California Grants Full Relief from Retroactive Capital Gains Taxes

By Steve Stanek

Gov. Jerry Brown (D) of California has signed a bill to give 100 percent relief to approximately 2,500 small business investors who had been threatened with retroactive collection of $120 million of capital gains taxes, interest, and penalties—the state had promised they would never have to pay.

Brown’s signing of the bill ends almost one year of worry for the investors, who had participated in a tax incentive program California established 20 years earlier.

“The sense of relief is indescribable,” said

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NFL Sacks Taxpayers for Stadium Subsidies and Other Goodies

By Eric Boehm

The National Football League sacks taxpayers from every angle.

The NFL is technically a non-profit organization, thanks to a special exception in the tax code carved out by Congress in the 1960s, despite making billions of dollars of profit each year and paying top executives seven-figure salaries.

The NFL is allowed to negotiate contracts that would be illegal for companies like Apple or Exxon; thank Congress again for that one.

And the NFL is able to use its financial and political muscle to get lots of additional freebies from city and state governments, including taxpayer-funded stadiums and free sewer and water services.

Even in states facing billion-dollar budget shortfalls, the NFL

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No Retroactive Capital Gains Taxes for California

Continued from page 1

Brian M. Overstreet, one of the founders of California Business Defense, which led the fight against the retroactive taxation, and one of the small business investors who would have been hit by it.

He continued, “We thank the governor for reassuring the state’s innovators and risk-takers that California is still the place where the companies of tomorrow should be built. We are all eager to get back to work creating new jobs for California citizens and new opportunities for people to invest in California’s future.”

Governor Had Choice

It was a tense three weeks for Overstreet and the other affected investors. In mid-September the California Assembly sent Brown two bills to deal with the issue. One provided full relief and the other only partial relief that would have left the investors to pay $30 million in retroactive taxes. Legislators and investors did not know which version of relief the governor would sign, or if he might veto the bills.

The predicament in which the small business investors found themselves stirred strong bipartisan support for relief among a core group of legislators led by state Sen. Ted Lieu (D-Torrance).

“Gov. Brown’s action reinforces the principle that California stands behind the rule of law,” said Lieu in a statement. “It’s simply unfair to punish people for following the law even if it was later overruled. Gov. Brown and the California Legislature today are sending a strong message that we will stand by our word and address situations that are unreasonable and bad for business. I applaud Gov. Brown for fully and completely ending this job-killing, retroactive tax.”

Overstreet and the other affected investors participated in California’s Qualified Small Business Stock incentive program, which allowed sales of stock of a qualified small business to be taxed at half of the regular state rate on capital gains or rolled over into a new qualified small business if reinvested within 60 days of the sale.

Ruled Unconstitutional

Last year, the Second District Court of Appeal struck down the incentive program, ruling it violated the Constitution’s Commerce Clause because it required a business to have 80 percent of its payroll and assets in California to qualify for the incentive.

The state’s Franchise Tax Board then announced it would demand payment of capital gains taxes going back to 2008, even though the court did not order the collection of taxes that had been forgiven under the program.

That decision went virtually unnoticed until Overstreet received a letter from his lawyers informing him he could be on the hook for capital gains taxes resulting from his sale of a company earlier in 2012. He had used the money he saved through the incentive program to help start AdverseEvents, a company that compiles and provides safety and outcome information on all FDA-approved drugs. Most of the other participants in the incentive program also had reinvested or spent the money they had saved. Some investors faced retroactive tax bills in the hundreds of thousands of dollars.

In January Overstreet wrote an article on what he had learned from his experience that California stands behind the rule of law. “It’s simply unfair to punish people for following the law even if it was later overruled.”

Overcame Objections, Roadblocks

After much maneuvering, a new bill to address objections that had been raised and roadblocks that had been thrown up was introduced, and that bill—AB 1412—is the one Brown signed into law.

“A five-year retroactive tax on law-abiding start-up founders never should have happened,” Overstreet wrote. “Once enacted, it never should have required a dedicated team working full time for nearly nine months to overturn it. Some will interpret these events as further evidence that our government is irrevocably broken. But I hope you will consider our outcome. We proved that success and progress can happen when we engage with our lawmakers.”

“Gov. Brown’s action reinforces the principle that California stands behind the rule of law. It’s simply unfair to punish people for following the law even if it was later overruled.”

Steve Stanek (sstanek@heartland.org) is a research fellow at The Heartland Institute and managing editor of two Heartland publications, Budget & Tax News and FIRE Policy News.
FREE PASS ON PROPERTY TAXES

After all that, many stadiums are given a free pass on paying property taxes, so the billion-dollar playgrounds for the billion-dollar owners in a billion-dollar league never have to write a check back to the taxpayers.

Nearly every team in the league takes advantage of the taxpayer. Only three NFL teams since 1990 have not either renovated their stadiums or built completely new ones, according to a 2011 study by Victor Matheson, an economics professor at Holy Cross, and Robert Baade, a professor at Lake Forest College.

Those three teams? The Minnesota Vikings, San Francisco 49ers, and Miami Dolphins.

The Vikings and 49ers have secured new stadium deals since the study was published in 2011. Taxpayers will pick up the tab for a majority of the costs of both.

500M Gift Despite $1.1B Deficit

In Minnesota, the new stadium will include $500 million in taxpayer-funded subsidies. The year the stadium was approved, the state was dealing with a $1.1 billion shortfall.

In California, the 49ers’ new stadium in Santa Clara includes $116 million in public funds along with $900 million in borrowed funds through a new public financing authority that’s ultimately backed by the beleaguered taxpayers of the state and city.

There are plenty of reasons governments continue to hand over tax dollars to the richest sports organization in the United States.

As Daniel Vock of Stateline wrote earlier this year, the NFL holds all the cards when it negotiates with local and state governments.

“As finances for states and cities improve, many of their marquee teams are asking for help—and threatening to leave for Los Angeles if they do not get it,” Vock wrote. “That leaves public officials in a bind. They may not want to raise taxes, but they do not want to be blamed for losing a city’s favorite team.”

Lowballing Costs, Highballing Benefits

Kennesaw State University economist J.C. Bradbury told Reason TV recently that politicians consistently “underestimate the costs and overestimate the benefits” of building glitzy new sports palaces.

Even states that do not have an NFL team can be duped into ponying up public cash.

As Easterbrook describes, the NFL moved its annual Pro Bowl out of Honolulu for the first time in 30 years. A year later, Hawaii voted to pay the NFL a $4 million bribe to bring the game back. At the same time, the state was facing a budget shortfall and cutting funding for public schools.

Of course, lawmakers can’t get luxury box seats to their local school board meetings. Maybe if they could, they would have different priorities.

Eric Boehm writes for the Pennsylvania Independent, where this column first appeared.

**NFL Sacks Taxpayers for Stadium Subsidies and Other Goodies**

This rendering shows the new Minnesota Vikings stadium, which will include $500 million in taxpayer-funded subsidies.

**INTERNET INFO**


Or visit PolicyBot.org, the free online research database of The Heartland Institute, and search for “stadium subsidies”
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By Tom Steward

Minnesota’s golf season typically runs shorter than in most places, but for one city-owned links, it was over before it started.

The Red Wing City Council put Mississippi National Golf Links out to pasture for the year, buying time to sort out what’s become a $150,000 annual financial handicap on average for local taxpayers.

“We all know what the lay of the land is for golf courses,” said Rick Moskwa, public works director in Red Wing. “They’re all struggling. There’s an over-saturation in this area for sure but I don’t know what the likelihood of somebody coming in and saying we’re interested in running something like this is and if it’s even possible that it can bankroll itself.”

