



## Regulatory Roadblocks

### *Clearing the path for Illinois entrepreneurs*

Want to be a hair braider? Get a pricey license. Already a pizza restaurateur? Raise your prices. Starting a business? First prove to the state there is a “need” for your product. Like flowers? Don’t even think about trying to sell them on the street—it’s not allowed. And, don’t dare try to start a cupcake business out of an unapproved kitchen.

The state’s maze of regulations has the effect of sending a “KEEP OUT” message to would-be entrepreneurs. Not only do Illinoisans battle against the general tide of a struggling economy, they must also confront costly barriers to doing business, which come in the form of state laws and regulations, licensing requirements and fees.

*Chief Executive* magazine recently ranked Illinois 46<sup>th</sup> in its annual ranking of the best and worst states for doing business. The ranking, based off survey results of 641 CEOs from across the country, considered issues such as regulation, tax policies, and workforce quality.<sup>1</sup>

In a 2009 report on states’ economic competitiveness, the American Legislative Exchange Council (ALEC) ranked Illinois 48<sup>th</sup> in economic performance and 47<sup>th</sup> in economic outlook.<sup>2</sup> ALEC ranked Illinois 40<sup>th</sup> for its burdensome workers’ compensation requirements and 44<sup>th</sup> for its costly minimum wage rate, which increased to \$8.00 per hour in July 2009 and will increase another 25 cents in July 2010.

Workers, families, employers and entrepreneurs are fleeing Illinois for more business-friendly states. ALEC ranked Illinois 48<sup>th</sup> in absolute migration because a net 637,979 people left the state from 1999-2008. This trend will continue unless Illinois changes course and reforms—and in some cases eliminates—job-killing barriers to economic opportunity. In order to turn around its unfriendly business climate, Illinois can start by implementing legal and regulatory improvements in the following areas:

1. Workers’ Compensation
2. Minimum Wage
3. Licensing and Fees

#### **Workers’ Compensation**

Workers’ compensation is a benefits package paid by employers to employees injured on the job. The employee receives money in exchange for forfeiting the right to sue the employer, and in return the employer accepts liability and receives immunity from court action.<sup>3</sup>

ALEC ranked Illinois 40<sup>th</sup> in the country for its high workers’ compensation cost burden. Unaffordable workers’ compensation costs drive businesses into other states and put Illinois at critical disadvantage when companies are deciding where to do business, whether to stay in Illinois, or move. Illinois Chamber of Commerce president and chief executive officer Doug Whitley explains, “When multi-state corporations compare business costs among their facilities, the workers’ compensation expenses associated with Illinois locations are often conspicuous outliers. Workers’ compensation reform is a key component to reestablishing Illinois as a good place to do business in.”<sup>4</sup>

Graphic 1 shows the workers' compensation premium ratings of Illinois and those of its neighboring states. Premium rate indices (per \$100 of payroll) range from \$2.97 in Illinois to \$1.23 in Indiana. With the exception of Kentucky, Illinois's workers' compensation premium rating is higher than all neighboring states. Illinois employers pay, on average, the 10<sup>th</sup>-highest workers' compensation premium rates in the nation, meaning only 9 states had higher rates in 2008. Indiana has the lowest (best) premium rating of all states, ranking 50<sup>th</sup>.

Many states are addressing workers' compensation costs, yet Illinois lags far behind competing states in advancing reform. From 2006 to 2009, the average rates for workers' compensation across the country decreased a total of 17 percent, and 30 states saw average rate reductions for 2008/2009 filings. Illinois, on the other hand, saw its relative cost ranking increase, going from 21<sup>st</sup> highest in 2006 to 10<sup>th</sup> highest in 2008.

According to Jay Dee Shattuck, executive direc-

tor of the Illinois Chamber Employment Law Council, which represents Illinois business on employment law topics including workers' compensation, "Illinois's workers' comp crisis is an employer issue at the fore, second only to the medical malpractice insurance crisis." He continues, "Workers' compensation is one of those costs that weigh in heavily when a business decides whether to come to Illinois or whether to expand its Illinois operations."<sup>7</sup> Shattuck concludes it's tough to argue the benefits of establishing a business in Illinois when manufacturers are comparing costs of production in Illinois versus other more business-friendly states.<sup>8</sup>

A report from the Illinois Chamber of Commerce highlights the actions being taking in other states to attract businesses:<sup>9</sup>

- Florida decreased its workers' compensation rates over 18 percent in 2009 and businesses have seen an average decrease of over 65 percent in workers' compensation costs since 2006.

