

The Elks Government Relations Report

Items of Interest from the Congress, State Legislatures and the Courts

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Bush Budget Sets Stage For Battle on Tax Cuts

President Bush's proposed budget for his final year in office—the first in the nation's history to exceed \$3 trillion—foresees near-record deficits before the budget comes into balance in 2012.

His proposals are expected to go nowhere with the Democratic Congress, but lawmakers have to confront a key element of the package—the president's plan to make his big tax cuts permanent. It will be tempting for Congress to allow the tax cuts to expire as scheduled in 2010. But if they do so, Congress would, in effect, be approving a \$2 trillion tax increase when a weakening economy would make prospects for tax cuts more appealing.

The Bush tax cuts of 2001 and 2003 included broad reductions in the income tax rate, new tax breaks on dividends and capital gains, and a gradual elimination of the estate tax. If the cuts are allowed to expire, rates would go back up to their earlier levels, and the estate tax would survive.

Further complicating the Democrats' position on the Bush tax cuts is the issue of the alternative minimum tax, a budgetary time bomb that affects more people in high-tax states along the coast, areas that lean Democratic. By some estimates, fixing the AMT would drain an additional \$1.3 trillion from the projected revenues over the next decade. Cost of repealing AMT would make it even harder in budgetary terms to extend the Bush tax cuts.

For the fiscal year starting Oct. 1, the Bush budget boosts overall security-related funding—for defense, homeland security and international affairs—by a combined 8.2 percent from the current fiscal year to about \$595 billion. By contrast, nonsecurity spending, mostly social services and other domestic programs, would rise by just 0.3 percent to \$393 billion.

VA Construction Budget Cut in Half As Funds Increase for Healthcare

The president's budget calls for spending \$93.7 billion on veterans—\$3.4 billion more than the current fiscal year. The extra money includes higher spending on health care for those returning from war in Iraq and Afghanistan. The VA anticipates treating 333,000 veterans from the combat zone in fiscal 2009, 40,000 more than this year.

Some of the VA budget increase would be paid for by delaying or cancelling various VA construction projects. The department's construction budget is cut in half, from 1.1 billion this year to \$587 in fiscal 2009. The administration also proposes new enrollment fees of up to \$750 for some veterans and increased co-payments for prescription drugs for high-income veterans whose disability is not service-connected.

Postal Service Lowers Price On ‘Care Packages’ for Troops

The U.S. Postal Service has lowered the price for delivering its popular “Care Package” boxes to service members deployed overseas.

Beginning March 3, the price for sending a 12 by 12, by five and a half inch priority mail large flat-rate box to AFO or FPO addresses will be \$10.95—two dollars less than the regular rate.

Drug-Impaired Driving Remains Serious Problem

Large numbers of American adolescents are putting themselves and others at great risk by driving while under the influence of illicit drugs or alcohol.

According to a study funded by the National Institute on Drug Abuse, 30 percent of high school seniors reported that at least once in the prior two weeks they had driven after drinking heavily or using drugs, or ridden in a car whose driver had been drinking heavily or using drugs.

“Most teens are aware of the dangers of drinking and driving, yet many ignore it,” said Dr. Nora Volkow, director of NIDA, a division of the National Institutes of Health. “Many don’t seem to recognize the dangers of driving after using illicit drugs, including marijuana,” she added. “Educational efforts need to be targeted to include the dangers of both drinking and drugged driving.”

The study notes that males are more likely than females to drive after heavy drinking or marijuana use. Individual lifestyle factors such as high religiosity, good grades, low truancy, or having two parents living at home were all associated with a lower likelihood of engaging in risky driving behaviors.

Court Strikes Down State Efforts To Limit Tobacco Sales to Teens

The Supreme Court has shut down state efforts to curb Internet sale of tobacco to teenagers, saying that efforts were well intentioned but violated federal restrictions against states regulating shipping.

Maine, contending its law was promoting health and not regulating shipping, had attempted to require those delivering tobacco to make sure that the person receiving it was of legal age, among other things. Thirty-one other states asked the court to uphold the Maine law.

