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2013 Legislative Recap: Education, Health Care, Transparency, and Economic Incentives

April 17, 2013

Education: Best bills of the session

The 2013 session was heralded as the education session and revealed quite a bit about how far the legislature was willing to go – or not go – in pursuit of fundamental education reform. To their credit, legislators passed a modest charter school bill that allows charters in D and F districts. In addition, they passed a bill ending social promotion for third graders who cannot read. The legislature also passed a measure providing formal guidance regarding the A-F system used to evaluate the performance of school districts and schools. That said, bills that would have provided educational options for low-income children and children with special needs died on the House floor.

Charter schools (HB 369): This law allows charter schools in D and F districts. A, B and C districts may only have charters with local school board approval. This is the first real charter school law ever passed in Mississippi and will at least open the door to some public school choice. There are currently 129,000 students trapped in D and F districts. Status: signed into law

Third grade reading/end social promotion bill (SB 2347): This law establishes a program of intensive reading intervention in kindergarten through third grade. Any child who cannot read above the lowest achievement level (in other words, read at “Basic” or above) must repeat third grade and be given additional assistance and intensive tutoring. The law also prohibits social promotion for every grade level. Status: signed into law

Standards for district accountability ratings (SB 2396): This bill provides formal guidance related to the formula used to assign grades (A-F) to school districts and schools. The change was necessary because of the tendency of the Board/Department of Education to grant exceptions to the existing formula and make other changes compromising the state’s school performance evaluation system. The most recent of these occurred in August 2012 when the Board decided to disregard graduation rates when assigning A-F ratings. Status: due from Governor

MS Education Works Program (SB 2658 and SB 2188): These laws are part of the governor’s education reform package. Among other things, SB 2658 establishes a pilot performance-based pay system for teachers. The pilot will operate in Lamar County, Clarksdale, Gulfport and Rankin County School Districts. The law also calls for funding of various items ranging from \$1.5 million for the performance-based pay pilot to \$1.5 million for teacher education scholarships. Status: signed into law

SB 2188 establishes minimum ACT (21) and grade point standards (3.0) for admittance to state teacher education programs. Status: signed into law

Tax credit scholarships (SB 2132/HB 1095): These bills would have created a credit against corporate and personal income tax liability for donations made to organizations that grant scholarships to low-in-

come parents to send their child to the private school of their choice. The governor's education package (HB 906) also included a more limited scholarship program. Status: SB 2132 and HB 1095 both died in committee. HB 906 passed out of the House Education Committee, but was not voted on by the full House.

Scholarships for students with disabilities (HB 1004): The Nate Rogers Scholarship for Students with Disabilities Program would have allowed state per pupil funding to follow a child with special needs to the private or public school of his parent's choice. Status: passed committee; not voted on by full House

HB 896 also created a very narrow school choice scholarship program for students with speech-language needs. The bill, however, invites the Board of Education to exercise broad authority over non-public schools that accept scholarship students. Status: due from Governor

Public school choice for military families (HB 879): This law allows active military personnel living on base to choose to enroll their child in a public school district other than the one in which they reside. The House had passed a version allowing parents to choose the specific school their child attends, but the Senate eliminated this option, allowing only the choice of a specific district. Status: signed into law

MS Student Religious Liberties Act (SB 2633): This law takes much of what is already recognized in federal case law as vital to religious liberty and clarifies it as policy for teachers and administrators in public schools. Essentially, this law prohibits discrimination against students or parents on the basis of religious viewpoint or expression. In practice, this means treating religious expression on equal terms as nonreligious expression – for instance, by allowing students to organize prayer groups and religious clubs on an equal basis as any other group or club. Of particular importance, the law requires school districts to adopt a policy creating a space or public forum for free speech that explicitly does not exclude religious speech. Status: signed into law

Require reimbursement for remedial courses (SB 2060): Essentially, this bill would have required school districts to reimburse higher educational institutions for the cost of providing remedial courses to students who received high school diplomas, but were not prepared for college coursework. Status: died in committee

Elected school boards (HB 55): Do you know when your local school board is elected? Most voters do not, which results in a lack of accountability and transparency. This bill would have required school boards to be elected at the same time the presidential election is held. Status: passed committee; not voted on by full House

Worst bill of the session?

