

4 May 2010


Today's Tabloid

PERSONAL NEWS FOR Ign@limitedgovernmentnetwork.com

FISCALLY CONSERVATIVE BLOG FEEDS

Philadelphia City Council Hearing on Tobacco Tax Hike Postponed [Americans for Tax Reform]

MAY 03, 2010 05:29P.M.

A Philadelphia City Council hearing on legislation that would impose a new excise tax on smokeless tobacco products, cigars, and other tobacco-related products, originally scheduled for today, has ... 

FISCALLY CONSERVATIVE BLOG FEEDS

Liberty on a Disk [Cato at Liberty]

MAY 03, 2010 05:11P.M.

By David Boaz

To celebrate its 50th anniversary, Liberty Fund has just produced an amazing item — The Portable Library of Liberty, a single DVD containing the complete texts of more than 1000 books, audio interviews with 26 great scholars, and more. And it's free for the asking!

Just take a look at what you could be carrying in your laptop:

1,001 full text titles in PDF format, self-contained and searchable. They are organized by titles, subject areas, and topics. Highlights include the complete scholarly editions of the works of Adam Smith, David Ricardo, John Stuart Mill; the collected works of Jefferson, Madison, John Adams, & many others; and 166 full-text books published by Liberty Fund.

works by hundreds of authors from Ancient Sumeria to the present, organized by people, periods, and schools of thought, such as the French Enlightenment, the Founding Fathers, 19th century natural rights theorists, the Austrian School of Economics, and many others.


audio interviews with 26 leading scholars from the

Intellectual Portrait Series: Conversations with Leading Classical Liberal Figures of Our Time and 7 lectures on *The Legacy of Friedrich Hayek*.

a collection of *Quotations about Liberty & Power* which is a compilation of all the quotes of the week that have appeared on the front page of the Online Library of Liberty since its inception.

My initial response was, if all that stuff is on the web, then why do you need a DVD? And I guess there are two answers to that: First, there are people around the world who have computers but not regular internet access. Liberty Fund officers say that a typical request is something like "I am a masters student in economics at the national university in Bangladesh. Thanks for making this available to me. We do not have these titles in our library. Can I make another copy to give to my friends?"


And second, there are times that all of us could access a DVD but not the internet, such as on flights.

So – at the low, low cost of . . . nothing, it's truly an amazing deal. Order yours today. Or you could wait for the 6th edition later this year, when all the titles will be in the new ePub format for even easier reading on portable devices. The pace of progress quickens! 

FISCALLY CONSERVATIVE BLOG FEEDS

Do You Know Which Candidates in North Carolina Have Signed the Taxpayer Protection Pledge? [Americans for Tax Reform]

MAY 03, 2010 04:51P.M.

The following incumbents and challengers in North Carolina have signed the Taxpayer Protection Pledge. In doing so, these candidates have taken a written promise never to raise their constituents&r...; 

FISCALLY CONSERVATIVE BLOG FEEDS

More on Schumer and Van Hollen [Cato at Liberty]

MAY 03, 2010 04:19P.M.

By John Samples

Last week I contributed a short essay on the DISCLOSE Act to *USA Today*. The Center for Competitive Politics surveys other responses to the new bill. Predictably the bill favors the coalition that wrote and hopes to pass it.

I like their final take: "Don't forget what the reform lobby's new proposal for campaign finance is: 'All political animals should speak equally, but some political animals should speak more equally than others.'" 

FISCALLY CONSERVATIVE BLOG FEEDS


The Importance of Institutions: A Bolivian Perspective [Cato at Liberty]

MAY 03, 2010 04:15P.M.

By Juan Carlos Hidalgo

Following what has become an ominous tradition during his presidency, Evo Morales celebrated Labor Day (May 1st in most of the world) by expropriating energy companies. Early Saturday, Bolivian troops occupied the facilities of four private electrical utilities, which were owned until then by local and foreign companies.


In explaining his tough-handed *modus operandi*, Morales shared his views [in Spanish] on the importance of government institutions in solving legal disagreements in Bolivia:

"We made every effort to reach an agreement with the private multinational companies, and if there's no will to reach an agreement through dialogue, then we have government institutions such as the army and the national police." 

FISCALLY CONSERVATIVE BLOG FEEDS

Indiana Primary Voters: Which Candidates Have Signed the Taxpayer Protection Pledge? [Americans for Tax Reform]

MAY 03, 2010 04:14P.M.

Tomorrow is primary day in Indiana. Americans for Tax Reform today released an updated list of incumbents and challengers in Indiana who have signed the Taxpayer Protection Pledge. These candidates... 

FISCALLY CONSERVATIVE BLOG FEEDS

Arizona Republic Leads the Way on Immigration [Cato at Liberty]

MAY 03, 2010 03:51P.M.

By Daniel Griswold

In a gutsy display for a newspaper, the *Arizona Republic* in a front-page editorial yesterday castigated the state's top politicians for a failure of leadership on immigration.

Prompting the editorial was the passage of Arizona's tough new law making it a crime to be an illegal immigrant in the state. Under the banner headline, "STOP FAILING ARIZONA; START FIXING IMMIGRATION," the state's major newspaper fired with both barrels:

We need leaders.

The federal government is abdicating its duty on the border. Arizona politicians are pandering to public fear.

The result is a state law that intimidates Latinos while doing nothing to curb illegal immigration.

