South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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Legislative Update

Latest News In Corrections

The State Correction System is in the news again with an overcrowding situation. Members may be interested in actions taken in other states concerning their prison facilities.

In Kansas, officials will spend nearly $1 million to construct modular prison facilities. Prefabricated materials will be used to build a 96-bed minimum-security unit at a cost of $975,000--$200,000 for planning and the rest for construction.

In Missouri, on the other hand, correction officials believe conventional masonry construction will be a better long-term investment. They point out that modular units generally last 30 years, while traditional brick and mortar buildings can last a century.

In Kentucky, Governor Collins has proposed a $50 million budget for the state correctional facilities, to include expanding capacity by 721 beds. The present capacity is 4,600 inmates. A new medium-security prison for 600 inmates is included. A 1980 federal court order requires Kentucky to relieve overcrowding in its prison system.

Economic Recovery in S.C.--What Next?

The February, 1984, issue of Economic Review, a journal published by the Federal Reserve Bank of Atlanta, has the article "South Carolina: A Strong Recovery, But Problems Remain," written by Richard W. Ellson and Randolph C. Martin of the University of South Carolina. The following abstract of the article has been prepared for the benefit of House members.

The article notes that the South Carolina economy had "essentially been stagnating since the end of 1979." Employment in the mainstay of the State's economy, the textile industry, was in trouble because of increased textile imports, particularly from Latin America and Asia, and investment in new equipment which reduced the need for workers.

Still, the authors note, "the surprising strength of the recovery in South Carolina came despite continuing employment weakness in the textile and related sectors." They point to several factors which contributed to the recovery:

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1) The state's manufacturing sector is sensitive to national consumer spending, and responded well to the national economic upturn--in fact, average weekly earnings for S.C. manufacturing workers increased faster than the national average: 8.5% compared to 5.4%.

2) The state economy has become more diversified and is closer to the national economy. Therefore, when recovery started, S.C. reflected all aspects of it.

3) The growth of tourism and related industries has provided additional income, even during times of recession.

The outlook for 1984 is bright, according to Ellson and Martin. They point out the features which could make 1984 a good year: 1) the relative stabilization of the textile industry; 2) the improved probability of capital investments in the state as new textile technology is introduced; 3) the state's excellent transportation network, from its sea ports to the good interstate highway network; 4) continued growth in tourist-related industries.

The table below summarizes the economic forecast for the state as envisioned by Ellson and Martin.

South Carolina 1984 Forecast of Key Sectors

Series	1983:84	1984:84	Net Change	% Change
Total Nonfarm Employment[1]	1,197.3	1,249.0	51.7	4.3
Manufacturing Employment[1]	371.1	403.7	32.6	8.8
Textile Related Employment[1]	114.4	121.7	7.3	6.4
Unemployment Rate	8.6	7.6	--	-1.0
Real Total Personal Income[2]	13,661	14,063	402	2.9
Real Retail Sales[3]	8,885.6	9,438.0	552.4	6.2
Housing Starts[4]	26,409	24,091	-2,318	-8.8

[1]In thousands [2]In millions of dollars
[3]In millions of dollars, annual total [4]Number, annual total

Source: Division of Research, College of Business Administration, U.S.C.

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The Official Rules, Part 1

Davidson's Maxim. Democracy is the form of government where everybody gets what the majority deserves.

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Falkland's Rule. When it is not necessary to make a decision, it is necessary not to make a decision.

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Tom Jones' Law. Friends come and go but enemies accumulate. [Named for U.S.C. President Tom Jones]

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Quoted from The Official Rules, by Paul Dickson (NY: Dell Publishing Company, 1978)

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Candidates for Circuit and Supreme Court Judge

The Judicial Screening Committee, chaired by Senator Heyward McDonald, has completed hearings on candidates seeking terms for the Sixth Judicial Circuit and the South Carolina Supreme Court. A brief review of the candidates is presented here for the benefit of House members.

Sixth Judicial Circuit

There are two candidates for this position. John R. Justice, of Chester has a law degree from the University of South Carolina. He has served as Solicitor for the Sixth Judicial Circuit since July, 1978, and served in the House of Representatives from 1970-1972.

Don R. Rushing, of Lancaster, also has a law degree from the University of South Carolina. He is a partner with Thomas, Rushing, Goldsmith and folks, and has been a member of the State Senate since December, 1979.

State Supreme Court

There is a contested election to fill the unexpired term of the Honorable C. Bruce Littlejohn, who became Chief Justice on March 8 of this year. There are four candidates for the position.

