Big Plans for Texas City’s Park
Lawmakers in Dallas, Texas are considering a plan to turn over to a nonprofit organization responsibility for a government-owned park’s maintenance.

Feelings About Free Trade
A new poll conducted by a nonpartisan think tank reveals voters' real feelings about free trade between consumers and businesses in different countries. The results might surprise you!

Sour Tax on Sweet Drinks
Boulder, CO voters will consider a new tax on soda after a taxpayer’s court challenge was rejected by a county judge.

Freedoms Under Fire
A new book details liberals’ fight to use government to suppress conservative speech and highlights conservatives’ efforts to fight back to defend freedom.

IN E-Cig Law Support in Doubt
Investigators are questioning how an Indiana law restricting e-cig manufacturers was passed, after allegations of corruption arose.

Civil Asset Forfeiture Reform Approved in Calif.
By Jeff Reynolds
California Gov. Jerry Brown (D) signed into law a bill restricting local and state government police agencies’ ability to participate in a federal program distributing assets and property seized from citizens without criminal charges or search warrants.

In late August, the California Senate passed Senate Bill 443, introduced by state Sen. Holly Mitchell (D-Los Angeles) in February 2015 and passed by the State Assembly in August 2016. The bill, revived after nearly eight months of inactivity in the State Assembly, was signed into law by Brown in late September.

After the law takes effect in January 2017, local and state police departments will be prohibited from using the

House Lawmakers Consider Repeal of Financial Regs Enacted During ‘08 Crisis

By Elizabeth BeShears
Lawmakers in the U.S. House of Representatives are considering a bill that would repeal some federal financial restrictions enacted six years ago in response to the 2008 financial crisis.

In September, House Resolution 5983—the Financial Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs (CHOICE) Act—was referred to the House Subcommittee on Commodity Exchanges, Energy, and Credit for consideration.

If approved by both houses of Congress and signed into law, the bill, proposed by Rep. Jeb Hensarling (R-TX), would remove some of the financial restrictions enacted by the Dodd-Frank Wall Street Reform and

Credit Act.

DODD-FRANK, p. 8

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REPRESENTATIVE ISAAC LATTERELL
SOUTH DAKOTA
California Voters to Consider Steep Tax Hike on Tobacco, E-Cigarettes

By Dustin Siggins

 Californians will vote in November on whether to increase taxes on combustible tobacco and non-tobacco products, such as e-cigarettes, to fund new proposed increases in health insurance subsidies.

If approved, Proposition 56 would increase the state’s excise tax on tobacco cigarettes from 87 cents to $2.87 and add new tobacco taxes on non-tobacco products, such as e-cigarettes. Currently, e-cigarettes are not taxed as tobacco products in California.

The initiative would divert up to 82 percent of the new tax revenue to payouts for health insurance companies participating in the state’s Medi-Cal entitlement program. Only 13 percent of the estimated $1.6 billion in tax money would go to tobacco cessation and prevention programs.

Predicting Consumers’ Responses

Donald Kenkel, a professor of policy analysis and management at Cornell University’s College of Human Ecology and a research associate at the National Bureau of Economic Research, says consumers’ reactions to price changes aren’t as direct as one might assume.

“The key question is how California consumers will respond to the price increase,” Kenkel said. “Economists are not able to run randomized, controlled experiments to study consumer behavior. Instead, we analyze observational data and try to statistically control for the other factors that influence smoking behavior.”

Kenkel says adding taxes to the price of cigarettes doesn’t reliably reduce consumer demand.

“A $2-per-pack tax increase can be expected to increase the price of cigarettes in California by about 34 percent, to almost $8 per pack,” Kenkel said. “Cigarette demand is very inelastic. Recent evidence suggests the price elasticity of demand might be, at most, -0.1. Given these estimates, it is reasonable to predict that the $2-per-pack tax will cause cigarette consumption to fall by about 3.4 percent. Much of this drop will probably come from current smokers cutting down the number of cigarettes they smoke each day.”

Filling Government Coffers

Kenkel says the ballot measure, if approved, “will probably” benefit government more than it benefits public health.

“It is interesting that a $2 tax hike will probably do more to increase tax revenues than it will do to decrease smoking.”

William Shughart II, research director at the Independent Institute and an economics professor at Utah State University, says history is full of examples of lawmakers using new revenue as slush funds for pet projects.

“The Master Settlement Agreement of cigarettes they smoke each day reported in Science World Report.”

“Most Regressive of All Taxes”

Shughart says cigarette taxes have a disparate impact on the people who can least afford them.

“Cigarette taxes are among the most regressive of all taxes levied by state governments,” Shughart said. “Poor people smoke more than rich people, and so they will bear the tax burden more heavily.”

By Dustin Siggins (dustinsiggins@gmail.com) writes from Washington, DC.

IN OTHER WORDS . . .

“Voters in California will decide on a contentious ballot initiative aimed at regulating the electronic cigarette industry and hiking tobacco taxes.

“Proposition 56 would raise the tax on tobacco sales, which currently sits at 87 cents, to $2.87. The ballot would also allow the state government to begin taxing e-cigarette sales, which opponents argue harms an industry helping smokers quit. California voters have not raised the state tobacco tax since 1998, which is relatively low compared to other Democratic states like New York, where the tax on tobacco is $4.35 per pack, reports Science World Report.”

States Challenge Obama Administration’s ‘Overtime Rule’

By Gabrielle Cintorino

Attorneys general from 21 states are challenging a new regulation issued by the U.S. Department of Labor (DOL).

The regulation, known as the “overtime rule,” will affect about 4.2 million employees beginning in December. It mandates all salaried employees begin earning $23,660 annually.

“The raise in the salary threshold is out of line with historical increases,” Kovacs said. “A consequence of raising the salary threshold so high and automatically increasing the threshold is that some employers will choose to demote salaried employees to hourly workers. Most likely, the employees that are reclassified as hourly would be employees earning lower salaries, so the pool of workers that determine the salary threshold earn higher incomes, which will make the salary threshold skyrocket in the future.”

Costly Burdens to Workers

Kovacs says the overtime rule will harm employers and employees. “The overtime rule will directly cost employers over $600 million in compliance costs and add 2.5 million paperwork burden hours and an additional $1.3 billion in higher wages,” Kovacs said. “The money has to come from somewhere. One way some employers will try to make up these regulatory costs is by raising prices on consumers.”

James Sherk, a research fellow in labor and economics for The Heritage Foundation, says the regulation won’t do employees any good. “Employees respond by reducing base salary,” to balance out the higher pay for overtime hours, Sherk said. “Employees could have slightly less pay, but on average the wages will be more or less exactly the same because the base salaries are going to adjust.”

Reducing Workplace Flexibility

Sherk says the overtime rule will reduce employers’ willingness to negotiate alternate working arrangements, because it’s more difficult to track someone’s hours when they are working from home. Employers are very hesitant to allow remote work opportunities for anyone covered by overtime laws.”

Gabrielle Cintorino (gcintorino4@gmail.com) writes from Nashville, Tennessee.

Boston Transit Agency Privatizes Cash Operations

By Jeff Reynolds

Officials overseeing a Boston, Massachusetts government-operated transportation agency voted to turn over to a private business responsibility for some administrative operations, after Massachusetts lawmakers declared their support for partial privatization.

The Massachusetts Bay Transportation Authority’s (MBTA) Fiscal and Management Control Board voted in October to transfer responsibility for handling cash over to a private security firm. State lawmakers had granted MBTA authority to explore privatization options in 2015.

Massachusetts lawmakers established a three-year period that allows for the privatization of MBTA by voting for a temporary suspension of the so-called “Pacheco law,” which requires any government privatization plan to receive prior approval from state government officials.

Massachusetts lawmakers have been making tremen-

dous headway with laying out a budget plan that focuses on increasing revenue while cutting costs with common-sense solutions that had been overlooked for years,” Belsito said.

Belsito said MBTA could become financially solvent within years if lawmakers continue making reforms.