Justice Ruth Bader Ginsberg, agreeing with the court’s decision to override the state law, urged federal lawmakers to come up with a solution. She expressed doubts that those who wrote the federal law “anticipated the measure’s facilitation of minors’ access to tobacco.”

Elections Closer to Home Offer Chance for More Impact

As the political spotlight on presidential primaries winds down, people are beginning to realize that there are many other contests underway this election year—for governor and other state offices, for judicial posts and for members of the legislature and for myriad county and city positions.

Many nonprofit organizations stand on the sidelines during election season, due in large part to fears that they could violate legal restrictions—but the law clearly allows 501(c)(3) nonprofits to engage in voter education, voter registration, and get-out-the-vote activities.

There is one overriding rule: The activities must be nonpartisan, which simply means a nonprofit cannot show or state a preference for or against a particular candidate or candidates, a particular political party, or candidates or parties who have taken particular positions.

Independent Sector, an umbrella group of nonprofit organizations, urges even more involvement, sponsoring candidate forums, staging voter registration drives, and raising awareness of their mission and issues of concern by attending candidate debates and posing questions. Nonprofits can sponsor an event to help citizens see the connection between essential community services and the taxes they pay. Nonprofits need to tell the story of how they put tax dollars to work to benefit the community

Congressional Committees Debate Military Powers of Governors

A congressionally chartered commission has recommended that governors gain authority over all U.S. military forces in their states—not just National Guard troops—during terrorist attacks, hurricanes and other domestic disasters. While some say it's a good move, Pentagon officials have assailed the proposal, claiming it violates the Constitution, undermines presidential power and “invites confusion” over military command during emergencies.

The report by the Commission on National Guard and Reserves, found that reserve components are unprepared and under-equipped to confront major security threats at home, in large measure because of overseas deployments that consume manpower and equipment.

The commission offered broad proposals to improve the way the reserves operate, including using state-run National Guard troops exclusively to respond to domestic crises. Among the most striking recommendations made was a proposal to give governors control over active-duty troops, such as disaster response teams from the U.S. Army or Air Force, in the immediate aftermath of a catastrophe. Governors now command state National Guard units during crises on American soil, but the president remains commander in chief of active-duty forces. That division of power “places the nation at risk of a disjointed federal and state military response to a catastrophe,” the report concluded.

States Unhappy with Requirements For New Driver's License Rules

The nation's governors are unhappy with proposed federal standards to make driver's licenses more secure and they want the Federal government to pick up the costs for the so-called Real ID.

Congress has appropriated \$90 million to help states implement the Real ID law, which requires electronically verifying the identity of an estimated 245 million drivers and reissuing secure licenses. The law is meant to keep driver's licenses out of the hands of terrorists and illegal aliens.

In a unanimous resolution, the National Governors Association asked Congress and the new president to fund the full cost of the measure, estimated at \$4 billion. The executive committee of the National Conference of State Legislatures also has called for Congress to repeal the new law, objecting to the costs, federal imposition on state practice and the potential threats to individual privacy.

Last year, six states—Maine, Montana, New Hampshire, Oklahoma, South Carolina and Washington—took the nearly unprecedented step of passing laws refusing to comply with the new federal law.

While the U.S. Department of Homeland Security said it cannot compel states to follow the law, noncompliant driver's licenses cannot be used as identification to board commercial aircraft or to enter federal buildings after May 11, when the act takes effect. Several states have filed for an extension, giving them another 19 months—until January 2010—to start verifying identities of driver's license applicants.

Minnesota Bar Patrons Become 'Actors' In Effort to Get Around Smoking Ban

If a tavern is just a stage and those at the bar are merely players, Minnesota bar owners may have come up with a quirky idea to get around a statewide smoking ban.

A state law permits performers to smoke during a theatrical production. So dozens of bars are staging "theater nights" and dubbing their patrons as actors.

Mark Benjamin, a criminal defense lawyer who dreamed up the idea, has devised a theater night instruction packet for tavern owners anxious to take advantage of what appears to be a loophole in the smoking ban law.

The novelty of turning bar patrons into actors may be short-lived, however. State Health Department officials said they are waiting for an attorney general's opinion on the legality of theater nights. State legislators who wrote the original law say they expect the loophole—if there is one—to be plugged soon.