



 August 2002

# state

G O V E R N M E N T N E W S

*A publication of The Council of State Governments*



**Trends Alert**

Critical information for state decision-makers

# States in the Driver's Seat



**If You Are a Present or Past Owner or Operator of a Commercial, Governmental or Residential Building In the United States or Canada in Which Asbestos-Containing Products Are or Were Present, You May Have a Property Damage Claim Against the Following Entities (The "Debtors") in Bankruptcy Proceedings:**

**Federal-Mogul Corporation  
T&N Limited**

**J.W. Roberts Limited  
TAF International Limited**

**NOTE:** The above Debtors are four of 157 affiliated Debtors in the Federal-Mogul bankruptcy proceedings. While these four Debtors are the only companies affiliated with Federal-Mogul that have been sued in asbestos property damage litigation, you may assert a claim against any one of the 157 affiliated companies. Please consult the Federal-Mogul Claims Website, the Federal-Mogul Claims Helpline, or the Claims Agent listed below to obtain a complete list of the Debtors.

**Your Property Damage Claim Must Be Filed by March 3, 2003 at 4:00 P.M.**

**PLEASE TAKE NOTICE** that the United States Bankruptcy Court for the District of Delaware (the "Court") has established March 3, 2003 at 4:00 p.m., Eastern time (the "Bar Date"), as the last date and time by which claims may be filed in the Debtors' chapter 11 cases on account of damage caused by asbestos to property located in the United States and Canada (the "North American PD Claims"). North American PD Claims include claims from losses or damages to property or property interests for which any of the Debtors may be liable arising out of such things as the cost of removal, testing and maintenance, or the diminution in value resulting from any products or material containing asbestos. **All entities, including governmental units, that wish to assert any North American PD Claims against the Debtors are required to file proofs of claim on or before 4:00 p.m., Eastern Time, on March 3, 2003.**

**PROCEDURE FOR FILING PROOFS OF CLAIM**

If you wish to assert a North American PD Claim, you are required to use the Debtors' proof of claim form for North American PD Claims. **These forms can be downloaded from the Federal-Mogul Claims Website, or obtained by calling the Federal-Mogul Claims Helpline listed below.**

**ADDITIONAL INFORMATION**

Additional information about the claims process and the Bar Date may be obtained from the Federal-Mogul Claims Website, the Federal-Mogul Claims Helpline, or the Claims Agent listed below. Information about asbestos-containing products manufactured or sold by the Debtors, the known geographic regions where the asbestos-containing products were applied and the dates of such applications, and the names of the Debtors' sub-licensees who may have sold or applied the asbestos-containing products may also be obtained from the website.

**CONSEQUENCES OF FAILURE TO FILE PROOF OF CLAIM**

Any entity that fails to file a proof of claim by March 3, 2003, shall be forever barred, estopped, and enjoined from asserting any North American PD Claim against the Debtors; or voting upon, or receiving any distributions under any plan or plans of reorganization in these chapter 11 cases in respect of such claims.

You may wish to consult an attorney regarding this matter.

This is a summary notice only.

For complete information, including all relevant forms, notices and instructions, please consult:

Federal-Mogul  
Claims Website  
[www.fmoclaims.com](http://www.fmoclaims.com)

Federal-Mogul  
Claims Helpline  
1-888-212-5571

Claims Agent for Federal-Mogul  
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**on the cover**

States possess control over who has the right to possess a driver's license.  
 Cover by Jeff Bledsoe



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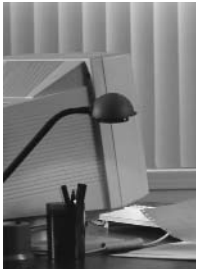
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## Court says death penalty up to juries

The Supreme Court ruled that juries rather than judges must make the crucial factual determinations that subject a convicted murderer to the death penalty, in a decision that invalidated the death penalty laws of five states and cast doubt on the laws of four others. Nearly 800 people are on death row in the nine states where judges ultimately determine sentences. Several inmates will be entitled to resentencing as a result of the court's 7-to-2 decision. In addition, state legislatures will be forced to redraft laws that

were constitutional under Supreme Court precedents before the justices changed course on the respective roles of judge and jury in criminal sentencing two years ago. In Arizona, Colorado, Idaho, Montana and Nebraska judges determine the existence of the "aggravating factors" that separate murderers eligible for death sentences from those who are not. In four other states, Alabama, Delaware, Florida and Indiana, the jury presents an advisory verdict but the judge makes the final decision.

## Justices to hear federalism case

The Supreme Court agreed to hear a major federalism case when its next term begins in October. The justices accepted an appeal filed by the State of Nevada that challenges Congress' authority to require the states to give their employees unpaid leave to deal with family medical emergencies. A decision in favor of the states would cut closer to the core of Congress' authority to enforce the equal protection guarantee of the 14th Amendment.

## Court stops executions of mentally retarded

In another death penalty ruling, the U.S. Supreme Court decided that executing mentally retarded people is unconstitutional. The opinion offers states little guidance on who must be considered mentally retarded and who gets to decide. Legislatures in 20 states allowing such executions will be forced to draft new statutes. The Court said the death penalty for the retarded should now be seen as cruel and unusual punishment that violates the Eighth Amendment. Of 38 states with a death penalty, 18 exempt mentally retarded people, up from only two when the court considered the issue in 1989.



## Portion of Pledge ruled unconstitutional

A federal appeals court ruled that reciting the Pledge of Allegiance in public schools is unconstitutional because of the addition of the phrase "under God" in 1954 by Congress. The court then stayed its own decision two days later. A three-member panel of the 9th Circuit Court of Appeals originally remanded the case to a lower court, but the stay means the case will be reviewed by either the same three-judge panel or the full nine-judge panel. If allowed to stand, the ruling would apply to schools in the nine states covered by the 9th Circuit. The U.S. Senate passed a resolution 99-0 "expressing support for the Pledge of Allegiance" and asking Senate counsel to "seek to intervene in the case."

## Supreme Court backs school vouchers

The Supreme Court approved the use of taxpayer money to send students to church schools, ruling that Ohio's voucher plan does not violate the Constitution's ban on an "establishment of religion." The 5-4 decision, coming on the last day of this year's term, upholds Ohio's tuition grant of \$2,250 that families in Cleveland can spend at private schools. Chief Justice William H. Rehnquist said the state aid program was

designed to help low-income children, not to promote religion. Moreover, the flow of money depends on "true private choice," he said. "No reasonable observer would think a neutral program of private choice, where state aid reaches religious schools solely as a result of numerous independent decisions of private individuals, carries with it the imprimatur of government endorsement," the chief justice said.

## N. J. court challenges police racial neutrality

The New Jersey state Supreme Court dismissed the conviction of a black man whose license plate was checked by an officer after the two crossed paths outside a Ridgewood



bank. Earlier legal opinions had already prohibited police officers from using the computers in their squad cars — known as Mobile Data Terminals — to target drivers based on race or ethnicity. The court said after a driver has offered evidence that he had been the target of discrimination, the burden then shifts to the state to show that the police officer's actions had been "race-neutral." The state's high court found Alan Segars had made a strong case he had been racially profiled by a Ridgewood police officer.

## States pick candidates

Five-term Alabama Rep. Earl Hilliard was ousted in a Democratic runoff in June. The victory by lawyer Artur Davis is in essence a general election win because there is no Republican nominee. Hilliard becomes the fifth incumbent congressman to lose at the polls this year. The others were Democrats Gary Condit of California, Frank Mascara of Pennsylvania and Tom Sawyer of Ohio, and GOP Rep. Brian Kerns of Indiana, who — like Mascara — lost in a race between incumbents forced by redistricting. Besides the Hilliard race, voters chose nominees in four other congressional races in South Carolina, Utah and Alabama. South Carolina Republicans also picked a former congressman to take on freshman Democratic Gov. Jim Hodges this fall. Alabama Democrats chose state Auditor Susan Parker in a runoff to face Republican Sen. Jeff Sessions this fall. In South Carolina, former Rep. Mark Sanford easily won the GOP gubernatorial nomination to challenge Hodges. Also in South Carolina, Gresham Barrett beat fellow state Rep. Jim Klauber in the Republican race to



succeed GOP Rep. Lindsey Graham, who is running for the seat of retiring 99-year-old Sen. Strom Thurmond. In Alabama, GOP Rep. Sonny Callahan's chief of staff, Jo Bonner, won the Republican nomination to succeed his boss, who is retiring after nine terms. He will face Judy McCain-Belk, who won the Democratic nomination in a district that has had a Republican congressman for four decades. In Utah, voters chose the top two nominees to succeed Republican Rep. Jim Hansen, who is retiring after 22 years. Rob Bishop, the former Utah House speaker, won the GOP nomination and advertising executive Dave Thomas won the Democratic nod. In the 2nd District, state lawmaker John Swallow won the GOP nomination to challenge Democratic Rep. Jim Matheson in November.

## State parties raising 'soft' money

A new report shows states to be skilled at soliciting the sort of unlimited donations from corporations, unions and others that will soon be off-limits



to national parties. State parties pulled in \$307 million on their own in the 2000 elections, according to the report

by the Center for Public Integrity, the Center for Responsive Politics and the National Institute on Money in State Politics. Political parties, lawmakers and lobbyists are working to figure out how to adapt to the new law, which bars national parties from raising or spending large soft money donations from companies, unions and wealthy individuals — but allows state parties to continue such activity. In addition to the \$307 million raised on their own, state parties also received \$263 million in transfers from national parties. Many of the largest state-level donors are strong Democratic backers, including the top three, the report found: The National Education Association, at

\$3.6 million; the Association of Trial Lawyers of America, at \$2.5 million; and the Service Employees International Union, at \$2.4 million. Over all, however, state-level donations appeared roughly evenly split between the parties, said Charles Lewis, executive director of the Center for Public Integrity. Lawyers donated \$20.8 million, mostly to Democratic committees. Various unions donated about \$23 million, also mostly to Democratic committees. Top Republican-leaning industries included real estate, with \$11 million in total donations; securities and investment firms, at \$8.5 million; and health professionals, at \$6.4 million.

# Plugging the holes

*States play large role in border security*

BY CHAD FOSTER

**M**ore than 500 million people are admitted into the U.S. each year through land, sea and air, according to *Securing the Homeland, Strengthening the Nation*, President George W. Bush, March 2002. It is not surprising that the flow of people and goods across our borders helps push and steer our economy forward. However, those same borders can also serve as a conduit for terrorists, weapons of mass destruction, illegal immigrants, contraband and other unlawful commodities.