Many Golf Courses, Few Golfers

From the course’s opening in 1985, city officials outsourced management of the 36-hole course along the Mississippi River to a private operator. But an oversupply of golf courses, declining number of players, and the Great Recession led the links’ long-time private operator to shut down operations in November 2012.

While litigation with the former management played a key role in closing the course this season, so did “significant uncertainty about the financial sustainability of the course in the short- and long-term,” according to the Mississippi National Golf Links Study commissioned by the city to examine scenarios for public use of the property.

Once a destination course for many Twin Cities golfers, its fairways now look as shaggy as the rough. Only the driving range remains open for business as usual.

“It’s been minimally maintained,” said Moskwa. “The buildings are all closed down and winterized, all that kind of stuff.”

Despite bare-bones upkeep during this year’s suspension of play, Red Wing taxpayers will spend about $200,000 on maintenance, adding to $3.4 million already spent over the years on land and improvements.

‘Property Tax Support a Given’

In presenting options for the more-than 400 acres of links and land, the no-nonsense city report warns it will be more challenging to generate cash flow than to play the golf course’s toughest holes. The report includes a survey of other Minnesota municipally owned courses, noting “directly supporting the golf operation with property taxes is essentially a given, with the prospect of being able to break even or make a profit being well into the future, if ever.”

“Even with the best of intentions, the prospect for Mississippi National to reopen and generate enough revenue to be self-sustaining is highly suspect if judged against the performance of these other public courses,” the report states.

Under one scenario, the report estimates an annual taxpayer subsidy of $222,000 to operate Mississippi National in future years, not including another $3.3 million in essential building and outdoor improvements.

A 2010 online survey found broad support among residents for subsidizing the municipal swimming pool at a cost of about $160,000 per year but not underwriting losses at the city-owned golf links. Nevertheless, Red Wing recently posted a request for proposal to solicit bids to operate the golf course next season.

“It’s pretty wide open. They want someone to come in and run it as a full operating golf course with banquet services and not request any money from the City of Red Wing,” said Moskwa. “That would be ideal. No subsidy from the City of Red Wing.”

No Golf Course Sale

While ceasing golf operations and divesting the land was listed as an option in the city’s report, Red Wing officials say Mississippi National is not for sale. A community group says it hopes to take a swing at saving Mississippi National and operating it as a nonprofit patterned after a 36-hole track in Detroit Lakes, Minnesota.

“They’ve been doing just that since 1930,” said Robb Rutledge, president of the Red Wing Municipal Golf Corp. “They have a nonprofit group of volunteers aboard that run the public golf course, also 36 holes, and they haven’t asked the City of Detroit Lakes for a penny through good times and bad for 80 years. So it can be done.”

Tom Steward (tom@watchdogminnesota.org) reports for Watchdog.org, where this article first appeared.

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Right-to-Work States Have More Income Growth, Employment

By Ted O’Neil
States with right-to-work laws over the past six decades saw improvements in average annual employment, real personal income, and population growth compared to what those states would have experienced without right-to-work, according to a new Mackinac Center study.

“As Michigan is the most recent state to adopt a right-to-work law, we thought it valuable to take a fresh look at the data,” said Michael LaFaive, co-author and director of the center’s Morey Fiscal Policy Initiative. “What we found generally comports with other scholarship on the subject. Adopting a right-to-work statute can increase the economic well-being of a state.”

Michael Hicks, Ph.D., an adjunct scholar with the center and director of the Center for Business and Economic Research at Ball State University, created the econometric model used in the study and is a co-author with LaFaive.

Decades of Data
The study examines the period 1947 through 2011 and also three distinct periods: 1947 through 1970, 1971 through 1990, and 1991 through 2011. The authors note it can take a significant amount of time, more than a decade, for worker freedom laws to fully impact a complex state economy in such a positive manner.

“Another challenge related to timing is that the effect of right-to-work laws may change as economies and government policies evolve over time,” LaFaive and Hicks write.

The results varied by the time period studied. Right-to-work laws had no statistically significant impact on economic growth from 1947 to 1970, but a positive and statistically significant impact in the following periods, 1971–1990 and 1991–2011.

Higher Income, Employment
On average, over the entire 64-year period, the study finds right-to-work laws increased annual real personal income growth in the average right-to-work state by 0.8 percentage points and population growth by 0.5 percentage points. Right-to-work laws boosted average annual employment growth in the average right-to-work state on the whole as well, registering an average bump of 0.8 percentage points, as measured from 1971 to 2011.

“These results may appear modest, but the cumulative effect of right-to-work laws appears to have dramatically boosted the standard of living in the states which have adopted it,” Hicks said.

Hicks and LaFaive conclude the study by stating: “These results suggest that right-to-work laws have a positive and sometimes very positive impact on the well-being of states and their residents.”

Ted O’Neil (oneil@mackinac.org) is media relations manager at the Mackinac Center for Public Policy.


“As many people left the labor force in September as found jobs, casting doubt on whether we have at all turned a corner in this dismal labor market. Since 2009, 10.1 million people have left the labor force, while only 2.15 million found jobs, based on the household survey. In the meantime, the working age population has increased by 11.4 million in that time.

“Every year, millions of potential workers are being displaced in the Obama economy, with no end in sight.”

— Statement of Americans for Limited Government President Nathan Mehrens on the government’s September jobs report
Food Stamps, Fungibility of Money Lead to Unintended Outcomes

By Kathryn Shelton and Richard B. McKenzie

Members of Congress have locked political horns over the dramatic growth in the Supplemental Nutrition Assistance Program (SNAP), known informally as “food stamps.”

Federal expenditures on food stamps have grown from $38 billion, with 28.2 million recipients, in 2008 to $78 billion, with 46.6 million recipients, in 2012, an increase of 105 percent in dollars spent and of 65 percent in number of recipients, partially attributable to the two-thirds increase in federal spending on food-stamp advertising and outreach efforts.

Regrettably, the growth in food stamps has had perverse and unintended consequences, not the least of which has been to induce a growing number of Americans to join the ranks of food-stamp recipients to increase their consumption of “unapproved” goods.

101 Million Recipients

One of six Americans now receives food stamps and one in three (or 101 million) Americans is part of one of the 15 food programs (including SNAP) offered by the federal government. The number of Americans receiving some form of food assistance has now exceeded the number of full-time private-sector workers in the United States.

Conservative members of Congress, mainly Republicans, see food stamps as a grand example of out-of-control government spending and are determined to rein in the federal food-stamp program. Liberals, mainly Democrats, see the conservatives’ efforts as callous and yet another attempt to fray the nation’s welfare safety net.

Both conservatives and liberals in and out of Congress press their political cases under the delusion that the welfare benefits Congress prescribes for Americans with the best of intentions have the intended effects. When policymakers spread food stamps in ever-increasing amounts among the poor, no doubt they ramp up the nutritional consumption levels of the targeted groups of poor Americans to some extent, but not nearly as advertised.

Money’s Fungibility

Politicians of all stripes overlook or choose to ignore a critically important constraint on their good intentions to help low-income groups with taxpayers’ dollars: the fungibility of money. As everyone knows, money is freely and readily exchangeable for goods and services. As few politicians seem to realize, government dollars received by targeted groups in the form of various welfare benefits can be freely substituted for recipients’ own dollars of income.

This means the government dollars distributed in whatever form often will not be used for their intended purpose. The recipients of the government dollars may be “better off” because of government largesse, but not necessarily in ways policymakers intend.

Food stamps are actually no longer distributed in the form of paper “stamps.” The subsidy is now encoded on debit cards recipients can draw down as they do bank accounts, if they have them. Generally, the lower the income and the larger the recipient family, the greater the food-stamp subsidy.

Under the food-stamp program, the federal government provides targeted low-income groups with dollars intended to help recipients improve their diets. Officially, the dollars cannot be used for non-food items or for certain “bad” goods, for example, drugs, alcohol, and dog food.