A. Lee Chandler received his law degree from the University of South Carolina. Since September, 1976, he has been Judge of the Fourth Judicial Circuit. He served in the House of Representatives from 1973 through 1976.

Ernest A. Finney, Jr. received his law degree from South Carolina State College. He has been Judge of the Third Judicial Circuit since October, 1976. He served in the House from 1972-1976.

C. Anthony Harris earned his law degree at Duke University. Since December, 1978, he has served as Judge of the Fourth Judicial Circuit. His term in the House of Representatives was from 1967-1968, and he served in the State Senate from 1969-1978.

Jean H. Toal, gained her law degree from the University of South Carolina. She is a partner in the practice of Belser, Baker, Barwick, Ravenel, Toal and Bender, and has been a member of the House of Representatives since 1975.

Additional information, including the transcripts of the candidates' appearances before the Screening Committee, can be found in the House Journal for Thursday, March 15, 1984, staring on page 1531.

Spending Limitations Legislation
Part One: General Background

[NOTE: This Report only addresses spending limit mechanisms similar to those in H.2151 and H.2152, the bills which comprise the spending limit package set for special order immediately following second reading of the general appropriations bill. This Report does not address other techniques for limiting government growth such as employee limitations or restrictions that would limit appropriations to a certain percentage of anticipated revenue.

A future Report will deal with specifics of spending limit legislation proposed in South Carolina and its possible effects.]

Background

The idea of placing a restraint on the rate of government growth is not a new one in the United States. As early as 1846, the New York Constitution was amended to restrict local government power to tax and borrow--"so as to prevent abuses." But it was not until the 1970's that the idea of state tax and spending limitations really took hold in this country.

Starting with New Jersey in 1976, nineteen states have adopted some form of spending limitation measures. (See Table 1, page 4) Twelve states have statutory limitations; the rest have amended their constitutions to provide limitations.

South Carolina adopted a statutory spending limitation in 1980, which ties government growth to the growth of personal income in the State. This year there is a renewed push to put a Constitutional spending limitation to a referendum.

Philosophic underpinnings: pro and con

While debate over government spending frequently deteriorates to name calling, thoughtful arguments support both positions. Those who favor a limitation talk about a "basic flaw of government" while opponents point to the "negation of representative government."

The basic flaw in our political system as seen by limiters is that taxpayers almost never have the chance to vote on the total size of government spending. This philosophy does not see the cause of excessive government spending as evil politicians or greedy bureaucrats. Rather the so-called "Pogo Principle" is at fault.

The "Pogo Principle" maintains that "we have met the enemy and he is us." Applying this to government spending, it is argued that we all have pet programs which we promote. We petition legislators for our programs arguing the costs will not be that great compared to the overall benefits. Individual taxpayers may learn of other proposed programs. But given the fact that the cost of any single program may be only a few pennies or a few dollars per taxpayer per year, each taxpayer finds that it's not worth the time or effort to fight against it. In this fashion, on a piecemeal basis, program by program, our own special interests gain at the expense of the total public interest. The size of government, of spending and of taxes grow and grow until government and its costs overwhelm us.

Counterarguments assert the principle that in a representative government it is the responsibility of our elected officials to determine taxes and spending. It is in the election booth that the public decides if elected officials are spending too much. To impose a limitation on legislators would essentially negate our form of representative government destroying the flexibility needed to respond to changing circumstances.

Opponents of limitation argue that such a limit is both arbitrary and irresponsible. They point out that such a proposal is simplistic, failing to acknowledge the complexities of intergovernmental relationships in our federal system not to mention the dynamics of the real world which may place changing demands on state government. A constitutional limitation could be changed only by another constitutional amendment--a lengthy process. Changes could be thwarted by a minority of one-third of the elected representatives in upcoming General Assemblies.

Components of tax and spending limits

Although the mechanics for limitations vary from state to state and from proposal to proposal, six major components of this type legislation have been identified. The components as identified by the National Conference of State Legislatures (NCSL) are examined below.

The Limit: Statutory or Constitutional? At issue here are considerations such as: whether a limitation represents a broad policy consideration appropriate for inclusion in the constitution; whether a statutory limit has any teeth since it can be modified by a future session of the legislature; whether in a democracy citizens can't determine the size of government in their constitution; whether the political implications of exceeding a statutory limitation aren't sufficient to restrain lawmakers from casually overstepping the limit. If a decision is made in favor of a constitiutional limit, that decision in turn raises the question of how specific the language should be; should the amendment present a general statement of policy or delineate in detail mechanisms of the limit.