In March 2002, President George W. Bush published *Securing the Homeland, Strengthening the Nation*, his strategy and focus for the FY2003 homeland security budget. Four specific policy initiatives were deemed so urgent and so important that they required immediate attention through additional funding:

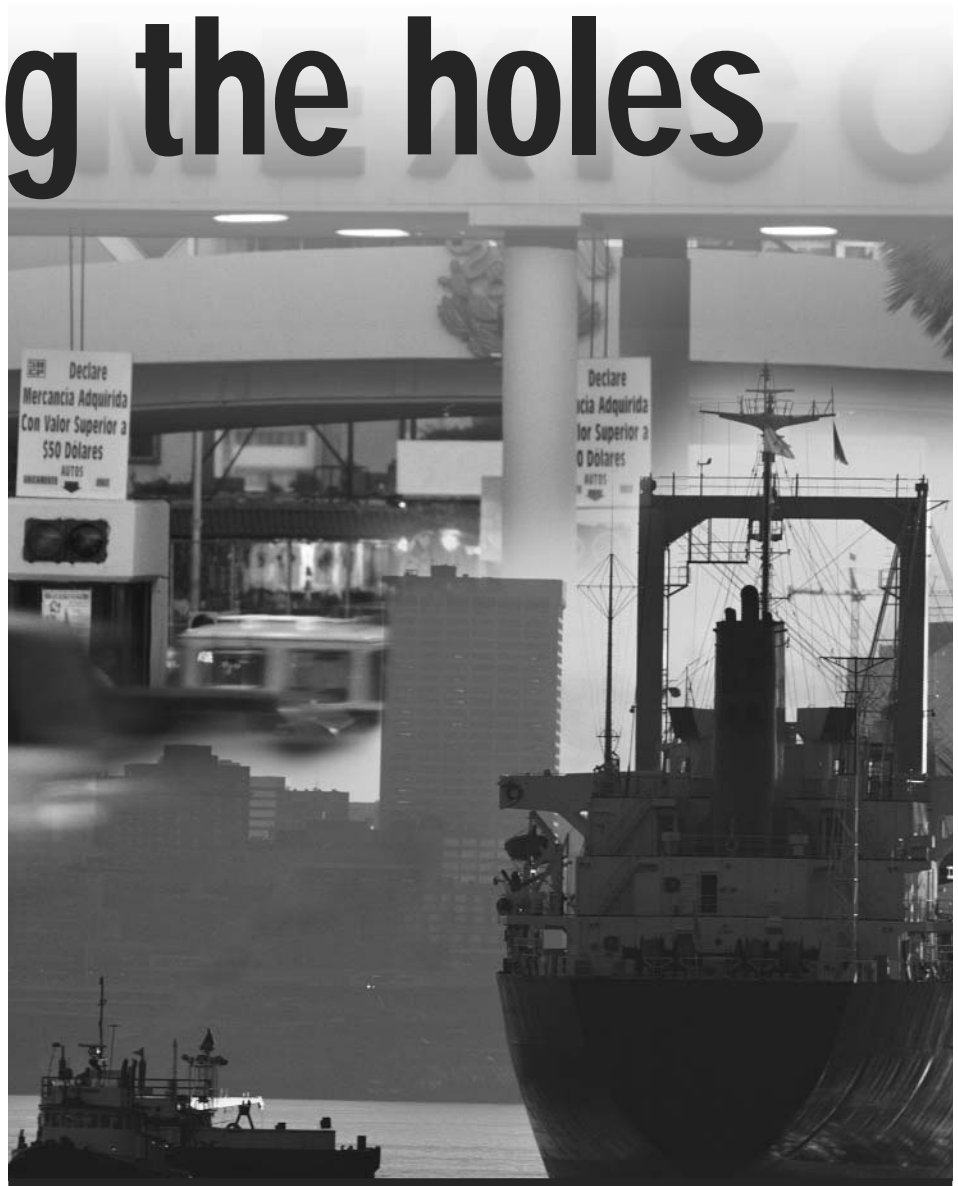
- Securing America's borders
- Supporting first responders
- Defending against bioterrorism
- Using 21st Century technology to secure the Homeland

President Bush also announced in June 2002 a plan to combine federal agencies with border security responsibilities into a proposed Department of Homeland Security.

While many federal agencies are responsible for the security of our nation's borders, state and local jurisdictions play a critical supporting and, in many cases, lead role. States are forging and fostering inter-governmental and international partnerships to identify threats, share ideas and develop multilateral solutions.

## State partnerships

The Mexico-U.S. border is notorious for drug trafficking and the movement of legal and illegal immigrants. This 2,000-mile



*Ports are a major focus of heightened border security efforts in the United States. 361 U.S. ports handle 95 percent of the country's overseas trade, according to the American Association of Port Authorities.*

stretch of border presents law enforcement, drug enforcement and customs agencies with many complex security issues. Southern border states have opened dialogues with neighboring, cross-border states in an attempt to identify security issues and to develop multilateral solutions.

California Gov. Gray Davis traveled to Mexico City in Dec. 2001 and signed a Memorandum of Understanding with his counterpart in Mexico, Baja California Gov. Eugenio Elorduy Walther. This agreement promotes and expands cooperation in many fields to include ports of border entry, infrastructure and public safety.

Likewise, the country's northern border

with Canada stretches over 4,000 miles and contains more than 100 crossing points. In response to the attacks on Sept. 11, 2001, border states are collaborating and cooperating with Canadian provinces to collectively develop and implement security solutions.

One specific example is New York's ongoing dialogue with its Canadian neighbor, Ontario. Gov. George E. Pataki met with Ontario Premier Mike Harris on Oct. 16, 2001 to discuss issues of mutual concern, including cross-border trade and increased border security.

Another example of partnerships to address border security is the International

Mobility and Trade Corridor program between Washington state and British Columbia. The partnership was formed over five years ago to address international commerce issues but has recently served as a medium to discuss border security and trade issues since Sept. 11.

### Regional partnerships

Another way states are playing a critical border security role is through regional partnerships. The Council of State Governments (CSG) held a forum, Border Legislative Initiative (BLI), in March 2002 for both Mexican and U.S. state lawmakers. This forum is the start of an ongoing policy dialogue between states sharing similar security concerns. The forum also addressed other border issues such as commerce, environment and quality of life.

The Northwest states have also entered into partnerships to address security con-



*State legislators from the U.S. and Mexico gather for an unprecedented forum to discuss enhanced border security in the wake of Sept. 11th.*

cerns. The region relies heavily on trade with Canada as a critical source of revenue. At least one in four Washington state jobs is linked to international trade, and Canada and the U.S. are the largest trading partners in the world.

A Northwest Freight Conference was held in Oct. 2001 in Seatac, Washington for members of both public and private interest groups. The purpose of the conference was to address security concerns following

Sept. 11, 2001, to highlight successful freight partnerships that have made the Northwest a national model, and to establish priorities for freight mobility and security investments.

The Northwest region was selected by the Federal Highway Administration as an area where agencies craft new public-private partnerships, intergovernmental cooperation and technology to deal with freight problems. Examples include the

## CSG Forum looks at border security vs. trade

In the wake of the Sept. 11 terrorist attacks, governments on both sides of the U.S.-Mexico border have stepped up security at ports of entry. One drawback of enhanced security however, appears to be increased waits and reduced border crossings to the detriment of trade and tourism. That's according to public and private sector representatives from the U.S. and Mexico who briefed state legislators from both nations at the inaugural forum of CSG's Border Legislative Initiative (BLI).

The March 18-19 forum in San Diego attracted participants from nine of the 10 U.S.-Mexico border states. Lawmakers from Arizona, California, New Mexico and Texas joined with their counterparts from Baja California, Chihuahua, Coahuila, Sonora and Tamaulipas for this unprecedented gathering of border legislative officials. California Assemblywoman Charlene Zettel chaired the briefing convened by CSG's Southern Border Committee. Texas Sen. Jeff Wentworth is vice chair of that committee.

Maquiladora industry and Border Trade Alliance spokespersons told legis-

lators that heightened security measures have slowed border crossings and disrupted economic activity along the U.S.-Mexico border. Jaime Gonzalez Luna, representative of the Maquiladora Industry Association of Baja California, reported that despite efforts by U.S. Customs officials to keep border waits to a minimum, passenger vehicles, commercial vehicles and pedestrians all experienced increased border delays since Sept. 11.

Jayson Ahern, Director of the southern California Customs Service, told participants that the solution to border delays lies in advanced technology, modernized ports of entry and more law enforcement personnel.

The War on Terrorism along the southern border also has helped to crack down on illegal drug transportation, said Jorge Villalobos of the Mexican Attorney General's office in Los Angeles. Other Mexican officials, however, are worried that the increased use of Mexican military and police checkpoints actually created a sense of insecurity among local residents.

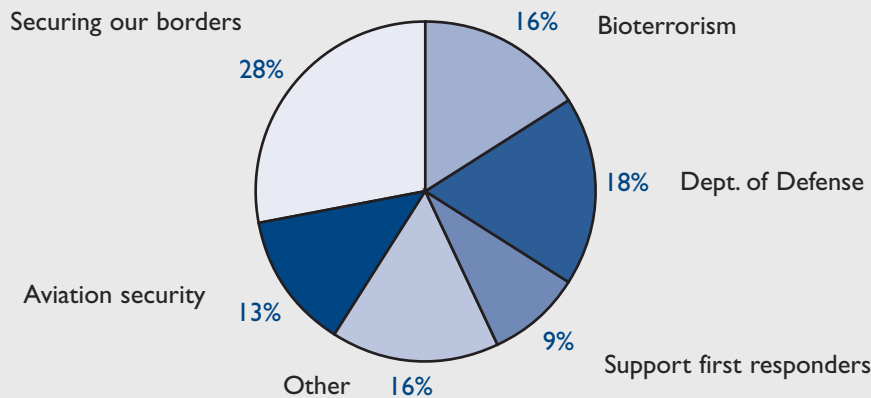
Legislators heard from speaker

Carlos Borunda, vice chair of the Foreign Affairs committee in the Mexican Congress, who said the U.S. and Mexico have built a solid commercial relationship framed by the North American Free Trade Agreement. Federal officials have set the ground rules, he said, but state legislators are closest to the realities faced by the border region.

The Border Legislative Initiative (BLI) is an effort by CSG-WEST and its Southern regional partner, the Southern Legislative Conference (SLC), to establish ongoing policy dialogue among state legislators on both sides of the U.S.-Mexico border. BLI will give legislators a forum to share ideas about the many challenges and opportunities along the U.S.-Mexico border. The initiative is made possible by a grant from the U.S. Agency for International Development to The Council of State Governments.

— *Edgar Ruiz is the Southern Border Program Manager for CSG-WEST. For more information about the Border Legislative Initiative, contact Edgar Ruiz at (916) 553-4423 or er Ruiz@csG.org.*

## Homeland Security Strategy Distribution of FY2003 Budget



Source: *Securing the Homeland, Strengthening the Nation*, President George W. Bush, March 2002.

FAST Corridor partnership to improve freight movement through the central Puget Sound region, the Regional Freight Mobility Roundtable, and work by the Freight Mobility Strategic Investment Board.

### Intergovernmental partnerships

In addition to lateral partnerships, states are forging intergovernmental partnerships to secure the nation's borders. In March 2002, New Hampshire Gov. Jeanne Shaheen announced the Operation Safe Commerce initiative to improve border security while keeping free trade flowing. State officials have been working with fed-

eral officials to make New Hampshire a test site for the Operation Safe Commerce prototype, a new approach to border security. Federal partners include the Coast Guard, the U.S. Customs Service, the Immigration and Naturalization Service, the Border Patrol, the U.S. Marshal in New Hampshire, and the U.S. Attorneys in Vermont and New Hampshire. A public-private partnership was formed with The Volpe National Transportation Systems Center in Cambridge, Massachusetts to test the Operation Safe Commerce prototype.

On a larger scope, the attacks on Sept. 11 prompted the signing of a Memorandum of Cooperation on Border Security and Regional Migration Issues on Dec. 3, 2001 between Canadian and American officials. This accord strengthens Project Northstar, an initiative to improve communication and coordination between American and Canadian law enforcement agencies. This memorandum also called for the expansion of Integrated Border Enforcement Teams and multi-agency law enforcement groups, consisting of Canadian and American representatives at federal, state and local levels.

### Ports

Border security assessments following Sept. 11 revealed significant vulnerabilities along America's water borders, specifically at seaports. A total of 361 U.S. ports with 3,700 terminals handle 95 percent of this country's overseas trade, support the mobilization and deployment of U.S. Armed Forces, and are departure points for mil-

lions of cruise passengers. Of the more than two billion tons of freight, the majority of the cargo is shipped in containers from ships onto trucks and railcars and immediately sent out on our highways and rail systems. Vulnerability assessments found that only 2 percent of those containers are ever checked by Customs or law enforcement. With the expectations that maritime trade will double by the year 2020, port security will grow increasingly important, according to the American Association of Port Authorities, Nov. 21, 2001.

Public port authorities and state and local government agencies are playing an increased role in the security of these critical ports. Partnerships between federal, state and local authorities are required to sustain a heightened level of security at ports.