“The chief administrator of MBTA has been making tremendous headway with laying out a budget plan that focuses on increasing revenue while cutting costs with common-sense solutions that had been overlooked for years,” Belsito said. “There is a goal of having no budget deficit by 2018.”

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

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Dallas Considers Public-Private Partnership for Texas State Fair Park

By Danedri Herbert

Dallas, Texas lawmakers are considering community members’ arguments in support of and in opposition to Dallas Mayor Mike Rawlings’ proposal to create a public-private partnership to improve the quality of maintenance and renovation of Fair Park, a government recreation area built in 1904.

In late August, the Dallas City Council held a public hearing on Rawlings’ plan to hand over control of the 277-acre park, at which the State Fair of Texas is held annually in September and October, to a nonprofit organization to be established by the city government.

If city lawmakers approve the plan, the private organization will receive government funding as payment for managing and renovating the park’s attractions and facilities, such as Big Tex, an iconic 55-foot tall talking statue used for public announcements at the fair.

Various Reasons for Partnerships

Stephen Goldsmith, professor of government at Harvard University, says city lawmakers consider public-private partnerships (P3s) for many reasons.

“‘A city may do it because the outsourced entity has fundraising capacity,’” Goldsmith said. “‘A city may do it because the outsourced entity has particular technical ability. They may do it because they have more technology available to bring to bear on a public problem.’”

Goldsmith says P3s benefit taxpayers. “If a city has demands that it can’t meet because of either resources or personnel, then public-private partnerships are a great way to improve quality of service and often to reduce costs at the same time,” Goldsmith said.

Moving Away from Monopolies

Simon Hakim, a professor of economics at Temple University, says P3s can do wonders for taxpayers.

“There’s no miracle in moving from public to private,” Hakim said. “The miracle, if I can call it a miracle, is to move from monopoly to competition. First of all, you’re going to get efficient production. Second, if something goes wrong and they have to get out, the government is not in big trouble. Other companies could pick up or the government could pick up that part of the project.”

Dreaming Big for Big Tex

Hakim says he can imagine a self-sufficient future for Fair Park.

“People don’t come to a park that is completely open,” Hakim said. “They like to sit, drink coffee, have a small meal, rent a bike. People don’t sit in the middle of the grass and watch the scenery for eight hours, but if you offer a restaurant, a small coffee shop, or [the chance to] rent a bicycle, what do you do? First of all, you encourage people to go there. Second, you develop revenue sources to manage that park.

“If you offer opportunities within the park which are completely natural revenue sources, you can keep a high level of quality of services, because the vendors generate the revenue to trim the trees and cut the lawn, and they make the park more viable and accessible to people,” Hakim said.

Danedri Herbert (danedri.herbert@gmail.com) writes from Kansas City, Kansas.

IN OTHER WORDS . . .

“The foundation says money for the signature park will come from private donations.

“Council members are also concerned about the cost of revamping Fair Park. Renovations and repairs to buildings and park structures could cost about $200 million. The proposal asks for the city to kick in $75 million from a bond package next year.

“Some council members say Fair Park has contributed to neglect in surrounding neighborhoods in South Dallas. Tiffinni Young, who represents the area, says the foundation should invest beyond Fair Park’s gates.

“‘Will this foundation be committed to partnering with organizations to be partners in the community to help and engage?’ Young said. ‘I look forward to working with all my colleagues to make sure that we have a contract that we can all be proud [of] and that the community can be proud of as well.’”

— Stephanie Kuo, “As Dallas Debates Fair Park’s Future, City Council Has Lots of Questions,” KERANews.org, August 30, 2016

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Congressman Offers Online Sales Tax Proposal

By Michael McGrady

A n intergovernmental state agency is criticizing a congressman’s draft proposal to create a federal framework for collecting and remitting sales taxes on online purchases made across state borders.

In August, Rep. Bob Goodlatte (R-VA) released a “discussion draft” of a bill called the Online Sales Tax Simplification Act (OSSA), the third online sales tax bill proposed by lawmakers since 2015. In September, the Multistate Tax Commission, an intergovernmental state tax agency bringing together 47 state governments’ tax agencies, criticized the draft bill, saying OSSA is “unworkable.”

If officially introduced and signed into law, OSSA would create a two-tiered system for interstate e-commerce taxation, creating a new interstate “clearinghouse” government agency for the tax’s administration.

If a state government in which a business is located participates in the clearinghouse, the business would pay sales taxes to its home state. If the state does not participate, the business would pay sales taxes to the state government in which the consumer is located.

‘Very Different’ Proposal

Andrew Moylan, executive director and senior fellow at the R Street Institute, says OSSA is different from past proposals, such as the failed Marketplace Fairness Act of 2015.

“This new Goodlatte bill is a very different piece of legislation,” Moylan said. “It is a completely different concept than those represented in [the] past, [which were] terrible bills. Past proposals relied on a destination sourcing regime: Businesses who sell online collect taxes based on where the customer is located. [OSSA] utilizes an origin-sourcing regime that says that businesses that sell online can collect on the tax base of where they are physically located. If I am a Virginia-based business, that means I can collect sales tax based on Virginia’s laws.”

‘Still Falls Short’

Curtis Dubay, a tax and economics research fellow with The Heritage Foundation, says although OSSA is better than previous online sales tax proposals floated by lawmakers, it is still flawed.

“It’s a better approach, but it still falls short,” Dubay said. “Most importantly, this bill forces businesses and states that don’t have sales taxes to collect the actual tax or information. It is imposing a requirement on the businesses that their home state didn’t choose to apply to them. For those states that don’t have sales taxes, I would say that it is a federal sales tax.”

Michael McGrady (mmgrady@mmgradypolicyresearch.org) writes from Colorado Springs, Colorado.

Idaho Public Pension Program Grows Membership, Unfunded Obligations

By Jeff Reynolds

A public pension program in Idaho managing employee retirement benefits for nearly 800 local and state government entities and 135,000 enrollees added two local government employee group districts to its ranks in late August, but the expanded ranks and pension contributions may not be enough to keep the taxpayer-funded retirement program afloat.

In late August, the Public Employee Retirement System of Idaho (PERSI) added government employees from Kimama Highway District, a government entity tasked with public highway maintenance in Paul, Idaho, and the Alturas International Academy, a public charter school located in Idaho Falls, to the public pension program.

The new members were added shortly after PERSI announced government pension investment returns for fiscal year 2016 fell far short of the required funding targets. In the previous fiscal year, the government pension program’s investments increased by 1.53 percent. PERSI’s earnings forecast anticipated a 7 percent return on investments.

Idaho public pension liabilities exceed revenue by more than $2.3 billion.

Calls for Realistic Projections

Dustin Hurst, communications director for the Idaho Freedom Foundation, says the state’s lawmakers should have seen PERSI’s funding problems coming.

“The funding issue comes down to both projections and performance,” Hurst says. “The PERSI board has a duty to use realistic numbers, and they often struggle with that. The fund’s performance is uneven, like any investment might be. Lower projections on returns would allow government to properly plan for market turbulence.”

If PERSI’s books aren’t balanced, government employees and taxpayers will be the ones paying for it, Hurst says.

“If PERSI continues its struggles, oversight board members will likely return to taxpayers for more cash,” Hurst said. “They will likely raise contribution limits for government employers, which means greater costs for cities, counties, schools, and the state. Local governments will face a tough choice: Raise taxes to cover costs or cut services.”

Overpromising, Underfunding

Sheila Weinberg, founder and chief executive officer of Truth in Accounting, a nonprofit government watchdog organization, says Idaho’s state employee retirement spending problems may be worse than originally thought.

“Another area of concern should be the … underfunded retirees’ health care benefits,” Weinberg said. “In 2015, the state had promised $149 million of these benefits, but only $30 million were set aside to fund them. The state will have to come up with the money to pay promised pension and retirees’ health care benefits. No matter what happens in the marketplace, the taxpayers have been given the ultimate responsibility of paying for these benefits.”

