for $100 to a City Council candidate, is this going to help us fight corruption or learn the candidate could be beholden to the banking industry?”

‘No Evidence to Support That’

Sherman says there’s no reason to believe campaign finance restrictions improve political integrity.

“People just take it on faith that these laws produce the benefits their supporters claim, and there’s just no evidence to support that,” Sherman said. “States have a variety of campaign finance laws, and there’s no evidence whatsoever that whether a state has strict or lax campaign finance laws has any effect on the risk of corruption in those states. The question we should be asking is, ‘What are we getting in return for these burdens?’ and the answer seems to be, ‘Not much.’”

More Government, More Corruption

Reducing the power of government is the real key to fighting political corruption, Sherman says.

“The fundamental problem with campaign finance law is that it’s looking at the wrong side of the political equation,” Sherman said. “If we want to get the money out of politics, what we really have to do is reduce the size and scope of government.”

Madeline Fry (mfry@hillsdale.edu) writes from Hillsdale, Michigan.

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Oklahoma Supreme Court Nixes Tax Hike Ballot Question

By Madeline Fry

The Oklahoma Supreme Court disallowed a ballot question that would have given voters the opportunity to reject a set of tax increases the state government enacted earlier in 2018.

The state Supreme Court ruled in favor of Professional Oklahoma Educators, a non-union association of school personnel, on June 22, after Oklahoma Taxpayers Unite, a taxpayer advocacy group, submitted signatures to place a referendum on the state’s November 6 ballot.

The ballot initiative, State Question 799, would have asked for popular approval of a measure repealing House Bill 1010xx (H.B. 1010xx), legislation that increased excise taxes on cigarettes and tobacco, oil and gas extraction, hotel rooms, and motor fuel sales by $447 million.

In addition to signing H.B. 1010xx on March 29, Gov. Mary Fallin signed House Bill 1023xx (H.B. 1023xx) approving pay raises for government school teachers and staff.

In the teachers organization’s May 10 court challenge, lawyers argued the ballot question asking to repeal H.B. 1010xx would also invalidate H.B. 1023xx, a bill the lawyers claimed was necessary for “the immediate preservation of the public peace.”

The state constitution prohibits the referendum process from affecting laws deemed necessary for the state’s “public peace, health or safety.”

In April, after the measures were signed into law, Oklahoma teachers unions staged a two-week organized walk-out, demanding further wage increases.

Says Court Silenced Voters

In 1992, Oklahoma voters approved State Question 640, a constitutional amendment requiring tax hikes gain supermajority approval in both General Assembly chambers or a simple majority of voters.

Trent England, executive vice president of the Oklahoma Council of Public Affairs, says although the tax hike package met the first of those conditions, the people should have had a say in the matter, too.

“The really important part of the whole argument in Oklahoma is tax increases are supposed to go to a vote of the people,” England said. “One of the problems with courts asserting their power over citizen initiatives is there’s always going to be technical questions and courts who will put their judgment in place over the will of the people.

“This collection of tax increases, through a lot of arm-twisting and outside pressure, met that threshold,” England said, referring to the General Assembly votes. “The outside pressure from education spending groups allowed them to put together supermajorities, and now the legal challenge has foreclosed any opportunities for regular Oklahomans to have a say.”

‘Unnecessarily Raising Taxes’

Ronda Vuillemont-Smith, co-founder of Oklahoma Taxpayers Unite, says the ballot question was about taxes, not teachers’ pay.

“Unnecessary Raising Taxes”

Massachusetts Referenda Withdrawn After Tax, Minimum Wage Changes

By Sarah Quinlan

Compromising with two groups pushing separate ballot referendum questions, Massachusetts lawmakers increased the state’s minimum wage and established a regularly scheduled sales tax holiday.

Gov. Charlie Baker signed House Bill 4640 into law on June 28, raising the state’s minimum wage from $11 per hour to $15 by 2023.

In return for the legislative enactment of the organization’s goal, Raise Up Massachusetts agreed to withdraw its ballot question asking voters to approve increasing the state’s price floor on wages to $15 per hour by 2022.

The new law also establishes an annual sales tax holiday to take place each August.

Accepting that concession, the Retailers Association of Massachusetts suspended its ballot campaign to reduce the state’s sales tax by 1.25 percent and create a regularly scheduled sales tax holiday weekend.

Tougher on the Poor

Paul Gangi, program director for the Massachusetts Fiscal Alliance, says the state’s high taxes are bad for low-income people.

“Neighboring New Hampshire has no sales tax, and Massachusetts is 6.25 percent,” Gangi said. “Sales taxes are a regressive tax. The sales tax has a larger impact on lower-income households because it consumes a larger portion of their income.”

Considers Holidays Ineffectual

Mark Rider, an associate professor of finance and economics at Georgia State University, says sales tax holidays don’t create new economic activity.

“The consensus view is that sales tax holidays merely move purchases around; they don’t really stimulate additional sales,” Rider said. “Sales taxes raise the prices of goods, which means that people have less disposable income to spend on goods.”

Reducing the tax rates on business owners and consumers year-round would promote economic prosperity, Gangi says.

“The goal of the sales tax holiday is to create economic activity by incentivizing the purchase of goods,” Gangi said. “If Massachusetts really wanted to help its retail businesses, it would make itself competitive with neighboring states by dropping its rate permanently.”