The Port and Maritime Security Act (federal legislation introduced in 2001) will establish port security task forces, law enforcement subcommittees and local port security committees. The law enforcement subcommittees are comprised of federal, state, and local government law enforcement agencies to address port security issues, including resource commitments and law enforcement sensitive matters.

Local port security committees consist of representatives from the port authority, labor organizations, the private sector, law enforcement, and from the federal, state and local governments. The purpose of these committees is to plan and coordinate port security activities, make recommendations for the port security evaluations, review security plans annually and conduct field security exercises at least once every three years.

### Leading and supporting roles

State and local agencies play a critical role in securing our nation's borders despite the lead role of the federal government. States and regions are taking a proactive lead in building intergovernmental and international ties to identify threats, share ideas and develop multilateral solutions. These ties will help combat terrorism in the 21st century. ★

— Chad S. Foster is a policy analyst in the Public Safety and Justice Group at The Council of State Governments.

## Securing ports

The U.S. Department of Transportation recently awarded \$92.3 million in grants to 51 ports located throughout the nation to enhance security. The grants will fund enhanced facility and operational security, security assessments, and "proof-of-concept" projects, which will explore the use of new technology, such as electronic seals, vessel tracking and electronic notification of vessel arrivals, to improve maritime security.

Source: *U.S. Dept. of Transportation*, June 17, 2002.

# Show me the money

*Budget shortfalls dominated the 2002 legislative sessions*

BY GARY MOYERS

**M**oney — or more specifically, the lack of it — was the driving force behind much of the legislation passed by state legislatures during the 2002 sessions. A sharp downturn in the nation's economy, coupled with unexpected rises in homeland security expenses, hit the majority of state governments right in the pocketbooks.

In fact, the National Association of State Budget Officers (NASBO) reported in June that 47 states faced budget shortfalls totaling just over \$40 billion. Thirty-nine of those states acted to reduce budgets by \$15 billion, tapped Rainy Day and Emergency accounts and made transfers from other reserves to balance their budgets.

According to the National Governors Association (NGA), states that collect income taxes showed a decrease of \$14.5 billion in the first three months of 2002. Overall tax collections were down by 21 percent in April compared to the same month in 2001, while at the same time the average tax refund rose by 8 percent for the same time period.

Illinois ended the fiscal year on June 30 with a balance of nine cents in its general fund. Wisconsin's coffers showed a 27-cent balance.

The ripples from the budget problems spread outward to affect most areas of legislation passed or considered in the states and territories this year, forcing many legislatures to consider or enact spending cuts across the board. NGA reported that 26 states used across-the-board spending cuts, 22 used rainy day funds, 11 laid off state employees, three states implemented early



*States spent a great deal of their 2002 legislative sessions dealing with revenue shortfalls and budget cuts.*

retirement programs, 10 states reorganized agencies and programs, and 33 used a variety of other methods.

## **Balancing the budgets**

Eleven states called special sessions to enact budgets, and some of those budget battles were tougher than others. Tennessee dealt with a partial government shutdown when legislators failed to pass a budget by the July 1 deadline. Gov. Don Sundquist

signed an emergency decree to fund essential emergency personnel during the shutdown, but more than 22,000 state workers were told to stay home for three days before a budget was passed in the early hours of July 5.

Kentucky failed to draft a budget despite two special sessions after a compromise couldn't be reached on a public campaign financing provision. Gov. Paul Patton enacted emergency spending powers on July 1 to fund essential state services, and a

lawsuit by the state treasurer was filed in the state Supreme Court to determine his authority to do so.

California began the new fiscal year facing a \$23.4 billion deficit – and no budget. State Supreme Court decisions in the early 90s allow the state to keep operating on an emergency basis while lawmakers attempt to pass a budget.

Connecticut lawmakers passed a \$13.2 billion budget at the last minute on June 30 to avert a shutdown. The budget contains the state's first tax increases in 10 years, including a 61 cents-per-pack cigarette tax increase, to make up for a projected budget deficit in the next two years.

New Jersey, Oregon and Pennsylvania all passed new budgets just hours before the new fiscal year began on July 1. All three raised cigarette taxes, while Washington State laid off 419 workers to help make financial ends meet.

### **Homeland Security**

A poll of the nation's governors said anti-terrorism measures would cost the states collectively at least \$4 billion in 2002, and state governments scrambled to fund emergency management programs. Congress passed a comprehensive \$3.5 billion homeland security bill in June, with an additional \$1.1 billion anti-bioterrorism funding measures, but the money won't be released to states until October.

"The budget crisis has been exacerbated by the homeland security effort obviously," said NGA spokesperson Ann Beauchesne. "What we're seeing is states tapping into their rainy day funds, tightening their belts, and what we're seeing is that some states are letting their departments run a deficit as long as they are dealing with homeland security."

Wisconsin shifted money from its highway safety program to homeland security. Georgia enacted legislation that gives law enforcement agencies broader powers to conduct wiretaps and listen to cell phone conversations. Iowa made the possession of anthrax spores a crime. All states and territories passed homeland security legislation of some kind, from creating state homeland security director posts to designating various acts as "terrorist" acts and establishing the penalties for committing them.

Alabama, Delaware, Iowa, Florida, Maryland, Michigan, Missouri, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia, Washington and Wisconsin passed laws to create or define crimes of terrorism. In Minnesota, the "Anti-terrorism Act of 2002" declared the intent of the Legislature to "empower state and local law enforcement and public safety personnel with the tools necessary to fight and respond to terrorism." Bills in Kentucky, Pennsylvania, South Carolina and Wisconsin addressed mandatory penalties for terrorism crimes. Penalties for terrorist hoaxes or false reports were passed in California, Delaware, Illinois, Pennsylvania, South Dakota, Utah, Virginia and Washington. Michigan and West Virginia passed measures late in 2001 regarding biological or chemical hoaxes. Victim compensation laws were passed in Delaware and Ohio.

### **Education**

Higher education took big hits in states' budgets this year. The National Council of State Legislatures (NCSL) said eight states, including California and Florida, cut spending for higher education while others such as Oklahoma and Massachusetts trimmed money from the financial aid and sports program budgets. NCSL estimated that nationwide the cost of tuition at public universities would increase by 7.7 percent to offset the funding cuts.

Public education in the K-12 area was not immune to the budget fallout. Many school districts in Kentucky were forced to hand out pink slips to teachers due to the lack of a state budget, and many other local districts in states were awaiting word on how much they would receive when final budgets are enacted.

It wasn't all bad news for education, however. Louisiana enacted a \$10 million program that helps certified public school teachers obtain low interest rates on home loans and offers subsidies for the purchase of new homes.

### **Medicaid and prescription drugs**

Medicaid now accounts for 20 percent of states' budgets, according to NASBO, and health care for employees and programs for the elderly comprise another 7

percent. And the rate of inflation – between 11 and 12 percent – means states are trying to fund a growing program while revenues decline. In 2002, NGA reported that 28 states experienced shortfalls totaling \$7.1 billion in their Medicaid budgets.

Several states, including Massachusetts, moved to lower provider-reimbursement rates. NASBO reported that Arkansas, Florida, Illinois, Indiana, Kentucky, Maine and Washington made funding cuts to Medicaid programs ranging from \$13 million (Arkansas) to \$48.6 million (Florida). Prescription drug prices rose at an even higher rate – 12.5 percent – in 2001 than Medicaid, according to NASBO. So far in fiscal 2002, NASBO projects that in the states, general fund Medicaid costs are exceeding budgeted amounts by more than \$1.3 billion.

Missouri and Louisiana each passed legislation aimed at curbing the rising costs of prescriptions, but Louisiana's legislation faced a court test over its constitutionality.

### **Insurance**

Insurance rates skyrocketed following Sept. 11, but rising costs were evident even before. Of particular concern to states was the rising cost of malpractice insurance for health care providers, and several states made moves in 2002 to curb the increases. The American Medical Association released figures stating insurance companies have raised the liability premiums to doctors by 79 percent in the last decade.

The Pennsylvania Legislature in March approved a malpractice insurance bill aimed at lowering doctors' premiums. The bill, signed into law, gives judges more power to lower damage awards to injured patients.

About 1,300 of West Virginia's 3,500 doctors were insured by St. Paul Cos. when that company announced it was quitting the business. The West Virginia Legislature responded with a state-run plan with a bill intended to ensure doctors could get and afford insurance.

### **Taxes**

The majority of legislatures shied away from tax increases, instead focusing on ways to balance their budgets through cuts and creative financing. Cigarettes, howev-

er, were a revenue target in seven states, and sales taxes were raised in Tennessee and North Carolina.

Smokers in six states paid more for their habit beginning July 1 when cigarette taxes increased. New Jersey raised the tax by 70 cents per pack. Oregon increased the tax by 60 cents per pack, Vermont by 49 cents, Kansas by 46 cents, Indiana and Illinois by 40 cents, Ohio by 31 cents and Louisiana by 12 cents. Pennsylvania tripled its cigarette tax to \$1 per pack and raised landfill-dumping fees. Four additional states will see increases beginning later this year.

Wisconsin moved the funds from its share of the tobacco Master Settlement Agreement into its general fund to offset budget shortfalls, while other states moved to securitize the money, in effect borrowing



*States looked at tobacco money as a way to offset budget shortfalls.*

against future payments. New Jersey, South Carolina and Washington passed measures to that effect, while legislatures in at least nine other states were investigating that route this year. A TrendsAlert by The Council of State Governments (CSG) in March projected that the states' shares of the Master Settlement Agreement would come up \$14 billion less than initially projected over the next nine years.

Kansas increased inheritance, sales and business taxes in an attempt to raise \$252 million to offset a budget shortfall. New Jersey imposed a \$2 per day per vehicle charge on car rental agencies. And New Jersey's Gov. James McGreevey said he would call that state's lawmakers into special session after July 4 to consider a \$1 billion business tax overhaul that he said was necessary to balance the budget.

Gaming initiatives were debated in at least 17 states, and promise to be a hot topic when new sessions meet next year.

### **Redistricting**

Eight states are losing one seat apiece in the U.S. House of Representatives based on reapportionment after the

Census of 2000. Those states are Connecticut, Illinois, Indiana, Michigan, Mississippi, Ohio, Oklahoma and Wisconsin. Two states, New York and Pennsylvania, are losing two House seats. Arizona, Florida, Georgia and Texas each gained two seats, while California, Colorado, North Carolina and Nevada each gained one seat.

State legislatures in nearly all the states across the country went to work to redefine districts, and challenges to the plans in Michigan, New York, Florida and South Carolina went to the state Supreme Courts.

### **Other legislation**

Death penalty laws changed in Indiana and Alabama. Indiana raised the minimum age for execution from 16 to 18, and Alabama changed its method of execution to lethal injection. Other states will be forced to rewrite death penalty laws after June decisions by the U.S. Supreme Court struck down executions of the mentally retarded and gave sentencing responsibilities to juries rather than judges.

A scandal at a Georgia crematorium early in the year prompted that state to enact legislation ensuring crematoriums are subject to inspection, and abandonment of a corpse was made a felony.

Mississippi, South Dakota and Wyoming lowered their legal intoxication limits from 0.10 percent blood alcohol content to 0.08 percent. That lower figure is now embraced by 32 states and conforms to a federal standard required by Oct. 2003 for states to avoid losing some highway construction funds.

The sexual abuse scandal in the Catholic Church prompted action in state legislatures regarding the reporting of suspected abuse. Four states – Colorado, Illinois, Massachusetts and Missouri – passed laws that specifically require the clergy to report abuse to law enforcement agencies. Eleven other states already had that requirement, while 18 states currently require everyone to report abuse.

