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[Political Science 300 Level Course]
Policy Brief

A Tale of Two Peninsulas: How Following Florida's Law Mandating the Drug Testing of Welfare Recipients can Alleviate Michigan's Socioeconomic Problems

The state of Michigan is in need of policy initiatives that facilitate economic growth and recovery. As one of the slowest states to rebound from the national crisis, prudence and practicality are on the minds of policy makers now more than ever. In fickle times, political leaders devise plans to eliminate needless spending from the budget, as well as ensure that business exists in an environment conducive to growth. When more businesses are attracted to the state, more people find jobs, less people require state benefits, and the state in turn is able to balance its budget and focus funding on other issues. Adopting a reasonable corporate income tax and providing other incentives to business should be a major focus of Michigan policymakers. To accomplish this, spending must be administered in the most feasible places.

States typically spend one third of their annual budgets on welfare. Twenty percent of Michigan's population is on some sort of welfare,¹ and it subsequently spends forty-six percent of its annual budget on human services.² Juxtaposing welfare and economic strength spending, which only eleven percent of the budget is directed to, it becomes clear that more funding is necessary to improve the economy. With an unemployment rate of almost twelve percent, placing it in among the bottom ten states, the state of Michigan must prioritize its spending and ensure existing programs are efficient and effective. Moreover, Michigan's budget reveals that it has been spending more than it has in revenue. Finally, and most indicative of the direction of

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¹ <http://www.uppermichiganssource.com/news/politics/story.aspx?id=636329>

² http://www.michigan.gov/documents/budget/1_345974_7.pdf

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this brief, it is true that approximately twenty percent of welfare recipients report that they have used an illicit drug at least once in the past year.³

Any discourse on welfare and drug testing should be prefaced with the subject's inherent limitations. It is difficult to make generalizations about large groups of people, and one inquiring into the topic should be responsible and open-minded. It is also difficult to definitely measure drug use; the topic itself does not easily lend itself to decisive empirical evidence.

Likewise, the problem should not be framed as an excess of welfare spending. Poor economic conditions cause Michiganders to depend more heavily on the state. As the state's primary expenditure, however, Governor Rick Snyder should consider measures that make the program as responsible, practical, and effective as possible. The livelihood of the state as well as the people must be tended to as Michigan makes its **recovery**.

Commented [M2]: I like these two paragraphs—you make clear that you are not trying to be ideological here

One pragmatic, coherent plan that is mutually beneficial to the state and citizens is implementing mandatory drug testing for welfare recipients. The policy, outlined in this brief, has the potential to alleviate state spending pressures, as well as allow Michigan's welfare problem to serve its purpose of providing temporary assistance while recipients find employment.

The Personal Responsibility and Work Opportunity Act, which reformed America's welfare system by implementing Temporary Assistance for Needy Families (TANF), granted wider latitude to the states to operate their own programs.⁴ The states use a block grant funded by the federal government to carry out the provisions of this 1996 law. Not only did President Clinton and the 104th Congress agree that allowing the states to decide welfare policy for themselves was a manifestation of federalism, but they also allowed the states to drug test

³ <http://www.politifact.com/florida/statements/2011/jun/09/rick-scott/rick-scott-says-welfare-recipients-are-more-likely/>

⁴ <http://www.cbpp.org/cms/?fa=view&id=936>

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recipients and sanction positive results.⁵ Several states have introduced proposals to their respective legislatures to enact such measures, but only Florida has enacted a drug testing statute of its own.

On May 31, 2011, Florida signed into law HB 353 into requiring people on welfare to pass drug tests in order to continue receiving aid. The law contains provisions that all applicants must be notified of the drug testing requirement at the time of application, and that the cost of the test, to be incurred by the applicant, will be reimbursed in his or her first benefits check if the test is negative. Most significantly, the law deems those testing positive ineligible for TANF benefits for one year. The applicant can, however, reapply after six months and completion of an approved substance abuse treatment program. Finally, the Florida law provides that a parent's positive test result does not affect the child's eligibility for benefits, but instead a protective payee with a negative drug test will disburse the benefits.⁶

