

Suits may hurt state budget Administration to divide U.S. for health care

Litigation could renew big deficits

THE ASSOCIATED PRESS
RALEIGH — North Carolina state government rode a wave of economic growth a decade ago that ultimately soared to a \$1.4 billion surplus in 1998.
 Then came a slowing economy, more spending and two lawsuits that forced the state to return \$1.2 billion to hundreds of thousands of taxpayers. Pretty soon, North Carolina was in a budget crisis.
 Could the state see a repeat performance this decade?
 The numbers might not be as large this time around, and the lawyers' court arguments aren't slam-dunk victories.
 But there's enough pricey litigation swirling around state government that any sizable award could put a crimp in the state's ongoing recovery, forcing legislators to seek new revenue or additional spend-

ing cuts.
 Already, lawmakers will need to make up \$1.1 billion in one-time or temporary revenues and budget cuts that were used to balance the current fiscal year's budget.
 The amounts of money involved in the outstanding lawsuits appear somewhat lower than the \$1.2 billion paid out in the '90s, said John Hood with the John Locke Foundation, a Raleigh-based conservative think tank.
 But, he added, "There is the potential for a fiscal train wreck."
 The most prominent of the outstanding lawsuits concern methods Gov. Mike Easley used to reduce the budget shortfall earlier this decade.
 Another case, which could be in court next month, could set the state back as much as \$150 million if successful, according to a legisla-

tion report to the state Department of Justice.
 Two Forsyth County residents argue that North Carolina unlawfully treats interest income from government bonds originating in North Carolina different from bonds from other states.
 The interest on North Carolina state or municipal bonds isn't taxed, but the interest on out-of-state government bonds is taxed as ordinary income.
 Plaintiffs Lessie Dunn and Erwin Cook Jr. say that violates the U.S. Constitution's interstate commerce clause because it gives preferential treatment to one state over another. They want refunds for themselves and all other state taxpayers who have paid taxes on interest income from out-of-state bonds.
 "I think this is a very sound case," said Norman Smith, a Greensboro attorney representing the two who contends that the

state has discriminated unfairly.
 Most states differentiate taxation between in-state and out-of-state bonds, giving the advantage to local residents as an incentive to invest at home.
 Similar lawsuits filed in Ohio and Kentucky over the past few years have failed, although the Kentucky case is still on appeal, said John Wylie, a Chicago attorney leading the North Carolina case.
 States have weathered challenges in the past by citing an exception in case law to the commerce clause when the state is a "market participant" instead of a regulator of commerce. Since the state itself is offering the debt in the bond market, they argue, it can treat buyers differently.
 The state Attorney General's Office declined to comment on the case, citing pending litigation, but it filed a motion last Friday seeking a continuance until February.

Larger regions make it more probable that traditionally underserved rural areas would be paired with more profitable urban areas, Scully said. "Plans that want Minnesota have to say they'll take North Dakota and South Dakota as well," said Scully, a partner at the law firm Alston & Bird, who has health care clients.
 Forcing private insurers to take rural patients was a major interest of Midwestern lawmakers, including Sens. Charles Grassley, R-Iowa, and Max Baucus, D-Mont., authors of the law.
 Health and Human Services Secretary Tommy Thompson acknowledged at a news conference Monday the competing voices on regional designs.
 "We wanted them not too big, not too small but just right," Thompson said.
 The Blue Cross and Blue Shield Association said it would have preferred single-state regions, since its member health plans typically operate within a state. "Individual plans will have to decide," said Alissa Fox, the association's policy director.
 "We thought there would be more competition with 50 single-state regions."
 Thompson, Medicare chief Mark McClellan and other officials said they are increasingly confident that enough private plans would enter each region to avoid triggering a provision of the law that guarantees beneficiaries access to a government prescription drug benefit under Medicare if they lack a choice of private plans in their region of the country.
 "I'm feeling more confident now than a month ago," said Leslie Norwalk, McClellan's deputy.
 To allow insurers licensed in one state to operate in another within the same region, the administration said the Medicare law would allow state licensing regulations to be waived for up to three years. Insurers would have to apply for a license in the other state, however.