Election reform was a hot topic after the 2000 Presidential election and its associated controversies, but Sept. 11 and the budget crises pushed many states' proposed actions to the back burner. Georgia legislators voted to install new, state-of-the-art ballot machines this year, while



*Education faced budget cuts as states grappled with an economic downturn.*

Florida passed reform legislation aimed at avoiding problems that surfaced in 2000.

Campaign finance reform was a topic at state capitols, particularly after the U.S. Congress passed nationwide reform legislation in March that would ban soft money given to the national political parties by individuals, corporations and special interests. Two states – Alaska and Connecticut – passed laws banning soft money contributions to state parties. Twenty-three others passed public financing measures of one kind or another. Arizona, Maine, Massachusetts and Vermont passed bills to replace their existing systems with taxpayer financed campaigns.

### **More pain coming**

The pain state legislatures felt this year when dealing with budgets isn't over. Until an economic recovery is felt at the state government level, legislators likely will be dealing with creative budgeting for at least another session.

"Governors are dealing with unprecedented fiscal pressure," said National Governors Association (NGA) Executive Director Raymond Scheppach in a published interview. "Even as the economy turns around, the state budget forecast will remain stormy since revenue growth lags the recovery by at least 12-to-18 months. Additionally, ballooning Medicaid costs and the structural problems states have in their tax base will continue to undermine a recovery in state revenues."

"There is likely to be some pain continuing," said Nicholas Jenny, policy analyst at the Nelson A. Rockefeller Institute of Government. ★

—Gary Moyers is the Associate Editor of *State Government News*.

# Less money, more service

*NASTD members asked to do more, save more*

BY WAYNE HALL

State IT budget cutbacks are difficult to measure since the vast majority of states do not use any general funds to subsidize their operations. Instead, IT spending may be measured in staff furloughs, fewer capital expenditures and reduced demand for goods and services provided by National Association of State Telecommunications Directors (NASTD) members to client agencies.

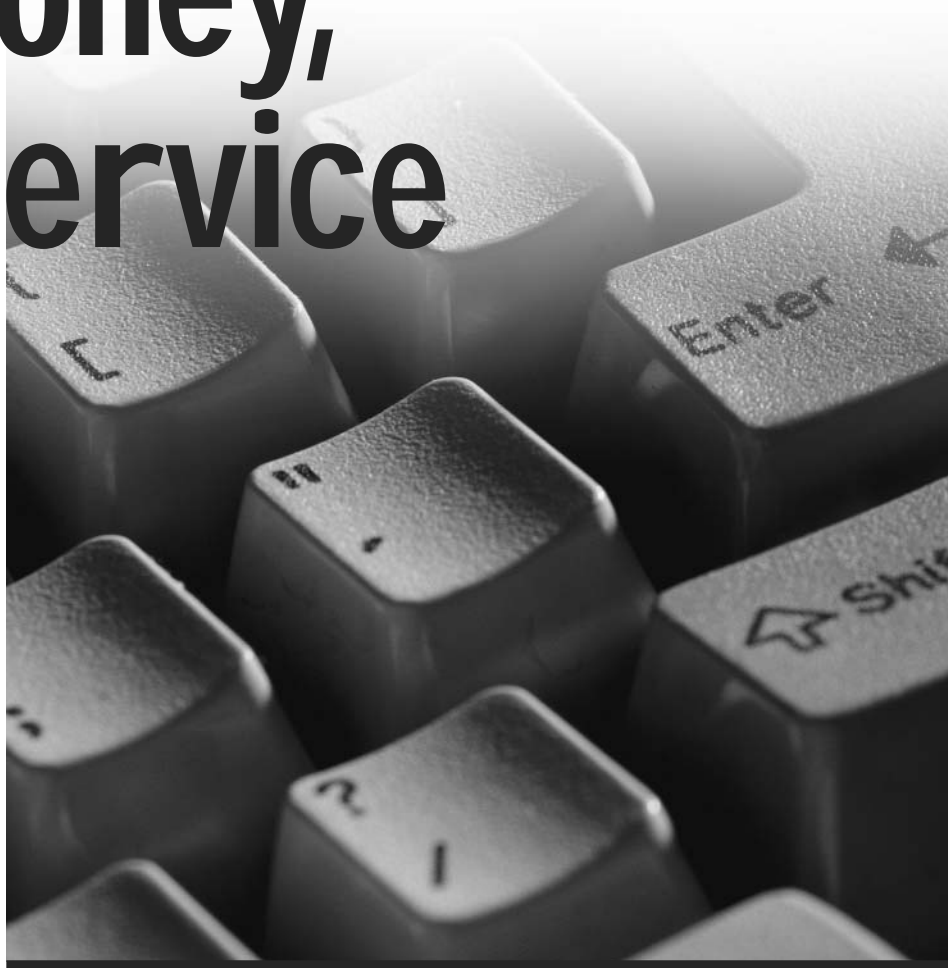
Last fall a survey by NASTD revealed that a majority of states were not looking to trim IT spending at that time. A majority of state IT agencies were, in addition, not anticipating reductions in client agency demand for services.

State information technology managers were recently asked to answer the same questions. Were their IT budgets being affected by the economic downturn? Did they foresee slackening demand for their services among client agencies? In general, the answers were “yes” and “yes.”

## Making the trains run on time

*Governing Magazine* columnist Thomas R. Davis suggested in February, among other concerns, that real-time government, commonly referred to as e-government, secure mission-critical infrastructure and wireless applications are driving IT investment now. Anecdotal evidence from recent NASTD meetings in Seattle, Washington and Portland, Maine supports that view.

NASTD members, who are responsible for managing critical communications



*A majority of respondents to an NASTD survey regarding IT spending identified reduced or deferred equipment purchases as a way to achieve savings.*

infrastructure for the states, are particularly concerned about making that infrastructure as safe and secure as possible while citizens demand anytime, anywhere government access.

## State budgets: More debt, more taxes

States have been playing budget catch-up since the fall of 2000. According to the National Association of Budget Officers (NASBO), the states passed FY 2001 budgets, cut nearly \$2 billion from them later that fiscal year, budgeted much more modest increases for FY 2002 and have watched revenue fail to meet even those expectations.

According to a December 9, 2001 survey by Dibya Sarker of NASBO, 35 states faced a total budget shortfall of more than \$25 billion for the 2002 fiscal year — the

worst since 1992. Since then, revised projections show 42 states facing a combined \$40 billion in revenue shortfalls for FY '02.

To meet declining revenue, states collectively have enacted the first tax increase in seven years. According to NASBO, the states combined “enacted net tax and fee changes [increases in] fiscal 2002 revenues by \$303.8 million,” meaning “Fiscal 2002 ended seven consecutive years of net tax reductions that began during the surge in economic growth during the ‘90s.”

## Competing priorities

State budget obligations put a heavy burden on discretionary spending. Health care and Medicaid obligations, for example, account for roughly one quarter of all state expenditures, second only to education funding, according to NASBO.

Federal tax cutting efforts also hurt state treasuries. For example, in 2001 Congress phased out the federal portion of the estate tax over 10 years, but the legislation eliminated the states' share more quickly. The loss to state treasuries is estimated to be about \$1.8 billion in fiscal 2003. The loss over the next 10 years is projected to be \$50 billion or more, said NASBO in a fiscal report.

Since a state "revenue recovery" lagged the 1991 recession by more than a year, NASBO believes state revenue is likely to suffer well into 2003, particularly as obligated spending continues to increase.

### Corporate IT flat

Data from early 2001 was comparatively bullish regarding business IT investment, according to Carolyn Marsan in an article in *Network World Fusion* in July, 2001. In 2002, however, analysts are predicting businesses will hold the line on spending in favor of maximizing the usefulness of existing hardware and infrastructure.

CNET says "Businesses plan to spend less on e-business technology this year and make the most of what they've got before they resume shopping, according to a sur-

## Just the facts

NASTD members have embarked on an effort to catalog, describe and report on the information technology infrastructure in all state governments. The organization developed a searchable Web-based database of state technology, services and IT management to which state members of NASTD contribute data at any time. That data is available 24/7 in the form of customizable reports answering questions that begin, "What states...?" Initial testing of that database has begun. More critical answers to questions of budget, infrastructure and the management of state IT resources will be forthcoming.

vey of 900 companies released by Forrester Research.... Forrester defines e-business technology as hardware and software used for facilitating communication and commerce among a company and its trading partners (*source: Companies on IT Diet in 2002 by Alorie Gilbert, CNET News*).

### State IT spending?

Since most central state IT agencies are completely funded by user fees, they must rely on that business to generate revenue. Instead of cutting appropriated funds, legislatures ask state information technology agencies to freeze hiring, cut or fire employees, defer or reduce IT purchases or put off new contracts.

Indeed, when asked if state budget cuts were affecting the IT agency, a substantial majority of respondents answering "yes" also identified "reduced or deferred equipment purchases" as a way to achieve savings.

One could infer that general economic weakness would affect general fund receipts, which in turn might impact that portion of state budgets appropriated to client agencies. One way to measure IT investment would be to ask the providers of information technology, NASTD members, his or her impression of demand.

Since the 2001 survey, state information technology "consumer sentiment" has deteriorated. While five of 23 states expected client agencies to spend less on NASTD member services in 2001, the updated survey shows that 11 of 23 states now actually do spend less.

The Center for Digital Government suggests state and local IT spending will increase slightly - in contrast to state budgets as a whole. The emphasis on homeland security issues, public safety and wireless communications may help sustain state IT spending.

NASTD data casts some doubt on that assessment. Since NASTD members largely operate on a fee-for-service basis, a reduction in demand for those services could harm future investment in IT infrastructure and services vital to electronic government. National priorities such as homeland defense could alter that picture, particularly if a substantial portion of that money comes from the federal government.

### On the front lines

Gail Wekenborg, Deputy Director, Missouri Division of Information Services, offers this view: "Most agencies are experiencing a 25-to-40 percent reduction in [general revenue] appropriations. Needless to say, that means their ability to pay our bill is being reduced. Nothing has been taken out of the revolving fund spending authority, however. My response to the situation is to review the Data Center budget. We have paid off hardware this year to reduce expenses next year. The Commissioner of Administration has asked that we develop a "Hints" brochure for agencies which might help them reduce or at least control telecommunications costs. We are doing that. Not rocket science but things like [making sure] the lines you pay for are really in service, [using] an 800 number for remote staff to call in rather than have them use cell phones.... Many agencies have had a FTE reduction. We have not."

In Nebraska, Brenda Decker, Director of the Division of Communications, said, "the Nebraska Legislature just cut \$265 million from total state spending over the past nine months. We don't anticipate any huge cuts from our agencies in the IT area other than in areas where facilities were closed. However, agencies have some discretion on how they distribute their spending cuts. If they decide to eliminate additional programs or functions, there is no way that we won't see a decrease in our operations."

### Conclusions

State telecommunications and technology managers may experience shortfalls in their agency revenue because of general fund cuts faced by their clients. Those being asked to save money are often deferring equipment purchases. NASBO suggests that a state "fiscal recovery" may lag the national economy by 12-18 months. State IT spending may similarly lag the national economic recovery. ★

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— Wayne Hall has spent the past 14 years working with NASTD - the Association for Telecommunications and Technology Professionals in State Government. The full NASTD survey may be viewed at [www.nastd.org/library/documents/bg2002mayjune.pdf](http://www.nastd.org/library/documents/bg2002mayjune.pdf)

# The 2002 Farm Bill

*Is it farmer welfare  
or a consumer subsidy?*

BY CAROLYN ORR

**A**griculture is an essential part of America's security, economy and way of life. The food and fiber industry creates 25 million jobs, 15 percent of the U.S. Gross Domestic Product (GDP) and is larger than construction, transportation and utilities combined. Governmental farm policy, while it costs just over 0.5 percent of the U.S. budget, has important implications with regard to other budget items.