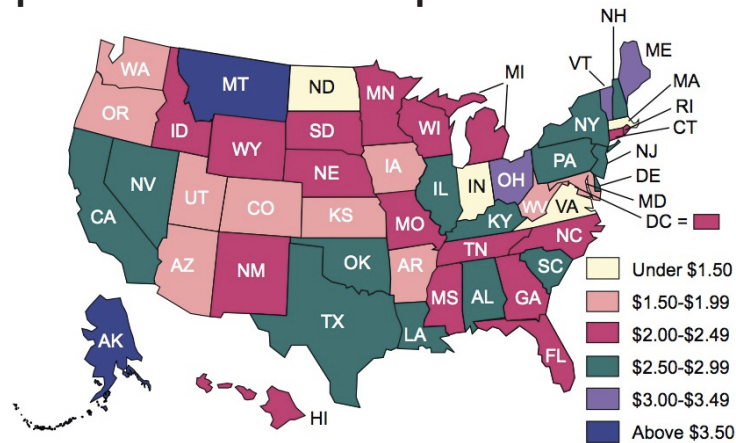
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**Graphic 1. 2008 Workers' Compensation Premium Rating<sup>5</sup>**

State	2008 Ranking	2006 Ranking	2008 Index Rate
Illinois	10	21	\$2.79
Indiana	50	50	\$1.23
Iowa	41	45	\$1.86
Kentucky	7	4	\$2.96
Missouri	28	25	\$2.20
Wisconsin	34	35	\$2.12

Source: 2008 Oregon Workers' Compensation Rate Ranking Summary, Table 2

**Graphic 2. 2008 Workers' Compensation Premium Index**



Source: 2008 Oregon Workers' Compensation Rate Ranking Summary, Figure 1

- Colorado saw a 16 percent reduction in workers' compensation rates in 2009, will experience an additional 9.7 percent decrease in 2010, and have had a total 36.2 percent decrease since 2006.
- Arkansas lowered its workers' compensation rates nearly 20 percent since 2006.
- Pennsylvania reduced its rates 19 percent since 2006.
- New York decreased its average rates nearly 22 percent since 2006.<sup>10</sup>

Missouri in particular stands out as a model of workers' compensation reform. After Missouri Governor Matt Blunt signed a workers' compensation reform bill (Senate Bill 1) in March 2005, Missouri saw a 20 percent drop in costs to the state's businesses.<sup>11,12</sup> Like many states, Missouri found it necessary to rein in its workers' compensation costs and implemented reforms focused on compensation abuse, tightening the definition of "accident" and "injury," limiting benefits to employees found under the influence of alcohol or illegal drugs at the time of the accident, and increasing penalties against compensation abusers.<sup>13</sup> Missouri has put itself at a competitive advantage with Illinois, and as the Illinois Chamber stresses, "Until we address critical cost drivers, the states that border Illinois will continue to flaunt their lower workers' compensation costs."<sup>14</sup>

Illinois consistently experiences compensation abuse, such as payments made to workers not hurt on the job or paying a worker hurt because of alcohol abuse.<sup>15</sup> Illinois could learn from Missouri, which has been a leader in reforming workers' compensation.<sup>16</sup> The Illinois Chamber of Commerce recommends the following changes to current law, which draw from Missouri's reforms:

- Require the workplace to be the "primary" cause of the injury instead of just a "contributing" factor when determining eligibility for benefits;
- Limit permanent partial disability, such as a back problem, to 100 percent of "man as whole," which would keep an employee from making repeated claims that would

add up to more than what 100 percent coverage would equal;

- Allow reopening of wage differential cases for changes in economic circumstances; provide credit for previous wage differential claims and cap benefits to retirement age instead of lifetime;<sup>17</sup> and
- Eliminate or dramatically reduce benefits when a worker's injuries are caused by their intoxication.

Illinois must address its costly workers' compensation rates and follow the lead of a number of other states that have adopted positive, significant reform.<sup>18</sup> Reducing the cost of doing business in Illinois would help attract and retain more businesses while rejuvenating job growth and opportunities for prosperity in the state.