However, such restrictions are hardly binding on many, very likely most, poor recipients who are more savvy than politicians seem to believe. Even the U.S. Department of Agriculture has acknowledged that non-elderly women, who are 28 percent of all food-stamp recipients, have found ways to use food stamps to buy foods that contribute to their incidence of obesity, which means food stamps have contributed to the country’s health care crisis.

More for Booze, Smokes

Moreover, low-income people know they can use their food-stamp cards to buy permissible foods, and then use their own earned dollars or welfare payments that no longer need to be used on foods to buy the prohibited items. In short, food stamps enable many low-income people to buy more foods, but they also enable them to buy more alcohol, cigarettes, chocolates, or whatever else they desire. Food stamps can encourage, albeit marginally, alcoholism (and even a greater incidence of drunk driving) and lung cancers among recipients who use food stamps’ fungibility to increase their purchases of alcohol and cigarettes.

If given a choice between $100 in cash and $100 in food stamps, low-income people would understandably take the dollars, which suggests the stamps are worth less to them than dollars—and also means, as research has shown, that low-income people would take less in cash, say, $80, than $100 in food stamps.

Stamps for Cash

Thus, no one should be surprised that a secondary black (or gray) market in food stamps has emerged, in which recipients can sell their food-stamp cards at discounts for cash. …”

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“Market in food stamps has emerged, in which recipients can sell their food-stamp cards at discounts for cash.”

[Image][501x439 to 730x781]

“[N]o one should be surprised that a secondary ... market in food stamps has emerged, in which recipients can sell their food-stamp cards at discounts for cash. ...”

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Financial Transactions Taxes Act as Drag on Economic Activity

By Matthew Glans

Since the 2007–08 financial crisis, legislators in the United States and across the world have proposed new taxes on certain financial transactions, including securities trading and stock transactions.

For proponents of these financial transactions taxes, commonly known as “Robin Hood” taxes, the goal is twofold: raise revenue for the national governments and slow down short-term speculative trading, which they believe causes unnecessary market volatility.

While proposals to create a financial transactions tax have yet to gain significant momentum in the United States, several countries in Europe already have implemented such a tax or are strongly considering one.

In August 2012, France imposed a new 0.2 percent transactions tax on certain stock purchases. Early in 2013, 11 member nations of the European Union created a new tax of 0.10 percent—or one basis point—on stock purchases. Early in 2013, 11 member nations of the European Union created a new tax of 0.10 percent—or one basis point, on stock trades and 0.01, one basis point creates a new tax of 0.10 percent—or 10 basis points—to be imposed on stock and bond trades and 0.01, one basis point on derivatives.

Two Tax Proposals

Two pieces of legislation that would create a financial transactions tax are currently being considered in Congress.

The first, reintroduced by Sen. Tom Harkin (D-IA) and Rep. Peter DeFazio (D-OR) in late February 2012, is the Wall Street Trading and Speculators Act. It would impose a 0.03 percent, or three basis points, tax on stock and bond trades.

A second bill, proposed by Rep. Keith Ellison (D-MN), goes even farther. Ellison’s Inclusive Prosperity Act of 2013 would impose a tax of 0.50 percent, 50 basis points, on stock trades in an effort to raise additional billions of dollars in new tax revenue.

Proponents of transactions taxes argue markets can absorb them with little disruption, with the burden being borne by speculators. Opponents respond that these new taxes would harm financial markets by decreasing trading volume. This, in turn, would result in less revenue than governments anticipate.

Opponents also note transactions taxes would lower the values of pensions, retirement savings accounts, annuities, charitable trusts, and money market funds.

Lack of Evidence

Hilary Till, co-editor of the book Intelligent Commodity Investing and a policy advisor to The Heartland Institute, which publishes Budget & Tax News, said she doubts a transactions tax would achieve its stated goals.

“Regarding the Inclusive Prosperity Act of 2013, which proposes to impose a tax on certain trading transactions in order to strengthen our financial secu-

rity, reduce market volatility, expand opportunity, and stop shrinking the middle class,” said Till, “I would think the onus would be on the sponsors to prove that such a taxation policy could actually achieve all of these goals. I certainly am unaware of such evidence.”

Harvard economics professor Kenneth Rogoff argued in an article on the European tax reforms that ordinary workers, not banks, would bear the brunt of the transactions tax.

“Higher transactions taxes increase the cost of capital, ultimately lowering investment,” Rogoff wrote. “With a lower capital stock, output would trend downward, reducing government revenues and substantially offsetting the direct gain from the tax. In the long run, wages would fall, and ordinary workers would end up bearing a significant share of the cost.”

Less Liquidity

Jeffrey V. McKinley, CPA and co-founder of Senex Solutions, LLC, says a transactions tax likely would raise the costs of investing and slow the economy.

“Historical experiences with transactions taxes in other countries have led to declines in liquidity, and most fall far short of their estimated revenue generation,” he said. “In fact, a study showed that the recently proposed bills, if enacted, would lead to the total elimination of all volume in six U.S. futures contracts including the S&P 500.

“The ‘tiny’ tax that legislators speak of is actually a 12.000 percent increase in trading costs for most professional trading firms. This disruption to the marketplace would have a devastating effect on price discovery and risk transfer mechanisms in the economy, both in the U.S. and worldwide,” McKinley said.

The tax also would raise the cost of capital for corporations and other entities that issue stocks and bonds while reducing returns for investors.

‘A Blunt Instrument’

“The rationale is to raise revenue and reduce trading activity that some legislators believe is harmful to the marketplace and economy,” McKinley said. “As [Vermont Senator] Bernie Sanders has stated: ‘This bill will reduce gambling on Wall Street and encourage the financial sector to invest in the job-creating productive economy.’

“Those terms of ‘gambling’ and investing in ‘job-creating productive economy’ are extremely vague terms and concepts,” said McKinley. “This is reflective of the danger of something like a transactions tax. A broadly applied tax is a very blunt instrument to combat a supposed market abuse.”

McKinley said speculation plays an important role in managing risk and creating liquidity in the marketplace. Instead of imposing a tax to disrupt this activity, he said, the government should focus on real spending reform.

“Politicians are looking in the wrong direction by pursuing new taxes,” said McKinley. “They need to focus on cutting spending. Since 1948, the government has increased spending per individual in inflation-adjusted dollars by 500 percent. The size of government needs to shrink.”

Matthew Glans (mglans@heartland.org) joined the staff of The Heartland Institute in November 2007 as legislative specialist for insurance and finance. In 2012 Glans was named senior policy analyst.
Cour\t Ends Cook County Tax on Cross-Border Purchases

By John Skorburg

A Cook County, Illinois judge has ruled against the county’s use tax on certain items purchased outside the county by in-county businesses.

The ruling by Circuit Court Judge Robert Lopez Cepero makes permanent a preliminary injunction he ordered in July against the tax. Cook County Board President Toni Preckwinkle and other board members are mulling an appeal.

Cepero’s ruling followed a request by the Chicagoland Chamber of Commerce and several member firms to block the tax. The tax did not apply to titled property such as real estate or vehicles, only to non-titled tangible items such as office supplies, furniture, and equipment.

The tax applied on purchases totaling $3,500 or more in a year. It went into effect on April 1, 2012. The tax rate was set at 1.25 percent but was lowered on June 19 to match the county’s tax rate on purchases within the county.

Business Savings: $1 Million a Month

Preckwinkle had recommended the tax to help reduce a multimillion-dollar budget shortfall and to encourage purchases within Cook County. County officials estimated the county would take in more than $1 million a month in additional revenue.

Preckwinkle appeared on a local radio show over the summer and acknowledged the court challenge was a factor in reducing the tax rate from 1.25 percent to 0.75 percent.