In November 2001, The Council of State Governments (CSG) convened a forum on the 2002 Farm Bill from which a series of recommendations entitled "Providing Food Security and Renewable Energy to America" was released. Many of these recommendations were addressed in the legislative conference report that was enacted as the "Farm Security and Rural Investment Act of 2002" (Farm Bill). It became law early in May, and quickly became the subject of debate from all sides. Critics assailed it for everything from its cost to benefits distribution, but these complaints have been heard about every farm bill ever enacted. The 1996 Freedom to Farm bill was supposed to decrease subsidies, reduce regulations and increase trade, while in reality there are more regulations, markets did not increase and emergency assistance programs totaled \$30 billion over the last four years. The majority of criticism of the 2002 bill has been aimed at the Commodity Title, while ignoring other features of the new legislation.

## Keeping food prices low

Members of the agricultural communi-



*"Farming looks mighty easy when your tractor is a pencil, and you are a thousand miles away from the corn patch." President Dwight Eisenhower in reference to Uncle Sam taking up farming, Sept. 1956.*

ty have tried not to react defensively to the criticism. Farmers realize that there is a great disconnect between producers and consumers, the so-called gate-to-plate distance. "The whole U.S. economy is based on a cheap food policy," said Chad Sullivan, who raises row crops in partnership with his father and grandfather in rural Kentucky. "It is not realistic to expect farmers to get all their income from the market, because of our stance in the past, we have lost market opportunities to countries like Brazil and Argentina who could undersell us. The public may not like subsidies, but they don't want higher food prices either. Politically, it's easier this way."

The U.S. farm policy is intended to keep most of America's food coming

from American farmers while keeping food prices low. Kentucky Commissioner of Agriculture Billy Ray Smith says the distaste for the farm bill would be nothing compared to the public outcry if food inflation and availability suddenly became a problem. "In the United States we have a very cheap food policy," said Rep. Jo Ann Emerson (Mo), during Congressional consideration of the Act. "Consumers spend 11 cents of every dollar on food, while in Europe they spend about 22 cents. In Russia they spend 50 cents."

State officials need to be aware of the opportunities available in the different titles of the 2002 Farm Bill, and how to maximize the legislation for their communities. According to USDA Secretary

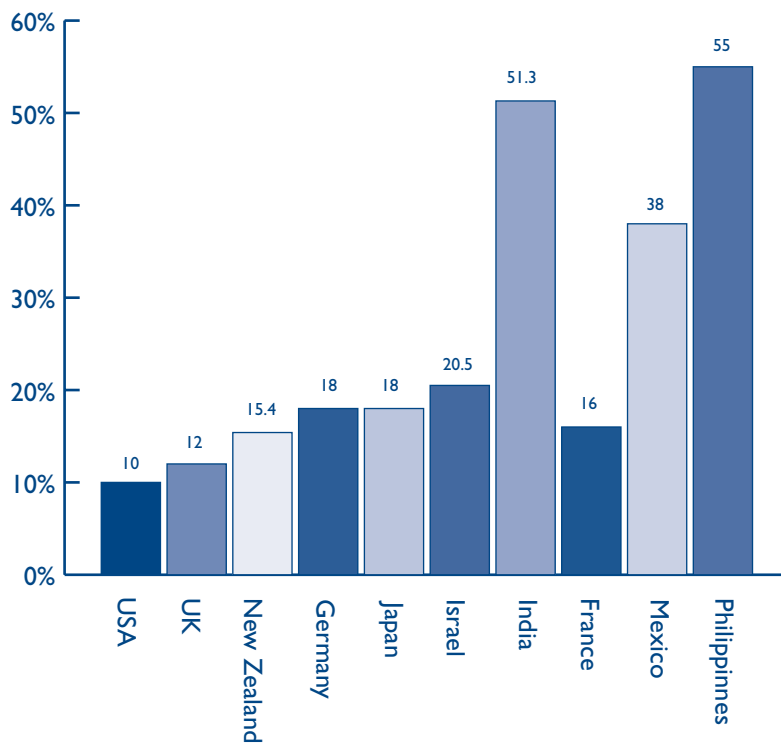
Ann Veneman, “The new bill will bring much-needed stability to farmers and ranchers as they conduct their business. It creates a new system of counter-cyclical payments based on market prices in relation to target prices. It provides a record level of support for conservation, and it adds new programs to preserve wetlands and improve soil and water quality.”

The state legislative and executive branch officials who participated in CSG’s Farm Bill Forum recommended that the 2002 farm bill strengthen the safety net for America’s agriculture producers. According to Kansas Sen. Steve Morris, it is “not a perfect bill but it does provide a safety net for farmers.” In his region, “90 percent of the farmers would be out of business if it weren’t for government payments and crop insurance” (that safety net includes the first time ever counter-cyclical dairy payment for 2.4 million pounds of milk produced – approximately the yield of 135 cows.

The 1996 Bill authorized direct payments with little relationship to the level of farm prices, which resulted in emergency bills to supplement farm incomes. The 2002 bill’s dairy program safety net, like those of other commodities, is more closely tied to the performance of the farm economy. Under the new farm bill, producers of wheat, corn, sorghum, barley, oats, cotton, rice, soybeans, peanuts, peas, lentils, sugar, honey, wool and mohair are provided with loans, loan deficiency payments or counter-cyclical payments to allow them to manage their operations with less uncertainty and risk. While program spending may be higher over the life of the new farm bill, this is due to lower expected farm prices, not a large increase in the structure of support, with forecasted costs being virtually identical to that spent from 1998-2001.

This price support system generates most of the complaints. The outcry from international trading partners was immediate and intense in response to the levels of commodity support provided. The fact is, it is compatible with our existing trade agreements under the World Trade Organization. The WTO figures show that 22 percent of American farmers’ income comes from the government. European Union farmers average 38 per-

## Percent of income spent on food



*U.S. citizens spend a smaller percentage of their total budget on food than residents of any other country, according to the United States Department of Agriculture.*

cent and are subsidized at an average of \$300 per acre compared to \$40 for U.S. farmers.

The bill contains the largest conservation funding increase in history, significant gains for food stamps and nutrition, more resources for agricultural research, increased incentives for renewable fuels production, and a strengthened commitment to rural communities, all within the limits of the Congressional Budget Resolution.

### Feeding the needy

The farm bill includes the food stamp program and other emergency food assistance programs that have often been administrative quagmires for states. These programs are extended and expanded under the provisions of the 2002 bill. Altogether, nutrition program spending is increased by \$6.4 billion above baseline levels. These programs serve “the children, the elderly, and the working poor, most of whom live in urban areas,” said Sen. Marge Kil Kelly of Maine. She said, “the expansion of a pilot program that has been providing seniors

and WIC recipients with free vegetables from farmers’ markets improves the diet of consumers and the profitability of farmers’ markets in the Northeast.”

The legislation also offers states a transitional food stamp that would eliminate paperwork requirements for those families moving from welfare to work. States’ flexibility is increased under the new legislation, while reducing the federally required paperwork. The bill also provides states the opportunity to align definitions of income and resources in the food stamp program with the ones used for Medicaid. This will give states the authority to align eligibility.

One of the most profound reforms to the food stamp program is the new direction for the quality control system. The new system eliminates the current law that puts half of the states under sanctions each year. Now the USDA will focus its energies on states with persistent payment accuracy problems.

### Cleaner water and air

While much of the criticism is focused on the Commodity portion of the Act, its



future success or failure actually lies in the Conservation, Rural Development, Energy and Research Titles. Many of our international trading partners avoid WTO review by assisting farmers through conservation funds. The 2002 Farm Bill follows this pattern, providing an 80 percent increase in conservation spending. Agricultural producers are facing ever-increasing environmental concerns and regulations with issues like air and water quality affecting decisions made at every opening of the farm gate. The public officials attending the CSG Forum in November strongly recommended that the new farm bill provide a variety of flexible conservation programs. The new bill addresses environmental concerns on a whole farm basis through a large increase in flexible conservation spending.

According to Commissioner Smith, "helping farmers become better stewards of their environment helps everyone, and with the new Conservation Security Program the public that benefits from cleaner air and water will help carry the financial burden." Previous farm bills stressed land retirement programs as a way to achieve environmental goals, often affecting rural communities. When farmers had to forgo producing or harvesting crops near creeks and rivers to maintain water quality, the farmer paid the price. Under a separate Credit Title, a beginning farmer and rancher development program and a pilot program for contract land sales have been initiated to provide opportuni-

ties for beginning and disadvantage farmers to get into farming.

The 2002 legislation provides almost one billion dollars to states for farmland conservation. The attendees at the CSG Forum were unanimous in supporting the reauthorization of this program. According to the American Farmland Trust, states have already preserved over 900,000 acres from development. This new infusion could help slow urban sprawl and keep family farmers in business. According to Sen. Kilkelly, this program is critically important due to pressure on aging farmers to fund their retirement by selling their producing

farms to developers." There is also funding to create market systems for pollution reduction and the restoration and protection of native grasslands, wetlands and wildlife habitats. The nuts and bolts portion of previous conservation titles, the Environmental Quality Incentives Program (EQIP), will provide increases in funding to livestock and crop farmers for construction of facilities that reduce agriculture's effects on soil and water quality.

### **Profitability**

Agriculture is one of the few industries where the U.S. has a positive balance of trade. The CSG Forum recognized the importance of broadening international trade to the profitability of agriculture and the strength of the American economy. They recommended that methods to enhance trade and marketing of agriculture products be made an inherent part of the 2002 Farm Bill – and got their wish. The Farm Security and Rural Investment Act of 2002 has increased emphasis on the export of value-added products into emerging markets as well as increased spending for the Market Access Program. Domestic sales may be strengthened by the inclusion of a requirement that food labels identify the country of origin of meat, fruits and vegetables, fish, and



*Agriculture is one of the few industries where the United States has a positive balance of trade.*

## Farm program spending (millions of dollars) FY2002-2011

TITLE	BASELINE SPENDING	2002 FARM BILL	TOTAL SPENDING	% OF TOTAL
Commodities	77,045	47,771	124,816	16.7%
Conservation	21,412	17,079	34,491	5.2%
Trade	2,610	1,144	3,754	.5%
Food stamps, Child nutrition	528,657	6,400	535,057	71.64%
Rural development	0	870	870	.1%
Research	360	1,323	1,683	.2%
Forestry	0	100	100	.01%
Energy	0	405	405	.05%
Miscellaneous	43,316	-1,594	41,772	5.6%
<b>TOTALS</b>	<b>673,400</b>	<b>73,497</b>	<b>746,897</b>	<b>100%</b>

- Based on CBO's 4/01 baseline.
- Does not include costs of discretionary programs which are funded through annual appropriations process, (i.e. salaries and administration, etc.)
- Most research is funded through annual appropriations.

peanuts and by the Value-added Market Development Grants program. This program has been broadened in its scope and emphasis to include technical assistance and feasibility studies that can offer help to small and medium-sized farms.

### Revitalizing rural communities


The farm bill should never be considered a substitute for progressive rural policy, but this Act establishes a National Board on Rural America and provides it with \$100 million for planning grants to regional investment boards. It also includes funding for initiatives in improving rural Internet and telecommunications service. The benefits of sustainable forest management and related industries to rural communities were recognized through the funding of a program to manage and restore private woodlands.

### Promoting renewable, domestic energy

An important conclusion of the CSG Forum was the need for increased emphasis on renewable energy as an alternative market for agriculture products. In addition

to a value-added marketing alternative for farmers, the use of renewable energy sources reduces the nation's dependence on foreign oil. This is the first farm bill to recognize the importance of bioproducts and renewable energy. The new program includes funds to educate government and private fleet operators about the benefits of biodiesel, promotes the purchase of biobased products by federal agencies, initiates a certification and labeling program, and provides financial and technical assistance for farmers and rural small businesses to convert to renewable energy systems. Rep. Mark Kennedy (Minn) reported that the bill would be of significant benefit to his state through rural development and increasing clean energy.