#### Minimum Wage

A minimum wage is the lowest wage that a business is allowed to pay an employee for an hour's worth of work. Illinois's high minimum wage rate puts a financial strain on businesses and ends up hurting many workers more than helping them. Every state surrounding Illinois has lower a minimum wage rate, adding yet one more reason entrepreneurs and businesses decide to build and grow elsewhere.

Illinois employers and workers faced a minimum wage increase to \$8.00 an hour on July 1, 2009, and this rate will increase again by another 25 cents on July 1, 2010.<sup>19</sup> Former Governor Rob Blagojevich made his first minimum wage increase in 2003, raising the rate from \$5.15 to \$6.50 per hour. This change made the rate in Illinois higher than the federal government's rate, which at the time equaled \$5.15.<sup>20</sup> On December 18, 2006, Blagojevich signed Senate Bill 1268 and increased the state minimum wage to \$7.50 per hour, effective on July 1, 2007.<sup>21</sup> It has since continued to rise annually in Illinois, while the federal rate remained \$5.15 until July 2007 and rose to \$5.85, \$6.55 in July 2008, and \$7.25 in 2009.

As shown in the chart below, Illinois has sustained a higher minimum wage than the federal level since Blagojevich's 2003 increase. Only California, Connecticut, Massachusetts, Vermont, Oregon and Washington have higher

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**Graphic 3: Illinois Hourly Minimum Wage Rates by Year<sup>22</sup>**

Year	Through 6/30/07	7/01/07- 6/30/08	7/01/08- 6/30/09	7/01/09- 6/30/10	On /after 7/01/10
Illinois Rate	\$6.50	\$7.50	\$7.75	\$8.00	\$8.25
Federal Rate	\$5.15	\$5.85	\$6.55	\$7.25	TBD

Source: Illinois Department of Labor

minimum wage rates than Illinois.<sup>23</sup> All six states require \$8.00 or more in minimum wages, with Washington's \$8.55 an hour rate being the highest.<sup>24</sup>

Businesses are more attracted to states where the price of labor relies more on what the market demands instead of what government demands. Employers and employees, not government, should have most control in determining the price of labor. Businesses will flock to states with the least heavy hand affecting the cost of operation.

Illinois Assistant Director of the National Federation of Independent Business, Mark Grant, believes that the high minimum wage rate puts Illinois small businesses at competitive disadvantage, explaining, "As government sets all sorts of regulations and standards, it makes it increasingly harder for smaller employers with a handful of employees. It makes it harder to compete and stay in business. They don't have the economy of scale that large companies have. When you increase the cost of minimum wage for people that work for them, or any other cost or regulations they have to deal with, it will end up costing business."<sup>25</sup>

Small businesses are some of the worst hit when government imposes poor policies and burdensome regulations. For example, Eric Wortham, boss of Pizza World in Granite City, pays his employees as well as he can. But Wortham also recognizes rate increases are often passed over to the consumer, which can hurt sales, and in the end, those working for the business.<sup>26</sup> Wortham has had to increase the cost of his products in order to make up for the cost burden of the wage rate on his business. Many small business owners face similar decisions, and instead of raising prices, they cut staff, close shop, or move elsewhere.<sup>27</sup>

Minimum wage can actually hurt more people than it helps. High minimum wage rates can mean high unemployment rates. According to AEI adjunct scholar Richard Burkhauser, over the last two decades a majority of studies by economists conclude increases in the minimum wage directly correlate with considerable increases in unemployment and cause no decrease in poverty among the working poor.<sup>28</sup>

The National Center for Policy Analysis also argues that minimum wage increases hurt younger workers, especially minority teenagers, who need entry-level jobs and have limited employment opportunities.<sup>29</sup> Imposing a minimum wage—especially one higher than the federal government—puts a strain on employers by increasing operating costs. High rates can force employers to cut back on entry-level jobs, which younger workers need. If the government requires a small business to pay more than the market value of labor, the employer will often respond by simply not hiring for the job. This results in higher unemployment, and ends up hurting—rather than helping—people looking for job opportunities, especially at the lower end of the skill ladder.<sup>30</sup>

This has a ripple effect for teenagers, who need that entry-level job experience to get higher-level jobs later on. The longer teens are out of work while they are young, the harder it will be for them to get jobs when they are older. Down the road, it becomes more likely they will have lower-income jobs because of that lost entry-level job experience.<sup>31</sup>

In the end, high minimum wage rates bring about additional, unnecessary barriers to success for young or low-skill workers, yet Illinois continues to impose a high minimum wage rate. States neighboring Illinois, including Indiana, Wisconsin, Iowa, Missouri and Kentucky, all have the same minimum

*Businesses will flock to states with the least heavy hand affecting the cost of operation.*

wage rates as the federal government, giving businesses and entrepreneurs one more reason to leave Illinois and set up shop elsewhere. Reducing minimum wage at least to the federal wage rate would provide another way Illinois could retain and attract business to the state.