Sarah Quinlan (think@heartland.org) writes from New York City, New York.

INTERNET INFO


Official Connections:
Massachusetts Gov. Charlie Baker
https://www.mass.gov/orgs/offices-of-the-governor

Massachusetts Governor Charlie Baker

“It should concern people because the legislature is unnecessarily raising taxes on its citizenry. There are other ways we could have the money to give teachers pay raises. No one mentions audits or reforms. Raising taxes should be the last thing, not the first thing. It should never be done to appease a certain group of people.”

RONDA VUILLEMONT-SMITH
COFOUNDER, OKLAHOMA TAXPAYERS UNITE

PHOTO COURTESY MARK HERLIHY/HANSCOM AIR FORCE BASE
Congress Will Work to Make Individual Income Tax Cuts Permanent

By Jeff Reynolds

Congress will soon begin work on making permanent the individual income tax reductions included in the Tax Cuts and Jobs Act (TCJA), according to U.S. House Ways and Means Committee Chair Kevin Brady (R-TX).

In a June 26 interview with Washington Post reporter Robert Costa, Brady predicted Congress would begin in August working on Tax Reform 2.0, a follow-up measure refining reforms made by TCJA.

“I expect to see the legislative outline released in early August with votes in the fall, depending on when leadership wants to schedule them,” Brady told Costa.

Permanence will be central to Congress’ tax reform effort this year, Brady told Costa.

“Yes, so permanence, without a doubt, is the number-one request for middle-class families and for those who work in small businesses, our local small businesses,” Brady told The Washington Post. “Because that permanence creates certainty over time, it actually contributes to growth, and frankly, they deserve that permanence. It would have been there but for the Senate rules, so I think in ‘tax reform 2.0,’ permanency for those middle-class families and those small businesses will be the centerpiece.”

President Donald Trump signed TCJA into law on December 22, reducing most individual income tax rates, permanently cutting the corporate income tax from 35 percent to 21 percent, and cutting overall taxes by an estimated $1.5 trillion.

Without congressional action, the individual income tax reductions will expire on December 31, 2025.

Already Paying Off

Christopher Garbacz, a policy advisor to The Heartland Institute, which publishes Budget & Tax News, says TCJA has already benefitted the public in obvious ways and some less-visible ones.

“It is clear that there have been benefits, in terms of more current take-home pay, plus wage increases,” Garbacz said. “Unemployment is falling. Jobs are rising. Retail job vacancies exceed 700,000. Minority unemployment is at historic lows. Businesses are expanding.

“One area that is often overlooked as a rock-solid example of a benefit is the regulated utility area,” Garbacz said. “Without question, electric, gas, and water prices have fallen, as a result of the fall in corporate taxes. This is obvious since regulated utilities simply pass through, to consumers, any taxes that have to be paid.”

Calls for Spending Cuts

Tax Reform 2.0 would do what TCJA should have done, but Congress should also reduce spending, Garbacz says.

“Why weren’t all rates set lower?” Garbacz said. “The argument was that we had to have a certain level of revenue to run the current level of governmental expenditure. This is a bogus argument based in establishment swamp thinking: ‘Why not cut expenditures? Why not cut them drastically?’ Alan D. Viard, a resident scholar at the American Enterprise Institute, says the current imbalance between revenue and spending is economically dangerous.

Concerned About Deficit Increases

The economy will suffer if the government does not reduce the deficit, Viard says.

“You have a significant reduction in government revenue that will ultimately need to be made up for, either through spending cuts or through offsetting tax increases,” Viard said. “Since there’s no indication that the spending cuts or tax increases are adopted right away, the revenue loss will be financed through larger government debt in the interim, which has the potential to raise interest rates and to crowd out private investment.”

Jeff Reynolds (jefferyreynolds@comcast.net) writes from Portland, Oregon.

Cincinnati Soccer Team Announces Taxpayer-Subsidized Stadium Plan

By Zachary Williams

FC Cincinnati, a privately owned soccer team located in Cincinnati, Ohio, announced plans for a new stadium to be financed by a mixture of private and taxpayer money.

MLS Commissioner Don Garber formally invited FC Cincinnati, currently a minor league team, to join the league on May 29.

At a June 29 press conference, team owner Carl Lindner III unveiled the team’s plan to build a stadium costing more than $200 million.

The facility will be located in Cincinnati’s West End neighborhood and will receive about $33.9 million in city taxpayer money for site preparation, utility work, and parking construction, $17 million of which will be borrowed against projected revenue from the city’s hotel tax.

Construction of the stadium is expected to be completed by 2021.

Expects No Net Benefits

Greg Lawson, a research fellow with the Buckeye Institute and a policy advisor for The Heartland Institute, which publishes Budget & Tax News, says the new stadium is unlikely to promote economic growth in Cincinnati.

“How much is that really going to boost the local economy?” Lawson said. “There may be some impact, but it’s probably very small. They don’t have a benefit when you factor in the overarching cost.”

Lawson says sports stadium subsidies are a bad bet for taxpayers.

“If the team does well for a few years, maybe it’s great,” Lawson said.

Then, if something happens or they hit hard times, people stop showing up, but you’ve still got to pay off the bond that you used to do this. You’re saddled with costs that are socialized onto the taxpayer.”