This represents years of failure. Years of politicians taking the easy way and allowing the debate to descend into chaos.

The *Arizona Republic* has been calling for comprehensive immigration reform continuously since 2002. For a brief time, our congressional delegation led the nation on this front. But no more.

Now, it seems our elected officials prefer to serve political expediency instead.

The editorial then named ten prominent political leaders from the state, Republicans and Democrats alike, who have either failed to champion real reform for fear of a political backlash, or who have stoked the backlash with inflammatory rhetoric.

2002 was also the year that the Cato Institute made the case for comprehensive immigration reform with my study, "Willing Workers: Fixing the Problem of Illegal Mexican Migration to the United States." The study argued that enforcement alone will not solve the problem. Immigration law itself must be changed to accommodate the legitimate labor-force needs of a growing U.S. economy.

The *Republic* editorial put the argument succinctly:

Reform must create a legal pipeline for future workers that is demand-based and temporary. With a legal framework in place, there will be no reason to be in this country without permission. Foreigners who break our laws will be prosecuted, punished and deported.

Comprehensive reform will make the border safer. When migrant labor is channeled through the legal ports of entry, the Border Patrol can focus on catching drug smugglers and other criminals instead of chasing busboys across the desert.


Real leaders will have the courage to say that.

One real newspaper has shown them how. 

FISCALLY CONSERVATIVE BLOG FEEDS

Ohio Primary Voters: Which Candidates Have Signed the Taxpayer Protection Pledge? [Americans for Tax Reform]

MAY 03, 2010 03:38P.M.

Tomorrow is primary day in Ohio. The following incumbents and challengers in Ohio have signed the Taxpayer Protection Pledge. These candidates have taken a written promise never to raise their cons... 

FISCALLY CONSERVATIVE BLOG FEEDS

Don't BELIEVE the Hype—Though Unformed, the Democrats' National ID Plan is Rife With Threats to Privacy and Civil Liberties [Cato at Liberty—Though Unformed, the Democrats' National ID Plan is Rife With Threats to Privacy and Civil Liberties]

MAY 03, 2010 03:30P.M.

By Jim Harper

Senate Democrats have solidified and given more definition to their plan to create a biometric national ID, the centerpiece of their immigration reform proposal. (For reasons unrelated to the national ID plan, Senator Lindsey Graham (R-SC) has dropped out of the picture for now.) The "Conceptual Proposal for Immigration Reform" they released last week gives much more detail to the sketchy plans I previously reviewed.

In my Cato Policy Analysis, "Electronic Employment Eligibility Verification: Franz Kafka's Solution for Illegal Immigration," I wrote about the possibility of a work authorization document limited to that purpose—and my doubts that the government would adopt one.

A credential such as eligibility for employment under [the immigration laws] can be proved without creating a nationwide biometric tracking scheme. In fact, templates already exist. But it is unlikely to see adoption. . . .

[I]dentification and tracking . . . shift the risk of error in the card-issuance process from the government to the citizen. . . .

[T]racking preserves government power. A work-eligibility and tracking system . . . makes the individual's employment eligibility subject to revision at a later time, if the government wants to change the rules or adapt the system to new purposes, for example.

Those doubts are validated by this plan, which appears to be a full-fledged national ID and national biometric database. Assurances that it won't be used for purposes beyond immigration control are not persuasive. This is national identity and surveillance infrastructure that will be "switched on" by later policy changes.

They're calling it "BELIEVE," short for "Biometric Enrollment, Locally-stored Information, and Electronic Verification of Employment." They

can call it that. We'll study it, and give credence to what we learn.

The plan is confusing, disorganized, repetitive, and sometimes contradictory. Summarizing it is a little like trying to piece together the egg when all you have is the omelet, but three themes emerge: First, this summary backs away from an earlier claim that there would not be a biometric national identity database. There will be a national biometric database. Second, repeating the word "fraud-proof" does not make this national ID system fraud proof. Third, this national ID system definitely paves the way for uses beyond work authorization. This is the comprehensive national identity system that people across the ideological and political spectrum oppose.

The national ID part of the Democrats' proposal begins at the bottom of page eight. It's a veritable word-cloud, suggesting a violation of the rule of thumb that simple solutions are usually the best. But let's look at it, line by line.

Not later than 18 months after the date of enactment of this proposal, the Social Security Administration will begin issuing biometric social security cards.

That's pretty darn ambitious. Watch for any national ID plan to take several years to get started, decades to complete. The REAL ID Act—a simpler proposal than this one—has been law for five years and not a single compliant card has yet been issued. Not one.

These cards will be fraud-resistant, tamper-resistant, wear resistant, and machine-readable social security cards containing a photograph and an electronically coded micro-processing chip which possesses a unique biometric identifier for the authorized card-bearer.

All these things are easier said than done. And "fraud-resistant"? That's unlikely. We won't know until we see details.

The card will also possess the following characteristics:

We'll take them in chunks.

(1) biometric identifiers, in the form of templates, that definitively tie the individual user to the identity credential;

Cards have biometrics today—low-tech ones like your picture and a copy of your signature printed on it. Here, "biometric identifiers" probably refers to machine-readable biometrics like fingerprints or iris scans. The card wouldn't have an image of the biometric itself, but rather a mathematical description of its key features—the arches, loops, and whorls in your fingerprint and their distances from one another, for example. Research continues into how secure these algorithms are against future high-tech versions of identity fraud.