### Fees and Licenses

Illinois’s countless licensing requirements create one of the most discouraging obstacles entrepreneurs face in Illinois. Even with the best of intentions, fees and license requirements establish barriers to success for entrepreneurs seeking to expand a business in Illinois. In Chicago, for example, there is no way to escape a fee if you want to start a business. Every single entrepreneur planning to sell goods or services must register with the city and pay a fee.<sup>32</sup>

Occupational regulation has grown dramatically in the United States. In the 1950s, licensing laws at the state level covered only about 4.5 percent of the labor force—or 1 in 20 jobs. Today, that estimate is closer to one in five jobs, and unfortunately, licensing often fails to achieve its purpose: protecting the public.<sup>33</sup> According to the Institute for Justice, “instead of a navigable system designed to make sure businesses meet reasonable health and safety standards, the overlapping rules of the city of Chicago and the state of Illinois create a matrix that is so confusing and nonsensical that it often seems designed to stop entrepreneurs in their tracks.”

Licensing rules create expensive barriers for entrepreneurs, and, according to academics such as Morris M. Kleiner from the University of Minnesota, they also hurt consumers by driving up prices.<sup>34</sup> In a testimony before the Illinois Senate about the licensing requirements for hair braiders, Kristina Rasmussen, executive vice president of the Illinois Policy Institute, explained, “When compared to voluntary certification or mandatory registration, scholars have shown occupational licensing is most appropriate in cases where the risk of harm to the consumer is high and the ability of the consumer to judge the quality of the service is low. Occupations like physicians or architects clearly meet these criteria. Hair braiders do not.”<sup>35</sup> Some licensing is necessary to protect consumers, but Illinois has overburdened

certain entrepreneurs and businesses, like florists, barbers, nail technicians, or hair braiders, with unnecessary fees and licensing requirements.

The tangled web of licenses, fees, applications, and regulatory boards can be overwhelming for a new or growing business. In an attempt to advance broad-based reform, Illinois State Representative Darlene Senger introduced a bill (House Bill 5802) in 2010 calling for the creation of an Illinois Enterprise Commission to review and determine which Illinois regulations have a negative impact on

### Graphic 4: Fees, Licenses and Penalties Examples<sup>36</sup>

*A few of the many regulations, requirements and fees in Illinois*

If no regulation exists for a particular type of business, an entrepreneur must get a limited business license, which costs \$250 every two years.
Operating without the license can result in penalties ranging from \$200 to \$500 per day.
To start a moving company, an entrepreneur must first prove to the Illinois Commerce Commission (ICC) “a public need for the services exists and the applicant is fit, willing and able to provide the service in compliance with the law and ICC rules.” The prospective company must pay \$1,350 to file paperwork.
To become a barber in Illinois, one must graduate from a barber school – approved by the Illinois Department of Financial and Professional Regulation—with at least 1,500 hours of study, or graduate from a cosmetology school and also complete an additional 1,000 hours at a barber school; pass a written examination; list character witnesses on your application; and not be a convicted felon. Working without a license could cost a barber up to \$5,000.
To become a hair braider in Illinois, one must complete 1,500 hours of schooling, which could cost at least \$7,000 or \$8,000; pass a written exam; and complete 14 hours of continuing education classes every two years.
To become a nail technician, one must complete 350 hours of training, which could cost between \$2,000 and \$3,000; pass a written exam (in English or Spanish); and complete 10 hours of continuing education every two years.
Chicago prohibits vendors from selling flowers and prohibits them from selling food “prepared” outside of a licensed kitchen.

Source: Institute for Justice

*Even with the best of intentions, fees and license requirements establish barriers to success for entrepreneurs seeking to expand a business in Illinois.*

Illinois job creation and economic productivity. The Commission would recommend repealing, abolishing, or amending these regulations, and annually submit their recommendations to the Governor, General Assembly, and executive director of the Joint Committee on Administrative Rules (JCAR) and ask for an up or down vote from the JCAR on the Committee's recommendations.