Sees No Favorable Evidence

Marc Poitras, a professor of economics at the University of Dayton, says there is no reason to believe sports stadium subsidies increase the general prosperity of a city or town.

“There is no convincing economic evidence in favor of stadium subsidies,” Poitras said. “Almost all studies show relatively little economic spillover benefits in terms of employment and economic activity. In every case, there’s almost certainly a better economic use for the money, such as cutting taxes or spending the money on crumbling infrastructure.”

Zachary Williams (zramon.williams@gmail.com) writes from Columbus, Ohio.
Honolulu, Hawaii Ridesharing Price Control Ordinance Vetoed

By Madeline Fry

Honolulu, Hawaii Mayor Kirk Caldwell rejected a proposed ordinance that would have regulated fares charged by Uber, Lyft, and other ride-sharing companies.

The Honolulu City Council approved the ordinance, Bill 35, on June 6. Caldwell vetoed the legislation on June 17.

The City Council has until July 19 to decide whether to override the veto or allow the rejection to stand.

If six council members vote to override the veto, the ordinance will take effect, putting the City Department of Customer Services in charge of determining price ceilings for fares drivers may charge during high-demand periods of time, known as “surge pricing.”

Calls for Price Flexibility

Adam Smith, an associate professor of economics at Johnson and Wales University and a policy advisor for The Heartland Institute, which publishes Budget & Tax News, says government intervention distorts local transportation markets, raising prices and reducing access.

“A lot of things that are done through companies, like transportation, are now done through markets directly,” Smith said. “Having people contracting with people, you obviously need to allow the price to move around to be able to let those markets clear. When you don’t, or you put an arbitrary cap on price, then you’re going to have a shortage of that market. Fewer suppliers are going to meet demand, and they’re not going to meet demand in times when you most want it.”

Consumers First

Keli‘i Akina, president of the Grassroot Institute of Hawaii, says market principles put people in the driver’s seat.

“When prices rise, more ride-hailing drivers are incentivized to help customers,” Akina said. “This market mechanism helps give more power to consumers. Customers can already see the higher price beforehand, and they can decide to accept or decline the ride. In this way, the consumer is king. “Putting a cap on surge pricing would cut off choices for consumers,” Akina said. “The high price is a signal to ride-hailing drivers that their services are urgently needed. This can help inspire more drivers onto the road to help customers.”

Predicts Supply Reduction

If the City Council overrides the veto and the ordinance takes effect, people in Honolulu will find it harder to find transportation, Smith says.

“My prediction is that there will be fewer rides available,” Smith said. “They think they’re just going to reduce the price but keep the quantity the same, but that’s not how the market works. You’re also going to reduce the amount of suppliers available. I think this is just going to be a reduction of mass transportation in Honolulu.”

Suggests Regulatory Reduction

Instead of imposing more regulations, the Honolulu City Council should consider reducing the regulatory burden on transportation providers, Akina says.

“Instead of putting more restrictions on ride-hailing customers, Hawaii should explore ways to relieve taxi drivers of over-burdensome regulations,” Akina said.

Madeline Fry (mfry@hillsdale.edu) writes from Hillsdale, Michigan.
Ten years after building a taxpayer-funded broadband service, the city of Salisbury, North Carolina is getting out of the internet business.

Hotwire Communications, an internet service provider (ISP) with headquarters in Florida, is taking responsibility for the operation and maintenance of Salisbury, North Carolina’s municipal broadband network.

In 2008, the city of Salisbury issued $33.56 million in new public debt to build Fibrant, a 350-mile-long network providing data, voice, and video services. On May 8, 81 percent of voters approved a measure proposing to lease the city’s internet infrastructure to Hotwire for the next 20 years.

Starting on July 1, Hotwire will operate subscribers’ video and internet services. The city retains ownership of the fiber network.

Government Disadvantages
Steve Titch, a policy advisor for The Heartland Institute, which publishes Budget & Tax News, says governments cannot win the ISP game.

“Broadband is really one of the worst financial decisions a city or town can make, precisely because it has to compete with the private sector,” Titch said. “The private sector moves faster, it has easier access to money, and it doesn’t have to weigh every decision against the political concerns that governments must do. That puts a government broadband operation, or any competitive operation, immediately at a disadvantage.”

Mitch Kokai, a senior political analyst for the John Locke Foundation, says governments don’t have the right incentives or expertise to run businesses successfully.

“Government competition with the private sector creates multiple problems,” Kokai said. “First and foremost, government does not operate with the same profit-and-loss incentives as private businesses. Government officials have a harder time determining whether an investment makes economic sense. They can’t judge as well whether an operation is sustainable for the long term.”

Fell for Hype
Titch says the internet access business is not immune to the laws of economics. “Somehow, cities were talked into believing that it would all be different for them,” Titch said. “They believed somehow their economies and economics would be different, even though a city still has to go out on the open market and buy fiber optic cable and construction services, the very same things that the private sector does when they’re building broadband networks. Governments thought it was going to be different for them.”

Ideologues are the only people who still believe the government can run an ISP well, Titch says.

“I think the only people left pushing this are those that are radically wedded to the idea that government can do things better and that somehow it’s more fair and worth the investment,” Titch said. “It isn’t.”