“We proposed the ... tax reduction to address business community concerns and to strengthen our legal arguments,” she said on WBEZ radio.

The Chicagoland Chamber of Commerce and law firms Reed Smith LLP and Horwood Marcus & Berk sued to block the tax on the grounds it violated the Illinois Constitution and state statute. Additionally, the chamber argued the tax “violated the U.S. Constitution’s Commerce Clause” prior to the Cook County Board lowering the rate on out-of-county purchases to match the rate on in-county purchases.

‘Facially Unconstitutional’ Regardless

In an email, Horwood Marcus & Berk attorney Christopher T. Lutz said the law firm “also maintained a challenge to the tax on the basis that it violated the Commerce Clause of the U.S. Constitution even after the County changed its rate from 1.25 percent to 0.75 percent. Put simply, the argument was that this is a completely separate tax which is imposed exclusively upon purchases made outside the County and therefore is facially unconstitutional ...”

CHRISTOPHER T. LUTZ, ATTORNEY, HORWOOD MARCUS & BERK

John Skorburg is an associate managing editor of Budget & Tax News and a lecturer in economics at the University of Illinois at Chicago.
How to Avert a Transportation Funding Crisis

By Kenneth Orski

A recent hearing of the Senate Environment and Public Works (EPW) Committee on “The Need to Invest in America’s Infrastructure and Preserve Federal Transportation Funding” made it painfully clear that neither the assembled witnesses nor any of the attending Senators had any clue as to how to come up with the hundreds of billions of dollars that transportation boosters say are needed to fund the next reauthorization.

A six-year transportation bill would require roughly $320 billion ($53 billion/year) to maintain current spending levels. Trust Fund revenue and interest over the same period are expected to bring in only $240 billion, according to the Congressional Budget Office. This would leave an unfunded shortfall of $80 billion. Even a stop-gap one-year bill would require an extra $14 billion to $15 billion to maintain transportation spending at current, FY2013 levels.

To be sure, all the familiar suggestions for augmenting federal transportation revenue were dutifully dusted off. These include increasing and indexing the federal fuel tax, transitioning to a vehicle-miles-traveled (VMT) user fee, supplementing the trust fund with general fund revenue, and increasing transportation revenue in the context of a more comprehensive tax reform. The “peace dividend,” mercifully, was not mentioned.

The only fresh proposal came from committee chairman Barbara Boxer (D-CA), who pronounced herself leaning in favor of replacing the per-gallon fee at the pump with a sales fee “as they have done in Virginia and Maryland.” None of the suggestions emerged as a clear favorite and some were dismissed as impractical.

For example, both the mileage fee and the comprehensive tax reform were deemed not ready to be implemented by October 2014 when the federal transportation program needs to be reauthorized. As for the always-predictable proposal to increase the gas tax, it met with no discernible sympathy from committee members and elicited support from only two industry witnesses.

Senator Finance Committee Chairman Max Baucus (D-MT), who is also an EPW Committee member, warned that the patchwork funding mechanisms employed to pay for the MAP-21 bill would not be used again in 2014. Nor was general revenue considered an option in the opinion of the attending senators and most of the witnesses.

This left the listeners wondering what other options were there for the committee to consider, other than adjusting the scope of the future program to the available funding levels. This, indeed, was one of three “alternative paths” listed (but rejected) by hearing witness Janet Kavinoky, the U.S. Chamber of Commerce’s transportation director.

**Financing Investments**

Quite a different path was suggested by Sen. Jay Rockefeller (D-WV), chairman of the Senate Commerce Committee, at a September 24 hearing of the Senate Subcommittee on Surface Transportation on “Rebuilding the Nation’s Infrastructure: Leveraging Innovative Financing to Supplement Federal Investment.”

“I wish I were confident that there would be a genuine bipartisan effort to dramatically increase investment in the nation’s infrastructure,” Rockefeller said. “However, I’m afraid that simply won’t be the case. … So where do we go from here? I say it’s time to look beyond just the Federal ledger. We need to use the limited federal funds we have wisely, by leveraging them to attract other sources of capital …”

What Rockefeller has suggested is perhaps the most obvious solution to the impending funding crisis. It is to allow multi-year, capital-intensive transportation projects—investments that are beyond the states’ fiscal capacity to fund on a pay-as-you-go basis—to be financed with long-term credit, both public and private. This would be consistent with a fundamental principle of public finance that infrastructure should be financed with capital raised up-front and paid for over time rather than funded out of current cash flow.

While this approach might limit new investments to credit-worthy projects—i.e., those that generate revenue (such as toll facilities) or are backed by dedicated taxes or “availability payments”—virtually all transportation megaprojects already fall in that category. Indeed, except for mass transit projects and the California High Speed Rail project, there are no costly, regionally significant transportation facilities under construction or on the drawing board whose completion hinges on federal appropriations.

It looks like Rockefeller’s idea is precisely what’s happening across the land. Many states aren’t waiting for the financially troubled federal government to come to the rescue with new money. They are taking matters into their own hands and assuming control of their infrastructure agendas by using “other sources of capital.”

**Partnering with Private Sector**

A July 12 forum sponsored by the Brookings Institution shined a spotlight on the states’ increasing efforts to partner with the private sector to rebuild and modernize their transportation infrastructure. The same theme was struck at ARTBA’s 25th Annual “P3 in Transportation” Conference in Washington on July 25–26, where state efforts to deliver major transportation investment projects through public-private partnerships were featured in a plenary session.

Florida, Indiana, Pennsylvania, Texas, and Virginia were singled out as leaders in the private delivery of infrastructure projects, but other states are expected to follow. Our own recent survey has identified 18 jurisdictions financing big-ticket highway and bridge “mega-projects” without federal funding. Instead, they are using long-term credit (private and Transportation Infrastructure Finance and Innovation Act program), “availability payments,” private equity risk capital, and concession agreements.

“What you are seeing is the governors’
and state legislatures’ pragmatic response to the dwindling federal capacity to fund major infrastructure,” one senior state official attending the ARTBA conference told us. “We are convinced this trend will continue.”

More support for this point of view came from witnesses at the September 24 hearing of the Senate Subcommittee on Surface Transportation. While discussion focused primarily on the role of federal fiscal assistance, all witnesses agreed private capital must play an essential part in helping states rebuild and modernize their infrastructure.

Construction Industry Has Similar View
That also is the view of the transportation construction industry, six of whose leaders (Star America, Fluor, Kiewit, Skanska, Cintra, and ACS Infrastructure) have launched a new organization—the Association for the Improvement of American Infrastructure (AIAD)—“to help shape the direction of the national Public Private Partnership marketplace.”

The same sentiment has motivated the sponsors of a new bipartisan Congressional Caucus on Public Private Partnerships, whose aim is “to encourage and raise awareness of the use of public-private partnerships in building, financing and maintaining the nation’s transportation infrastructure.”

“We have a tremendous backlog of infrastructure needs, but the federal government simply can’t fund them all,” Rep. Mike Rogers (R-AL), one of the founders of the caucus, said in what is a huge understatement. The truth is that Washington can fund but a small fraction of the nation’s future infrastructure needs even under the most optimistic assumptions.

And while several initiatives to supplement traditional funding streams with new federally sponsored financing instruments are winding their way through Congress—notably, Sen. Mark Warner’s (D-VA) National Infrastructure Finance Authority and Rep. John Delaney’s (D-MD) Partnership to Build America bonds—their chances of becoming law in this Congress are slim. Public-private partnerships, engineered and managed by states, seem like a more likely instrument of modernizing and expanding America’s transportation infrastructure in the foreseeable future.

States’ Efforts Receiving Attention
The states’ drive toward fiscal independence in transportation has been noticed and is being favorably mentioned.