(2) electronic authentication capability;

This is pretty opaque, but it confirms again that the card will have a computer chip. "Authentication" is a word without a distinct meaning—what fact will be proven to whom, and how will it be proven? We have to learn more.

(3) ability to verify the individual locally without requiring every employer to access a biometric database; (4) offline verification capability (eliminating the need for 24-hour, 7-days-per-week online databases);

This is two ways of saying roughly the same thing. How will this goal be achieved? Without more information, the privacy and security issues are hard to assess.

A freestanding ability to verify individuals without accessing a biometric database implies that there will be a biometric database, a likelihood I noted earlier.

(5) security features that protect the information stored on the card; (6) privacy protections that allow the user to control who is able to access the data on the card;

Security protects privacy so these two features are siblings if not one feature. But these opaque claims don't tell us much at all. Knowing what exact card security features the plan envisions would allow an assessment of their quality. They could be anything from distributing RFID-chipped cards with a metallic sleeve that many users will lose or fail to use—almost no protection at all—to using a card that will only reveal data when the biometric of the authorized bearer is presented to the card.

The best protection for privacy and data security is not collecting people's identity information in one place at all, nor organizing it uniformly on a card everyone must have. A technically secure national ID card isn't privacy protective when the bearer is practically or legally required to release the information on it. Pushing card security as a privacy feature is like looking for your keys under a lamp post. The light may be better there, but you haven't solved the privacy issues by securing the card.

(7) compliance with authentication and biometric standards recognized by domestic and international standards organizations.

This feature conflicts with the privacy claims in the previous bullet. Compliance with standards increases the likelihood that the national ID system will interoperate with other national governments' systems and with corporate systems. Picture a future not too far off when every government collects and shares data on every citizen and foreigner using a consistent identity system. This is an efficiency feature with huge privacy and liberty costs for individuals.

The new biometric social security card shall enable the following outcomes:

One by one:

- (1) permit the individual cardholder to control who can access their information;

This is the same as characteristic (6) above.

- (2) allow electronic authentication of the credential to determine work authorization;

We got this from characteristic (2) above.

- (3) possession of scalability of authentication capability depending on the requirement of the application.

This jargon cloud doesn't mean anything discernible, but it does suggest that this national ID system is being designed for multiple uses. Let's start with some terms:

"Scalability" is the idea that a technology still works well "at scale." A system that works well with 10 users may not work well with 10,000, and a system that works well with 10,000 users may not work well with 10,000,000 or 100,000,000. So the idea here is that it will work well with many users. It's not enough just to say that, of course. We should know specifically how it would meet the challenges of scale.

"Authentication"—again, a poorly defined term—means adequately proving some fact, such as a person's identity, his or her work authorization, and so on.

"Application"—another favorite word in the tech lingo—simply means "use." A hammer has many different applications: pounding in nails, denting metal, bonking intruders on the head, and so on.

So the sentence translates roughly to: "The card system will handle large numbers of people no matter what it's used for."

That's telling, because the next line in the plan claims that the system will only be used for work authorization. If it's only used for work authorization, why would it need to handle large scale for other authorization applications?

Possession of a fraud-proof social security card will only serve as evidence of lawful work-authorization but will in no way be permitted to serve—or shall be required to be shown—as proof of citizenship or lawful immigration status.

Repeat: If this is true, why does the card work at scale for other authorization applications?

The use of the word "permitted" suggests that the card will be capable of other uses, but such uses will be barred by law. Once again, if the plan is to use the cards only for work authorization, why not design the cards to serve only that purpose and no other?

And there's "fraud-proof" again. The plan says little or nothing about what makes the card fraud-proof. In my earlier assessment of the national ID plan as it stood then, I discussed the three different meanings the concept of "fraud-proof" may have in an identity system, and the difficulties of achieving all three.

It will be unlawful for any person, corporation; organization local, state, or federal law enforcement officer; local or state government; or any other entity to require or even ask an individual cardholder to produce their social security card for any purpose other than electronic verification of employment eligibility and verification of identity for Social Security Administration purposes.

Confirmed: This will be a multi-purpose identity card. Most of the public will be barred by law from asking for the cards, but it will perform "verification of identity for Social Security Administration purposes." That means, at the very least, that it can display Social Security Number and probably name. It will be convertible to lots of other purposes when mission creep takes hold.

Legal rules against using the card for new purposes don't mean very much. If you create a system with rules like that in place, they might be in place for a while, but policymakers will think of new uses for the card, people and organizations use the card unlawfully for a while, and the weight of these "misuses" will break down the legal barriers. The national ID system created for one limited purpose will be "switched on" and it will become the full-scale surveillance device that freedom-loving Americans abhor.

No personal information will be stored on the electronic chip contained within the social security card other than the individual's name, date of birth, social security number, and unique biometric identifier.

What more do you need? Presenting these identifiers allows organizations, public and private, to easily identify people distinctly in their data stores. Highly accurate tracking systems will grow up around this identity system, many of which provide convenience and other benefits, but the sum total of which will be a federal-government-fostered surveillance society.

And, by the way, an encrypted work authorization (see below) can act as an identifier—that's more personal information—unless the card's design takes some very impressive steps to prevent that.