Jeff Reynolds (jeffreyreynolds@comcast.net) writes from Portland, Oregon.
Texas Lt. Governor Supports Amendment Convention Proposal

By Jeff Reynolds

O n a prominent talk-radio show, the lieutenant governor of Texas called on his state’s lawmakers to approve a resolution calling for a national constitutional amendment convention.

Joining national talk-radio host Mark Levin in September, Lt. Gov. Dan Patrick announced his support for the Convention of States proposal, which is backed by Citizens for Self-Governance, a nonprofit organization advocating restoration of state and local authority.

After 34 states call for an amendment convention, the gathering would be limited to consideration of amendments requiring the federal government to enact a balanced budget. Currently, 28 states have passed such resolutions.

Restoring Rule of Law

Tom Lindsay, director of the Texas Public Policy Foundation’s Center for Tenth Amendment Action, says the only way to rein in an abusive federal government is to reform the government’s framework.

“More important than electing this person or that person, we’ve got to restore the structure of American government,” Lindsay said. “It’s been eroded by Supreme Court decisions, by a Congress that has delegated too much of its authority to unaccountable bureaucrats, [and] by a president who only obeys the laws he likes despite Article II, [which] demands that he take care to faithfully execute it. This is the last constitutional resort for restoring the rule of law in this country.”

‘Not a Constitutional Convention’

Lindsay says the U.S. Constitution spells out how the people can change the way government works.

“The lieutenant governor has significant power as the tie-breaking vote in the legislature. Having him on board will make it easier for the legislature to coalesce around the call for a convention of states.”

KYLE MAICHLE, THE HEARTLAND INSTITUTE

Missouri Voters to Consider Sales Tax Exempting Services

By Ben Johnson

Missouri voters will consider a ballot question that, if approved in November, would prohibit state lawmakers from imposing any taxes on services, such as lawn work, plumbing, construction, and health care.

“The measure, titled Amendment 4, would amend the state’s constitution to prohibit any new sales or use taxes on transactions not involving goods.

Unique Idea

Jared Walczak, a policy analyst at the Tax Foundation, says the ballot measure proposes a unique idea not seen in other states.

“Three states—Hawaii, New Mexico, and South Dakota—include most services in their sales tax base,” Walczak said. “Most states are far more selective, exempting many or most [but not all] services.”

Pressure on Other Taxes

Walczak says passage of Amendment 4 would lead to other tax hikes.

“Amendment 4 would limit the imposition of the sales tax to an ever-shrinking share of transactions taking place in Missouri, which may force policymakers to consider raising the rate of the sales tax or some other tax, as the sales tax base continues to erode,” Walczak said.

Calls for Broad Tax Reform

Patrick Ishmael, director of government accountability at the Show-Me Institute, says lawmakers should make sales taxes apply to more transactions, not fewer.

“Income taxes are among the most destructive one can have for growth, and moving toward a sales tax would be an improvement in that vein,” Ishmael said. “A growth-oriented shift away from income taxes and toward sales taxes could materialize in either higher sales tax rates or fewer exceptions to what a sales tax is charged on—that is, a broadening of the sales tax base.”

Ben Johnson (therightswriter@gmail.com) writes from Stockport, Ohio.

Six States Away from Making History

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House Lawmakers Consider Bill to Roll Back Dodd-Frank Restrictions

Continued from page 1
Consumer Protection Act of 2010, commonly referred to as “Dodd-Frank.”

More ‘CHOICE’ at the Bank
J.W. Verret, a senior economics scholar at the Mercatus Center at George Mason University, says the CHOICE Act would remove Dodd-Frank provisions that directly harm consumers.

“The bill includes rolling back something in Dodd-Frank called the ‘Durbin Amendment,’ which was a price control on debit card fees,” Verret said. “What we know about price ceilings and artificial price controls is that they restrict supply. One of the things that’s happened as a result of this Durbin Amendment is banks, in order to make up for the fees they lose on the debit cards, have rolled back and eliminated most free checking accounts, which used to be very prevalent before Dodd-Frank.”

Reining in Government Bureaucracy
Verret says the bill will make the Consumer Financial Protection Bureau (CFPB), a government regulatory agency created by Dodd-Frank to enforce new financial laws and regulations, accountable to taxpayers.

“One thing this bill will do to the CFPB is make it more like other government agencies,” Verret said. “Most government agencies are accountable to the American people and the American people’s representatives in the Congress, by having the money they spend be appropriated by Congress. … Well, not the CFPB. This bill just says they have to act like every other government agency: [They must] come to Congress and get their money approved before they spend it.”

Setting Clear Rules
Robert Genetski, a leading economic and financial advisor, says lawmakers should claw back rulemaking power from unaccountable government agencies such as CFPB.

“From my perspective, I believe laws are much more efficient and much less expensive than setting up regulatory bodies to go and make their own laws,” Genetski said. “I just think it’s bad governance. If you don’t want financial institutions to do whatever you think is damaging, you create a law and you put in the law what the penalties are, and then everyone knows what they can’t do and what they can do.”

Elizabeth BoShears (liz.erob@gmail.com) writes from Trussville, Alabama.

Maryland Lawmakers Call ‘Time Out’ on Fantasy Sports Gaming Regulations

By Danedri Herbert
Maryland lawmakers are questioning proposed new restrictions on how consumers can play fantasy football and other online fantasy sports games.

In October, Maryland lawmakers placed a hold on regulations restricting the amount of money players are allowed to spend on daily fantasy sports (DFS) competitions and requiring companies facilitating DFS competitions to warn players about the skill levels of other participants. The regulations were proposed by Maryland Comptroller Peter Franchot.

Daily fantasy sports services allow players to compete online by selecting athletes for fictional “fantasy” teams. Players compete for prizes by comparing their teams’ real-world performance statistics over an agreed-upon period.

‘Legislating in the Blind’
Michelle Minton, a consumer policy fellow at the Competitive Enterprise Institute, says the new restrictions are solutions in search of problems to solve.

“If you’re going to regulate something, you should probably wait until there’s a problem,” Minton said. “This is legislating in the blind. There was no problem. No one was complaining. As far as I know, there was no single complaint. None of the players were saying they had been ripped off.”

Minton says consumers don’t need regulatory boards and government restrictions to decide which fantasy sports services to use.

“People are generally smart,” Minton said. “If there is a website and there are people cheating on it, the gamblers know. They can tell if they are losing money on one site versus another. There’s nothing that motivates people more than money, and they will figure that out.”

Creating an Edge for Big Companies
Charlie Hughes, a research associate at the Cato Institute, says increasing regulatory costs favors big companies over smaller upstarts.

“There are unintended consequences and problems with these kinds of proposals,” Hughes said. “You’ll see that the larger ones, like DraftKings and FanDuel, will be able to navigate the waters and deal with the compliance costs. It might lead some of these smaller ones to exit the market.”

‘Regulation Machine’
Hughes says the havoc caused by government regulations gives lawmakers and regulators excuses to further expand their power.

“It’s a perpetual-motion regulation machine,” Hughes said. “It’s part and parcel with the rush to regulate. There are unintended consequences of the regulation, and then those new perceived problems kind of bring forth a host of new proposed regulations.”

Danedri Herbert (danedri.herbert@gmail.com) writes from Kansas City, Kansas.
By Gabrielle Cintorino

Most Americans in both major political parties believe reducing government barriers between consumers and businesses in different countries improves people’s lives, a poll by a nonpartisan organization has found.

A new national poll, published in September by the Chicago Council on Global Affairs, asked more than 2,000 Americans for their opinions on international trade and other economic issues. Over an 18-year period of polling, support for free trade has increased, from 53 percent of those surveyed in 1998 to 65 percent in 2016.

Between 1998 and 2016, Democratic Party voters’ support for international free trade has increased by 19 percentage points, climbing from 55 percent to an all-time high of 74 percent in 2016. Republican Party voters’ support for free trade increased from 57 percent in 1998 to 59 percent in 2016, after peaking at 65 percent in 2006.