‘Never Made Economic Sense’
Kokai says Salisbury’s voters made a fiscally sound decision.

“The major benefit for taxpayers in this instance is that they will no longer be forced to bail out a money-losing operation,” Kokai said. “It never made economic sense for Salisbury to get in this business.

“Now, taxpayer funds that have been devoted to this ill-conceived project can be diverted to core city government functions or even returned to taxpayers to spend, save, or invest as they see fit,” Kokai said.

Jeff Reynolds (jefferyreynolds@comcast.net) writes from Portland, Oregon.

INTERNET INFO
Federal Reserve Proposes Banking Rule Reform

By Brandi Wielgopolski

The Federal Reserve and Trump administration are proposing a change to the Volcker Rule, a provision of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010.

Under the proposed rule, banks with less than $10 billion in assets or engaging in trades held for 60 days or less would no longer have to provide regulators with documentation of compliance with the rule when engaging in financial activity.

The current provision, named after former Federal Reserve Chairman Paul Volcker, prohibits commercial banks from owning investment firms or investing their own money instead of using depositors’ money.

Banks are currently required to provide evidence that all investments comply with the rule, regardless of the bank’s size or the specific nature of the activity.

The proposed rule change is an interagency effort involving the Federal Deposit Insurance Corporation, U.S. Treasury’s Office of the Comptroller of the Currency, the Commodity Futures Trading Commission, and the Securities and Exchange Commission (SEC).

Once the agencies have agreed on a proposed rule, public comments will be accepted for 60 days after publication in the Federal Register.

Markets for Main Street

Daniel Press, a policy analyst at the Competitive Enterprise Institute, says the Volcker Rule is an attempt to reduce taxpayer risk created by government guarantees of people’s bank deposits.

“The crisis really wasn’t actually about risky trading,” Press said. “It was more about poor lending practices. This whole idea that somehow banks’ trading activity is more risky than general commercial lending activities, the core concept of the Volcker Rule, is flawed.”

Press says the crisis Dodd-Frank was intended to stop from happening again was caused by bad bank loans, not investment trades.

“The crisis really wasn’t actually about risky trading,” Press said. “It was more about poor lending practices. This whole idea that somehow banks’ trading activity is more risky than general commercial lending activities, the core concept of the Volcker Rule, is flawed.”

Brandi Wielgopolski (brandi.wielgopolski@gmail.com) writes from Columbus, Ohio.
Trump Calls for Review of Space Launch Regulations

By Joshua Paladino

President Donald Trump has ordered the U.S. secretaries of Transportation and Commerce to evaluate and restructure federal restrictions on satellite launches and operation.

Space Policy Directive 2 also revives the National Space Council, an executive advisory group staffers by the president and the heads of other cabinet departments, which was disbanded in 1993.

Lower-Cost Alternatives

Andrew Gasser, president of Tea Party in Space, a nonprofit organization promoting private-sector-led expansion into space, says privately designed space vehicles such as SpaceX’s Falcon rocket operate at much lower cost than their government counterparts.

“We've got different classes of missions, but they're so hard to do because every time you launch a mission, you're talking somewhere between $130 and $400 million, just for the rocket,” Gasser said. “Now, because we have reusability with Falcon and Falcon Heavy, it's going to increase the amount of scientific research that we can actually accomplish. We can put that money back into missions.”

Dean Cheng, a senior research fellow with The Heritage Foundation’s Davis Institute for National Security and Foreign Policy, says Trump is working to bring the compliance costs of space missions back to Earth.

“I'd suggest that the administration is trying to reduce the amount of regulatory paperwork and associated red tape that limits converting our aero-space potential to actual capability, as much as it has sought to reduce the overall level of regulations.”

Space for Private Efforts

Cheng says government should not have a monopoly on space.

“The future of space is not limited to government-run efforts,” Cheng said. “Beginning with the Obama administration, the United States has begun to rely more and more heavily on the commercial sector.”

Cold War in Space?

The importance of American leadership in space exploration cannot be overstated, Gasser says.

“We're the best system of government ever formed on this Earth,” Gasser said. “Free-market capitalism rewards everybody. Everybody has a shot to do it, and if you don’t use free market capitalism, there are going to end up being markets that aren’t truly open and free.”

“If we don’t seize space travel by the horns, then despotism, communism, and socialism will take it, and they'll corrupt it,” Gasser said.

‘The Infinite Economy’

Gasser says the sky’s the limit for free-market principles.

“The private sector is getting involved with this because they see a market, and it’s not just any market, it’s space: the infinite economy,” Gasser said.

Cheng says free-market principles are already driving space exploration.

“The profit motive not only provides an important incentive for the provision of services, but also pushes innovation and greater efficiency,” Cheng said.

“Elon Musk’s SpaceX efforts have significantly reduced the turnaround time for missions, in no small part because he has greater incentive to improve efficiency in the process.”

Joshua Paladino (jpaladino@hillsdale.edu) writes from Hillsdale, Michigan.

Minnesota Tweaks Public Pension Programs

By Vivian Hughbanks

Minnesota has enacted some changes to the state’s public pension programs.

The new law, signed by Gov. Mark Dayton on May 31, alters cost-of-living adjustments for current retirees and increases government employees’ contributions to their retirement plans.