House Bill 5802 passed the House unanimously. Senator Don Harmon picked it up, and it was then referred to and now sits in Assignments. This legislation should undergo serious consideration by legislators, as it would help Illinois eliminate the onerous regulations that unnecessarily make it harder for businesses to succeed. A thorough review of all regulations and an up or down vote on whether each is necessary or should be eliminated would help lift the shackles weighing down entrepreneurs and businesses. Every business and family must continually review practices and determine whether they are useful or necessary. Illinois must do the same with its long list of regulations.

#### **Conclusion**

From 1999-2008, Illinois experienced a net 637,979 reduction in people; more people left Illinois than any other state except California and New York.<sup>37</sup> Where are they going? To more business-friendly states. The five states with the highest population growth from 1999 to 2008 (Florida, Arizona, Texas, North Carolina, Georgia) had the same minimum wage rate as the federal government and all had less expensive workers' compensation costs than Illinois. Clearly, other factors come into play, such as tax burden, but Illinois is not helping itself by having higher minimum wage rates and workers' compensation costs than necessary.

Lost jobs mean lost revenue for the state. In 2000, 6,215,829 Illinoisans had a job, and the unemployment rate was 4.4 percent. In January 2010, 5,872,432 Illinoisans had a job, and the unemployment rate was 11.3 percent.<sup>38</sup> According to a report from the Regional Economic Applications Laboratory at the University of Illinois at Urbana-Champaign, if Illinois had not lost so many people—or jobs—in the last ten years, it would have enough revenue to fill

nearly half of its fiscal 2011 budget hole.<sup>39</sup> As anti-growth policies in Illinois push people and businesses out of the state, jobs disappear and so does the revenue. This, in turn, hurts those who rely on government assistance.

Instead of saying "KEEP OUT" to businesses, Illinois needs to welcome them in with policies that will help them grow and succeed. Implementing regulatory reforms in the areas of workers' compensation, minimum wage, and state licensing and fees would create a more favorable business climate in Illinois, thereby providing Illinoisans from all walks of life with a better opportunity to care for their family.

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Notes

1 Mary Ellen Podmolik, "Magazine: Illinois among worst states for business," *Chicago Breaking Business*, May 13, 2010, <http://www.chicagobreakingbusiness.com/2010/05/magazine-illinois-among-worst-states-for-business.html>.

2 Arthur B. Laffer, Stephen Moore, & Jonathan Williams, "Rich States, Poor States," *American Legislative Exchange Council*, March 2009, [www.alec.org](http://www.alec.org).

3 *Workers Compensation, The Source*, "What is Workers' Compensation?," <http://www.workerscompensation.com/regulations/reference/content.php?ID=1010&state=illinois&category=ER,EE>.

4 Whitley, Doug. Personal interview. 24 March 2010.

5 Oregon Department of Consumer & Business Services, *Oregon Workers' Compensation Premium Rate Ranking, Calendar Year 2008*, March 2009, [http://www.cbs.state.or.us/imd/rasums/2083/08web/08\\_2083.pdf](http://www.cbs.state.or.us/imd/rasums/2083/08web/08_2083.pdf).

6 *Ibid.*

7 Kerry L. Smith, "Worker's comp costs drive companies out of Illinois," *Illinois Business Journal*, November 15, 2004, [www.ibjonline.com](http://www.ibjonline.com).

8 *Ibid.*

9 Chris Rocks, "A Case for Workers' Compensation Reform in Illinois," December 3, 2009, <http://www.ilworkcomp.org/2009/12/03/a-case-for-workers%E2%80%99-compensation-reform-in-illinois/>.

10 *Ibid.*

11 Missouri State Senate, "SB 1 - Amends various provisions of workers' compensation law," *Effective August 28, 2005*, [http://www.senate.mo.gov/09info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=512762](http://www.senate.mo.gov/09info/BTS_Web/Bill.aspx?SessionType=R&BillID=512762).

12 *Ibid.*

13 *Workers Compensation, The Source*, "Missouri Gov. Blunt's Workers' Compensation Reform Could Cut Costs By Nearly Eight Percent," September 16, 2008, <http://www.workerscompensation.com/compnewsnetwork/news/2288.html>

14 *Ibid.*

15 Chris Rocks, "A Case for Workers' Compensation Reform in Illinois," December 3, 2009, <http://www.ilworkcomp.org/2009/12/03/a-case-for-workers%E2%80%99-compensation-reform-in-illinois/>.