Everyday Benefits
Daniel Griswold, a senior research fellow at the Mercatus Center at George Mason University, says Americans support international free trade because they understand the benefits of interconnectedness.

“They see the benefits they enjoy every day as consumers from more choice and lower prices,” Griswold said. “They realize we live in a world where American farmers and companies need to sell in global markets in order to survive.”

Griswold says free trade creates more opportunities for individual success.

“Nations that are open to trade grow faster and achieve higher incomes than those that are closed, and the United States is no exception,” Griswold said. “Trade has fueled the growth of important sectors of our economy, creating better-paying jobs for American workers.”

Unseen Success
Scott Lincicome, an adjunct scholar with the Cato Institute, says American consumers may not always see the benefits of free trade, but those gains are still real.

“You go to Wal-Mart, and everything you see is made in China,” Lincicome said. “You don’t see the fact that American manufacturing output is at an all-time high. America remains the number-two manufacturer in the world. We produce 15 to 20 percent of all manufacturing inputs on the whole planet. We’re by far the most productive manufacturing [country] in the world. We produce satellites, airplanes, things that people aren’t going to see in their daily lives.”

“A Consensus View”
Lincicome says more trade between countries leads to peace and prosperity at home and abroad.

“Free trade has been a consensus view for over 200 years,” Lincicome said. “It’s repeatedly been proven that nations who trade together are better off. We have hundreds of years of history that show that nations who trade together don’t go to war and are more prosperous.”

Gabrielle Cintorino (gcintorino4@gmail.com) writes from Nashville, Tennessee.

INTERNET INFO
Idaho Attorney General Defends Right-to-Work Law in Court

By Marybeth Glenn

Idaho’s chief legal officer is asking a federal judge to dismiss a labor union’s lawsuit challenging the state’s right-to-work law, citing the recent dismissal of a similar case in Wisconsin.

In October 2015, an Idaho labor union sued the state’s attorney general, Lawrence Wadsen, claiming Idaho’s 1986 right-to-work law forced the union to represent workers choosing not to join the organization.

Nearly a year later, in October 2016, lawyers representing the Idaho state government filed paperwork asking U.S. District Court Judge Candy Dale to dismiss the lawsuit, citing the September dismissal of a similar suit challenging Wisconsin’s right-to-work law.

Forced ‘Political Activism’
Fred Birnbaum, vice president of the Idaho Freedom Foundation, says compulsory union membership forces people to engage in political speech with which they may not agree.

“Unions engage in a lot of political activism, and they’re supposed to refund money when they use dues for political activities,” Birnbaum said. “It’s often very hard to sort that out, and it might have nothing to do with the purpose of the union. It’s hard for an individual to figure out how their money is being used and then ask for that portion of their dues to be refunded.”

Birnbaum says overturning the state’s right-to-work law and reinstating compulsory union membership would be a loss for workers.

“I can actually say I worked in situations that were open-shop and closed-shop, and compelling people to pay dues didn’t bring about any more labor peace than allowing people to opt out,” Birnbaum said. “If a group of employees decide to unionize, they should have the right, and if some feel that they don’t want to unionize they should also have that right.”

Politically Motivated ‘Nonsense’
Akash Chougule, director of policy with Americans for Prosperity, says lawsuits filed against right-to-work laws are “nonsense.”

“These lawsuits are nothing more than hypocritical, politically charged nonsense,” Chougule said. “Unions make it seem as though workers and employers are completely incapable of bargaining and negotiating for themselves without a union, but the vast majority of Americans who aren’t in unionized workplaces do just that, and right-to-work states, as well as the right-to-work federal government, are in no way lacking labor peace and harmony any more than forced-unionism states.”

Winning Hearts and Minds
Chougule says labor unions are hoping forced unionism is more popular with government judges than it is with voters.

“The desperation to protect their forced-dues cartel is clear, as is the fact that they cannot win in the court of public opinion, which is why they’ve resorted to legal challenges to a problem they helped create,” Chougule said.

Marybeth Glenn (glennmarybeth@yahoo.com) writes from Wausau, Wisconsin.

Massachusetts State Agency Begins Implementing New Taxi Subsidy Law

By Jeff Reynolds

Massachusetts lawmakers have passed a last-minute bill taxing Uber and other sharing-economy transportation companies, and in the wake of that decision, a state government agency is now preparing to implement the new law.

In July, hours before formal legislative sessions ended for the year, lawmakers approved House Bill 4570, adding new taxes and restrictions on popular transportation network companies (TNCs), such as Uber.

The bill, signed into law by Gov. Charlie Baker (R) in August, imposes a 20-cent tax on each ride purchased by consumers. The tax funds a state government economic-development agency and provides subsidies to Massachusetts taxicab companies competing with Uber and other TNC companies.

In November, the Massachusetts Department of Public Utilities, whose mission is to “[ensure] that utility consumers are provided with the most reliable service at the lowest possible cost,” will begin drafting rules to govern collection and implementation of the Uber tax.

Taxed Out of Business
Matt Blackbourn, a research associate with the Pioneer Institute for Public Policy Research, says the new tax is “incredibly unusual.”

“It’s incredibly unusual to see a tax on one actor in an industry, the revenues of which go to a competitor,” Blackbourn said. “It’s now a 20-cent levy on each TNC ride through the Development Finance Agency. Twenty percent of that revenue goes to direct financial support of the taxi industry.”

Blackbourn says the new law is already obsolete.

“It’s an archaic regulatory structure that’s based on a time when travel was not as dynamic,” Blackbourn said. “We’re living in a different reality, where people are much more mobile and there’s a demand for that kind of service. You have to ensure that whatever regulations are in place reflect that reality. It’s time for change.”

‘Disruptive’ Technologies
Robert Krol, a professor of economics at California State University–Northridge, says reducing taxicab regulations would allow taxicab companies to compete with TNCs for consumers’ business.

“Competition, changes in technology … they are disruptive,” Krol said. “That’s how economies grow. That’s what makes people better off. Rather than dump tons of regulations on the rideshare industry, we should try to reduce regulations on taxis.”

Krol says government intervention benefits big businesses instead of consumers.

“With all these cases, and with antitrust cases in general, you don’t see the consumer yelling and screaming for some type of government intervention,” Krol said. “It’s always the competitors who are suddenly faced with increased competition that are the ones complaining.”

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

“Competition, changes in technology … they are disruptive. That’s how economies grow. That’s what makes people better off. Rather than dump tons of regulations on the rideshare industry, we should try to reduce regulations on taxis.”

Robert Krol
California State University–Northridge
Taxi Companies Sue Over New Mass. Uber Laws

By Dustin Siggins

Taxicab companies in Boston, Massachusetts are suing Gov. Charlie Baker (R) and Massachusetts lawmakers over recently approved restrictions on transportation network companies (TNCs) such as Uber and Lyft (see story on page 10).

The law, implementation of which begins in November, imposes a 20-cent tax on each TNC ride purchased by consumers to fund new subsidies for taxicab companies in the state. The suit claims the law unfairly favors TNCs over taxicab companies.

No court date has been set for the lawsuit, which will be heard by Judge Nathaniel Gorton in the U.S. District Court for the District of Massachusetts, but summons for plaintiffs were mailed by the court in October.

Sean Mulholland, an associate professor of economics at Stonehill College, says taxicab companies are correct to think they’re under more regulation than Uber drivers.

“The way the regulations are written, it’s both the case that it’s more difficult to be a taxi driver and in some cases impossible to expand the number of taxis or the availability of taxis, given the regulations involved,” Mulholland said. “I think it’s reasonable to say that the hurdles are higher for taxicab drivers and the hurdles are greater for the expansion of taxicab services.”

‘Making It More Costly’

Mulholland says the bill signed by Baker in August, House Bill 4570, hurts consumers and taxicab companies.