Soldiers sue over contracting policy

WASHINGTON, D.C. — Eight soldiers filed a lawsuit Monday challenging the Army's policy requiring them to serve longer than the terms of their enlistment contracts.
 The soldiers, believed to be the first active-duty personnel to file such a lawsuit, want a judge to order the Army to immediately release them from service.
 They say they weren't informed when they signed up that they could be kept in the service beyond their discharge date. The Army says the policy is needed to ensure there are enough experienced soldiers on the battlefield.
 David Qualls, one of the plaintiffs, said he signed up in July 2003 for a one-year stint in the Arkansas National Guard but has been told he will remain on active duty in Iraq until next year.
 "What this boils down to in my opinion is a question of fairness," he said at a news conference announcing the lawsuit. "I served five months past my one-year obligation and I feel that it's time to let me go back to my wife."
 Under the Pentagon's "stop-loss" program, the Army can extend enlistments during war or national emergencies as a way to promote continuity and cohesiveness. The policy, invoked in June, was authorized by an emergency executive order signed by President Bush three days after the Sept. 11,

2001, terrorist attacks. It also was employed during the buildup to the 1991 Gulf War.
 The Army has defended the policy, saying the fine print on every military contract mentions the possibility that time of service may change under existing laws and regulations.
 "The nation is at war, that's the key to this entire issue," said Lt. Col. Bryan Hilferty, an Army spokesman. "We're just using stop-loss for those troops deployed in the war on terror."
 Hilferty said about 7,000 active-duty soldiers have had their contracts extended under the policy, and it could affect up to 40,000 reserve soldiers depending how long the war in Iraq lasts.
 The lawsuit says the contracts are misleading because they make no explicit reference to the policy.
 Jules Lobel, an attorney for the soldiers, accused the government of using "a classic bait-and-switch operation" to lure recruits.
 Other soldiers have filed similar cases over the past year, but this was believed to be the first by active-duty personnel.
 Lobel and other attorneys representing the soldiers are affiliated with the liberal advocacy group Center for Constitutional Rights, which has sponsored lawsuits alleging human rights abuses by U.S. forces against prisoners in Iraq and Guantanamo Bay, Cuba.

Hopefuls start jostling to succeed Greenspan

WASHINGTON, D.C. — While President Bush is busy putting together his Cabinet for a second term, the financial world's attention is on a job vacancy 14 months away: Who will succeed Federal Reserve Chairman Alan Greenspan?
 It might seem daunting to follow a legend like Greenspan, now in his 18th year in the job. Yet there seem to be plenty of people who would like to do it.
 With Bush's re-election, the focus is on Republicans. Candidates include Harvard economics professor Martin Feldstein, chairman of the Council of Economic Advisers during the Reagan administration; Columbia University professor Glenn Hubbard, who was Bush's first CEA chairman; Treasury Undersecretary John Taylor; and Federal Reserve board member Ben Bernanke.
 Handicappers generally put Feldstein, 65, at the top of the list, in part because he is the best known. He has had a distinguished teaching career at Harvard and served from 1982 to 1984 as chairman of the CEA, a post that Greenspan used as a stepping stone to the Fed job.
 Some believe Hubbard, at 46 the youngest on the list, might have an inside track because of his strong support for Bush's tax cuts. Also, doubts linger among some conservative GOP supply-siders about Feldstein, given his reputation as a deficit hawk.

Taylor, 57, gained prominence as a monetary expert at Stanford University before coming to Treasury. He developed the "Taylor rule," a formula designed to aid the Fed in setting interest rates. He has had trouble making an impact on administration economic policy in his current job.
 Bernanke, 50, is viewed as the dark horse. Little known outside academic circles before coming to the Fed board in August 2002, Bernanke has impressed veteran Fed watchers who have started to read his speeches carefully for insights into a range of economic issues.
 "I think that Greenspan will have an unusually large influence on the selection process given his close relationship with Vice President Cheney, going all the way back to the Ford administration," said David Jones, author of four books on the Greenspan Fed.
 Many see Greenspan's hand in appointments Bush has made to the Fed board, including Bernanke and Donald Kohn, a longtime Fed staff member on monetary policy.