Under no circumstances will any other information, including medical information or position-tracking information, be contained within the card.

This is nice protection—and if it's a bar on radio frequency identification, fine—but putting these protections in law is rather quaint, though. A bar on additional data going on the card may hold up for a few decades, but it will ultimately give way to new demands for data on the card to fix some new policy problem.

And, remember, the card itself is not the only source of privacy concern. The card will facilitate highly accurate record-keeping about people's locations when they use the cards. Location tracking may not be integral to the card, but the card will be integral to location tracking.

The Secretary of Homeland Security shall work with other agencies to secure enrollment locations at sites operated by the federal government.

Yes, you need to secure enrollment facilities or people will break in and steal equipment and data. I'm not impressed that DHS will be involved in providing physical security to SSA, and I bet SSA isn't either.

Prior to issuing an individual a new fraud-proof social security card, the Social Security Administration will be required to verify the individual's identity and employment eligibility by asking for production of acceptable documents to be provided by the individual as proof of identity and employment eligibility.

Yes, that's how you do it. This is the step in the card issuance process that is probably the weakest. Forgery and corruption attacks are a function of the value to which the card controls access.

(Again with the unsubstantiated "fraud-proof"!)

The Secretary of Homeland Security will work with the Commissioner of the Social Security Administration to verify non-citizens' employment authorization.

As they must. DHS has the info on naturalized citizens and non-citizens legally in the country.

SSA will also be required to engage in background screening verification techniques currently used by private corporations that use publicly available information that can be derived from the individual's social security number.

This is a new one—doing database background checks on applicants for the new national ID. Rather than using only the documents proffered by the applicant for the card, the Social Security Administration would look up the claimed SSN of the applicant and see if his or her story checks out. For example, the system might compare the address claimed by the applicant to addresses that are found in public or private records. ("Publicly available" is ambiguous.)

This is a way of reducing fraud in the issuance of cards. (Mind you, it doesn't make the process "fraud-proof!") But it also raises new issues, particularly if the background check on the applicant will be run against private commercial data. The DHS Privacy Committee has twice issued cautionary documents about using commercial data in government applications. There are many issues, including privacy and due process, if indeed the intent is to use private databases to run background checks on applicants for a government benefit.

An administrative adjudication process can be invoked in the event that an individual is unable to establish his or her identity or lawful immigration status. Adverse decisions can be reviewed in the federal courts.

You're gonna need it. The full range of appeals will be required if this card indeed will be used to control access to work. Some important decisions have to be made about whether a person can work while their appeal is pending. If an appeal fails, should the appellant be arrested and deported as a presumptive illegal immigrant? Expect to see stories of people who lack documentation and fixed addresses—the very poor, recovering drug addicts, and so on—who cannot prove their existence to the SSA or who don't pass their background checks. They will find themselves unable to work because their government has denied them an officially recognized identity.

There will be a multi-stage process of re-verification if an individual claims he lost his previously issued fraud-proof social security card to ensure that there is no identity-theft or unlawful collaboration of identity.

I noted in my previous analysis that a database-free identity system is very difficult to administer, such as for replacing lost cards. The plan to address this challenge is unclear. Someone who has lost a card will have to return to the SSA and take part in this "multi-stage process of re-verification"—whatever it is—perhaps waiting to work until it has been completed. I have no idea what "unlawful collaboration of identity" is.

There will also be a multi-stage process for resolution of proper identity if an individual claims an identity tied to a social security number that has been claimed by another individual.

More undefined, but "multi-stage" processes, when a person comes to the Social Security Administration and finds that someone else has already claimed the same identity. Will they be able to work during the pendency of their "multi-stage" processing?

Tough penalties will be put in place for fraud in procurement of a fraud-proof social security card.

This raises a metaphysical question: Can there be fraud in a "fraud-proof" card? Of course there can. There is no fraud-proof card, which is why you have to penalize fraud, hoping to suppress it.

The same penalties shall apply for conspiracy to commit fraud if false information is intentionally provided.

Let's spend just a moment on the capacity of criminal penalties to suppress fraud. It's easy for people like us—wealthy and highly educated—to assume from the comfort of our offices that criminal penalties will suppress fraud. After all, prison looks pretty awful compared to an office. But an illegal immigrant has a different calculus. Going to jail and getting "three hots and a cot" is not a bad outcome compared to repatriation to a life of hunger and political instability in

one's home country. Committing fraud in the interest of "legitimate" work is preferable to theft or violence aimed at getting money and food here. Criminal penalties won't suppress fraud as well as many might imagine.

Employers hiring workers in the future will be required to use the newly created Biometric Enrollment, Locally-stored Information, and Electronic Verification of Employment (BELIEVE) System as a means of verification. There will be strict employer penalties for failure to participate in the BELIEVE system after being notified of a requirement to do so by the Secretary of Homeland Security or after the BELIEVE system has been fully implemented nationwide such that it is required to be used by all employers.

E-Verify has too many problems. Renaming it will help!

Prospective employees will present a machine-readable, fraud proof, biometric Social Security card to their employers, who will swipe the cards through a card-reader to confirm the cardholder's identity and work authorization.

More than two pages into the summary, we're back to the basics of the card and what it does. We already know that the card is not fraud proof. What's new here is that employers will have to have card readers—an additional inconvenience, expense, and barrier to hiring new employees.