“If you’re trying to help the people, Massachusetts overstepped its bounds here,” Mulholland said. “It’s making it more costly for people to use Uber for point-to-point [transportation], and they’re subsidizing the taxis, which have a higher cost because of the regulatory structure. You’re basically trying to get Uber to subsidize taxis, which are saying, ‘We can’t compete.’"

“When the taxicab drivers and owners say, This has hurt our industry,’ they’re defining their industry as ‘taxicabs,’” Mulholland said. “What they’re not defining as ‘industry’ is point-to-point transportation options. Has Uber expanded the point-to-point transportation option? The answer is, astoundingly easily, ‘yes.’ It’s pretty obvious, on net, Uber has basically provided additional, low-cost transportation that just wasn’t available.”

Regulatory Reform for All

Matt Blackbourn, a research associate with the Pioneer Institute, says the Massachusetts lawsuit could have national implications for consumers.

“This question will be at the center of the legal discussion in around 50 lawsuits within the United States alone right now,” Blackbourn said. “In answering this, it is important to acknowledge that at least one court has ruled in a manner that defies TNC objections that they are a ‘technology company’ and not a taxi company.”

Blackbourn says it’s important for courts, lawmakers, and regulators to change the regulatory environment to accommodate the shift to new technologies and forms of commerce.

“Firms like Uber, Lyft, Airbnb, and TaskRabbit are facilitating a paradigm shift towards a type of commerce that has proven very popular among consumers,” Blackbourn said. “While there are a lot outstanding issues to address in the rise of this kind of commerce—for example, employee versus contractor designations at Uber, public safety concerns with TNCs and short-term rentals—it’s still transforming the business landscape as we know it. To make policy or rules in the court system in a way that ignores this economic reality would be regressive and short-sighted.”

Dustin Siggins (dustinsiggins@gmail.com) writes from Washington, DC.

Raise Alcohol Taxes, New Mexico Activist Group Demands

By Lindsey Curnutte

A health advocacy group is calling on New Mexico lawmakers to increase taxes on alcohol and liquor as a way to improve public health and bolster the state’s budget.

The group, Alcohol Taxes Save Lives & Money, is calling on Gov. Susana Martinez (R) and state legislators to raise the tax on each six-pack of beer by $1.50 and at least $4 for each 750-milliliter bottle of liquor.

Big Benefits for Government

Adam Hoffer, an assistant professor of economics at the University of Wisconsin–La Crosse, says the cost of the tax hike will likely be passed on to consumers.

“Alcohol will become more expensive, and we know that the price of alcohol only moderately affects consumers’ purchase decisions,” Hoffer said. “The result will likely be a very modest decline in alcohol consumption and millions of extra dollars taken from taxpayers’ pockets.”

Hoffer says punishing consumers of alcohol is a poor way of improving public health.

“We have the ability to use less-blunt tools to address these problems,” Hoffer said. “For alcoholism, think carrots instead of sticks. Help people who want to stop drinking instead of punishing those who drink. Use support groups or other scientifically proven methods for helping people stop drinking.”

‘Lazy Tax Policies’

Hoffer says tax hikes don’t improve the quality of consumers’ choices, but do improve the government’s bottom line.

“Public policy can help improve these choices,” Hoffer said. “However, we should be scrupulous in our search for the best public policies to improve the lives of citizens, rather than selecting lazy tax policies that do little other than fill government coffers.”

Growing Black Markets

Paul Gessing, president of the Rio Grande Foundation, says the tax hike could increase crime in the state.

“One concern that could arise is cross-border smuggling or even ‘moonshine’ operations,” Gessing said. “There is always the possibility of black market activity when tax burdens get too high.”

Lindsey Curnutte (lindseycurnutte@gmail.com) writes from Athens, Ohio.

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SEAN MULHOLLAND, STONEHILL COLLEGE

INTERNET INFO

Court Considers Fate of West Virginia Right-to-Work Law

By Dustin Siggins

A West Virginia county judge is considering a lawsuit that alleges the state’s right-to-work law violates labor unions’ legal entitlement to money earned by workers.

The lawsuit was filed in June 2016 by labor unions looking to overturn West Virginia’s right-to-work law, passed and signed into law in February. In July, 13th Judicial Circuit Judge Jennifer Bailey temporarily suspended the law, which had taken effect in June, pending a final decision on the law’s constitutionality.

In September, court orders requesting documents were mailed to Vincent Trivelli and Robert Batress, two West Virginia attorneys representing the labor unions that brought suit.

No ‘Valid Argument’

Garrett Ballengee, executive director of the Cardinal Institute for West Virginia Policy, says he predicts the law will ultimately be upheld.

“It seems extraordinarily unlikely that the unions have a valid argument here, from a legal perspective. West Virginia’s workplace freedom law was written in a manner that was consistent with the 25 other states that have a right-to-work law in place.”

Garrett Ballengee
Executive Director
Cardinal Institute for West Virginia Policy

Ballengee says labor unions feel entitled to help themselves to other people’s money.

“The unions’ argument presupposes that a worker’s paycheck and ability to make a living are union property,” Ballengee said. “I think that strikes most of us as a rather abhorrent way of viewing the worker-union relationship.”

Ballengee says success in the lawsuit would benefit labor union leaders instead of the workers they represent.

“Union leadership may often have different priorities and agendas than the rank-and-file union membership, and this often leads to some moral clashes under a non-right-to-work legal environment,” Ballengee said. “For example, the United Mine Workers of America union endorsed then-candidate Barack Obama for president in 2008, despite Obama’s environmental agenda that helped contribute to a devastating economy in coal-heavy states such as West Virginia and Kentucky. Needless to say, the ordinary union membership was not terribly happy about the leadership’s decision to endorse Obama for president.”

Economic Benefits

John Deskins, an associate professor of economics at West Virginia University, says right-to-work laws benefit everybody in the state, not just workers.

“I suspect that the right-to-work policy makes a state more attractive to potential businesses, thereby bringing more economic activity and more jobs into a state, all else being equal,” Deskins said.

Dustin Siggins (dustinsiggins@gmail.com) writes from Washington, DC.

INTERNET INFO


Preventing the Next Bailouts

California Dreaming
Lessons on How to Resolve America’s Public Pension Crisis
Lawrence J. McQuillan

“Mayors, governors, and other policymakers around the country are struggling to maintain services while paying for the skyrocketing costs of public employee retirement benefits. California Dreaming explains why it is so difficult to solve this problem and identifies a key framework for solutions.”

—Chuck Reed, former Mayor, City of San Jose, California

California Dreaming pulls back the curtains covering the state’s public pension crisis. He describes the true extent of the problem, explains the critical factors that are driving public pension debt sky-high, and exposes the perverse incentives of lawmakers and pension officials that reward them for not fixing the problem and letting it escalate. Finally, he offers the six crucial reforms needed to restore the financial health of California and other threatened jurisdictions.

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Financing Failure
A Century of Bailouts
Vern McKinley

“Financing Failure shows us the appalling lack of logic in regulators’ responses to financial crises and how, sadly, we can expect more of the same in the next crisis. McKinley has produced an excellent history of the flawed analysis of financial crisis policy of the last century.”

—Jean Helwege, Professor of Economics, University of California, Riverside

In Financing Failure, Vern McKinley closely examines the policy decisions behind the mega-trillion-dollar bailouts of large financial firms. His findings reveal that the genesis of financial crises is government itself, be it the interventions behind the Great Depression or the mandates that pushed for expanded homeownership leading to the 2000s crisis.

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Ways and Means Chair Urges Treasury: ‘Reconsider Corporate Inversion Rules’

By Leo Pusateri

The chair of the U.S. House Ways and Means Committee is calling on the Treasury Department to reconsider proposed regulations intended to discourage U.S. businesses from merging with overseas competitors and moving a shared headquarters to another country.

Ways and Means Chairman Rep. Kevin Brady (R-TX) met with Treasury Secretary Jack Lew in September to discuss pending restrictions penalizing U.S. multinational businesses engaging in corporate inversion, a legal process allowing international businesses to avoid paying taxes on both foreign earnings and money transferred from foreign branches to the main company located in the United States.