The changes will be implemented in the state government’s 12 pension programs over the next six years. Reforms of the Minnesota Teachers Retirement Association pension system will begin to take effect in 2024.

The assumed rate of return used by government actuaries to forecast pension investment returns will be reduced from 8.5 percent to 7.5 percent, and a total of $141 million in taxpayer funds will be transferred to the pension funds over the next three years.

The state’s Public Employees Retirement Association currently has enough assets on hand to pay about 53 cents on each $1 of liabilities.

Pension Ponzi Schemes?

Charles Katebi, a state government relations manager for The Heartland Institute, which publishes Budget & Tax News, says defined-benefit government pension programs, like those in Minnesota, rely on false assumptions.

“The difference between a Ponzi scheme and these retirement systems is that lawmakers have the taxpayers to fall back on, and the assumption is that their tax base will continue to increase in the future and be sizable enough to pay off all these pension promises,” Katebi said.

Kim McCormick, vice president and senior policy fellow at the Center of the American Experiment, says Minnesota’s pension assumptions have been wildly overoptimistic.

“Minnesota has been lying to itself about how much it can earn on assets and how big its liabilities are for years,” McCormick said. “We were the last public fund in the country to assume that we could earn 8.5 percent consistently on our assets and use 8.5 percent as our discount rate to calculate future liabilities. Both the Teachers Retirement Association and the St. Paul Retirement Fund, the last independent fund in the state, are significantly underfunded.

“There are a lot of assumptions in this bill that have to come true in order for Minnesota’s pensions to actually be on the path to full funding,” McCormick said. “I have warned lawmakers, most of whom do not understand pensions, that pensions will be back in front of them soon, with the same—if not more severe—funding shortfalls.”

Suggests 401(k)-Style Program

Katebi says real pension reform would move employees to a defined-contribution pension plan, similar to 401(k) plans enjoyed by workers in the private sector.

“Ideally, you would move from a defined-benefit system, where the taxpayers are on the hook for politicians’ promises, to a defined-contribution system, where what a retiree receives is determined by the fixed contributions that the agency and the employee make, and their investment returns,” Katebi said.

Vivian Hughbanks (hughbanks.vivi an@gmail.com) writes from Hillsdale, Michigan.
Indiana Begins Studying Tolling on Interstate Highways

By Linnea Lueken

The Indiana Department of Transportation (IDOT) is contracting with infrastructure consultancy firm HNTB to study how much revenue the state could raise by charging tolls on interstate highways.

Indiana signed a $9.6 million contract with HNTB in June. The company is expected to deliver its findings to IDOT by November 2.

House Bill 1002, signed into law by Gov. Eric Holcomb in December 2017, which increased the state’s excise tax on gasoline from 18 cents per gallon to 28 cents per gallon, directed IDOT to study the idea of interstate tolling.

The law also requires IDOT to request the U.S. Department of Transportation grant a waiver from provisions of the Federal Aid Highway Act of 1956 which prohibit charging tolls on interstate highways.

‘It is Up to the States’

Robert Poole, director of transportation policy at the Reason Foundation, says interstate tolling is an example of states picking up where the federal government has failed.

“There is close to zero likelihood of Congress coming up with the estimated $1 trillion cost of replacing and modernizing these vital but aging highways,” Poole said. “The states—not the feds—own the interstates, so it is up to the states to take the lead on this. The only realistic way to pay for replacing first-generation interstates with ‘interstate 2.0’ is toll financing.”

Gas Taxes Not Working

Gas tax revenues aren’t going far enough to cover needed highway maintenance, prompting states to leave larger projects languishing on the drawing board, Poole said.

“The average revenue from federal and state fuel taxes was 2.2 cents per mile for passenger cars,” Poole said. “In most states, our estimated cost of rebuilding and maintaining the interstates required revenues closer to 3.5 cents per mile for cars. So it’s not surprising that legislators and state DOTs spend fuel tax monies on lots of smaller projects, leaving major investments in the interstates undone.”

Justin Stevens, state director of the Indiana chapter of Americans for Prosperity, says gas tax increases are tough on lower-income people and won’t raise the expected revenue.

“Gas tax increases shrink the amount of money Hoosiers could otherwise use to support their families, invest in their communities, or grow a business,” Stevens said. “Lower-income earners feel the pain most sharply, as a larger percentage of their take-home pay is taxed. Moreover, gas taxes will see diminishing benefit as fuel mileage continues to improve.”

Suggests Regulatory Relief

In addition to allowing tolls on interstates, there are plenty of other ways Congress can cooperate with state lawmakers to improve the roads, Stevens said.

“Federal mandates such as Davis-Bacon prevailing wage keep public construction costs artificially high,” Stevens said. “Myriad other rules and regulations further complicate matters. Fortunately, for Indiana, lawmakers have repealed prevailing wage, but there remain several ways to reform spending. We need to continue to look for ways to streamline the regulatory process and ensure that current gas tax dollars are actually being spent on core priorities, such as roads and bridges, instead of diverted to other things like bike paths, as they often are.”

Sees Better Roads Ahead

Poole says interstate tolling and the “second-generation” system it would fund would lead to happy trails for everyone.

“All Americans will benefit from a second-generation interstate system with more lanes where needed, smoother and better-maintained pavement, and real service plazas with gas stations, restaurants, electric-car recharging, and other services.”