• Six southeastern states listed in our summary of “Can-Do” states have been cited in an August 27 resolution of the Southeastern Association of State Highway and Transportation Officials (SASHTO) as examples of states that are “creating, implementing and sharing solutions to the impending transportation funding crisis.”

Echoing our own conclusion, the SASHTO Resolution states, “These and other states have acted responsibly to preserve their transportation assets and modernize their infrastructure in the absence of adequate federal assistance or a coherent national transportation finance strategy” (sashto.org/Resolutions2013.pdf).

• Both Rep. Bill Shuster (R-PA), chairman of the House Transportation and Infrastructure Committee, and Ranking Member Nick Rahall (D-WV) have made specific references to the new trend. “I believe the states have the flexibility to do what they need to do, and I would hope that states make those investments,” said Shuster when asked why he would not call up the proposed $5 billion Safe Bridges Act. Echoed Rahall at the July 23 hearing on the Trust Fund, “States are increasingly coming up with their own plans for raising additional transportation revenues.”

• Even Transportation Secretary Anthony Foxx has taken notice of the states’ growing role in infrastructure financing. “America’s governors are solving transportation challenges,” he wrote in his blog, the Fast Lane, on August 6.

He was more specific in his prepared remarks before the National Conference of State Legislatures’ Transportation Summit on August 12. “This year,” he told the delegates, “half of all state legistatures have considered or approved measures dealing with transportation funding. Fourteen states have at least discussed raising their fuel taxes. ...”

As a former mayor, Foxx is more attuned and sympathetic to what’s going on in the state capitals, and more supportive of the states’ increased assertion of fiscal independence, than was his predecessor. Indeed, the secretary appears ready to concede the Feds can’t do it all.

Short- and Long-Term Implications
States’ growing involvement in funding transportation is a phenomenon of far-reaching consequences. In the short run, more state revenue dedicated to transportation will lessen the pressure on Congress to come up with increased resources to fund the next reauthorization. A one- or two-year bill now appears as a distinct possibility according to some congressional sources. Evidence of a growing willingness of states to fund their transportation needs is cited as the reason.

In the longer run, greater state fiscal autonomy and financial sophistication could modify the federal-state relationship in transportation. There would be less need for direct financial aid to state DOTs and more emphasis on credit assistance to support transportation investments of truly national scope and significance. High-speed rail in the Northeast Corridor comes to mind. At the same time, federal oversight of state transportation programs could be reduced to reflect the smaller federal fiscal footprint.

This is not devolution. This is the new reality of states acting responsibly to preserve their transportation assets and modernize their infrastructure in the absence of adequate federal financial assistance and a coherent national transportation investment strategy.

In the process of doing so, states will be helping to relieve Congress of the politically embarrassing task of having to dip repeatedly into the General Fund to bail out the ailing Highway Trust Fund.

Kenneth Orski (korski@verizon.net) is editor and publisher of the Innovation Briefs newsletter. Used with permission of innobriefs.com.
Bill Would Extend Internet Access Tax Moratorium

By Matthew Glans

Congress is considering two bills that would make the Internet Tax Freedom Act permanent.

Since 1998, the Internet Tax Freedom Act has imposed a moratorium on state and local taxation of Internet access and discriminatory taxes on emails and other data. Cheap and reliable access to the Internet, allowed in part by the moratorium, was a key force behind the quick growth of the Internet and the online economy. The moratorium is set to expire in 2014.

The Permanent Internet Tax Freedom Act (HR 3086) was introduced in September 12 as the House counterpart to S 1431. Co-sponsored by Reps. Anna Eshoo (D-CA), Bob Goodlatte (R-VA), Steve Chabot (R-OH), and Steve Cohen (D-TN), HR 3086 also permanently extends the Internet Tax Freedom Act. In August the Internet Tax Freedom Forever Act (S 1431) was introduced in the Senate by Sens. Ron Wyden (D-OR) and John Thune (R-SD). The Internet and the online economy. The moratorium is set to expire in 2014.

The initial reaction to the new House bill was positive from several groups. The Internet Tax Freedom Act Coalition, a partnership of businesses, associations, and consumers dedicated to the growth of the Internet economy, praised the bill’s cosponsors.

“We commend Chairman Goodlatte and Representative Eshoo for their leadership on this important piece of legislation,” said Annabelle Canning, executive director of the ITFA Coalition in a statement. “A permanent extension of ITFA will encourage continued adoption of broadband and protect consumers from having multiple and discriminatory taxes imposed on their online purchases.”

Vital to Consumers, Businesses
Steve Largent, president and CEO of CTIA - The Wireless Association, said in a statement the moratorium is a necessary step towards ensuring technological development. “The Permanent Internet Freedom Act permanently extends the moratorium on Internet access taxes and fees and provides a tax certainty that will continue to foster American technological innovation, growth, and leadership in electronic commerce,” said Largent.

He continued, “Affordable wireless broadband is no longer just a modern convenience, but a vital component in the lives of American consumers and businesses. From education to healthcare to commerce, a reasonable and permanent tax structure that guarantees affordable access to the Internet and the incredible services it provides is vital for consumers and continued innovation.”

Matthew Glans (mglans@heartland.org) joined the staff of The Heartland Institute in November 2007 as legislative specialist for insurance and finance. In 2012 Glans was named senior policy analyst.

Exactly What the Tea Party Needs Right Now!

The Patriot’s Toolbox

On February 19, 2009, CNBC commentator Rick Santelli stood on the trading floor of the Chicago Board of Trade and called for a “new tea party” to protest out-of-control spending by politicians in Washington. Little did he know that his words would become the rallying call for millions of Americans, many of them getting involved in politics for the very first time.

The Patriot’s Toolbox gives the new patriots of the Tea Party movement the intellectual ammunition they need to take their country back! The book consists of 10 chapters, each devoted to presenting ten principles for free-market reform in clear and precise English. The Heartland Institute has put thousands of copies of The Patriot’s Toolbox into the hands of grassroots activists and wants to keep going. We need your help!

Visit www.heartland.org to download a free PDF version of The Patriot’s Toolbox and learn how you can help get this information into the hands of others.

328 pages, published 2011

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So says the Tax Foundation in its annual *State Business Tax Climate Index*, which enables business leaders, government policymakers, and taxpayers to gauge how their states’ tax systems compare.

The Tax Foundation released its 2014 edition of the report in October. The report looks at how states raise revenue and compares more than 100 variables in personal income, corporate, sales, property, and unemployment insurance taxes.

‘Tool for Better Policy’

“Our goal is to make the index a tool to push for better tax policy,” said co-author Joseph Henchman. He noted major tax reforms recently enacted in North Carolina happened in part because of its ranking as one of the 10 worst business climate states.

Elimination of the state’s estate tax, as well as cutting and flattening the income tax and lowering the corporate tax, will move North Carolina nearly 30 positions up the ranking when the reforms are fully implemented in 2015.

Eight of the top 10 states do without one or more of the major taxes: the corporate tax, the individual income tax, or the sales tax. Wyoming, Nevada, and South Dakota have no corporate or individual income tax; Alaska has no individual income or state-level sales tax; Florida has no individual income tax; and New Hampshire and Montana have no sales tax.

Lower, Simpler Taxes

This does not mean a state cannot rank in the top ten while still levying all the major taxes. Indiana, which ousted Texas from the top 10 this year, and Utah have all the major tax types, but they levy them with low rates on broad bases.

Study coauthor Scott Drenkard said Indiana moved ahead of Texas in the ranking because of recent tax reforms including cuts in the personal and corporate income tax rates, giving Indiana some of the lowest tax rates in the country.

Kansas also made a good showing, the result of lowering and simplifying its sales and income tax rates.