What this fails to mention is that the machine will have to be able to process machine biometrics—fingerprint reading or iris scanning, for example. These are not inexpensive machines, their use will probably require training, and they must have very high accuracy in all conditions or they will produce a mountainous administrative burden on employers and workers.

We also learn from this—again—that this will not be a simple work authorization system, but a national identity system. Running the card through a machine (and checking the bearer's biometrics) will reveal identity.

Again, we're looking at mission creep: With all these cards and machines in place, able to prove identity, why wouldn't they be applied to new purposes like airline security? Checking in at hotels? Confirming identity at office building entrances? Administration of government benefits? Proof of identity in credit card transactions? Night and weekend access to office buildings and parking lots? Traffic stops?

The cardholder's work authorization will be verified by matching a digital encryption key contained within the card to a digital encryption key contained within the work authorization database being searched.

Here's a new notion—the use of encryption. But how encryption would be used is far from clear. Presumably, a signal that the bearer of the card is work authorized (referred to here as an "encryption key") would be released by the card and matched against information (also referred to as

an "encryption key") in a database. It is highly doubtful that either item of data is actually an encryption key, as an encryption key is the code used to encrypt or decrypt the information you are trying to work with. Most likely, work authorization data will be encrypted on the card. Somehow or another, once presented, that encrypted data will be decrypted and show that the bearer of the card is work authorized.

This contradicts statements above saying that the system won't require access to a central database. Perhaps it envisions public key encryption, in which a private key scrambles the work authorization data and a public key de-scrambles it. I doubt that PKI is up to this. If the private key were released or reverse-engineered, the system would fail because forgery of work authorizations would then be easy.

This project has a long way to go before it articulates a card system that can securely confirm work authorization without connecting to a database.

The cardholder's identity will be verified by matching the biometric identifier stored within the micro-processing chip on the card to the identifier provided by the cardholder that shall be read by the scanner used by the employer.

This is confirmation that it is not just a card reader, but a biometric reader. It is also confirmation that the system will confirm identity, not just work authorization. Prepare for mission creep.


Two-and-a-half pages of summary information reveals little more than the wall of complexities behind the Democrats' plan for a national identity system. It repeats as an incantation the words "fraud-proof" even while it admits that criminal penalties are needed to tamp down fraud. The summary ratchets back from the dubious claim made earlier that there wouldn't be a national biometric database—there almost certainly would be. The summary confirms that the card system would be used to confirm identity, not just work authorization. That sets it up for mission creep—expansion to new uses and data collections that plunge us into a surveillance society.

Indeed the mission creep begins with this very plan. When employer sanctions don't sweep the country clean of visa overstayers, these ID cards will be used to hunt them down inside the country. From page five:

In addition to increasing border enforcement, this proposal will substantially enhance our capabilities to detect, apprehend, and remove persons who entered the United States unlawfully and persons who entered lawfully on temporary visas but failed to leave the country when designated.

Will these removal plans be carried out through a system of checkpoints at which all Americans have to present their national ID card? Will private providers of financial services, health care, housing, or retailing be required to check a person's national ID card? Or will the entire nation adopt an Arizona-style law that requires law enforcement to examining the papers of people "reasonably suspected" of remaining in

the country illegally?

The Democrats' national ID plan raises all these questions and many more. My colleague Dan Griswold has the true answer: To control the border, you must first reform immigration law. 

FISCALLY CONSERVATIVE BLOG FEEDS

Failing Banks: Bankruptcy or Receivership? [Cato at Liberty]

MAY 03, 2010 02:57P.M.


By Mark A. Calabria

In today's *Wall Street Journal* Stanford Professor John Taylor argues that resolving failing financial institutions via the bankruptcy process rather than a FDIC style receivership process is the only way to really limit bailouts. The heart of the argument is that the government is far more likely to inject funds if the process is controlled by political appointees and bureaucrats, rather than a judge. While this is probably the best reason to use the courts instead of a bureaucratic process, there are many other reasons to consider.

Proponents of administrative receivership often argue that the bankruptcy process is simply too slow to deal with banks and other financial institutions. "Too slow" sounds like an empirical question to me. So what does the data say? An interesting article in the *Journal of Finance* reports the median time in Chapter 11 to be 28 months and the median time in Chapter 7 to be 22 months. How does this compare to FDIC bank resolutions? Surprisingly, not bad. A Federal Reserve Bank of Chicago study finds the median time for FDIC resolutions to be 28 months, just as long as they typical Chapter 11, but longer than the typical Chapter 7. It could be argued that bankruptcy is actually quicker, as a Chapter 7 liquidation is more compare to an FDIC receivership than is Chapter 11.

Given that there doesn't seem much of a time advantage to receivership, is there a cost advantage? After all, bankruptcy does require all those lawyers. In regards to bankruptcy, there is good data on costs. The median cost for a Chp 7 is 2.5% of assets, and for Chp 11, 2% of assets. Interestingly, the largest expense in Chp 11 is administering the creditors committee, which would not be needed in a receivership (as creditors go unrepresented). Also of interest is that costs, as a percent of assets, decline with size. For firms above \$10 million in assets, median costs are 0.8% of assets.