Linnea Lueken (linnea.heartland@gmail.com) writes from Chicago, Illinois.
The U.S. Supreme Court’s decision in South Dakota v. Wayfair is effectively a new tax that will enrich state governments at the expense of the public. However, the responsibility for this new Wayfair tax now rests with Congress and state lawmakers.

In Wayfair, the Court held a state can require an out-of-state seller with no physical presence in the state to collect and remit sales taxes on goods the seller ships to consumers in the state. For more than 50 years, the states could collect sales taxes from out-of-state sellers only if the latter had a physical presence in the taxing state, under the 1967 decision in National Bellas Hess Inc. v. Department of Revenue of Illinois. That decision was affirmed in 1992 by the Court in Quill Corp. v. North Dakota.

As a consequence of the Wayfair decision, consumers will have to pay more for goods they purchase from out of state, such as catalog and internet purchases. Although retailers will remit the tax, the burden of the new tax and compliance will be passed on to consumers. Many small and mid-sized businesses will be unable to bear this added burden.

Reliance on Court’s Precedents

Lawyers representing South Dakota and numerous other state governments participating in the case rightly pointed out the Bella Hess and Quill precedents were inconsistent with several other past Court decisions. Even so, hundreds of major retailers have relied on the Bella Hess and Quill precedents in structuring their business models for more than half a century.

Consequently, many small or mid-sized businesses will likely fail because of the decision’s added burden. Keep in mind, many of these out-of-state retailers are very small, such as jewelry retailers run by single mothers out of their apartments.

In the minority opinion, the dissenting judges correctly pointed out widespread “reliance” on a precedent is normally a factor heavily weighed by the Court before overruling a precedent. In fact, the dissenting opinion largely rests on the argument that the majority gave insufficient weight to a long-held, widely relied-upon, and firmly established precedent.

Money for Nothing

The plaintiffs emphasized two other arguments in favor of the new tax. First, they argued the state needed the money, though not to offset any extraordinary costs associated with governing out-of-state business owners. Instead, South Dakota essentially said it needed this new taxation power to support its general-revenue fund.

That is probably because there is virtually no cost in governing out-of-state retailers and this revenue is little more than a windfall for the states. In fact, the Bellas Hess and Quill precedents were based on the premise that this taxation applied to remote entities whose only tie to the state was a common mail carrier.

South Dakota also argued the status quo was unfair to its taxpaying in-state retailers. The first problem with this argument is that the power to achieve fairness lies with the state itself. It could reduce the tax for in-state retailers, and all would be fair with the world. But apparently, although the virtues of “fairness” call for extraordinary judicial action, they do not necessitate sacrifice on the part of the state—just the taxpayer.

The second problem is that the state is well-justified in singling out in-state retailers for taxation. Those brick-and-mortar outlets place a cost on the state that out-of-state retailers do not.

Overriding Congress’ Intent

Perhaps the most objectionable dynamic in this decision is the Court’s short shrift to congressional responsibility. It is Congress that has been vested with the power of taxation and regulation of interstate commerce. Congress has chosen not to change the Bellas Hess and Quill status quo, despite being urged to do so by the 50 states for decades. The Court is essentially functioning as an end-around Congress here because Congress has not acted.

Without congressional action, those paying the tax will rarely be able to vote for the politicians imposing the tax. This reduces electoral accountability and provides states with little incentive to moderate their tax burdens.

This is classic “taxation without representation.” Congress should avert the Wayfair tax by codifying the Bella Hess and Quill precedents.

Double-Edged Sword

State lawmakers are under no obligation to impose the new Wayfair tax, and they should be leery of doing so. Although it is certainly going to be tempting for them to reach for this potentially enormous windfall, they must consider the other edge of this sword. Besides the obvious problem—that this would be a new tax passed on to their citizenry—imposing the new Wayfair tax will invite more out-of-state players to enter a state’s politics.

We have already seen this in other contexts. In states across the country, Silicon Valley companies such as Amazon.com have been attempting to use their economic leverage to blackmail states into adopting policies that favor their financial and ideological interests. One can easily foresee a major online retailer gaining further economic leverage through this new tax by threatening to discontinue retail sales in states that refuse to kowtow to their demands.

Voters’ Turn

Voters should question their congressional and state legislative members about this issue at every turn. This tax will raise the price of goods purchased from out-of-state sellers. This tax will hit people and businesses of all types, income levels, and locations. Without appropriate legislative action, this may be one of the largest tax increases in American history.

Josh Brown (josh@grafflaw.com) is a policy advisor for The Heartland Institute.

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Part of the Heartland Daily Podcast
Wayfair Ruling, Proposed Postage Increase Undermine E-Commerce

By Edward Hudgins

Requiring the U.S. Postal Services (USPS) to increase shipping rates for package deliveries would add to the already increasing burden on consumers and small business owners caused by the U.S. Supreme Court’s decision to allow states to demand sales taxes from out-of-state businesses.

Internet retailer Amazon.com has been the main target of the rate hike demands, based on the claim USPS loses money for every Amazon package it delivers. The story, however, is more complicated. Because a mail carrier is required to come to every address, the incremental costs of carrying an Amazon package to the door with other mail is low, whereas the incremental revenue gained by the USPS is quite high. Add to this the fact that Amazon does a lot of presorting work, which reduces the burden on USPS, plus the volume Amazon offers USPS, it is a win-win situation.