The Limit: Revenues or Expenditures? For states which require a balanced budget, a limit on spending is for practical purposes also a limit on taxes. A general preference among states which have enacted limitations seems to be for the limitation to apply to expenditures. An important consideration here is the effect of such a limit on the state's credit rating; bond rating companies apparently favor limitations on spending fearing limitations on revenues might affect bond repayments.

The Basis of the Limit. The intent of a limit may be to stabilize the size of state government or to gradually reduce its size. If the purpose is to stabilize government, it is necessary to determine relative to what, and from when, it is to be stabilized. A frequent choice is to stabilize the size of government relative to the growth of the state's economy. This requires that the growth of the state's economy be measured; some states have developed models to reflect that growth while a frequent alternative is to use the figure for the growth of personal income reported by the U. S. Department of Commerce. Also critical is the base year in which the limit starts; one year may be a year of great abundance or great shortfall of revenues which could affect the impact of a limit for many years.

Excluded Funds. Several categories of funds pose special problems when considering whether or not they should be included within the limit. They include user charges or fees, federal funds and earmarked funds. While user charges and federal funds are frequently excluded, some proponents of limits feel even these should be limited because they are a reflection of the total size of state government. An alternate position regards charges and fees as elective and appropriately paid if someone chooses to avail themselves of a particular governmental service. Therefore the revenues from such enterprise activities should not be limited. Some opponents argue that a limit may actually force governments to establish user fees for services which should be generally available to the public. With respect to federal funds, a common argument is that it would be inappropriate to limit these as they would merely be lost to other states if the limit were to be exceeded.

Surplus Revenues. A limitation poses the question of what to do with revenues which might be collected in excess of the limit. Common suggestions include the use of such funds to reduce long term indebtedness, deposit such excesses in a reserve fund, carry forward the funds to permit tax relief, or rebate them to taxpayers. Problems of equity arise with the rebate suggestions in that it is argued that it would be virtually impossible to track the source from which such surpluses were collected.

Emergency Provisions. In addition to the ability to change the language of the limit itself to respond to changed circumstances, special provisions are frequently included so that government can respond to emergency situations. Such override provisions generally limit the duration of the period for which the limit may be exceeded (e.g. one year) and provide mechanisms for reestablishing the limit after the emergency has passed. The emergency override provision is generally less restrictive than the requirements for a permanent change because the override is of limited duration.

To date some nineteen states have enacted limitations of one sort or another on their state governments. Table 1 lists those states and provides a brief description of each limit.

Table 1

Description of State Limitation Measures

State	Year Adopted	Type	Expenditures or Revenues	Nature of Limitation
Alaska	1982	Statutory	Expenditures	Inflation and population growth
Arizona	1978	Const	Expenditures	7% of personal income
California	1979	Const	Expenditures	Inflation and population growth
Colorado	1979	Statutory	Expenditures	7% annual increase
Hawaii	1978	Const	Expenditures	Growth of personal income
Idaho	1980	Statutory	Expenditures	5 1/3% of personal income
Louisiana	1979	Statutory	Revenues	Growth of personal income
Michigan	1978	Const	Revenues	Ratio of revenue to personal income in base year
Missouri	1980	Const	Revenues	Ratio of revenue to personal income in base year
Montana	1981	Statutory	Expenditures	Growth of personal income
Nevada	1979	Statutory	Expenditures	Inflation and population growth [1]
New Jersey	1976	Statutory	Expenditures	Growth of personal income per capita
Oregon	1979	Statutory	Expenditures	Growth of personal income
Rhode Island	1977	Statutory	Expenditures	8% annual increase[1]

State	Year Adopted	Type	Expenditures or Revenues	Nature of Limitation
South Carolina	1980	Statutory	Expenditures	Growth of personal income
Tennessee	1978	Const	Expenditures	Growth of personal income
Texas	1978	Const	Expenditures	Growth of personal income
Utah	1979	Statutory	Expenditures	Growth of personal income x .85
Washington	1979	Statutory	Revenues	Growth of personal income

1 Limitation applies to governor's budget request, not to legislative action.

Particular problems and difficulties

As already mentioned, it is generally agreed that federal funds should not be subject to limitation at the state level. However, federal funds present a further problem which it is argued "could come back to haunt the state." In January 1983, the NCSL published an update report on "State Tax and Spending Limitations: Paper Tigers or Slumbering Giants."

As the title suggests, that report found some question as to the effectiveness of the spending limitations adopted to date. The report noted that this conclusion might be the result of the recession which cut so severely into state revenues during the early 1980's. It found that most states were considerably below the ceilings on spending set by their limitation measures.