Drafts of the Treasury Department’s anti-inversion restrictions were published in April. Final rules have not yet been released.

‘A Waste of Time’

Matthew Glans, senior policy analyst at The Heartland Institute, which publishes Budget & Tax News, says the government should reform taxes to make the nation more attractive for multinational companies, a decision Glans says would bring money back to the United States.

“Attempting to demonize companies choosing to move their operations overseas is counterproductive and a waste of time,” Glans said. “The United States needs fundamental corporate tax reform. Instead of trying to punish these companies, the United States should lower its corporate rates and switch to a territorial system. That would make America more competitive because foreign earnings would be brought back home for U.S. investment. It would also encourage more companies to set up headquarters here.”

‘Sufficiently Anti-Competitive’

Richard Ebeling, a professor of economics at The Citadel, says government regulators’ attempts to crack down on corporate inversions won’t work as planned.

“If the U.S. government pursues its tightened campaign against corporate inversions, it will create an incentive for many new companies to set up their headquarters in other countries from the start and undermine the incentive for any foreign companies to move their headquarters into the United States,” Ebeling said. “Instead, if a noticeable number of private enterprises are making the decision to undertake a corporate inversion, this should be a signal to the government that its taxing and regulatory structure is sufficiently anti-competitive compared to other countries and that U.S.-based companies are being driven out of America.”

Holding Back U.S. Businesses

Steven Globerman, a professor of international business at Western Washington University, says U.S. companies are being held down by high corporate taxes.

“Even with relatively loose regulations regarding inversions, U.S. companies are put at a competitive disadvantage relative to foreign companies, both in terms of having lower after-tax profits for reinvestment and also being able to reinvest earnings earned abroad back into U.S. operations, because repatriation of retained earnings from abroad triggers the higher U.S. corporate tax rates,” Globerman said.

Glberman says the solution is to reduce the nation’s corporate tax rate, currently 39 percent when including average state taxes, to a level competitive with the Organisation for Economic Cooperation and Development (OECD) non-U.S. average of 24.8 percent.

“If I could change anything, it would be to lower the corporate tax rate substantially, certainly to no [higher] than the OECD average, but probably even lower.”

STEVEN GLOBERMAN
WESTERN WASHINGTON UNIVERSITY

IN OTHER WORDS . . .

“Republican lawmakers called on U.S. Treasury Secretary Jack Lew on Monday to overhaul proposed regulations intended to crack down on American companies that try to reduce their U.S. taxes by rebasing abroad in a process known as inversion.

“In separate letters, top Republicans on the Senate Finance Committee and House Ways and Means Committee warned on Monday that Treasury is moving too quickly to adopt regulations to prevent overseas mergers known as tax inversions, in which U.S. firms relocate their headquarters in countries with lower corporate tax rates.

“If the proposed regulations are not completely overhauled, they would damage our economy, increase the barriers to investment for American businesses and innovators, and interfere with the growth of ... good-paying jobs,” said a letter to Lew from Ways and Means Committee Chairman Kevin Brady and other Republicans on the panel.”


Article V Conventions: Learn the Rules!

Visit assemblystatelegislatures.com to review the rules for an Article V convention and learn more about how delegates are selected, which topics will be allowed, and who presides over the convention.

The ASL is a bi-partisan group of legislators dedicated to ensuring the framework for an Article V convention free from special interest influence.

Visit assemblystatelegislatures.com for additional information and details.
Global Tax-Reporting Rules Are Hurting U.S. Citizens Abroad

“Global Tax-Reporting Rules Are Hurting U.S. Citizens Abroad”

By Elizabeth BeShears

A s additional foreign governments agree to a U.S. federal agency’s requests to comply with FATCA, a nonprofit organization representing the interests of U.S. citizens living in other countries called on the federal government to revise how expatriates are required to report income.

In September, South Korea agreed to the U.S. Department of the Treasury’s request to comply with the Foreign Account Tax Compliance Act (FATCA), a law passed in 2010 requiring U.S. citizens to report to the Internal Revenue Service assets stored in foreign banks. American Citizens Abroad (ACA), a nonprofit organization representing the interests of U.S. expatriates, is calling on regulators to revise their FATCA implementation with an exemption for expatriates’ assets kept in their country of residence.

Regulatory Harm Cited
Marylouise Serrato, ACA’s executive director, says foreign banks are saying it’s not worth the hassle to store U.S. expatriates’ money.

“Before FATCA, if an American was evading taxes or behaving badly, it was going to be incumbent on them to pay all the penalties and back taxes,” Serrato said. “Now, the bank is also liable and there are penalties for harboring undeclared American assets. For a lot of these financial institutions, the easiest thing is to just eliminate where the problem exists, and that is in servicing American clients. What we started to see initially was a lot of banking lock-out: Americans weren’t able to get even basic checking and savings accounts.”

Wants Real Fixes, Not Tweaks
Brian Garst, director of policy and communications at the Center for Freedom and Prosperity, says FATCA should be scrapped entirely, not just tweaked.

“A same-country exemption for FATCA certainly seems popular,” Garst said. “It has the support of key members of Congress, but [the U.S.] Treasury [Department] is fickle and ultimately will do as it pleases. It would be better for Congress to take control and force the issue or, better yet, repeal FATCA altogether.”

BRIAN GARST, CENTER FOR FREEDOM AND PROSPERITY

Continued from page 1

Calls for Further Reforms
Randall Holcombe, a professor of economics at Florida State University and senior fellow of the James Madison Institute, says the current civil asset forfeiture system is rigged in favor of governments.

“There have been some well-publicized cases in which innocent people have lost their property to civil asset forfeiture,” Holcombe said. “In many cases, if they fight hard enough, they can get it back, but only after a delay and only after incurring substantial legal costs to do so. The problem is that assets can be seized without any evidence of criminal activity.”

INTERNET INFO

Jeff Reynolds (jeffreyreynolds@comcast.net) writes from Portland, Oregon.
Big Tobacco Tax Hike Goes to Colorado Voters for Approval

By Judy Allen

Colorado voters will consider a proposition on the November ballot that would, if passed, impose a huge tax increase on cigarettes sold in the state. The ballot question, Amendment 72, asks voters to approve raising the state’s excise tax on cigarettes from 84 cents per pack to $2.59 per pack, a 208 percent increase. The proposal amends the state constitution, locking in both the amount of the increase and a specific allocation of the revenues for specific programs.

shrinking tax base

Kevin Callison, an assistant professor of economics at Grand Valley State University, says the size of the proposed tax increase shows the effect of tobacco tax hikes on public health is small and getting smaller.

“We’re at a point where we have the smallest share of our population, at any point in time, smoking cigarettes,” Callison said. “This group that continues to smoke, they seem to have a very strong preference. Colorado has a relatively low smoking rate already, lower than the national average, so you may see a different response in a place like Colorado than you would in a place where there’s a higher proportion of smokers.”

Shopping Trips

Callison says when taxes on goods go up, consumers go shopping elsewhere. “There is pretty strong evidence that people are doing the cross-border purchasing when it’s relatively easy to do,” Callison said. “It depends on geography, where the population centers are in the state, how close they are to the lower-priced border. You certainly see that in some areas. For example, Indiana and Chicago is a big one because Chicago has a high tax rate and Indiana has a relatively low tax rate.”

Locking in Higher Taxes

Mike Krause, director of public affairs for the Independence Institute, says the tax hike is about guaranteeing more revenue for the government. “What Amendment 72 will do will lock in the tax increase and the spending obligations into our [state] constitution, and the only way to ever tweak that will be to run another ballot measure,” Krause said. “If the measure is successful in decreasing smoking, then tax revenue will also decrease, but the programs will remain. This is the essence of the problem; it’s horrible fiscal policy that will be locked permanently into our constitution, so the legislature can never go back and take a look at it.”

