Yankee Institute
Policy Paper
Series 2019
vol.5

The Yankee Scorecard:

A Report on Connecticut's 2019 Legislative Session

Scott Shepard

Yankee Institute For Public Policy

We end the 2019 legislative session with a mixture of relief (as bad as it was, it could have been even worse!) and regret (because there are new laws that will make life more difficult for our state's taxpayers and job creators). But there's no rest for the weary: we're gearing up to fight – and, if possible, prevent – a special session on tolls.

With notable tax increases – particularly an effective income-tax increase on small businesses – a minimum-wage hike, and the adoption of a limited paid Family and Medical Leave program, in some sense, much of the session's most destructive measures will impact Connecticut's small businesses most. But given the blitzkrieg of unwise policies emanating from the Capitol, Yankee Institute draws some limited comfort from the fact that its constant efforts, supported at every turn by a variety of issue coalitions that we helped to build and maintain, were successful in beating back waves of potentially debilitating legislation.

What follows is a highlight reel of Yankee's work throughout the last five months, along with a partial accounting of the final results of the 2019 regular session in Connecticut.

Portents

The session began with grim news for those charged with defending free markets and limited government. The new governor -- who had, in his campaign, repeatedly supported only tolling of long-haul trucks -- soon embraced statewide tolling as a large new revenue stream.[1] His first State of the State speech included a blizzard of new tax initiatives that would have cost Connecticut's taxpayers an additional $2.4 billion annually if fully enacted.[2] Even small gestures, such as the elimination of a business-entity tax that hurt new, small, and struggling businesses most, were rendered essentially symbolic, as hefty hikes in annual business licensing fees were imposed on those same entities.[3]

To his credit, however, Governor Lamont largely held firm to his determination that tax *rates* not be further raised, even as he sought to make "temporary" tax-rate increases permanent and endorsed massive widening of the sales-tax base without any concomitant reduction in the sales-tax rate. His determination ran counter to the aspirations of enlarged progressive caucuses in both chambers, who almost immediately released ambitious plans to *start* with tolls; a minimum-wage hike; an aggressive paid Family and Medical Leave tax; and more.[4] Their spokespeople declared that those were just first steps in their plan to raise rates and taxes across the board.[5]

The Yankee Response

Recognizing the potentially devastating impact of the proposed policies, Yankee Institute submitted scores of pieces of testimony on nearly 100 bills, often supported by in-person appearances before a wide array of legislative committees and meetings with various administrative officials (including the governor). In the cases of significant or novel issues, we supplemented our direct legislative work with investigative journalism; policy pieces; radio and television interviews; broadcast discussions and debates with legislators; and seized all available opportunities to advance public understanding and discussion of the issues.

A chronological summary follows where timing was important, and then by topic.

Early days: The Forced Consolidation Fight

This legislative session effectively started with a strong push for significant school-district consolidation onto the towns and districts of Connecticut. The various bills[6] would have mandated significant forced school-district consolidations throughout the state.[7]

Yankee immediately opposed the initiative, beginning our efforts with detailed reporting of the proposals.[8] We dove deep into the history and scholarship on the subject, proving that the most significant benefits from consolidation had long been achieved, while similar top-down modern consolidation efforts in Maine and Vermont had run into serious objections and difficulties.[9] Above all, however, we demonstrated through our reporting and analysis that the maintenance or enhancement of educational quality *played no role whatsoever in any of the consolidation plans*. In the course of these efforts, it became clear that Yankee, along with CT School Finance,[10] was playing an indispensable role in providing scientific and historical data, along with much-needed deep analysis of the initiative's manifold flaws.

Along with a welcome and influential outpouring of public opposition, Yankee's "intellectual ammunition" helped power the first major defeat of the Lamont administration. In late March, the governor agreed to drop forced consolidation.[11]

Perhaps as important as this victory itself was its secondary effect on the tone and tenor of proceedings throughout the Capitol and the state. The concerted, coordinated proposal of forced-school consolidation – propounded by a bill in each chamber and the governor's own design – warned state residents that the progressive majorities had far-reaching and deeply troubling plans. The sheer wrong-headedness of these proposals roused many throughout Connecticut – once alerted by Yankee and its allies – to shocked disapproval. And their subsequent defeat demonstrated that our slingshots could have some meaningful effect this session against the statist Goliath.

The Minimum-Wage Campaign

Yet, as the minimum-wage debate demonstrated, the progressive majority in the legislature was not doomed to consistent defeat. In sharp contrast to the consolidation fight, the minimum-wage fight was a loss for our side. The mandatory, arbitrary wage floor was raised statewide to $15/hour over a little more than four years. This policy decision has already forced some businesses to announce their departure for freer and friendlier economies,[12] while we are nearly certain to see other businesses move, close or adopt additional automation in coming months.

But there was at least a slight silver lining to this defeat. Although supporters of the minimum-wage hike had believed it would pass easily, they were wrong. The fight was protracted and fierce, and hike proponents paid dearly for their success in ways that dogged their efforts throughout the rest of the session.