Unfortunately there is not good public data on the FDIC's costs. I have been told, however, that despite my initial suspicions, the \$50 billion figure in the Dodd bill was calculated as the cost to resolve an entity like Lehman. At the time of its failure, Lehman's assets were around \$600 billion. If we are to take \$50 billion as the cost of resolution, that would imply a resolution cost in excess of 8%, considerably above what a


comparable Chp 11 would cost. As the Lehman bankruptcy is resolved, we will have better data, yet at least from the various data points we have, the case for FDIC being a cheaper, or faster, alternative than the courts is far from conclusive, with some evidence suggesting the contrary. 

FISCALLY CONSERVATIVE BLOG FEEDS

Monday Links [Cato at Liberty]

MAY 03, 2010 02:40P.M.

By Chris Moody

- The case for letting Greece default: "Bailing out the troubled nation will only create more problems for it—and for the rest of Europe."
- How a scholarship program in Florida could produce a new era of school choice.
- John Samples on Congressional efforts to undermine the *Citizens United* ruling: "The Disclose Act is a cynical partisan ploy that violates the letter and the spirit of the First Amendment."
- Congressional Budget Office warns that as many as 10 million American workers will lose their current insurance under Obamacare.
- Podcast: "Will Tea Parties Rise above 'Historical Footnote?'" featuring John Samples. 

FISCALLY CONSERVATIVE BLOG FEEDS

The Faux Compassion of Club Sarkozy [Cato at Liberty]

MAY 03, 2010 01:11P.M.

By Michael F. Cannon

Shortly after President Obama signed his health care law, French president Nicolas Sarkozy offered this backhanded compliment to the United States: "Welcome to the club of countries that does not dump its sick people."

In this month's *Diplomat* magazine (U.K.), I explain *pourquoi c'est fou*:

Every member of Sarkozy's "club" has its stories of sick people who have been "dumped," in one manner or another, despite laws that officially preclude such things from ever happening. In 2005, Canada's Supreme Court wrote of its country's Medicare system: "Access to a waiting list is not

access to healthcare...[T]here is unchallenged evidence that in some serious cases, patients die as a result of waiting lists for public health care." The British, meanwhile, often seem more content to let the National Health Service shortchange its patients than to let an American lecture them about how often it happens.

The checkered history of government guarantees is why so many Americans — a majority, in fact — oppose President Obama's new law, which they believe will move the United States even further from Sarkozy's ideal world than it is now.


Presidents Obama and Sarkozy may prefer the false compassion of a government guarantee. I'll take the real thing.

Repeal the bill. 

FISCALLY CONSERVATIVE BLOG FEEDS

Is Pat Quinn Relenting on His Income Tax Hike? [Americans for Tax Reform]

MAY 03, 2010 12:42P.M.

I kind of doubt it. But, in remarks to reporters last week, IL Gov. Pat Quinn hinted he may be open to signing a budget without his beloved 33 percent income tax increase: Quinn refused... 

FISCALLY CONSERVATIVE BLOG FEEDS

Forget Freedom. The UK Poll Is All About 'Fairness' [Cato at Liberty/Fairness']

MAY 03, 2010 11:37A.M.

By Marian L. Tupy

Britain may have given the world freedom as we understand it (see *The Liberty of Ancients Compared with that of Moderns* by Benjamin Constant), but you would not know it from the last prime ministerial debate that took place last Thursday. The candidates (Conservative David Cameron, Labour's Gordon Brown and Liberal Democrat Nick Clegg) used the word "freedom" only 2 times. They said the word "free" 5 times, but all in the context of the supposedly "free" goodies, which they promised to lavish on the electorate. Words "responsible" and "responsibility" fared somewhat better (4 times). But the winning words were "fair" and "fairness" that were mentioned 22 times — almost always

in connection with taxing the rich. Here is a typical example:

Brown: "But I come back to the central question about fairness that has been raised by our questioner. How can David [Cameron] possibly justify an inheritance tax cut for millionaires at a time when he wants to cut Child Tax Credits? Let's be honest. The inheritance tax threshold for couples is £650,000, if your house is worth less than that you pay no inheritance tax. What David [Cameron] is doing is giving 3,000 people, the richest people in the country, he's going to give them £200,000 each a year. That is simply unfair."


It was Gordon Brown, the current Prime Minister, who increased the top rate of income tax to 50%. Neither Clegg nor the supposedly business-friendly Cameron have proposed to cut that rate. Indeed, "fairness" in British politics seems to amount to little more than taxing the most productive members of society "until the pipes squeak." Those words were uttered by Denis Healy who was the Chancellor of the Exchequer in the 1970s. It was under his leadership that the UK ran out of money and had to borrow billions from the IMF. It turns out that when you tax the rich too much, they will work less or leave for a more hospitable jurisdiction. Margaret Thatcher and Ronald Reagan understood it. Messrs Cameron, Clegg and Brown do not.



FISCALLY CONSERVATIVE BLOG FEEDS

Groundbreaking Education Reform on the Docket in Illinois [Americans for Tax Reform]

MAY 03, 2010 11:27A.M.

The Illinois House of Representatives is debating a revolutionary school choice bill today that could ease state budget pressures while saving thousands of children from the perils of a crumbling p... 

FISCALLY CONSERVATIVE BLOG FEEDS

Public Service Recognition Week – Fact #1 [Americans for Tax Reform– Fact #1]

MAY 03, 2010 10:59A.M.

Coinciding with national Public Service Recognition Week, the Alliance for Worker Freedom will send out a press release everyday highlighting some of the problems associated with America's pu... 