However, as also suggested in the title, the jury may still be out with respect to the impact of these limitations. There are shifting responsibilities between the national and state governments resulting from the so-called "new federalism." Under the current administration, there is a significant movement to get the national government out of the business of providing certain services and shifting them to state governments. There has also been some indications that attempts would be made in Washington to free up revenue sources currently taxed by the national government so they would be available for states to use if they decide to continue any or all of the service responsibilities shifted to them. Shifts of substantial magnitude could cause states to rapidly run up against limits even if only a portion of those responsibilities are adopted by a state. Opponents of limits argue a state might be unable to take up the challenge these of "new federalism" efforts present. They believe limits, where changes could be blocked by a legislative minority, should be avoided. Those favoring a limit suggest that the political realities reflected in recent history are such that "new federalism" is unlikely to come about.

Another oft-debated question is the accuracy of estimating techniques which would provide the basic numbers for driving the limit. Generally speaking, figures for statewide economic activity such as those provided by the U. S. Department of Commerce (i.e. State Personal Income) are fairly stable and accurate. The concern is that such statistics include estimates which during volatile periods of economic change may misrepresent economic activity thus introducing further uncertainty in the budget setting process. A recent issue of Business Week recognized the difficulties with some of these figures indicating that while the "economy is being shaped by high-technology industries and the fast-growing service sector, the data tend to emphasize older, mature, or declining industries." Counterarguments point out that figures for personal income are merely used to measure trends and that techniques such as averaging growth over a three year period smooth out any difficulties.

A final argument is that if legislators need a limit to control their behavior, what is to stop them from developing techniques which will avoid the limitation. If such developments were to take place it would adversely affect the value of state appropriation bills as recent trends have been to make appropriation bills comprehensive statements of all state expenditures. Such avoidance techniques might include so-called off-budget accounts or tax expenditures. In jurisdictions where the limitation applies only to the general fund, it is suggested that the motto for those running into pressure will be, "Create a new fund."

An answer to public expectations for orderly growth?

NCSL points out that frequently the problem of governmental growth is a matter of perception with taxpayers. There are examples of states where taxpayer unrest results not from absolute tax burdens but perceived burdens. A sharp rise in taxes may provide the tinder for a revolt even though the resulting tax burden does not appear to be excessive when viewed on a comparative basis with other states.

Proponents in South Carolina cite polls showing as many as 82% of South Carolinians favor such a limit. They point out that the limit would not tell legislators how to spend the money but would rather encourage the establishment of priorities...in essence correcting that basic flaw in the system characterized by the "Pogo Principle."

Conclusion

Spending limitations provide a means of controlling state government growth by keeping it tied to state economic conditions. Because the real economic condition of the state must determine government spending, it is vital to use accurate and pertinent measurements. Beyond the technical issue of implementing spending limitations is a philosophical difference between those who believe there should be an automatic guide to government spending, and those who feel the legislature has the authority and responsibility to set state financial direction.

Around the House

Banking and Consumer Affairs Subcommittee Meeting

Monday, March 26, 1984, the Banking and Consumer Affairs Subcommittee of the Labor, Commerce and Industry will hold a hearing to consider H.3605, a bill concerning Interstate Banking. The meeting will be held in Room 403 of the Blatt Building, and will begin at 2:00 p.m. Representative T. Moffatt Burriss is Chairman of the Subcommittee.

Dwight Hayes, Staff Counsel for the Labor, Commerce and Industry Committee, has provided the following summary of the bill for your information:

H.3605 was introduced on March 1, 1984, and thereupon was referred to the Labor, Commerce and Industry Committee. It is presently pending before the Banking and Consumer Affairs Subcommittee. A Senate companion bill has not been introduced as of this date.

H.3605 would allow South Carolina to participate in a system of regional interstate banking. This would enable South Carolina to acquire banks or bank holding companies whose principal place of business is located within the Southern Region--Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia. The act would allow for reciprocity enabling Southern Region bank holding companies to acquire South Carolina banks and bank holding companies. Before these transactions are implemented, they must be approved by the State Board of Financial Institutions.

No acquisitions of banks or bank holding campanies that are located outside of the Southern Region will be permitted unless the acquisition is allowed by federal law or the specific requirements of the statutory exception are satisfied. The main requirement dictates that 80 percent of the acquiring bank's total deposits must be held by South Carolina or Southern Region subsidiaries. Also, the necessary approval of the Board must be obtained and any notification requirements must be complied with.