Pre-K (SB 2395): This bill phases in prekindergarten by creating “early learning collaboratives” to facilitate state funding for pre-K. This measure passed with no hearings and little debate. The proposal contains several flaws, including a lack of transparency regarding the entities (known as “lead partners”) that run the collaboratives. For instance, administrative costs charged by the lead partners are not capped. Nonprofits that act as lead partners are also not subject to the state Public Records Act. Worse still, is that the law does not target low-income children for services, laying the groundwork to become an expensive subsidy for middle class families and others already using private daycare. This expansion of government will also have an adverse impact on private pre-K providers, likely driving some of them out of business. Finally, numerous studies indicate that learning gains from pre-K fade out by third grade. Status: due from governor

Health Care: Best bills of the session

As was the case in 2012, MCPP's health care reform efforts focused on fighting President Obama's health care takeover. We made significant progress in doing so when the U.S. Department of Health & Human Services (DHHS) declined in February to authorize the establishment of a state-based health benefits exchange. The department's decision was arguably due to Governor Phil Bryant's refusal to allow the state Medicaid Division to cooperate in any way in establishing a state-based exchange.

MCPP is also playing an ongoing role in educating legislators about why expanding Medicaid is bad for physicians, patients and taxpayers.

Health Care Freedom of Choice Act (HB 843/SB 2512): This bill would have protected the right of patients to pay medical providers directly for health care services. The bill would not have nullified federal law ("ObamaCare") in any way, but would have prevented state agencies and employees from assisting in the enforcement of laws and policies violating the right to health care freedom. In practice, this would have forced federal policymakers to attempt to set up their own health benefits exchange in Mississippi. Status: died in committee; also cf. SB 2773

Prohibit tele-med abortions (SB 2795): This measure makes it illegal for off-site physicians to use a webcam to prescribe self-administered abortion-inducing drugs such as RU-486 (mifepristone). When prescribed to perform a chemical abortion, the drug must now be "administered in the same room and in the physical presence of the physician who ... dispensed or ... prescribed the drug." This bill will protect the health of women and encourage informed consent by insuring that a doctor is physically present when a chemical abortion is performed. Status: due from Governor

Religious/conscientious exemption from compulsory vaccination (HB 953): Mississippi currently requires children who attend any school (including child care facilities serving children from birth to age 4) to be immunized against at least 10 different diseases. Only Mississippi and West Virginia do not offer an exemption to families with religious and philosophical objections to vaccination, including objections to vaccines cultured on aborted fetal tissue. This bill would have helped remedy this problem, possibly creating the basis for a reconsideration of a 1979 Mississippi Supreme Court decision prohibiting vaccine exemptions based on religious beliefs. Status: died in committee

Transparency: Best bills of the session

Truth in government borrowing (SB 2799): This bill would have increased transparency for bond debt by requiring a statement of the total cost of the debt, including interest payments. The statement would be made public before any vote by the legislature or local governments – including a local referendum – authorizing new bonds. If the bonds were used to construct buildings, estimated maintenance costs would also be included in the statement. Status: died in committee

Federal funds transparency (SB 2050): Fully half of Mississippi's total state budget of \$18 billion is supplied by the federal government. This bill would have required state agencies to submit detailed statements of the sources of all Federal Funds and other non-General Fund revenue contained in their budgets. These statements would list all conditions imposed on the state if the funding were accepted,

including matching requirements; maintenance of effort requirements; eligibility restrictions; and limits on program changes. Status: died in committee

Economic incentives transparency (SB 2686): This bill would have required the Mississippi Development Authority (MDA) to publish information annually on economic incentives provided to private companies. The required information would have included: the amount of tax credits, grants, and government-backed loans received by each company; the number of jobs created; and the amount of private investment tied to the project. Status: passed full Senate; died in House committee