Rep. Douglas Jones of Idaho, co-chair of CSG's Agriculture and Rural Policy Task Force, is concerned "that the bill and the process that formed it didn't help agriculture's image," but he was impressed that many of the recommendations that were drafted during CSG's forum ended up as part of the final legislation. The USDA is currently developing the implementation plans for all the

programs and is keeping the public updated at a new web site (<http://www.usda.gov/farmbill/>). 

—Carolyn Orr is a Senior Policy Analyst for Agriculture and Rural Policy for The Council of State Governments.

## Resources

*Providing Food Security and Renewable Energy to America; State Government Recommendations on National Farm Policy.* The Council of State Governments. November, 2001

*The Facts on the U.S. Farm Policy.* House Agriculture Committee, June 2002. Washington, D.C.

*State PACE Programs—Status.* American Farmland Trust Fact Sheet, January 2002

# Licensed by the states

*Keeping driver's licenses  
in the hands of the states*

**BY ALBERT HARBERSON**

States have moved rapidly to address security issues highlighted by the terrorist attacks of Sept. 11, 2001, particularly those related to driver's license

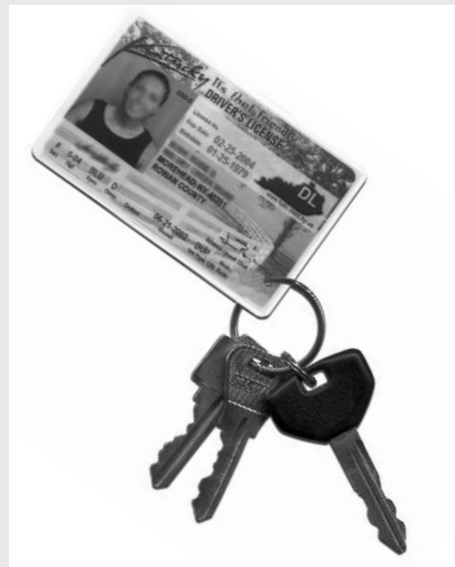


issuance, administration, enforcement and verifiability. Although not essential or directly related to the atrocities committed on 9/11, the discovery that many of the terrorists held driver's licenses – some fraudulently issued and some due to lax issuance standards – has focused state leaders' attention on opportunities to improve driver's license integrity for a host of important public safety reasons.

In 2000 alone, drivers with invalid licenses killed more than 6,200 people. The total economic impact of those invalid drivers in that year is estimated to have exceeded \$25 billion, according to the National Highway Traffic Safety Administration (NHTSA). Enhancing issuance standards, driver's license doc-

ument authenticity and driver information verifiability would significantly improve the driver's license for its only required use – to prove state sanction to operate a motor vehicle – and for its associated permissive uses relating to identity verification. States are increasingly aware of incidents of fraud and neglect that pervade many driver's license issuing authorities, an issue at the heart of comprehensive driver's license program reform.

Federal legislation to preempt states' control of their driver's license programs is currently being considered by Congress. States are addressing this issue by updating and modifying their



current driver's license regulations and federal legislation in this area would be subject to significant legal challenges over jurisdiction and would likely result in an unfunded mandate for states.

## **States administer driver's licenses**

Driver's licenses are issued by states under the constitutional authority of the Tenth Amendment, which reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Individual states have adopted driving standards appropriate to their own resi-



*The driver's license has only one required purpose – to prove state sanction to operate a motor vehicle.*

dents and have vested the authority to issue driver's licenses in a variety of state agencies. A majority of states leave it to their respective Departments of Motor Vehicles or Departments of Transportation; in some states this authority is under the jurisdiction of the Secretary of State or even the State Tax Commission.

Rhode Island passed the first driver's license law in 1908. Since then, every state and territory has established statutory provisions and administrative regulations to govern the privilege of driving. Driver's licenses were created for the purpose of protecting public safety by recognizing those individuals who met the necessary standards to receive state sanction to operate a motor vehicle. Generally, those standards include age, knowledge of traffic laws, physical capability to drive and practical driving competence. All states have required drivers to be licensed since 1954. Today, although driver's licenses are also used for many permissive purposes tied to verifying identity, the principal purpose of a driver's license remains unchanged — to prove state sanction to drive. Except for the commercial driver's license (CDL), states retain control of the standards governing driver's license issuance and enforcement.

Two interstate compacts currently govern states' administration of drivers. The Driver's License Compact (DLC) and the Nonresident Violator Compact (NRVC) facilitate states' cooperation and information sharing. These compacts were developed by the states and are currently administered by the American Association of Motor Vehicle



## White House endorses state-led driver's license initiative

The White House endorsed The Council of State Government's (CSG) organizational position regarding a state-led driver's license initiative by including it in President George W. Bush's National Strategy for Homeland Security.

Released by President Bush on July 16, 2002, the security initiative directs the federal government to support state-led efforts to improve the integrity of state issued driver's licenses. The national policy includes the following directive:

**“Coordinate suggested minimum standards for state driver's licenses.** The licensing of drivers by the 50 states, the District of Columbia, and the United States territories varies widely. There are no national or agreed upon state standards for content, format or license acquisition procedures. Terrorist organizations, including Al-Qaeda operatives involved in

the September 11 attacks, have exploited these differences. While the issuance of driver's licenses falls squarely within the powers of the states, the federal government can assist the states in crafting solutions to curtail the future abuse of driver's licenses by terrorist organizations. Therefore, the federal government, in consultation with state government agencies and non-governmental organizations, should support state-led efforts to develop suggested minimum standards for driver's licenses, recognizing that many states should and will exceed these standards.”

A 50-state survey conducted by CSG in June and July 2002 shows that state leaders endorse this position. More than 95 percent of officials in 47 responding states and the District of Columbia favored state-directed efforts to address driver's license integrity, rather than creating a "federalized" driver's license.

Administrators (AAMVA).

The DLC, created in 1961 and adopted by 45 states, ensures that a driver's home state receives and processes information about traffic violations committed by that driver in another state. The NRVC, adopted by 44 states since its development in 1972, standardizes methods used by different jurisdictions to process traffic citations received by out-of-state residents.

In 1986, under its authority to regulate interstate commerce, the federal government enacted the “Commercial Motor Vehicle Safety Act” (CMVSA). This act established national standards for the issuance of the CDL. Commercial drivers have been required to obtain a CDL since 1992. According

to the U.S. Department of Transportation (USDOT), CDLs represent approximately 5 percent of the total number of 190 million driver's licenses in the United States.

### Current issues

A more effective structure for states to comprehensively enforce driving laws would significantly enhance public safety. Such enhancements would, by necessity, include the following elements: Integrity of license issuance (ensuring that the person receiving a license meets necessary driving competency standards and has a verifiable identity) and verifiability (providing access for appropriate law enforcement

officials to verify the authenticity of the license document, driving history and identity of the license holder).

*Integrity of license issuance:* All states attempt to verify the identity of a potential license holder by using documents known as foundation documents. Foundation documents include but are not limited to birth certificates, utility bills, passports and other states' driver's licenses. The principal challenge related to foundation documents is the states' ability to verify authenticity and validity.

A related issue is the process by which a state verifies that the individual presenting valid foundation documents is indeed the individual to whom those documents belong. Under many existing systems it is possible for Jane to present Sally's birth certificate and get a valid driver's license in Sally's name.

Fraud presents a challenge. Under the current systems, individuals who produce fraudulent foundation documents have a good chance of illegally procuring a valid license or licenses. Such documents allow the perpetrator to assume the identity of another individual in order to commit a host of criminal offenses or to avoid responsibility for previously committed acts.

The most comprehensive system, however, is only as strong as its weakest link, and many times the weak link has proven to be licensing authority employees. For example, on October 1, 2000,

*The Orange County Register* reported that California Department of Motor Vehicle (DMV) employees were selling fraudulent driver's licenses for up to \$4000 each and that 60 active cases of fraud existed. In New Jersey, rings of DMV employees selling licenses were uncovered by law enforcement during a two-year investigation that is still underway, according to *The Star-Ledger*.

*Verifiability:* Although systems exist to access driver information from another state, they do not allow information retrieval in real time. The result is a practical inability to verify license information and driver history in a timely fashion. It is possible that an individual stopped for a traffic offense could produce a counterfeit license and escape detection because of that time lag. This is a significant public safety issue, since according to the NHTSA, individuals with invalid driver's licenses caused approximately 11 percent of fatal accidents in 2000. The cost in human life, injuries, property damage and increased insurance premiums is enormous.

Most states require a picture and some form of physical description to appear on license documents. A developing issue, however, concerns whether or not states should incorporate additional types of uniquely individual personal identifiers (e.g. fingerprints, retinal scans, etc.) into the licensing process to attempt to strengthen the connection between the license holder and



the document and to decrease fraudulent issuance and use.

### The "Federalized" driver's license

Three pieces of federal legislation that would "federalize" the driver's license are currently under review by Congress.

*Driver's License Modernization Act of 2002 (DLMA):* This act, introduced by Rep. Jim Moran and Rep. Tom Davis of Virginia, requires that within five years states will implement driver's license programs with the following requirements:

- Driver's licenses will become "smart cards" with computer chips that store a variety of information.
- Biometric data to match the license with its owner will be collected.
- States' participation in national databases will be required.
- Tamper-resistant security features will be incorporated into all license documents.
- States will adopt and implement procedures for accurately documenting the identity and residence of an individual before issuing a driver's license.

This legislation directs the Secretary of Transportation to establish necessary standards within six months of its adoption in consultation with the American Association of Motor Vehicle Administrators (AAMVA), the General Services Administration, and the National Institute of Standards and Technology. The bill also authorizes the federal government to appropriate \$315 million for grants to states to help



offset initial costs of this new system. The specific language of the bill should be of interest to state leaders, however. It repeatedly directs the Secretary of Transportation to set standards but doesn't require federal funding to pay for new federally imposed requirements.

*Driver's License Integrity Act of 2002 (DLIA):* Similar to the DLMA, this legislation drafted by Sen. Richard Durbin of Illinois would require:

- Minimum uniform standards for issuance and administration of state-issued driver's licenses.
- Interstate sharing of driving information for verification with enhanced privacy protection within five years of enactment.
- Enhanced ability for verification and authentication of the driver's license.
- Prevention of abuse and enhanced penalties for internal fraud.
- Similar state funding allocation.

DLIA requires the Secretary of Transportation to develop the minimum set of verification and identification requirements and supervise state implementation.

*HR 4043:* This legislation, introduced by Rep. Jeff Flake of Arizona, would bar Federal agencies from accepting a state-issued driver's license for any identification-related purpose unless the state requires licenses issued to nonimmigrant aliens to expire upon the expiration of the aliens' nonimmigrant visa.

## Arguments for federalization – and their flaws

Supporters of a national identification system often make two arguments for driver's license system reform: the oversight of foreign nationals and curbing identify theft. It's important to understand these arguments in order to fully appreciate the implications of driver's license system reform currently before Congress – legislation that would “federalize” the driver's license.

*Foreign nationals:* The federal government has the responsibility for admitting, regulating and monitoring foreign nationals in the country. It fol-

lows that the federal government must take actions that would prevent terrorists from entering the country in the first place. As for foreign nationals the government chooses to admit, information about these individuals should be made available to states in real time so visas and other documents can be verified.

One option would be for the federal government to consider certifying certain foreign nationals as being eligible to receive a driver's license, giving the states a clear sign that those foreign nationals have been thoroughly investigated. States may wish to re-evaluate whether issuing licenses to “non-status” immigrants is appropriate, despite public safety arguments for doing so. (At least four states currently issue licenses to non-status immigrants on the basis that public safety is better protected when individuals who are likely to drive are required to meet minimum competency standards).

Should the federal government attempt to shift responsibility for monitoring foreign nationals to the states, however, the costs and liability issues for the states would be enormous.