16 *Ibid.*

17 *Ibid.*

18 Chris Rocks, "A Case for Workers' Compensation Reform in Illinois," December 3, 2009, [www.ilworkcomp.org](http://www.ilworkcomp.org).

19 Illinois Department of Labor, "Minimum Wage News," <http://www.state.il.us/agency/idol/>.

20 United States Department of Labor, "What is minimum wage?" <http://www.dol.gov/elaws/faq/esa/flsa/001.htm>.

21 Illinois Government News Network, Press Release, "Governor Blagojevich Signs Groundbreaking Legislation to Increase Minimum Wage in Illinois," December 18, 2006, <http://www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=3&RecNum=5605>.

22 Illinois Department of Labor, "Illinois Minimum Wage Rates By Year," <http://www.state.il.us/agency/idol/Facts/mw.htm>.

23 Will Buss, "Some bemoan hike in wages; state minimum goes up to \$8 an hour July 1," *Belleville News Democrat*, June 15, 2009, <http://www.bnd.com/2009/06/15/808179/some-bemoan-hike-in-wages-state.html>.

24 U.S. Department of Labor, "Minimum Wage Laws in the States," January 1, 2010, <http://www.dol.gov/wbd/minwage/america.htm#content>.

25 Will Buss, "Some bemoan hike in wages; state minimum goes up to \$8 an hour July 1," *Belleville*

*News Democrat*, June 15, 2009, <http://www.bnd.com/2009/06/15/808179/some-bemoan-hike-in-wages-state.html>.

26 *Ibid.*

27 Will Buss, "Some bemoan hike in wages; state minimum goes up to \$8 an hour July 1," *Belleuille News Democrat*, June 15, 2009, <http://www.bnd.com/2009/06/15/808179/some-bemoan-hike-in-wages-state.html>.

28 Richard Burkhauser, "Cutting the Basic Wage to Spur Jobs," *Articles and Commentary*, *American Enterprise Institute*, March 9, 2010, <http://www.bls.gov/web/laus/laumstrk.htm>.

29 Bruce Bartlett, "The Minimum Wage Is Bad Policy," *National Center for Policy Analysis*, February 4, 2005, <http://www.ncpa.org/pub/ba499>.

30 Arthur B. Laffer, Stephen Moore, & Jonathan Williams, "Rich States, Poor States," *American Legislative Exchange Council*, March 2009, [www.alec.org](http://www.alec.org).

31 Richard Burkhauser, "Cutting the Basic Wage to Spur Jobs," *Articles and Commentary*, *American Enterprise Institute*, March 9, 2010, <http://www.bls.gov/web/laus/laumstrk.htm>.

32 *Institute for Justice, Regulations Study, Forthcoming, Summer 2010.*

33 *Institute for Justice, Regulations Study, Forthcoming, Summer 2010.*

34 Kristina Rasmussen, *Illinois Policy Institute*, "2010 Hair Braiding Testimony," March 3, 2010.

35 *Ibid.*

36 Elizabeth Milnikel and Emily Satterthwaite, (All examples listed), "Regulatory Field Home of Chicago Laws: Burdensome Laws Strike Out Chicago Entrepreneurs," *Institute for Justice*, May 2009, [http://www.ij.org/index.php?option=com\\_content&task=view&id=2704&Itemid=165](http://www.ij.org/index.php?option=com_content&task=view&id=2704&Itemid=165).

37 Arthur B. Laffer, Stephen Moore, & Jonathan Williams, "Rich States, Poor States," *American Legislative Exchange Council*, March 2009, [www.alec.org](http://www.alec.org).

38 *United States Department of Labor, Bureau of Labor Statistics*, "Local Area Unemployment Statistics," [http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?series\\_id=LASST17000006&data\\_tool=XGtable](http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?series_id=LASST17000006&data_tool=XGtable).

39 Greg Hinz, "Unemployment costs Illinois \$2 billion a year in lost tax revenue, University of Illinois study estimates," *Crain's*, <http://www.chicagobusiness.com/cgi-bin/mag/article.pl?articleId=33178>, March 29, 2010.