Yankee's opposition to the minimum-wage hike was principled and sustained. We argued that wage-price floors would help some fortunate low-skill workers, while hurting many more who lost jobs, hours, or first rungs on the ladder to success.[13]

Our efforts were informed by political realities. Aware that the odds against defeating *any* wage-floor boost were slim, we argued in the alternative that an increase should be structured as an opportunity for localities to raise their own, town-level minimum wages up to a slowly rising state maximum,[14] and helped provide our allies ammunition with which to launch a protracted filibuster. That filibuster sent an important message that getting the progressive wish list passed would not be easy.

On the day of Senate debate, Yankee distributed a video[15] featuring Dave Pelizzon, the President of Squadron Capital, LLC. Pelizzon's medical-device manufacturing company, Forum Plastics, is a business that offers fine opportunities for some of Connecticut's low-skilled workers to support themselves and has allowed many of them to rise through the ranks there or move on to more senior positions elsewhere. Because of the firm's reliance on low-skilled labor, Pelizzon explained in the Yankee production, he would be unable to stay in Connecticut after a hike to $15/hour. This video informed much of the Senate debate.

Paid FMLA: Averting Disaster and Defeating an Existential Threat

The initial plans for a paid-FMLA program required the state to establish a benefit of full-pay replacement -- up to $1,000 per week, for up to 12 weeks a year as necessary -- to afford time off to care for one's own medical needs, or those of one's family or close friends.[16] The program would start with funding from a .5 percent payroll tax (essentially an income-tax surcharge) but the tax would rise automatically to whatever threshold would be necessarily in order to keep the benefit funded (and, under one iteration, would do so without even a vote of the legislature!).[17]

As Yankee immediately noted, this generous structure would result in high use and an immediately escalating tax, which would fuel increased use and create a vicious cycle.[18] We suggested free-market alternatives -– suggesting that the best option would be for the state to allow individuals to establish state-tax-free accounts, enabling workers to save for their *own* emergencies *themselves* – and supported similar legislation.[19]

Finally, Yankee argued that at very least, the design of the program had to be effectively reversed. Rather than the payroll tax soaring ever upward to pay for destructively generous benefits, the payroll tax should be fixed and moderate, with the *benefit* floating to ensure the solvency of the program given the fixed income stream.[20] This alternative arrangement was the one eventually adopted by statute.[21]

In the Trenches Against Tolls

As previously noted, Governor Lamont reversed Candidate Lamont's position on tolls, supporting full tolling of the whole state.[22] He relied on a November 2018 tolling study conducted by CDM Smith, to insist that statewide tolling of all traffic would bring in over a billion dollars a year, fully 40 percent of it from out-of-state drivers, with less than 15 percent overhead.[23] In this formulation, revenues would come with deep discounts for Connecticut residents, especially Connecticut commuters obliged to use the highways a lot.[24] And all of this would come in for only about 4.4 cents a mile – sometimes even less.[25]

But Yankee's investigative journalism revealed that rather than a neutral arbiter, CDM Smith is an overtly pro-tolls organization that is part of a pro-tolls trade group.[26] And other members of that trade group have been in discussions with the governor to benefit directly from the imposition of tolls on Connecticut![27] What's more, CDM Smith's cost projections in its study are unrealistically low, and it has a history of underestimating costs.[28]

Further research raised significant doubt that the federal government would approve anything even resembling the governor's tolling plan.[29] This, of course, made the entirely tolling regime increasingly unlikely to be adopted. Once again, Yankee used all available means to highlight these problems.

The result, we're happy to report, is this: so far, so good. Tolling never even came to the floor for a vote this session. The governor has declared his intention to push tolling through a summer special session,[30] whatever it takes. Yankee Institute remains vigilant and together with its allies will continue the fight against a summer session and any sort of tolls on Connecticut's highway.

Our message remains clear and unequivocal: The way to fix our state's infrastructure is to rein in transportation-construction and all allied spending costs. By its own admission, the state expects to pay *$2 billion per mile* to replace the Hartford Viaduct. Those costs, and all others it represents, must be reduced significantly – brought down to market.

The End of the Beginning? Fighting the Ever-Rising Tax Tide

Elected officials failed to contain costs in 2019. Some short-term savings will be achieved by spreading out the period over which historical unfunded pension costs will be paid by an additional fifteen years in the case of teachers' pensions (less of an additional extension for state-worker pensions), but this is little more, in effect, than a high-interest loan: for a small breathing space now, the state will pay vastly more overall.[31]

Despite this failure, the 2019 session ended somewhat better on taxes than one might initially have hoped. Although the governor at first sought a massive expansion of the reach of the sales tax without any corresponding cut in the tax rate, the final version of the budget trimmed that effort back significantly.[32] Although progressives fought hard for a capital-gains tax surcharge (or, in the alternative, for massive increases to income-tax rates for the three highest brackets) these efforts were defeated.[33] Other repeated attempts to raise the sales-tax rate statewide,[34] to impose a carbon tax,[35] and to impose a statewide property tax all failed.[36]