*Identity theft:* The problem of “identity theft” in the United States is significant, and is often used as a principal argument for federalizing driver's licenses. The argument cites evidence that there are more than 500,000 cases of identity theft a year, and since the driver's license is the most widely used form of personal identification, improving the current driver's license system and creating a better driver's license document can eliminate identity theft.

A close examination of this argument reveals its flaws, however. The Federal Trade Commission's (FTC) own statistics show that the majority of “identify theft” is actually credit fraud and bears little relation to the issuance of a driver's license

Evidence exists that the “more than 500,000” figure could be overstated by as much as 500 percent. The number comes from self-reporting by the three major credit-reporting agencies (Equifax, Experian and TransUnion) to the General Accounting Office (GAO).

Because these agencies became concerned that individuals were placing “fraud alerts” on their accounts as a preventive measure, whether or not they had actually been victims of credit fraud, the agencies changed their fraud alert procedures. Now, fraud alerts come in two forms. That procedural change has reduced the estimated number of “identity theft” cases from over 500,000 to approximately 100,000 cases per year.

Data from the FTC suggests that the number of cases of identity theft per year in which a falsified driver's license is implicated is actually about 2,700.

Those who advocate the use of the driver's license to stop the vaguely related problem of “identity theft” in its various forms admit that they want to expand the required use of a driver's licenses to non-driving purposes (e.g. the verification of identity for a host of other activities – banking, health care, etc.). This would require tying public and private databases together and, perhaps more importantly, such a system could certainly not be characterized as anything less than a “national identification system,” with significant opportunities for misuse of information, violations of privacy and license-holder “tracking.” Additionally, approximately 33 percent of American citizens, residents and visitors don't have driver's licenses because they don't drive, according to the USDOT. It is quite possible that such proposals would ultimately lead to the requirement that everyone be “licensed” in some form by the government, whether they intend to drive or not. In other words, the driver's license would become an identity license.

## The scope of the real solution

States should move to improve the integrity of issuance of driver's licenses and the verifiability of those licenses. Doing so will address important public safety concerns related directly to the primary purpose of a license – state sanction to operate a motor vehicle – and will improve the license document for a host of other permissive uses. The

scope of a real solution, then, must address the following elements:

- **Issuance standards:** States should consider adopting standards for issuing driver's licenses that include the use of verifiable (e.g. authentic and valid) foundation documents. Such standards will necessarily involve enhancement of the control and verifiability of foundation documents within states, among states and between states and the federal government.
- **Driver information - collection, sharing and exchange:** States should consider enhancing their ability to share information about drivers by consistently collecting and sharing driver information. This information should then be available to appropriate law enforcement officials in real time.
- **State operation and enforcement:** States should consider examining their own driver's license authorities and whether their respective lead law enforcement organizations should take enhanced roles in administering the driver's license programs. Fraud in offices that issue licenses is a significant issue and cannot be ignored. An enhanced law enforcement role in licensing administration could reduce fraud, ensure compliance with established standards and promote government efficiency by tying the issuance of licenses to the enforcement of them. Additionally, states should consider additional penalties for criminal activity related to the improper issuance or manufacture of driver's licenses.
- **Tamper and counterfeit-proof features:** States should consider making the driver's license document more tamper resistant and difficult to counterfeit.
- **Accurate and reliable personal identifiers:** States should consider enhancing the type of uniquely individual personal identifiers they use to tie a driver to a driver's license document. This information should be verifiable in real time by appropriate

law enforcement officials.

- **Verifiability:** States should consider enhancing their communications and information infrastructures to allow real time access to driving history information and authenticity verification of the driver's license document.

### State-driven solutions

States have an opportunity to drastically increase public safety and reduce the associated costs of unsafe drivers by addressing current driver's license issues. State approaches to the problem can include:

- **Establishing a "State Clearinghouse for Best Practices"** to promote effective regulatory and legislative changes in states, mirroring the ongoing efforts of The Council of State Governments (CSG), The National Conference of State Legislatures (NCSL) and The National Governors Association (NGA) on a wide array of issues. Information could be posted electronically and made available through annual or semi-annual written reports. The clearinghouse would document legislative enactments, regulatory changes, executive orders, interim committee reports and judicial decisions and provide links to related articles, publications and reports. Additionally, clearinghouse staff could provide necessary technical support to states.
- **Drafting model legislation** related to the issuance and verification processes. Model legislation could be collaboratively drafted by CSG, NCSL and NGA or by an organization experienced with the production of model legislation. Model legislation would identify issues that have surfaced in many states regarding driver's license issuance and verification and create a marker for states to target when making changes and modifications.
- **Developing uniform minimum standards** that could be adopted by

states for issuance and verification of driver's licenses through a joint CSG, NCSL and NGA effort. States would have flexibility to go beyond the minimum standards and, therefore, continue to test additional ways of enhancing the integrity of the overall system. Intergovernmental agreements to ensure compliance could also be adopted.

- **A new "Interstate Compact on Driver's License Integrity"** could be developed. Modeled on CSG's recent experience with the development and adoption of the Compact on Adult Offender Supervision, a new compact would replace the existing compacts. As a contract among states, the new compact would provide a mutually agreeable and enforceable framework for cooperative state action. Key advantages and elements of a new interstate compact include:
- **Speed of enactment:** The compact can be developed and implemented by states in as few as 30 months, consistent with CSG's experience with the adult offender compact. Compact development involves a consensus approach in which all states will have the opportunity to participate.
- **Fifty-state and full territorial adoption:** The compact's language can encourage all states to adopt it in order to provide protection from unsafe drivers for their own residents and lower associated insurance and other costs. For instance, the language of the compact can preclude the sharing of driver information with non-compacting states. Additionally, compacting states could refuse to honor the driver's licenses from non-compacting states.
- **Administration and enforcement:** The compact can establish an Interstate Commission to oversee its administration and enforcement. This Commission could be granted authority to make and enforce rules in a far more effective and dynamic way than can the federal govern-

ment, which can only establish static requirements. Enforcement provisions could include a range of mechanisms from alternative dispute resolution to fines and costs assessment, suspension and termination of membership in the compact, and judicial enforcement. The Commission would also oversee the development of an integrated information sharing system that preserves state control of driver information.


- **Cost:** Development and enactment of the compact could likely be undertaken for approximately 1 percent of the funding authorized in recently introduced legislation to federalize the driver's license. Long-term costs would be

addressed in the compact itself. This cost analysis is consistent with CSG's experience with the adult offender compact.

- **Standards:** States could mutually agree to more rigorous standards than have been proposed in federal legislation.

### Conclusion

States thus far have moved expeditiously, both independently and in concert, to address the issues with the current driver's license system. Although much work remains, state leaders increasingly understand the appropriate scope of issues to be addressed and the urgency of action. CSG and NCSL, in concert with

other national organizations, remain committed to working closely together and through their members – every elected and appointed state official in the nation – to improve the integrity of the state-issued driver's license. 

— *Albert Harberson is the National Policy Director for The Council of State Governments. This article represents the organizational positions of The Council of State Governments and the National Conference of State Legislatures, and was developed with input from the National Governors Association. The original position paper was delivered to the White House on June 26, 2002.*

## Driver's license summary of states' actions

Following the attacks on Sept. 11, most states undertook efforts to bolster security in the driver's licensing process. Issues such as license design changes, biometric information, increased penalties for fraud, limited replacement licenses, improved training for Department of Motor Vehicle staff members and other safeguards are all being considered or have been acted upon. Below is a summary of actions taken by states:

### Expiration of visa

Several states have enacted legislation that ties expiration of an individual's driver's license to the expiration of the immigration visa. Arizona, Florida, Kentucky, Minnesota and Ohio have all passed similar legislation. Additionally, Rhode Island and Michigan have passed legislation that requires driver's license applicants to submit proof that they are in the United States legally.

### Increased identification requirements

A majority of states have altered the requirements necessary to obtain a drivers license. Previously, in some states, an

applicant needed only one form of identification (in some instances, a picture identification was not required). However, following Sept. 11, restrictions have been implemented to make obtaining a driver's license more stringent, but also, safer. Delaware, Iowa, Kentucky, Minnesota and Nebraska are some of the states that mandated increased requirements in the driver's license application process.

### Technological/Physical changes to driver's licenses

A few states have increased the technological aspects of their motorists' driver's licenses. These changes include biometric identifiers like thumbprints, facial structure, voice or the structure of the eye's retina to establish and verify—Georgia and West Virginia currently use this technology. California, Colorado, Florida, Georgia, Hawaii, Texas, and West Virginia collect fingerprints in the driver's licensing process, although only Georgia uses them to verify identity when issuing replacement licenses. Additionally, other states have mandated the implementation of a central database containing information on license

holders. Kansas has passed legislation requiring a person's thumbprint on the driver's license. Nebraska in 2003 will introduce a digital license containing personal information on a magnetic barcode. Connecticut will, effective July 1, 2002, issue a new driver's license containing a bar code with encrypted information, one-to-one biometric facial recognition capability, and six state-of-the-art "overt" and "covert" security features. Minnesota has passed legislation that makes noncitizen's driver's licenses a different color from a citizen's license.

### Federal support against ID fraud

The federal government has also worked to aid states in the fight against ID fraud. With the passage of the USA Patriot Act, states are prohibited from issuing or renewing the license of anyone seeking to transport hazardous materials unless the U.S. Department of Transportation has cleared the individual seeking the license of any security concerns. Additionally, the Department of Justice must also perform a background investigation into the individual prior to issuance or renewal of a license.

# Adult Compact version 2.0

*An Interstate Compact  
comes of age*

BY JOHN J. MOUNTJOY

**T**he Interstate Compact for Adult Offender Supervision, a new interstate agreement adopted by 38 states, significantly updates the 65-year-old mechanism for tracking and supervising parolees and probationers that move between states. The new compact also is an example of how the over 200-year-old structure of interstate compacts is changing to meet the modern policy demands of states.

Since 1937, the Interstate Compact for the Supervision of Parolees and Probationers has provided the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries. All 50 states, as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands, are members of this interstate agreement.

With more than 4.5 million offenders on probation and/or parole, overseen by 3,285 different local probation and parole offices and operated by more than 860 separate agencies, this 65-year-old compact was in need of significant revision.

The compact authority and structure are seriously outdated, as evidenced by the following symptoms: the rule making group is not specifically created in compact language and is not legally empowered to carry out certain key activities; it is difficult to create new rules for the compact; there is limited ability to enforce rule compliance; and exchange of case information is slow and unreliable.



*The Interstate Compact for Adult Offender Supervision significantly updates the methods of tracking and supervising parolees and probationers who move between states.*

## **A new solution**

In 1998, the National Institute of Corrections (NIC) Advisory Board, following several public hearings, directed its staff to begin pursuing a revision of the compact. NIC and The Council of State Governments (CSG) partnered to develop and facilitate a Drafting Team of state officials to design a revised interstate compact that would include a modern administrative structure, provided for rule making and rule changing over time, required the development of a modern data collection and information sharing system among the states, and was adequately funded to carry

out its tasks.

In creating compacts, two divergent strategies can be chosen. One leads to putting the important details in the text and terms of the compact, which cannot be amended without amending the agreement. The other strategy creates a system in which the compact can respond to changes over time without having to implement the amendment process. This is the course chosen for the Adult Compact, with the interstate commission empowered to make and revise rules over time.

The inherent disadvantage of this choice is that the interstate commission cannot convene until the compact is enacted, mak-

ing it impossible for compact rules to be known at the time a compact is enacted by the state/territory. The major advantage is that rules are made and maintained by states/territories choosing to enact the compact, and the compact is not tied to a fixed set of rules that were made by some outside group before participating states/territories have the opportunity for input.