Evolving Remote Commerce

In the late 1800s, Sears Roebuck distributed millions of mail-order catalogs to a largely rural and widely dispersed American population. Customers ordered millions of items through the mail, freeing themselves from the high prices and limited availability that characterized local markets at the time. Starting after World War II, shopping malls provided another option, bolstered by increasingly concentrated population centers and the ubiquity of the automobile in American life.

Since the 1970s, companies such as Walmart and Target have offered one-stop shopping for basics, from groceries to clothing to furniture, filling a niche in smaller markets where shopping malls do not make economic sense. E-commerce, pioneered by eBay and Amazon, is the latest step in this evolution, allowing retailers to offer maximum variety and low prices.

Although brick-and-mortar stores still account for most retail sales, e-commerce’s share of the market has been growing steadily, from about 8 percent in 2011 to 13 percent in 2017, comprising $453 billion of the $3.5 trillion in retail sales last year. Amazon.com has led the e-commerce pack, accounting for nearly 45 percent of all sales.

Wayfair Burden

A new threat to prosperity that should concern all business owners and consumers is the U.S. Supreme Court’s June 21 decision in Wayfair v. South Dakota.

Since the 1990s, state governments have had to demonstrate a business had a physical presence in the state before demanding the company remit sales taxes. Now, states can tax out-of-state retailers, placing an especially crippling burden on smaller e-commerce retailers.

In order to collect the sales tax, those businesses will face an accounting nightmare and have to hire people or services to calculate and remit taxes on each sale based on each state’s tax code and countless local taxes.

Going Postal

USPS holds a legal monopoly on the delivery of first- and third-class mail and enjoys other government-granted privileges, such as tax-exempt status. It also offers services, mainly package delivery, that compete with private companies.

Despite these advantages, USPS has been losing money for decades. For fiscal year 2016-2017, USPS’ spending exceeded its revenue by $2.7 billion. The Postal Service has operated at a loss for 11 consecutive years.

One area in which USPS’ services have been in demand is parcel delivery. In 2017, USPS’ revenue from shipping and packages exceeded $19.5 billion, up from $17.4 billion in 2016, accounting for 27 percent of the Postal Service’s revenue. By contrast, revenues from first-class mail fell from $27.5 billion to $25.6 billion.

Killing the Golden Goose

Raising postal rates would make small business owners and everyday people pay more, delivering another blow to USPS’ operations.

By law, USPS’ prices for delivering packages must cover all its actual costs and then some, in order to avoid competing unfairly with private competitors and squeezing them out of the market. USPS is also required to cover the “attributed costs” of package delivery: the share of overhead—facilities, employees, etc.—the postal service must pay for regardless of the number of packages it delivers.

The Postal Regulatory Commission (PRC), an independent agency tasked with overseeing USPS, has certified, as it is required to do by law, that the Postal Service covers all of its package delivery costs and is not giving unfair discounts to shippers, using a formula that takes account of various costs.

A private competitor to USPS’ delivery services challenged PRC’s formula, in the court case United Parcel Service v. Postal Rate Commission. In that case, the U.S. Court of Appeals for the District of Columbia ruled on May 22, 2018, that PRC’s calculations were correct and USPS was not undercutting other delivery companies.

There are serious questions about the future of the Postal Service. Shipping packages, however, is one of the few USPS services that is not floundering and bleeding money. In fact, it generates net revenue for the postal service.

The Price of Policy

Coupled with the Wayfair decision, raising delivery prices to spire Amazon would be a one-two punch to small business owners and their customers.

E-commerce has revolutionized the U.S. economy over the last few decades, providing access to an almost unlimited variety of goods and giving small enterprises an opportunity to expand their customer base nationwide.

Instead of increasing the costs and difficulty of commerce, lawmakers should seek to reduce the burdens government places on small business owners and consumers and promote economic growth instead.

Edward Hudgins (ehudgins@heartland.org) is research director at The Heartland Institute.

“E-commerce has revolutionized the U.S. economy over the last few decades, providing access to an almost unlimited variety of goods and giving small enterprises an opportunity to expand their customer base nationwide. Instead of increasing the costs and difficulty of commerce, lawmakers should seek to reduce the burdens government places on small business owners and consumers and promote economic growth instead.”
A Captivating Chronicle of the New Space Trailblazers

Review by Jay Lehr

The universe beyond Earth has always fascinated people, and the quest to establish a foothold for humanity in the larger cosmos has driven many people to accomplish great deeds.

In *The Space Barons: Elon Musk, Jeff Bezos, and the Quest to Colonize the Cosmos*, Washington Post Staff Writer Christian Davenport weaves an engrossing tale of two larger-than-life tycoons of industry—Tesla Motors founder Elon Musk and Amazon.com founder Jeff Bezos—and their efforts to reach for the stars.

Stepping In

As the “space race” between the United States and Soviet Russia in the 1960s and 1970s cooled down, the U.S. government’s space program faltered. The last manned landing on the Moon took place in 1972, and the last Space Shuttle mission was in 2011.