Commented [M3]: Good summary of the bill and the relevant federal background

After just a month of implementation, Florida's Foundation for Government Accountability found that the state saved \$923,000.⁷ It is projected that over the next year the state will save \$9,135,504 by eliminating drug users from state welfare spending. And these figures are in terms of applicants only. It is estimated that if the policy was expanded to include people already receiving welfare, \$127,447,068 would be saved annually for federal and state budgets. What is more, a September 21, 2011 Quinnipiac University poll of 1,007 registered voters in Florida found that 71% agree with the state's new drug testing measures.⁸

In Florida, drug testing welfare recipients has saved the state money, garnered public support, and assisted drug users in ending their habits by incentivizing sobriety. It is a practical

⁵ <http://www.ndsn.org/nov96/welfare.html>

⁶ <http://www.floridafga.org/2011/09/the-impact-of-florida-new-drug-test-requirement-for-welfare-cash-assistance/>

⁷ <http://www.floridafga.org/2011/09/the-impact-of-florida-new-drug-test-requirement-for-welfare-cash-assistance/>

⁸ <http://www.quinnipiac.edu/x1297.xml?ReleaseID=1649>

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measure that frees up unnecessary spending which can then be used constructively elsewhere. Welfare benefactors who spend their assistance on drugs are essentially having their drug use subsidized by the taxpayers, which is unfair and nonsensical.

Michigan is in an interesting position regarding this topic. In addition to the large number of people relying on state aid and the poor economic conditions the state faces, Governor Rick Snyder should be even more inclined to consider drug testing for people on welfare because of Florida's example. Lawmakers in Michigan are afforded the opportunity to examine how the law has performed in Florida, and diffuse the policy here with revisions if necessary. The proposed policy can be analyzed from a vantage point that utilizes Florida as Michigan's policy laboratory.

Even though Michigan and Florida differ in many respects, some key similarities exist between the two peninsulas that support the idea of Governor Snyder using the Sunshine State as a policy laboratory. The two states have similar unemployment rates, and, according to the State Policy Liberalism Index, similar views on TANF.⁹ Michigan is ranked the 28th overall most liberal state in its ideological stance on welfare, with Florida occupying the 34th position. Acknowledging that both states have fairly moderate views on TANF, the potential for the program's success in Michigan can be sensibly compared to that in Florida.

Furthermore, Michigan and Florida are both in the top ten most populous states, as well as the top ten of largest gross state product¹⁰. They are also in the same bracket for per capita personal income. Although Daniel Elazar described the two states as having overall different political cultures, the statistical and ideological harmony between the two states provides evidence for seizing the opportunity to study and replicate Florida's experimentation.

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⁹ <https://ctools.umich.edu/access/content/group/b4f9c8e1-91a2-4577-8f64-77aff0381803/Lecture%20Slides/326.L03.diversity.pdf>

¹⁰ <https://ctools.umich.edu/access/content/group/b4f9c8e1-91a2-4577-8f64-77aff0381803/Lecture%20Slides/326.L03.diversity.pdf>

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Michigan's need for economic improvement and growth, the practicality of refusing to assist people who irresponsibly spend their aid, as well as the success of the plan in Florida which could transition similarly here, have all been justified as reasons why adopting a bill like HB 353 is the best alternative for Michigan's unbalanced budget and troubled economy. Learning from Florida's lesson, Governor Rick Snyder should consider the policy of which the Sunshine State has provided a successful example.

If costs are eliminated from social services such as welfare, the state will then be able to adopt more lenient tax measures on corporations. Since taxation creates a disincentive for economic activity, and because businesses are likely to relocate in search of a better operating environment, measures should be adopted that draw revenue primarily from sources that do not constrain growth. In this policy arena, cutting costs out of unproductive programs would allow the state to save funding that would otherwise be gathered from sources like businesses. As the Governor of Michigan, it need not be mentioned that one of the basic strategies at his disposal for stimulating our economy is ensuring that the corporate income tax is not too high. Eliminating ineffective expenditures from the budget, when coupled with alleviating pressures on businesses by saving state money, are feasible and impactful policy measures that have potential to improve Michigan's economy.