Yankee fought hard against these massive and crippling tax increases from first to last, testifying in person and in writing; releasing investigative reports and policy studies; appearing frequently in the media -– the full-court press. We opposed further income-tax increases with detailed studies of the effects of previous income-tax hikes this decade on Connecticut's tax base; Exhibit A, of course, is our state's stunted property values, which alone among the states have failed even to recover to their pre-Great Recession levels.[37]

Sadly, Yankee Institute was unsuccessful in beating back all the progressive majority's tax hikes. Some sales-tax expansion occurred, including to dry cleaning and interior design firms and digital downloads.[38] The sales tax on prepared food and restaurant dining was raised by a point.[39] A host of so-called "sin taxes" were increased, such as a dime-a-bag tax on plastic bags; increased taxes on vaping; an extra 10 percent tax on alcohol (although Connecticut's prices are already some of the highest in the country) and others.[40]

More significant and pernicious tax increases have also been enacted. In the waning days of the session, the legislature inserted into the budget and then passed an entirely unvetted reduction of a tax credit that will effectively raise income taxes on small businesses by about 8 percent.[41] This, along with the minimum-wage increase and paid FMLA, was a devastating blow to the job creators that provide the innovative engine of our state's economy.

At the same time, budget writers likewise inserted a "mansion tax" that will increase the conveyance levy on houses over $2.5 million to 2.25 percent.[42] Remarkably, the bill is designed to refund the tax to sellers who remain in Connecticut for three years after sale, while retaining the revenue from those who move out of state.[43] This provision seems overtly unconstitutional, as Yankee argued when the tax was revealed.[44] We are working even now to establish a challenge to this exit tax.

Even so, there were some real, if small, wins on the tax front. As noted, the business-entity tax will be repealed.[45] And a complicated, debilitating, and low-revenue capital-stock tax on businesses is set to be phased out over the next three years. (We will be watching carefully to ensure this actually happens.)[46] Yankee pushed for these reforms, and we are pleased that they occurred this year.

Defending Open, Free & Fair Government

Yankee Institute defends taxpayers, and we also defend the public square from law and regulation that would harm citizen opportunities to participate in public life without government interference. We helped to face down two challenges of this type this year. The first was a so-called "dark money" bill.[47] Despite the negative branding, "dark money" is more properly characterized as "safe public participation," especially in times like these, when those who believe in free minds and free markets are regularly made the objects of harassments and driven from the public square.[48] "Dark money" bills are intended to force disclosure of donations to certain types of nonprofit groups, nominally in the name of "accountability," -- but in reality creating a real danger of intimidation and chilling of constitutionally protected speech.

As an organization that believes in robust debate and an expansive definition of the First Amendment, Yankee Institute fought these bills hard, assembling a coalition of diverse organizations and working against the bills at every opportunity. We were delighted in the session's final hours to note that they had not even received floor attention in either chamber.

Then there was House Bill 7222. Advanced at the behest of new Attorney General William Tong, the bill expanded the Connecticut attorney general's ability to intervene in investigations of or suits against alleged violations of civil rights raised by private parties.[49] Although a praiseworthy goal in theory, as written, the bill would have handed the Attorney General's office unchecked power to deploy all the unlimited resources of the state against any private person or business upon any claim -- however potentially pretextual -- of any violation of any type of state or federal law, to investigate or sue that entity into signing a settlement agreement binding the target to the state's will.[50]

What's more, once such an agreement went into force, the state would have been able to use *any* evidence of any violation of the settlement agreement as *prima facie* evidence of the target's violation of the *underlying law*.[51] This power, the application of which would have lay wholly in the discretion of the Attorney General, subject to no oversight or public reporting, would effectively have reversed the presumption of innocence and of law-abiding good citizenship that resides at the heart of American jurisprudence.[52]

Yankee Institute helped lead the fight against this legislation. Our efforts, along with those of coalition partners, resulted in necessary (but not sufficient) amendments to the text of the bill, including limiting the attorney general to acting only upon instances of demonstrated patterns-and-practices of abuse. Essentially alone, we continued our fight against the amended bill, and are gratified to report that, although it passed the House, it failed even to receive a hearing in the Senate.

The Road Ahead

As always, Yankee Institute remains committed to developing and advancing policies that will result in smart, limited government; fairness for taxpayers; and an open road to opportunity for all the people of Connecticut.

Earlier this year, Yankee issued papers demonstrating how to enact regulatory reform and why to avoid hugely wasteful and biased "economic-development" plans. Later this summer, we will explore opportunities for good government; focus on the plight of the Teachers' Retirement System and ways to save it and the other pension systems for the good of the state and our state employees alike; explore ways to enhance Connecticut residents' privacy in this ever-more-connected and ever-more-intrusive world; and other topics. We will also spend time focusing on what's going right in Connecticut, and why our wonderful state is so very much worth saving.

As always, we will continue to build alliances with elected officials and interested organizations from across the political spectrum, so that Connecticut may become a more prosperous and freer place where people want to come and where they are truly free to succeed – whatever "success" means to them.

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