Further Tax Hikes Predicted

Krause says the cigarette tax hike will lead to more tax increases and greater spending. “What happens when we hit the line where the revenues can no longer support the programs?” Krause said. “Well, they’re not just going to fold up shop and go away. Government never does that, so they’ll lobby the legislature for a general fund appropriation. When the revenues go away, the spending obligation stays.”

U.S. State Dept. Agrees to Increase Aid to Israel

By Michael McGrady

The U.S. and Israeli governments signed a 10-year agreement that will increase foreign aid funding for Israel, increasing American military aid over the next decade by as much as $700 million per year. The memorandum of understanding was signed in September by Jacob Nagel, Israel’s acting national security chief, and officials representing the U.S. Department of State. The memorandum increases foreign military aid to the Middle Eastern democratic country from $3.1 billion in annual payments to a maximum of $3.8 billion per year. Foreign military aid and economic assistance for all countries accounts for about 0.92 percent of all federal government spending.

Dollars and Sense

Jonathan Bydlak, president of the Coalition to Reduce Spending, says small spending hikes, such as the foreign aid agreement, add up to huge budget deficits. “In the grand scheme of the federal government, this is small potatoes,” Bydlak said. “Foreign aid only makes up 1 percent of the federal budget, so you can say that this doesn’t really matter from a spending standpoint. However, the way you get a deficit is through spending on a lot of ‘1-percent items.’”

Calls for Cost-Benefit Analyses

Bydlak says lawmakers should consider the cost of increasing government spending. “Obviously, there are geopolitical concerns that drive these type of foreign aid decisions, but I do think that many Americans are right to question why we are giving money abroad. We shouldn’t be acting like these spending decisions won’t have real costs. We should recognize the tradeoff that if we want to add additional spending, then we should make cuts elsewhere.”

‘A Little Strange’

Doug Bandow, a senior fellow at the Cato Institute, says he questions the logic of borrowing money to give to other countries. “It is a little strange for the United States to give foreign aid at a time when it has to borrow hundreds of billions of dollars,” Bandow said. “There is an oddity there, in borrowing money to give it to countries. Israel is quite prosperous. It is also a regional superpower, so it is hard to see why they need foreign aid.”

Bandow says some people in Israel are also questioning the foreign aid deal. “There are also Israelis who don’t believe it is necessary,” Bandow said. “They point out that U.S. foreign aid is meant to be spent on American weapons, so it limits Israeli flexibility in terms of its own defense.”

‘Obviously, there are geopolitical concerns that drive these type of foreign aid decisions, but I do think that many Americans are right to question why we are giving money abroad. We shouldn’t be acting like these spending decisions won’t have real costs.’

Jonathan Bydlak

President

Coalition to Reduce Spending

Michael McGrady (mmcgrady@mccgradypolicyresearch.org) writes from Colorado Springs, Colorado.
Virginia Voters to Consider Worker-Freedom Constitutional Amendment

By Jeff Reynolds

Voters in Virginia will consider a ballot question in November asking for approval of a proposed amendment to the state’s constitution that would protect the state’s right-to-work law.

The ballot question asks voters to approve amending the state’s constitution to prohibit businesses from requiring membership in a labor union as a condition of employment. If the initiative passes, the amendment will be placed in the state’s constitution.

Virginia’s right-to-work law was enacted in 1947 and amended in 1970. Lawmakers are concerned government officials may seek to undermine the law by refusing to enforce it or defend it against legal challenges.

Proposed constitutional amendments in the state must be approved by lawmakers twice in two different years and then referred to voters for final approval.

‘Extremely Important’ to Virginia

The amendment’s original sponsor, state Del. Richard Bell (R-Staunton), says Virginia’s right-to-work law is a key to the state’s prosperity.

“The right-to-work statute that we currently have is extremely important to us in Virginia,” Bell said. “In my time in the legislature, the folks we talked to with business interests who consider relocating, most of them are anxious to relocate from union-controlled states. The right to work is very important to them.”

Bell says the right-to-work law is too important to leave in the hands of politicians and government bureaucrats.

“The statute, while it’s a good thing, can be changed relatively easily, depending on who sits in the governor’s mansion and with a shift in the majorities in the legislature,” Bell said.

“A constitutional amendment, which would enshrine the right to work in Virginia, is much more difficult to do away with.”

Lynn Taylor, president of the Virginia Institute for Public Policy, says lawmakers have been trying to return the state to union control for decades.

“Although we’ve had statutory right to work since 1947, the difficulty is that the opponents nibble around the edges, trying to make changes with a little bit of this and a little bit of that,” Taylor said.

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

INTERNET INFO


Voters to Consider Boulder, Colorado Soda Tax Hike

By Michael McGrady

Lawmakers in Boulder, Colorado approved a November ballot question asking voters to adopt a large tax hike on soda and other sweetened beverages sold to consumers in the city.

Lawmakers’ vote came after a county judge rejected a challenge from a local taxi driver who claimed the ballot question is unconstitutional.

The challenge, filed by Boulder resident Mark Gelband, alleged the ballot question violates Colorado’s Taxpayer Bill of Rights (TABOR) law. In September, Norma Sierra, a judge for the 20th Judicial District Court, dismissed Gelband’s complaint, clearing the way for the question to be considered by voters in the upcoming election.

TABOR is an amendment to Colorado’s state constitution. It requires all local governments to obtain permission from voters before taxes can be increased. It was passed in 1992.

The ballot question asks voters to approve charging grocery stores and other distributors two cents per ounce of sweetened beverage sold to consumers, adding about $1.35 to the price of a two-liter bottle of soda. Sales of soda, juice drinks, sweetened bottled coffee and tea drinks, and energy drinks would also be taxed.

“The soda tax petition describes the initiative as “setting forth the procedures for [...] the collecting, tracking and reporting of an excise tax on sugar-sweetened beverages.” Opponents of bringing the proposal before voters say it fails to adequately include language explaining that the ballot question proposes a tax increase.

Ballot Question Requirements

Robert Natelson, a senior fellow in constitutional jurisprudence at the Independence Institute, says he disagrees with Sierra’s ruling. Natelson says TABOR requires lawmakers to be honest with voters about tax questions.

“TABOR included some rules for ballot titles,” Natelson said. “One of the rules is that the ballot title states right up front that this is a tax increase and tells voters how much of an increase it is. The ballot title has to have certain wording in it.

“There is a section of [TABOR] that applies to voter initiatives like this sugary drink tax,” Natelson said. “It says that the ballot title has to appear on every page of the petition. If it is not there, it is not valid.”

Soda tax opponents, including Natelson, say the ballot initiative does not meet this requirement because it doesn’t have a title.

‘Lazy Health Policies’

Adam Hoffer, an assistant professor of economics at the University of Wisconsin–La Crosse, says taxing consumption doesn’t improve public health and has a disparate effect on lower-income people.

“Consumption taxes are lazy health policies,” Hoffer said. “Consumption taxes do little to promote public health. Instead, these taxes become a revenue source that is used to fill budget holes. In dollars and cents, every dollar of tax collected from this tax, an estimated $150 million annually, would come from pockets of already heavily taxed American consumers and businesses. Lower-income families would be the most burdened by the tax.”

Hoffer says there’s little evidence suggesting consumers react to soda taxes in the ways lawmakers think they will.

“Policymakers love to assume those consumers will switch to water, but researchers have found that to be unlikely,” Hoffer said.

Michael McGrady (mmegrady@mmegradypoli cyresearch.org) writes from Colorado Springs, Colorado.

INTERNET INFO

**Alaska Governor Sued Over Cuts to Oil Subsidy Checks**

By Leo Pusateri

An Alaska legislator is suing Gov. Bill Walker (I) for his decision to cut the state's oil subsidy entitlement program.

In July, Walker reduced the state’s Permanent Fund Dividend (PFD) payments from $2,072 to $1,022 per resident to help close a $4.1 billion budget gap.

Alaska’s PFD program is an annual entitlement program distributing government money to residents. It is funded by taxes paid by energy companies that do business in the state.