Retroactive Harm in Minnesota

Minnesota, on the other hand, moved down to 47th in the ranking from 45th, largely the result of income tax hikes on those with incomes of more than $150,000. The increase was approved in May but made retroactive to January 1.

Virginia also moved down three places, mainly because of regional sales tax increases to fund a transportation bill. For the first time since the 1980s, Drenkard said, the general sales tax rate is higher in Northern Virginia than in Washington, DC.

The Tax Foundation’s index has its detractors, including Slate.com business columnist Matt Yglesias, who sarcastically wrote the Tax Foundation is “explaining why there are no successful businesses in California or New York,” which are perennially ranked as having among the worst business tax climates in the country despite having many businesses.

“Note that it’s not just sunny California or hip New York that end up in the bottom 10 here—low-unemployment, high-wage Minnesota is almost as ‘bad’ as those states. Maryland, New Jersey, and Connecticut are three out of the four states with the highest median household income. The fourth is Alaska, whose ‘discover tons of oil’ economic development strategy is hard to replicate.”

Taxes a Controllable Factor

But the Tax Foundation acknowledges taxes are only one factor in a state’s economic health, and they are a factor policymakers can control.

“Those high-tax states also have other non-tax qualities, and legacy investments and industries, that overcome the obstacle of a broken mess of a tax system for many businesses and individuals,” said Henchman. “I wouldn’t call that success, because with a good tax system, you could be doing even better. Job growth is much better in states with better tax systems.”

“Economic development and job creation tax credits complicate the tax system, narrow the tax base, drive up tax rates for companies that do not qualify, distort the free market, and often fail to achieve economic growth.

“A more effective approach is to systematically improve the business tax climate for the long term. Thus, this component of the Index rewards those states that do not offer investment, job, or research & development tax credits, and states that offer them score poorly.”

— Economist Scott Drenkard, writing in the Tax Foundation’s 2014 Business Tax Climate Index
In Some States, Welfare Pays Better than Work

By Eric Boehm and Benjamin Yount

In more than a dozen states, a family of three can live on what is essentially a middle-class salary without holding down a job.

That’s the startling revelation at the heart of a new report from the Cato Institute, a think tank based in Washington, DC, which annually reviews the average value of welfare benefits in each of the 50 states.

A combination of food stamps, temporary cash grants, WIC (Women, Infants, and Children) support, and housing assistance has a pre-tax value of more than $30,000 in 16 states. In Hawaii, the most generous state, a working family of three would have to earn almost $61,000 just to be even with the $50,000 in welfare the government hands out.

The report examines the value of government assistance and whether that “help” is actually keeping people from getting a job.

Neither Lazy Nor Stupid

“Poor people are not lazy. Every survey you look at, people on welfare say they’d prefer to have a job,” said report coauthor Mike Tanner, a senior fellow with Cato. “On the other hand, poor people are not stupid, either. If you’re willing to pay someone two, or sometimes, three times more than they are likely to make at an entry level job, ... chances are they are not likely to work real hard to get into that job.”

The report will make anyone with a low-paying job cringe. In 11 states, welfare programs pay more than the starting salary for a teacher. In 39 states, welfare programs pay better than the starting salary for a secretary.

All told, the federal government spent $668 billion on those programs last year, according to the report, which also took into account $284 billion worth of welfare spending at the state level.

Worth $60,000 Job in Hawaii

In Hawaii, where welfare benefits are at their highest, single mothers collect an average benefit of $49,175, the Cato study found.

Because welfare is not subject to taxes, a person would have to earn more than $60,000 annually in Hawaii to take home the same amount as someone on welfare.

State Sen. Sam Slom (R-Honolulu), minority leader of the Hawaii Senate and the sole Republican in the chamber, said the study’s results are “not surprising” to those who have followed recent increases in total welfare benefits and expenditures.

“I said in a public hearing several years ago that within a few years, our human services welfare costs would surpass public education in Hawaii. This came to pass late in 2012,” Slom told Hawaii Reporter. “It is a shame that Hawaii has such huge government costs and tax burden, which in turn creates more of a welfare class and the growing inability of a middle class to sustain themselves, let alone to privately assist the less fortunate.”

But two researchers at the Center for Budget and Policy Priorities, a liberal think tank also based in Washington, DC, say Cato’s conclusions are based on some faulty assumptions.

In a review of the Cato report, they said Cato’s assessment incorrectly assumes all single parents with two or more children would qualify for all types of benefits. They also said the report fails to account for the fact that many welfare recipients are working low-paying jobs.

“To be sure, many working families struggle because their earnings are low and the assistance they receive often isn’t enough to make ends meet, particularly if they have significant child care or transportation costs,” they wrote.

Depends on Definition of ‘Working’

Tanner points out official estimates indicate 42 percent of people on welfare are working.

But the Cato study notes the numbers are actually much lower. Welfare recipients can be classified as working while looking for a job or simply taking part in a job training program. Tanner estimates only about 20 percent of people receiving welfare benefits have a nonsubsidized job.

Only 17 percent of Missouri’s Temporary Assistance for Needy Families recipients have jobs, according to the report, ranking the state dead last.

“We need to tighten the work requirements,” Tanner said of how to improve those numbers. “Even in Illinois, a state that is doing much better than the national average [with] 58 percent of people working. That means 42 percent of people on welfare are not working.”

States and the federal government should cap welfare benefits, and creating good-paying jobs is the best way to get people off of welfare, Tanner added.

Unproductive Prison Spending

“In 2010, Americans spent $80 billion on corrections, a 150% increase since 1992. Over the last thirty years, prisons are the second-fastest growing component of state budgets (behind Medicaid). When conservatives talk about cutting the size and scope of government power, prisons are not exempt. ...”

“Criminologists credit increased incarceration with only 25–33% of the national drop in crime rates over the last two decades. For non-violent offenders who are not career criminals, incarceration is often counterproductive.”

— Vikrant Reddy, writing at FoxNews.com

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 Eric Boehm (eric@paindependent.com) is a reporter for Watchdog.org, where this report first appeared. Benjamin Yount (ben@illinoiswatchdog.org) is a reporter for Illinois Watchdog. Hawaii Reporter’s Malia Zimmerman (malia@hawaiireporter.com) contributed to this report.

INTERNET INFO

Illinois Court Upholds Woman’s Right to Earn a Living

By Jacob Huebert

More than two years after she applied to the city government in Bloomington, Illinois for a license to operate a late-night van service, Julie Crowe finally will be allowed to start her business, thanks to a court decision upholding her right to earn a living.

In Bloomington, “vehicles for hire” take college students from their dorms to downtown bars and back on weekend evenings. Crowe previously worked as a driver for other vehicle-for-hire companies and saw a lot of room for improvement in the market, which has been dominated by “party buses” on which overcrowding, fights, and vomiting are the norm.

“It didn’t seem right to make inebriated young women in skimpy little outfits walk four blocks,” she said. Crowe decided to offer something better: a 15-passenger van that would provide door-to-door service.

But the city—and its established taxi and vehicle-for-hire operators—stood in her way.

Owners Object to Competition

After Crowe applied for a license to operate her business in May 2011, a local law required the city to hold a hearing. Owners of existing vehicle services were invited to comment on whether a newcomer should be allowed to enter the field. At Crowe’s hearing, her would-be competitors predictably claimed, without evidence, that the city didn’t need any new competition because there already were “enough” vehicles licensed.

That same law allowed the deputy city manager to deny a vehicle-for-hire application if she didn’t find an additional business “desirable”—which meant she could deny any application for any reason at all. In Crowe’s case, she took the established operators’ word for it that no competition was needed and denied the application.

Crowe appealed the denial to the city council, but the deck was stacked against her there, too. Council members received a “record” that contained only evidence supporting the city’s decision, and none of the evidence that showed why Crowe’s business would be beneficial.