Transitioning now from an economic perspective to a social standpoint, the argument to incorporate HB 353 in Michigan can be further substantiated. Since state aid is intended as a temporary hand-up, and because many people are found to be on welfare while also using illegal drugs, implementing drug testing legislation for welfare recipients is an important policy venture for our state. As Governor, policy making is performed under tough budget constraints, forcing legislation to be parsimonious. Therefore, if there exists a way alleviate state funding that could

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be put to better use elsewhere, we should act on it. Such a concept conveys a sense of responsibility that lawmakers are equipped with: only positive, practical actions can be taken if we are to progress. The same should hold true for welfare recipients. Drug users who neglect state appropriations should be removed from its payroll. Only those who have difficult circumstances who are willing to abide the law as they work to overcome should receive state funds.

In addition to forcing welfare benefactors to conform to the prudent, well thought-out steps that all people, especially Governors, must take, HB 353 serves to steer people away from illegal drug use by creating a disincentive for such habits. Due to the program's provision that deems drug users ineligible of aid for one year unless they show proof of having completed a substance abuse program within six months, this legislation is mutually beneficial: it saves taxpayer money and ends habits of drug users. Those who qualify for TANF assistance but are incapable of passing a drug test have a six month period until they can reapply and be tested again. Motivation to cease usage of illicit drugs will force those individuals to make lifestyle changes so they can receive state help.

Despite the apparent benefits of this policy, there exists one large constraint to Michigan's adopting of a mandatory drug testing policy for welfare recipients. In 2003, the Sixth Circuit of the United States Court of Appeals struck down a 1999 Michigan pilot program for drug testing for welfare recipients. In Michigan, the Family Independence Agency provides TANF block-grant moneys through the Family Independence Program to eligible families needing assistance. The FIA conditioned eligibility for FIP assistance on the recipient's being tested for substance abuse, requiring it "to implement a pilot program of substance abuse testing

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as a condition for family independence assistance eligibility in at least 3 counties, including random substance abuse testing.”¹¹

The FIP's goals noted that “[b]ecause having strong family relationships may be more difficult if there is substance abuse, and because substance abuse is a barrier to employment” the state of Michigan was to pilot drug testing. Under the pilot program, applicants for benefits were tested prior to receiving benefits; every six months twenty percent of recipients were randomly selected for drug screening. Testing was done by urinalysis (not in a direct line of sight, for greater privacy) and samples were tested only for illegal drugs. No individual would have lost benefits or eligibility for benefits on the basis of one failed urinalysis. Applicants who refused to take the drug test without good cause and applicants who failed to complete the program’s assessment process or did not comply with a required treatment plan within two months were refused benefits. Aid recipients who refused to submit to the random drug testing would have lost a percentage of their benefits each month; after four months of failure to cooperate in the testing, such recipients will have all benefits withheld. Despite these considerations, the 2003 verdict ruled that the pilot program violated the Fourth Amendment's prohibition against unreasonable searches and seizures.¹²

Commented [M7]: good summary of the relevant case law here

Because precedents are an important facet of the judicial system, an attempt by Governor Snyder to enact legislation allowing for the state to save money by reducing the number of people needlessly on welfare may face remonstrations. However, sufficient evidence is available to defend the program against a fate similar to the aforementioned Michigan pilot program. The most significant reason why drug testing for welfare recipients is not unconstitutional and

¹¹ <http://caselaw.findlaw.com/us-6th-circuit/1114113.html>

¹² http://www.wlf.org/litigating/case_detail.asp?id=44

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therefore permissible for Michigan to engage in has to do with the original 1996 law **itself**. The switch from Aid to Families with Dependent Children (AFDC) to TANF, instituted under President Clinton, was designed specifically with provisions allowing the states to tailor their respective welfare programs.

Commented [M8]: but if this were true, wouldn't the court have upheld the pilot program?