FISCALLY CONSERVATIVE BLOG FEEDS

Suveillance Cameras and Civil Liberties [Cato at Liberty]

MAY 03, 2010 09:58A.M.


By Roger Pilon

Today Politico Arena asks:

In light of the Times Square bombing attempt, are surveillance cameras a threat to civil liberties?

My response:


Does the latest bombing attempt, in Times Square over the weekend, justify urban surveillance cameras? On balance, yes. To be sure, police can abuse those tapes — all law enforcement is subject to abuse. But the tapes are often crucial in apprehending suspects and in preventing future crimes. When you're out in public, you shouldn't expect still to be in private.

Equally important, however, surveillance cameras, prudently used, tend to be more reliable than the proverbial "cop-on-the-beat," to which no one objects. Only yesterday, for example, the *Washington Post* ran a piece, "Eyewitness testimony in an imperfect world," about the 14-year-old boy mistakenly charged, based on eyewitness accounts, in the recent multiple murder case here in DC. As the *Post* story noted, eyewitness testimony is "the most common cause of wrongful convictions." Far from being a threat to civil liberties, then, properly used surveillance cameras can be an important element in protecting civil liberties. 

FISCALLY CONSERVATIVE BLOG FEEDS

ATR Opposes Expanding Failed Energy Star Program in House Bill HR 5019 [Americans for Tax Reform]


MAY 03, 2010 09:35A.M.

This week, the US House will consider H.R. 5019, the Home Star Energy Retrofit Act of 2010. This bill expands the flawed Energy Star program whereby the government gave "energy star" appr... 

FISCALLY CONSERVATIVE BLOG FEEDS

Kansas Senate Ways and Means Committee Passes \$434 Million Tax Package Targeting Taxpayers [Americans for Tax Reform]

MAY 03, 2010 09:08A.M.

The Kansas Senate Ways and Means committee passed a \$434 million tax package on Friday. House Bill 2360 which carries these tax increases was passed 8-4. Senators Apple, Masterson, Tadd... 

FISCALLY CONSERVATIVE BLOG FEEDS

The Capital Gains Tax Rate Should Be Zero [Cato at Liberty]


MAY 03, 2010 08:44A.M.

By Daniel J. Mitchell

Every economic theory — even socialism and Marxism — agrees that saving and investment (a.k.a., capital formation) are a key to long-run growth and higher living standards. Yet the tax code penalizes with double taxation those who are willing to forgo current consumption to finance future prosperity. This new video, narrated by yours truly, explains why the capital gains tax should be abolished.

Unfortunately, Obama wants to go in the wrong direction. He wants to boost the official capital gains tax rate from 15 percent to 20 percent — and that is after imposing a back-door 3.8 percentage point increase in

the tax rate as part of his government-run healthcare scheme.

The video concludes with six reasons why the tax should be abolished, including its negative impact on both jobs and competitiveness. 

FISCALLY CONSERVATIVE BLOG FEEDS

The USPS's 'Automation Refugees' [Cato at Liberty 'Automation Refugees']

MAY 03, 2010 08:42A.M.

By Tad DeHaven

Jim O'Brien, a vice-president at Time Inc. and chairman of the Mailers Council, recently guest-blogged on the U.S. Postal Service's inspector general's web site on the subject of "automation refugees."

O'Brien explains the origination of the term:

Back in 1990, Halstein Stralberg coined the term "automation refugees" to describe Postal Service mail processing employees who were assigned to manual operations when automation eliminated the work they had been doing. Since the Postal Service couldn't lay off these employees, they had to be given something to do, and manual processing seemed to have an inexhaustible capacity to absorb employees by the simple expedient of reducing its productivity. The result was a sharp decline in mail processing productivity and a sharp increase in mail processing costs for Periodicals class. Periodicals class cost coverage has declined steadily since that time.


O'Brien then tells of visiting seventeen mail processing facilities as part of a Joint Mail Processing Task Force in 1998. During those visits he noted that the periodical sorting machines always *happened* to be down even though the machines were supposed to be operating seventeen hours a day. Although the machines weren't working, manual operations were always up and running.

A decade later, O'Brien points out that the situation apparently hasn't changed:

More Periodicals mail is manually processed than ever, and manual productivity continues to decline. Periodicals Class now only covers 75% of its costs. How can this dismal pattern of declining productivity and rising costs continue more than two decades after it was first identified, especially when the Postal Service has invested millions of dollars in flats automation equipment?

O'Brien probably answered this question when he noted that the USPS couldn't lay off these automation refugees back in 1990.

As I've discussed before, the USPS has a major union problem. A new Government Accountability Office report cites as a problem the fact that most postal employees are protected by "no-layoff" provisions. The USPS must also let go lower-cost part-time and temporary employees before it can lay off a full-time worker not covered by a no-layoff provision.

Unfortunately, recent comments from members of the House Oversight and Government Reform Committee showed an unjustified concern for how potential reforms would affect postal employees. Labor isn't the only problem facing the USPS, but Congress needs to understand that the postal service's expensive unionized workforce is a crippling burden. 

FISCALLY CONSERVATIVE BLOG FEEDS

Greece's Problem Is High Tax Rates, Not Tax Evasion [Cato at Liberty]

MAY 03, 2010 08:41A.M.