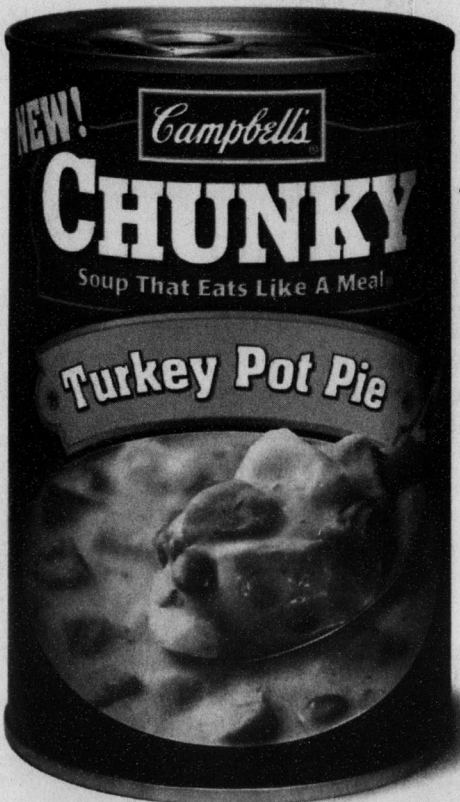
Intelligence bill gets major boost

WASHINGTON, D.C. — Legislation to revamp the nation's intelligence agencies moved closer to a vote and likely approval, perhaps as early as Tuesday in the House, as a leading Republican opponent announced he would support a compromise version.
 Rep. Duncan Hunter of California, chairman of the Armed Services Committee, had been one of the main roadblocks to passage of a bill implementing the Sept. 11 Commission's terror-fighting recommendations.
 Hunter had wanted the bill to ensure that the Pentagon would retain some control over the tactical agencies that operate the nation's spy satellites and analyze the results for troops on the battlefield.
 He said Monday in a joint statement with Senate Armed Services Chairman John Warner, R-Va., "Pending a review of the rest of the legislation, we are prepared to support the bill as amended by this new language."
 With that agreement in place, House Republicans probably will meet Tuesday morning to decide how to move the bill forward.
 House Speaker Dennis Hastert had refused to move the legislation to a vote before the Thanksgiving holiday because of objections from GOP chairmen including

Hunter and House Judiciary chief James Sensenbrenner of Wisconsin.
 Congressional Democrats had said there were plenty of lawmakers prepared to approve the legislation, and they had asked President Bush to press fellow Republicans to bring the bill to a vote.
 Sensenbrenner remains opposed to the bill because he wants such issues as illegal immigration and asylum changes dealt with as well.
 The bill's supporters had said it would not interfere with the military operations Hunter spoke about.
 However, language was added saying the new national intelligence director "shall respect and not abrogate the statutory responsibilities of the heads of the departments of the United States government."
 If a compromise cannot be reached and lawmakers fail to pass an overhaul this year, they will have to start from scratch next year after the new Congress is sworn in.
 The agreement came as Bush prodded Congress to finish work on the legislation that would reorganize the government's 15

intelligence agencies under a single national intelligence director.
 At the White House, spokesman Scott McClellan said, "We feel very hopeful that this legislation will get passed this week."
 Democratic senators also said Senate Majority Leader Bill Frist, R-Tenn., had told them compromise language had been reached.
 "I think it will bring enough House Republicans on to cause Speaker Hastert to feel confident to bring up the bill," said Sen. Bob Graham, D-Fla., a former Senate Intelligence chairman.
 Earlier Monday, Bush said, "I believe we've addressed the concerns, by far, of the majority of the members of both the House and the Senate."
 Bush, speaking during an Oval Office meeting with Iraq's interim President Ghazi al-Yawer, said, "It's a piece of legislation that is important for the security of our country," start from scratch next year.
 With the new Congress in January, bills that failed to pass in the current session expire and new lawmakers and committee leaders would have to consider any new legislation.

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