Moreover, the act itself explicitly allows for the states to decide for themselves if drug testing is salient to their circumstances. The precepts of the 1996 Act maintain that the goal of welfare is to “provide temporary financial assistance while aiming to get people off of that assistance, primarily through employment.”¹³ It follows logically that it is going to be much more difficult for welfare recipients to find jobs if they are on drugs. A 2009 study by the Institute for Corporate Productivity found that three-quarters of companies polled had a drug test policy, and almost all (95 percent) of those companies said that pre-employment screening drug tests were the most common type, a figure that increased to 100% in organizations with 10,000 or more workers.¹⁴ Since employers require drug testing of their employees, and many taxpayers are forced to take drug tests themselves, the argument of infringement of privacy is hollow.

While an appeal to the rationality and practicality of drug testing welfare recipients may not hold much weight if Government Snyder does institute such a law and face a constitutionality argument, the benefits of the program certainly would be demonstrative of good policy. The court would be presented with evidence that the program reduces state costs and deters people on welfare from using drugs so they can continue receiving aid as they search for employment. Relevant precedents from other cases are another reason why the Governor should

¹³ http://www.acf.hhs.gov/programs/ofa/data-reports/caseload/applications/tanf_fy_tappsapprv_2011.htm

¹⁴ <http://www.pre-employ.com/blog/post/2009/08/Survey-Reveals-3-Out-Of-4-Companies-Have-Drug-Test-Policy.aspx>

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not be discouraged from considering the proposed policy due to the 2003 ruling. In *Katz v. United States* (1967), the Supreme Court ruled that the Fourth Amendment's protections apply only when the searched party has a "reasonable expectation of privacy."¹⁵ Because welfare recipients seek benefits of the state themselves, it seems difficult to argue that those persons expect privacy. Although acquiring aid from the state does not mean the government deserves control over privacy, reasonable inquiries into whether the funds are being utilized properly are justified. The motive behind the program, its expected benefits, and its accordance with federal law all are unequivocally sound reasons why adopting a bill like HB 353 should not face overrule from the court.

Commented [M9]: This seems like a reasonable argument to me

Governor Snyder recognizes more than anyone else that Michigan needs to overcome its economic problems. A prolonged economic recovery and an exorbitantly high unemployment rate are forcing many Michiganders out of the state. Michigan needs to attract business to spur the economy so people will want to live and prosper here. To do so, the state needs to put its revenue to work in the right ways. The budget must provide more spending for economic strength so that the number of unemployed people who need state assistance can also be reduced. Michigan allocates almost half of its total spending to welfare costs when those people should be able to find jobs. Because frugality and practicality are the dominant bases underlying policy during such times, Governor Snyder should look for ways to cut out spending that is not achieving its ends.

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Welfare is a morally and empirically tricky expense to turn to. However, as the number one priority of the budget, steps must be taken to ensure its efficacy. The best way to do this is to adopt a policy tested and proved in another state of similar stature. Florida's HB 353 law

¹⁵ http://en.wikipedia.org/wiki/Fourth_Amendment_to_the_United_States_Constitution

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mandating the drug testing of welfare applicants has saved state funding and received public support. It allows the intentions of the Welfare Reform Act of 1996 to be more readily realized, and provides an incentive to welfare recipients to not use drugs. Since most taxpayers are subject to drug screening at their places of employment, it only makes sense the people on welfare follow suit in preparation for finding jobs of their own.

In addition to learning how the plan works and what benefits it can offer the Michigan economy, Governor Snyder becomes aware of possible constraints that are linked with the policy. A claim of unconstitutionality is bound to arise as it did in 2003 when Michigan tested its pilot program for drug testing welfare recipients. Lawmakers in Michigan can be prepared for a defense using the history found within their own state. From Florida's example, policies like HB 353 reap more positive results than negative. At the very least, a drug user continues to neglect his or her duties and health as he or she is denied from welfare aid, and remains in the same position. Meanwhile, the full positive execution of the plan would allow for people who need it to get their hand up to find employment, disincentivize drug use, reduce the burden of welfare on the economy, and direct taxpayer revenue down better policy avenues. Governor Snyder: consider the outlined benefits of mandatory drug testing for welfare recipients and get Michigan moving again.

Resources

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