By Daniel J. Mitchell

The *New York Times* has an article describing widespread tax evasion in Greece, along with an implication that the country's fiscal crisis is largely the result of unpaid taxes and could be mostly solved if taxpayers were more obedient to the state. This is grossly inaccurate. A quick look at the budget numbers reveals that tax revenues have remained relatively constant in recent years, consuming nearly 40 percent of GDP. The burden of government spending, by contrast, has jumped significantly and now exceeds 50 percent of Greek economic output.

The article also is flawed in assuming that harsher enforcement is the key to compliance. As this video shows, even the economists at the Paris-based Organization for Economic Cooperation and Development admit that tax evasion is driven by high tax rates (which is remarkable since the OECD is the international bureaucracy pushing for global tax rules to undermine tax competition and reduce fiscal sovereignty).

Ironically, the *New York Times* article quotes Friedrich Schneider of Johannes Kepler University in Austria, but only to provide an estimate of Greece's shadow economy. The reporter should have looked at an article that Schneider wrote for the International Monetary Fund, which found that:

Macroeconomic and microeconomic modeling studies based on data for several countries suggest that the major driving forces behind the size and growth of the shadow economy are an increasing burden of tax and social security payments...

The bigger the difference between the total cost of labor in the official economy and the after-tax earnings from work, the greater the incentive for employers and employees to avoid this difference and participate in the shadow economy. ...Several studies have found strong evidence that the tax regime influences the shadow economy. ...In Austria, the burden of direct taxes (including social security payments) has been the biggest influence on the growth of the shadow economy... Other studies show similar results for the Scandinavian countries, Germany, and the United States. In the United States, analysis shows that as the marginal federal personal income tax rate increases by one percentage point, other things being equal, the shadow economy grows by 1.4 percentage points. ...A study of Quebec City in Canada shows that people are highly mobile between the official and the shadow economy, and that as net wages in the official economy go up, they work less in the shadow economy. This study also emphasizes that where people perceive the tax rate as too high, an increase in the (marginal) tax rate will lead to a decrease in tax revenue.

It is worth noting the Schneider's research also shows why Obama's tax policy is very misguided. The President wants to boost the top tax rate by nearly five percentage points, and that's on top of the big increase in the tax rate on saving and investment included in Obamacare. Based on Schneider's research, we can expect America's underground economy to expand.

Shifting back to Greece, Schneider does not claim that tax rates are the only factor determining compliance. But his research indicates that more onerous enforcement regimes are unlikely to put much of a dent in tax evasion unless accompanied by better tax policy (i.e., lower tax rates). Moreover, compliance also is undermined by the rampant corruption and incompetence of the Greek government, but that problem won't be solved unless politicians reduce the size and scope of the public sector. Needless to say, that's not very likely. So when I read some of the details in this excerpt from the *New York Times*, much of my sympathy is for taxpayers rather than the greedy politicians that turned Greece into a fiscal mess:

In the wealthy, northern suburbs of this city, where summer temperatures often hit the high 90s, just 324 residents checked the box on their tax returns admitting that they owned pools. So tax investigators studied satellite photos of the area — a sprawling collection of expensive villas tucked behind tall gates — and came back with a decidedly different number: 16,974 pools. That kind of wholesale lying about assets, and other eye-popping cases that are surfacing in the news media here, points to the staggering breadth of tax dodging that has long been a way of life here. ...Such evasion has played a significant role in Greece's debt crisis, and as the country struggles to get its financial house in order, it is going after tax cheats as never before. ...To get more attentive care in the country's national health system, Greeks routinely pay doctors cash on the side, a practice known as "fakelaki,"

Greek for little envelope. And bribing government officials to grease the wheels of bureaucracy is so standard that people know the rates. They say, for instance, that 300 euros, about \$400, will get you an emission inspection sticker. ...Various studies have concluded that Greece's shadow economy represented 20 to 30 percent of its gross domestic product. Friedrich Schneider, the chairman of the economics department at Johannes Kepler University of Linz, studies Europe's shadow economies; he said that Greece's was at 25 percent last year and estimated that it would rise to 25.2 percent in 2010. 

FISCALLY CONSERVATIVE BLOG FEEDS

Obama vs. Common Sense [Cato at Liberty]

MAY 03, 2010 08:37A.M.

By Michael F. Cannon

President Obama delivered a commencement speech at the University of Michigan in Ann Arbor on Saturday.

He called on all Americans "to maintain a basic level of civility in our public debate." Who could argue? Yet the president apparently believes that civility means protecting his policies from valid criticism.

He instructed graduates that "the practice of listening to opposing views is essential for effective citizenship." Right again. But the civics lesson rings hollow coming from a president who falsely claimed there was "no disagreement" over his massive "stimulus" bill, and that opponents of his health care takeover offered no proposals of their own.

He explained, "what we should be asking is not whether we need 'big government' or a 'small government,' but how we can create a smarter and better government." Which is pretty much what every politician says when he wants big government and voters want small government.

Most troubling was this: "What troubles me is when I hear people say that all of government is inherently bad." That remark reminded me of this passage from Thomas Paine's *Common Sense*: "Government, even in its best state, is but a necessary evil." And it has me thinking that our president, a former constitutional law professor, who just received an honorary Doctor of Laws degree from the University of Michigan, really doesn't get the American idea of government. At all. 