Alaska state Sen. Bill Wielechowski (D-Anchorage) sued Walker in September, arguing Walker lacks the legal authority to alter the PFD payments. In October, Walker issued a press release calling on the judge to issue a summary judgement in his favor.

Cold Cash Payouts

David Boyle, executive director of the Alaska Policy Forum, says the state government exchanges taxpayers’ property rights for yearly government handouts.

“For the most part, Alaskans do not own the mineral rights on their property; the state does,” Boyle said. “In return for not owning the mineral rights, Alaskans receive a portion of the profits the state receives from oil royalties, which is put into the Permanent Fund, which invests in a totally diversified portfolio. Face it: Alaska is a socialist state, due to [its] socialist constitution.”

Less Bang for More Bucks

Boyle says the Alaska state government has become more expensive and less effective, putting greater strain on the state’s fiscal situation.

“The governor opted to expand Medicaid on his own, and now we have a program costing $30 million more than his department projected,” Boyle said. “We now have more state employees per capita than any other state. We also rank third in K–12 spending, at about $22,000 per student, and we get a lousy return on that investment, ranking 49th out of 51 in 4th grade reading.”

‘Extremely Difficult Fiscal Situation’

Jonathan Williams, vice president of the American Legislative Exchange Council’s Center for State Fiscal Reform, says economic factors and increasing government spending are squeezing the state’s budget.

“The dramatic decline in oil prices, combined with an unrealistic growth of state spending, has put Alaska in an extremely difficult fiscal situation,” Williams said.

Williams says Alaskan lawmakers should solve the budget problem by cutting spending.

“New taxes are not the answer,” Williams said. “The best approach to protect hard-working taxpayers is focusing on real budget reform. With fiscal reform, like priority-based budgeting, state government could prioritize spending by focusing on the core functions of government that Alaskans need.”

Leo Pusateri (psyche@fastmail.fm) writes from St. Cloud, Minnesota.
A Detailed Account of the War on Free Speech

By Jay Lehr

The right to engage in political discussions without government interference is one of the most basic American freedoms. The Intimidation Game, a chilling book by Wall Street Journal journalist and editorial board member Kimberley Strassel, details how the U.S. government works to silence political opponents, using force to scare Americans into keeping quiet.

Strassel’s book documents how the Left uses the legal system to make conservatives fear speaking out. Strassel also covers a number of other examples, including the Internal Revenue Service’s (IRS) decision to use tax audits to frighten and harass law-abiding conservative organizations.

Government Harassment
Throughout the book, Strassel weaves in the tale of California conservative activist Karen Kenney. Kenney’s odyssey, which included having to navigate complex IRS rules and regulations and the endurance and opposition she showed while fighting against IRS agents’ harassment, serves as a framing story for many of Strassel’s other stories depicting how liberals have weaponized the government to fight conservatism.

Strassel draws parallels between Kenney’s battle to seek tax-exempt status from the IRS for her small nonprofit organization and the larger war on free speech in U.S. history, which goes all the way back to the eighteenth century, when Founders such as Alexander Hamilton, James Madison, and John Jay wrote The Federalist Papers using pseudonyms to avoid having their livelihoods destroyed.

Chilling Effects
Strassel notes the First Amendment guarantees the right to free speech but is silent on how citizens may use money to facilitate expression of that speech. By detailing how “campaign finance reform” efforts serve to intimidate conservative funders by publicizing the identities of the government’s political opponents, Strassel connects the benign stated goal of “reform” to the real goal: scaring would-be donors into submission.

For decades, left-wing organizations such as the Sierra Club have used their nonprofit status to help elect their favored candidates and influence public sentiment, Strassel writes. Campaign donations and tax-exempt status for nonprofit organizations became problematic only when the U.S. Supreme Court acknowledged conservative organizations have equal footing under the Bill of Rights.

Strassel says by denying or delaying the tax-exempt statuses of conservative organizations that otherwise met the requirements, President Barack Obama’s IRS administrators worked to make potential donors reluctant to write checks to those groups. This soft persecution also disqualified those organizations from applying for many foundation grants.

The Deep State
The U.S. government’s use of regulatory oversight to punish political speech is not confined to IRS rules and audits, Strassel notes.

One concrete example she details is Engelbrecht Manufacturing, a company specializing in production of replacement parts for small guns. Engelbrecht’s donations to conservative groups correlated with multiple audits, bureaucratic inspections, and veiled threats made by government agencies, such as the Occupational Safety and Health Administration; Bureau of Alcohol, Tobacco, and Firearms; and even the Federal Bureau of Investigation.

Without engaging in conspiracy theories, Strassel explains in great detail the stealthy ways in which Obama has used executive orders and liberals in Congress have used their legislative powers to choke off free speech.

For instance, she recounts liberal lawmakers’ war against the American Legislative Exchange Council (ALEC), a prominent conservative organization, describing how U.S. Sen. Dick Durbin (D-IL) led the government and its political allies in attempts to cut off ALEC’s funding by demanding lists that would have revealed private donor information.

Ongoing Battle
After Strassel details decades of political harassment and oppression, the book’s conclusion looks forward to the future of free speech in the United States. Strassel notes on September 11, 2014, 54 members of the U.S. House of Representatives voted in favor of altering the First Amendment to allow the government to set “reasonable limits” on free speech.

Although such efforts are unlikely to succeed in the short term, these blatant assaults on the First Amendment are part of a larger pattern that readers should vehemently oppose, Strassel writes.

“The Intimidation Game is a masterpiece, and Strassel is simply the best investigative reporter I have ever had the privilege of reading. This book is on par with other outstanding works, such as All the President’s Men, written by Bob Woodward and Carl Bernstein, and Strassel’s gumshoe reporting style rivals even the greatest U.S. journalists today. Once you start reading, you won’t want to put it down.”

Jay Lehr, Ph.D. (jlehr@heartland.org) is science director at The Heartland Institute.
According to media reports in Indiana, a state legislator who voted to approve e-cigarette restrictions benefiting a single company is now an employee of that company.

In September, Indiana media outlets reported state Rep. Alan Morrison (R-Terre Haute) has been employed since May 2016 by Mulhaupt’s Incorporated, a firm directly benefiting from a bill for which Morrison voted.

The restrictions Morrison voted in favor of were passed in 2015 and revised in February 2016. They require companies wishing to manufacture e-cigarette liquid to sign five-year contracts with security companies meeting a defined set of standards. Only one company in the state, Mulhaupt’s, satisfies those standards. The security firms are responsible under the law for ensuring e-cigarette manufacturers comply with safety regulations.

Federal Bureau of Investigation agents are investigating the circumstances that led to the bill’s approval, according to reports by the Indianapolis Star, including interviews with state lawmakers and industry representatives.

Suspicious Origins
Jared Meyer, a fellow with the Manhattan Institute for Policy Research, says the bill should have looked suspicious to legislators from the start. “The law should have raised red flags for those legislators,” Meyer said. “There is a very good argument that the security company that benefits from the law is behind it. They have very strong ties to the government and to the [Indiana] Alcohol and Tobacco Commission and what they’re trying to push for. It’s pretty clear the way the law is written that they submitted something knowing that only they and a few others would be able to comply.”

‘Strong Justification’ Needed
Robert West, a professor of health psychology at the Health Behaviour Research Centre at University College London, says laws restricting personal freedom should have “a strong justification.”

“There is reason to believe that some of the proposed legislation on e-cigarettes is oppressive and in practice serves to protect the tobacco industry’s commercial interests.”

ROBERT WEST, THE HEALTH BEHAVIOUR RESEARCH CENTRE
UNIVERSITY COLLEGE LONDON

Bootleggers and Baptists
West says some of the research surrounding e-cigarettes has been and will continue to be manipulated by activists not interested in the scientific data. “Unfortunately, some misguided public-health activists have such a strong antipathy to the idea that people may use nicotine, [even] in a way that reduces their risk of ill health and premature death compared with smoking, that they distort research findings and give an excuse to those who do not necessarily have the public interest at heart,” West said.

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