Center Raises Constitutional Questions

Then the Liberty Justice Center, the public interest litigation center of the Illinois Policy Institute, got involved. It brought a lawsuit on Crowe’s behalf challenging Bloomington’s licensing ordinance as a violation of her constitutional due process rights. The center’s attorneys argued the ordinance had no legitimate purpose because it served only the private interests of established vehicle-for-hire owners. They also argued the provision allowing the deputy city manager to deny an application when she didn’t find a service “desirable” was unconstitutionally vague and arbitrary.

The court agreed. In August, Judge Rebecca Foley of the McLean County Circuit Court struck down Bloomington’s ordinance for those reasons. Crowe can start her business and soon will be serving customers every weekend in Bloomington—as she should have been allowed to do from the start.

Crowe says she looks forward not only to running her new business, but also to seeing the improved service others will offer in response to the added competition. “I hope my presence out there will make others step up their game,” she said.

Similar Laws Remain

Although Bloomington’s ordinance has been struck down, protectionist taxi and vehicle-for-hire licensing laws remain all too common across Illinois and the country.

Crowe says she hopes her court victory “will create an avenue for other people who want to start their own businesses instead of just working for the established players.”

The decision should send a message to local governments across Illinois and the nation that they cannot deny an individual’s right to earn a living to protect politically privileged businesses from competition or based on a bureaucrat’s whim. It also should encourage other entrepreneurs to challenge similar laws in their own cities so that protectionist regulations can become a thing of the past not only in Bloomington but everywhere.

Jacob Huebert (jhuebert@libertyjusticecenter.org) is associate counsel at Liberty Justice Center, a public interest litigation center of the Illinois Policy Institute.

Don’t just wonder about global warming.
Understand it.

The most widely cited authority on the causes and consequences of climate change is the United Nations’ Intergovernmental Panel on Climate Change (IPCC). But this political entity is biased toward finding a human role in climate change and exaggerating its consequences. To truly understand climate change, you need a second opinion from an independent group of scientists committed to only one thing: finding the truth.

The Nongovernmental International Panel on Climate Change (NIPCC), started in 2003 by Dr. S. Fred Singer, one of the world’s most distinguished climate scientists, has produced a series of scientific reports exposing the IPCC’s errors and omissions. This international team of respected scientists concludes that global warming is not a crisis.

Climate Change Reconsidered II – Physical Science is a comprehensive and authoritative critique of the alarmist reports of the IPCC. Previous volumes in the series have been called “essential reading” [Tom Harris, International Climate Science Coalition], “a must-have for serious climate scientists” [Anthony R. Lupo, University of Missouri-Columbia], and “highly recommended!” [William Muellere, author, Moon Missions].

Climate Change Reconsidered II, by Craig D. Idso, Robert M. Carter, and S. Fred Singer, is available for free online at climatechangereconsidered.org.

Print copies are $154 each. Volume discounts available. Order online direct from the publisher or go to Amazon.com, or call 312/377-4000.

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“an extraordinary achievement”
Paul Driessen, J.D.

“like showing a cross to a vampire”
Peter Ferrara, forbes.com
Duluth Treats E-Cigarettes Like Regular Smokes

By Matt Faherty

City officials in Duluth, Minnesota have extended the city’s cigarette regulations to include the increasingly popular electronic cigarettes (also known as e-cigarettes), which produce water vapor instead of tobacco smoke.

Ordinances approved by the city council in September strictly prohibit smoking e-cigarettes in commercial establishments and public spaces. The ordinances also ban hookah bars from operating in the city. Duluth, a city of 86,000 people on the western shore of Lake Superior, is the fourth-largest city in Minnesota.

Councilor Jennifer Julsrud introduced the ordinances. The Associated Press quoted her saying, “I wrote these ordinances and I pushed for them because I want to protect kids, and I believe in supporting clean air.”

Opponents of the ordinances noted it’s already against the law for stores to sell e-cigarettes to minors.

Electronic cigarettes were first marketed in the early 2000s and currently generate $1.7 billion per year in sales. The product is a plastic tube with a small internal battery that can heat a liquid that includes nicotine. The heat vaporizes the liquid and allows the user to have the sensation of smoking without the need for tobacco smoke. Even though e-cigarettes have no tobacco, the Food and Drug Administration considers them to be a “tobacco product” and therefore subject to the same level of regulation as chewing tobacco.

Nicotine with Lower Risks

Proponents say e-cigarettes provide a level of nicotine satisfaction comparable to regular cigarettes but with much lower health risks to users and others who may breathe the vapor. For this reason, e-cigarettes are becoming a popular means of quitting regular cigarettes or at least reducing the harmful effects of smoking.

Opponents counter that e-cigarettes have not been around long enough to know their long-term health effects and may act as a gateway product to heavier tobacco use.

Important Alternative

“E-cigarettes are one of the most significant public health technologies of the past 50 years,” said Greg Conley, legislative director for the Consumer Advocates for Smoke-free Alternatives Association.

Dr. Brad Rodu, a senior fellow at The Heartland Institute, which publishes Budget & Tax News, calls e-cigarettes a “game changer” in the tobacco market.

“Tobacco prohibitionists will group them with combustibles despite [their] being less hazardous. To remove the option of e-cigarettes would be a disaster for smokers seeking a healthier alternative,” Rodu said.

Jeff Stier, a senior fellow at the National Center for Public Policy Research, argues such regulation is actually reckless: “We already know the long-term effects of cigarettes. All the evidence shows that e-cigarettes are far less harmful, so why should we reduce [cigarette consumers’] ability to make less-bad choices?”

In response to claims that the safety and flavor options of e-cigarettes make them a gateway to regular cigarettes, Stier said, “There is absolutely no evidence that e-cigarettes encourage regular cigarette users to ‘graduate upwards.’ The move is usually downward from regular to e-cigarettes.”

Matt Faherty is a member of the government relations team at The Heartland Institute.

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Hair-Braidiers Sue for Freedom to Teach

Should African hair-braidiers have to build an entire barber college and become state-approved barbering instructors in order to teach hair-braiding?

That is the question to be answered by a federal lawsuit filed against the state of Texas by Dallas entrepreneur Isis Brantley and the Institute for Justice. A victory could promote economic liberty throughout Texas and beyond.

Hundreds of Hours, Thousands of Dollars

Brantley is one of the country’s leading African hair-braidiers. She works with everyone from Grammy Award-winning artist Erykah Badu to the homeless. But Texas will not permit her to teach hair-braiding for a living unless she spends 750 hours in barber school, passes four exams that do not cover braiding, and spends thousands of dollars on tuition and a fully equipped barber college she doesn’t need.

Tellingly, Texas will waive all these regulations if Brantley goes to work for an existing barber school and teaches hair-braiding for them.

“This has no problem with Isis teaching, it just has a problem with her working for herself,” said attorney Arif Panju of the Institute for Justice.

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Matt Faherty is a member of the government relations team at The Heartland Institute.
Some Federal Contractors Balk at New Hiring Rules

By Carolyn Rusin

When it comes to hiring the right person for the job, Tom Roeser prefers to do it his way, rather than have the government tell him how to do it.

“People will hire a trainable person” on their own, said Roeser, president and chief operating officer of Otto Engineering in Carpentersville, Illinois, an internationally known designer and maker of electronic control switches and communication equipment accessories for aerospace, medical, and industrial uses.

He opposes new rules by the U.S. Department of Labor requiring most companies with federal contracts to hire more military veterans and disabled persons.

“The root of all these mandates is the belief that businesses wouldn’t do it on their own. At some point we have to trust our society. One more government mandate is what we don’t need,” Roeser said.

Many Vets, Disabled Persons

The many veterans returning from overseas, and a high unemployment rate for disabled workers, are the reasons for the two new rules that have been added to the affirmative action and nondiscrimination regulations of federal contractors, according to the Labor Department’s Office of Federal Contract Compliance Programs (OFCCP), which will enforce the new laws.