With our government having abandoned manned exploration of the heavens, the private sector has taken the lead. First among these new trailblazers of manned space exploration are Jeff Bezos, Elon Musk, and other individuals with the resources and the vision to see beyond the clouds, Davenport writes.

“Musk and Bezos were the leaders of this resurrection of the American space program, a pair of billionaires with vastly different styles and temperaments,” Davenport wrote. “Always audacious, Musk had plowed far ahead, his triumphs and failures commanding center stage. Bezos remained quiet and clandestine, his mysterious rocket venture kept hidden behind the curtain. But there were others.

“Like Bezos, Richard Branson was promising to fly tourists past the edge of space to get glimpses of Earth from above and experience a few minutes of weightlessness,” Davenport wrote. “Paul Allen, the cofounder of Microsoft, who had backed the first commercial spacecraft, was now building the largest airplane the world had ever seen. Bigger than Howard Hughes’s Spruce Goose, it’d be able to ‘air launch’ rockets—and perhaps even a new space shuttle, called ‘Black Ice,’ it was developing in secret—from 35,000 feet.”

Competition and Contrasts

Davenport’s recounting of anecdotes featuring Bezos, Musk, and the rest of the new crop of cosmic explorers is delightful, and readers will marvel at the detail in which he paints the scenes illustrating the contrasts and similarities among these so-called space barons, especially when their ambitions bring them into conflict.

“The tension would play out in legal briefs and on Twitter, skirmishes over the significance of their respective landings and the thrust of their rockets, and even a dispute over the pad that would launch them,” Davenport wrote. “Musk, the brash hare, was blazing a trail for others to follow, while Bezos, the secretive and slow tortoise, who was content to take it step by step in a race that was only just beginning.”

Questionable Regulatory Burdens

One highlight of *The Space Barons* is Davenport’s description of the ways government regulations have hamstrung advancements in aeronautics, and the proactive work these tycoons have undertaken to slip loose those bonds and reach for the stars.

Davenport writes that when SpaceX’s construction plans were hobbled by outdated government regulations, Brian Mosdell, director of the company’s operations in Florida, worked with policymakers to demonstrate the benefit of regulatory reform.

“When the company was told it would cost $2 million for a pair of cranes to lift the Falcon 9, for example, it questioned the price, wanting to know why it was so expensive,” Davenport wrote. “The reason was that the Air Force required the cranes meet a series of safety requirements to prevent, say, a hook from suddenly dropping too fast. But modern technology had rendered many of those requirements, some decades old, unnecessary. Mosdell and the SpaceX team lobbied the Air Force officials at Cape Canaveral, ultimately convincing them to strip out many of the old regulations that were driving up the price. They did, and SpaceX was able to purchase the cranes for $300,000.”

Ushering in the New

The government monopoly on space exploration is declining, and like twin rocket ships, Bezos and Musk are leading humanity into a sleek and streamlined new era of private-sector-led space missions.

Both of these “Space Barons” are too young to remember Neil Armstrong’s walk on the Moon, but they are the ones who may show the way to the future, Davenport writes.

“Bezos was five when he watched Armstrong walk on the moon,” Davenport wrote. “Musk had not yet been born. But with their massive fortunes and ambition, they were reenacting the Cold War space race, a pair of Space Barons starring in the roles of nations, hoping to pick up where Apollo had left off more than a generation earlier. Their race to the stars was driven not by war or politics; rather, by money and ego and adventure, a chance to extend humanity out into space for good.”

Readers will be mesmerized by Davenport’s recounting of the wonderful accomplishments of these brilliant, thrill-seeking explorers of a new frontier. Although the author makes it clear that claiming the universe as a second home is still a distant dream, the works of accomplished, driven men like Bezos and Musk may bring humanity a few steps closer to making that shared vision a reality.

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The Heartland Institute’s 34th Anniversary Benefit Dinner

FEATURING KEYNOTE SPEAKER
Judge Andrew P. Napolitano
Fox News senior judicial analyst and best-selling author of Suicide Pact

TOPIC
The Constitution and Human Freedom

WHEN
Friday, October 26, 2018
5:30 P.M. - 9:00 P.M.

WHERE
The Cotillion Banquets
360 South Creekside Drive, Palatine, IL 60074

EARLY BIRD (JUNE 29 - AUGUST 10, 2018)

TABLES
$10,000 Gold Table & VIP
$5,000 Silver Table & VIP
$1,200 Reserved Table
$ 560 Nonprofit/Tea Party Groups

TICKETS
$800 Premium Seating & VIP Reception
$99 General Admission

*Platinum table not offered at the early bird rate.

REGULAR PRICES (AUGUST 10, 2018)

TABLES
$50,000 Platinum & VIP
$15,000 Gold Table & VIP
$10,000 Silver Table & VIP
$1,500 Reserved Table
$ 700 Nonprofit/Tea Party Groups

TICKETS
$1,500 Premium Seating & VIP Reception
$ 150 General Admission

To purchase tickets, tables, or attend our exclusive VIP reception with Judge Andrew P. Napolitano, please contact Wanda Davis at 312/377-4000 or wdavis@heartland.org.

The Heartland Institute is a national nonprofit organization based in Arlington Heights, Illinois. Its mission is to discover, develop, and promote free-market solutions to social and economic problems. For more information, visit heartland.org or call 312/377-4000.