Publish public employee salaries (SB 2064): This bill would have required the Department of Finance and Administration to publish on its website a listing of all state employees earning more than \$50,000. Status: died in committee

Make non-private PERS data public (SB 2069): Currently, there is no way of conducting independent analysis of the Public Employees' Retirement System (PERS) because fiscal data related to PERS is not available for public inspection. This bill would have allowed the release of such data for analytical purposes, without releasing any personal identifying information. Status: died in committee

Economic Incentives: Worst bills of the session

Unlike leaders in Louisiana, North Carolina and Oklahoma, legislators in Mississippi did not pursue fundamental tax reform during the 2013 session. Instead, they chose to hand out tens of millions of dollars in corporate welfare.

MCPD opposed numerous targeted economic incentives bills that use public funds to pick economic winners and losers. Our opposition to these bills is grounded in the principles that guide our daily work. Principle 7, for example, affirms that "Free enterprise, not government, is the engine of personal economic prosperity." Likewise, Principle 8 declares: "The free market should not be distorted by government-designed dictates or advantages."

The following bills are among the worst when it comes to legislators picking economic winners and losers:

HB 1134/HB 894: In conjunction, these two laws constitute an expensive bailout for the beleaguered Kemper County coal plant owned by Mississippi Power, a private utility company. HB 1134 facilitates the issue of a 20-year, \$1 billion bond to cover cost overruns at the Kemper plant, slated to open in 2014. The bond will be repaid by Mississippi Power customers – about one-third of the households in Mississippi. The ostensible purpose of the bond is to prevent a 33 percent utility rate increase on customers, with the expectation that rates will "only" increase by 20 to 25 percent. Projected costs for the project have virtually doubled from \$2.2 billion to \$4 billion. Critics, such as the Bigger Pie Forum, also note that a natural gas plant would have cost far less – about \$582 million, instead of \$4 billion. Status: signed by Governor

HB 798: This bill attempts to resolve the problem of "food deserts" – a term popularized by the Obama administration. According to the White House, a food desert refers to a community in which residents

must travel more than one mile to reach a grocery store. The bill's stated purpose is to "provide a dedicated source of financing for healthy food retailers operating in underserved communities in Mississippi." Virtually any retailer would have been eligible, including Walmart, Walgreens and SuperValu. Status: after passing almost unanimously in both chambers, this bill died in conference

SB 2806: This law revises the current definition of a tourism project to include "a cultural retail attraction." In doing so, it gives an estimated \$22 million in sales tax breaks to a mall in Pearl, Miss., anchored by Saks Fifth Avenue. The money is derived from the Tourism Project Sales Tax Incentive Fund administered by the Mississippi Development Authority (MDA). The fund is already being used to subsidize other dubious projects ranging from water parks to hotels to golf courses. Economists agree, however, that economic incentives for retailers are particularly inefficient because they do not result in long-term job creation. Rather, jobs just end up moving from one area to another – for example, from Vicksburg to Pearl. Status: signed into law

SB 2564: This bill, which evokes comparisons to the Kemper County deal discussed above, allows localities to give cash to private energy producing utilities to facilitate infrastructure ownership, construction and repair. In doing so, the bill allows local governments to subsidize private energy utilities or cooperatives as long as the city or county pledges to repay the loan to MDA. Status: due from Governor

SB 2700: This law uses \$1.2 million of state bond debt (originally issued to acquire Deer Island) to purchase and maintain part of Cat Island. The BP oil company, the federal government and a private family all own parts of the island. The state's share will be combined with a federal grant to purchase some, though not all, of the family's portion. Status: signed into law

SB 2565: This bill would have created the Tourism Advertising and Marketing Fund to market Mississippi as a tourist destination. The amount in the fund would have been derived from a formula supposedly correlated with sales tax revenue calculated using an increase in a wide array of activities (such as business-related hotel stays) – not all of which could be attributed to the proposed advertising campaign. Our take is that lowering taxes for everyone is a better idea than using sales tax revenue to subsidize activities better left to the private sector. Status: passed both chambers in different forms, but died in conference.



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