Labor Secretary Thomas Perez announced the rules in late August. One rule will require companies, including subcontractors, to adopt a 7 percent utilization goal for qualified individuals with disabilities. Contractors will have to apply the goal to each of their job groups, or to their entire workforce if the contractor has 100 or fewer employees.

The other rule requires federal contractors to adopt an annual hiring benchmark for the number of veterans to employ. Numbers will be based either on the national percentage of veterans in the civilian labor force, which currently stands at 8 percent, or the contractors’ own benchmark based on the best available data. The data will be published and updated annually by the OFCCP.

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TOM ROESE, PRESIDENT AND COO

OTTO ENGINEERING

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Patricia A. Shiu, OFCCP director, said in a statement.

Specific Demands on Employers

Both rules also specify how contractors should reach the goals, such as measuring their success in recruiting and hiring, record keeping, training, and more.

“We will not be able to comply with this,” is what some companies are saying, including members of the HR Policy Association, which represents more than 350 large U.S. corporations.

“It is going to increase costs,” said Daniel Yager, the association’s president and general counsel.

Yager said some companies have questioned whether it is worth continuing to seek federal contracts after learning the rules apply even if those contracts constitute only a tiny portion of a company’s overall business.

Employers will have to ask job applicants and employees if they have a physical or mental disability, which raises concerns over the culture of the workplace environment, Yager said.

“We share the same goals here about getting more disabled and veterans in the workforce. Everyone is agreeing on that. They are already doing what they can in this arena. It’s a question as to how to do it. ‘We just don’t think you’re doing it right,’ is what companies are saying,” Yager said.

Depends on Applicant

For Roeser, it’s all about who can be trained to excel at Otto. Applicants must take tests in English and mathematics. If a candidate for a job is hired simply to fill a “numeric slot,” Roeser said, this could fail both the company and the employee because the company might not have the best person for the job, and the employee might not reach his or her full potential.

“I may have the wrong type of business for a disabled person,” Roeser said. As an example, he said a person with one leg may be well-suited to work along a manufacturing line like his, but a person with one arm might not be.

Like the HR Policy Association, the Associated General Contractors of America are mulling legal action against the new rules. The AGC says the rules clash with federal laws that discourage employers from asking about disability status, and with data that indicate no need for the new measures.

Already Meeting Objectives

“The administration’s decision to finalize two new oppressive employment regulations for federal contractors forces us to object to measures whose goals we support and objectives our members already meet. That is because these rules will force federal contractors to spend an estimated $6 billion a year to produce reams of new paperwork proving they are doing what the federal government already knows they are doing,” Stephen Sandherr, chief executive officer of the AGC of America, said in a statement.

Government is impugning businesses, according to Roeser.

“I know if I only hire men, the women in my town would hate my business. ... I surely wouldn’t discriminate. My father is a veteran,” he said of Jack Roeser, who founded Otto Engineering in 1961. The company has approximately 500 employees.

Carolyn Rusin (cjrusin@aol.com) writes from Chicago.
$620 Billion in Pensions Promised, Only $62 Billion Set Aside in Illinois

By Ted Dabrowski

Opponents of pension reform try to downplay Illinois’ $100 billion in official pension debt because it’s “not due at one point in time.” They like to compare the pension debt to a “mortgage,” which is paid over 30 years.

But this argument is misleading, and here’s why: Illinois isn’t on the hook for just $100 billion in pension debt over the next 30 years. The truth is that Illinois will pay out $620 billion in pension benefits through 2045.

This $620 billion is the amount that Illinois’ five state-run pension systems will pay out in retirement benefits and cost of living adjustments for work already completed by workers and retirees. And the bill starts getting paid next year. The pension systems will pay out nearly $9 billion in benefits in 2014. These payouts will increase every year through 2045.

The problem is, the five pension funds have only $62 billion in assets set aside for those $620 billion in future obligations.

Untrustworthy Politicians

Illinois workers and retirees are finding that after decades of entrusting their retirements to the government, politicians have squandered their savings. And they’re learning from Detroit’s bankruptcy that no amount of constitutional protections can protect workers’ retirements from politicians’ follies and federal bankruptcy laws.

Without major reforms, Illinois’ pension systems and its retirees are only one market downturn away from bankruptcy.

Disturbing Actuarial Analysis

The state’s actuaries say the five state-run funds should have $159 billion in assets today to meet their full obligations through 2045. That amount, invested at a rate of 8 percent every year until 2045, would be enough to make the retirement payouts of more than $600 billion.

With only $62 billion in assets on hand, the funds have a shortfall of $97 billion. That means Illinois has only 39 cents of every dollar it should have today to make sure its government workers receive their pensions.

The $97 billion shortfall also means the pension funds can’t earn investment income on that amount. In one year alone, the funds will miss $7.76 billion in investment income, assuming their expectation of 8 percent returns materializes.

Unrealistic Actuarial Assumptions

To make matters worse, academics and the credit rating agencies say the state’s 8 percent expected investment returns are unrealistic and make the pension systems look healthier than they actually are. Using lower returns based on Moody’s Investors Service’s new methodology for measuring pension debt, the Illinois Policy Institute estimates the state’s 2012 pension shortfall is more than $200 billion—dropping the funded share to less than 25 percent.

Illinois workers and retirees are trapped in a collapsing system over which they have no control. That’s the result of the state not allowing workers to manage their own retirement savings. And as the Detroit crisis reveals, retirees can’t escape the consequences of bankruptcy.

No Control Over System

Illinois’ workers shouldn’t be forced to participate in a retirement plan they don’t own.

Instead, Illinois should move to a plan that gives current workers full control over their retirement investments. Such a plan already exists in Illinois, and one of the five state-run retirement systems, the State Universities Retirement System, runs it.

Nearly 18,000 state university employees or retirees have their own self-managed plan similar to a 401(k) plan. They are the only group of state workers and retirees in Illinois that will be spared the chaos of a potential bankruptcy, because they have full ownership over their retirement accounts.

Illinois must modernize its retirement system to give all workers control over their future. The Illinois Policy Institute has put together a plan that does just that. It can be found in House Bill 3303 and Senate Bill 2026.

Ted Dabrowski (tdabrowski@illinoispolicy.org) is vice president of policy at the Illinois Policy Institute.

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What Real Income Tax Reform Would Look Like

By Merrill Matthews

The U.S. income tax turned 100 last Thursday, and no one claims it has gotten better with age.

But it has grown bigger. According to the CCH Standard Federal Tax Reporter, the tax code took 73,954 pages at the beginning of 2013. ...

Of course, the income tax was initially created as a tax only on the highest earners, so it was very progressive. President Obama is doing his best to take us back to that part of the original vision, with a twist: He wants to use the income tax as a leveling tool to redistribute money from high-income earners to low- and middle-income workers.

The U.S. didn’t have a federal welfare state in 1913. So tax revenue from high-income earners was used to pay the government’s bills rather than as a way to punish prosperity and achieve some type of egalitarian vision.

But now that the income tax has reached the century mark, it’s time to rethink it. The initial tax form was simple, and real tax reform would make it simple again.

Moving to a flat tax—or at least a system with only two or three rates—and greatly reducing, if not completely eliminating, the countless available tax breaks could get us much closer to that 1913 form. That’s similar to the Simpson-Bowles Commission’s recommendation that Obama completely ignored.

If we are going to have a personal income tax, the best system is a flat rate with few or no tax breaks. It’s not impossible. It’s just returning to where we started—100 years ago.

Merrill Matthews is president of the Institute for Policy Innovation. This comment first appeared online in PolicyBytes and is reprinted with permission.
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