### Compact specifics

Developed in 1999, the new Interstate Compact for Adult Offender Supervision's primary goals include:

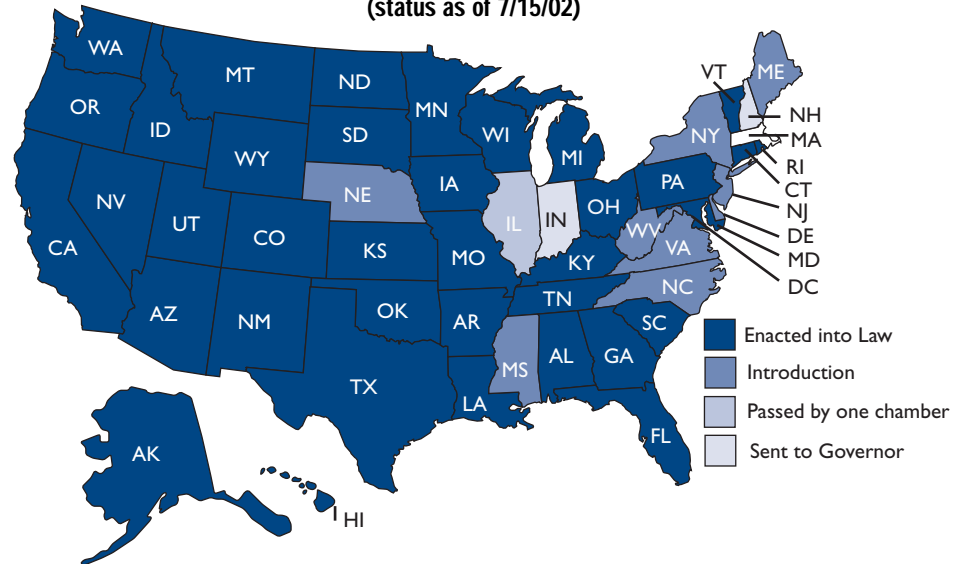
- The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support.
- Policymaking level appointment representations of all member states on a national governing commission which meets annually to elect the compact operating authority members and to attend to general business and rule making procedures.
- Rule making authority, provision for significant sanctions to support essential compact operations.
- A mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.)
- To compel collection of standardized information.

Specifically, the compact mandates:

- A more efficient communications system between states and state agencies.
- The revised Compact facilitates state autonomy AND national cooperation by establishing State Councils and by participating in the National Commission.
- State Council membership must include at least one representative from the legislative, executive and judicial branches of government, victim groups and the Compact Administrator.
- Each state determines the qualifications of the Compact Administrator, who shall be appointed either by the Governor in consultation with the Legislature and the Judiciary; or by the State Council.
- State dues in support of the National Commission are based on a formula to

## Interstate Compact for Adult Offender Supervision

(status as of 7/15/02)



be developed by the state within the National Commission.

- Rules and bylaws for the National Commission are developed and passed by the Commission and have the effect of law upon states.
- The National Commission will have an Executive Committee composed of Compact Administrators from member states.

In order to take effect, the Adult Compact had to be enacted by a minimum of 35 states (per the language of the compact). This number was chosen by the team as significant enough to compel the other 15 states to action once the threshold was met.

First introduced in January 2000, the Adult Compact was quickly enacted in several states, first by Colorado on April 10, 2000. A little more than 26 months later on June 19, 2002, Pennsylvania became the thirty-fifth state to enact the compact.

Since its founding in 1933, CSG has played a key role in helping states develop, implement, and administer dozens of interstate compacts. Currently, CSG is the administrator of the Emergency Management Assistance Compact and is also working with the NIC to ensure the successful enactment of the Interstate Compact for the Supervision of Adult Offenders and with the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice on the development of the Interstate Compact for Juveniles, which

deals with juvenile offenders. ★

*John J. Mountjoy is the Associate Director for National Policy for The Council of State Governments.*

## Internet

CSG's *Interstate Compact Directory* [ssl.csg.org/compact-laws/comlistlinks.html](http://ssl.csg.org/compact-laws/comlistlinks.html)

CSG maintains links to all interstate compacts known to be in existence in 1998 and to its comprehensive guide to compacts, *Interstate Compacts & Agencies, 1998*.

*Interstate Compact for Adult Supervision* [www.csg.org/clip/policy/isc.htm](http://www.csg.org/clip/policy/isc.htm)

An interactive, up-to-the-minute source on the adult compact, including fiscal notes, state-by-state status, FAQ on the compact, case studies and downloadable compact language.

*Emergency Management Assistance Compact* [www.nema-web.org/emac/index.cfm](http://www.nema-web.org/emac/index.cfm)

The site, under the National Emergency Management Association, a CSG affiliate, is your one-stop source for news and information for the Emergency Management Assistance Compact.

# Be aware of chronic care

*Growing problem must not get lost in the states' budget shuffle*

BY RICHARD BRINGEWATT

**T**he terrorist attacks of September 11, combined with significant changes in state and federal budgets, have fundamentally changed the nature of public policy, including healthcare policy. While it is critical that we respond to threats of terrorism and stem the tide of deficit financing, we cannot ignore another threat to our society: chronic diseases and disabilities.

Most health policy is primarily focused on stemming the tide of healthcare inflation and establishing a drug benefit. Healthcare expenditures are expected to reach \$2.8 trillion in 2011, 17 percent of the Gross Domestic Product (GDP). Medicaid expenditures are expected to grow 8.5 percent per year over the next five years, and Medicare expenditures are expected to grow 5.8 percent per year (*source*: "Health Spending Projections for 2001–2011: The Latest Outlook." *Health Affairs* 21).

The typical response to this projected acceleration is to cut budget allocations to mainstream healthcare providers. While this response is understandable in the face of pending deficits, it fails to recognize that the nature of healthcare has fundamentally changed from acute to chronic care. Future cost and quality concerns cannot be addressed without changing the nature of health policy.

People with chronic conditions, such as heart disease, lung disease, asthma, arthritis, and Alzheimer's disease are healthcare's largest, highest-cost, and



*People suffering from chronic conditions such as heart disease, lung disease, asthma, arthritis and Alzheimer's disease are healthcare's largest, highest-cost and fastest-growing service group, according to the Robert Wood Johnson Foundation.*

fastest-growing service group, accounting for 75 percent of all healthcare spending (*source*: The Robert Wood Johnson Foundation). Some 125 million Americans have a chronic condition; by 2020 that number is expected to rise to 157 million as the Baby Boom generation ages, according to S. Wu and A. Green's *Projection of Chronic Illness Prevalence and Cost Inflation*. Of those eligible for both Medicare and Medicaid, the Center for Medicare and Medicaid Services, formerly the Health Care Financing Administration, says 80 percent have two or more chronic conditions. Chronic illness affects more than a third of working-age Americans, according to Marie C. Reed and Ha T. Tu's *Triple Jeopardy: Low Income, Chronically Ill and Uninsured in America*, and about 7.4 million of these Americans are uninsured (*source*: Ha T. Tu and Marie C. Reed. 2002. *Options for Expanding Health*

*Insurance for People with Chronic Conditions*).

While it is true that continuous growth in healthcare inflation is unsustainable, it is important to recognize that our healthcare system was not designed to address the multi-dimensional and ongoing problems of chronic illness. Instead of ongoing, prevention-oriented, multidisciplinary care, people with chronic conditions experience a plethora of confusing, costly, disconnected and disease-oriented encounters.

An all-too-common case study, based on a composite of National Chronic Care Consortium member experiences, illustrates the problem: Mr. Jones is 69 and has congestive heart failure, chronic obstructive pulmonary disease, and diabetes. He takes nine medications, prescribed by three physicians. A recent hip fracture necessitates trips to the emergency room, hospital, and a rehabilita-

tion unit, before returning home with home health care. With his problem reassessed at every stop, Mr. Jones provides much of the same information over and over again. Each care provider takes action with little regard for what occurred previously.

Given the confusion surrounding this trauma, Mr. Jones has difficulty remembering all the medications he is taking, resulting in multiple complications in care. He has a delay in discharge from rehab, and his home care skilled nursing visit is delayed due to a mix-up in the discharge notes. Mr. Jones is home for three days without home care services. On the fourth day, the home care nurse conducts another assessment. Mr. Jones' medications include some that were prescribed before his hospitalization, and the nurse suspects that he is taking too many different prescriptions for the same condition.

On the eighth day following hospitalization, Mr. Jones awakes from sleep feeling shortness of breath, very light-headed and dizzy with a "tingly" feeling in his limbs. He is alarmed and calls for an ambulance. He is taken to the nearest hospital, which is not the same facility where he was treated for his hip fracture. He is admitted through the ER where it is determined that his diabetes is out of control. He also has a mild case of bronchitis. The orthopedist involved in his hip fracture rehabilitation, the cardiologist he normally sees and his primary care physician are not notified of this new admission.

Dr. Alan Lazaroff, director of geriatric medicine at Centura Health in Colorado, specializes in chronic illness care and reports how the current system actually thwarts the ability of many physicians to provide quality care. He said in testimony before the U.S. Senate Special Committee on Aging in 1998, "Much of my most important work is unrecognized and uncompensated. If I hospitalize a patient, I can bill Medicare every day I make a hospital visit—never mind whether this is the most appropriate treatment. If I meet with family members of a patient with Alzheimer's Disease, coordinate the services of several professionals, counsel patients and families about both the benefits and limitations of aggressive treatment, and help my patients cope with



*Richard Bringewatt is president and CEO of the National Chronic Care Consortium.*

the emotional consequences of their illness, however, I can bill nothing. I may be able to improve quality of life at the same time that I reduce inappropriate and unproductive hospitalizations, ICU care, and emergency room visits, but the more I focus on preventing or delaying the progression of disability and the more money I save the Medicare program, the less I am paid. Something is terribly wrong with a system that rewards the unnecessary use of high-cost, high-tech services for a patient population that is equally dependent upon a vast array of supportive services and which penalizes practitioners who provide the services needed most, often at a lower cost."

The transformation of healthcare is a huge task, yet one way government can begin the task is by adopting the following health policy principles: (1) focus on chronic illness — it is the primary cost driver; (2) empower consumers — today's well-informed Americans have more capacity for control than we give them credit for; (3) leverage technology — it is costly in the short-term, but information and medical technology hold revolutionary potential for long-term gain; (4) think long-term — chronic illness is a lifetime concern; (5) think systems — the actions of all purchasers, payers, providers and consumers are interdependent; (6) focus on disease and disabil-

ity prevention — chronic illness is a progressive condition; and (7) be proactive — delaying action will only cause more problems at a later point in time.

Most government officials have limited resources to work with, yet significant long-term cost and quality outcomes can occur if government officials begin to:

1. Shift the primary focus of health policy from reducing reimbursement rates for each provider segment to reducing the incidence rate of chronic disease and disability.
2. Create financial incentives to target and serve people at risk of serious and disabling chronic conditions.
3. Create financial incentives to prevent disease and disability progression. Most payment methods create incentives encouraging providers to wait for a crisis to occur.
4. Change the existing regulatory structure. Current rules and regulations lock in place a highly fragmented and antiquated approach to chronic illness care.
5. Revisit managed care financing. Paying for care, one piece at a time, defies the ongoing and interdependent nature of chronic illness.
6. Define new quality and system measures. We cannot contain costs and ensure quality outcomes until we create measures that let us know about the cumulative effects of serving people with chronic conditions across time, place, and profession.

The United States is threatened by acts of terror, and most states are also threatened by severe budget limitations. Yet as responses are made to these larger policy concerns, it is important to pay attention to another crisis that rests at the core of America's healthcare institutions. The way healthcare is financed, administered and delivered is fundamentally out of sync with the nature of chronic illness. The time to resolve this crisis is now. America's system of healthcare should work for all Americans. ★

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*—Richard Bringewatt is president and CEO of the National Chronic Care Consortium, an alliance of health plans and providers collaborating to develop solutions to chronic illness care.*

# We're like 9-1-1 for Legislators.

For information about heart disease or stroke, call us first. We're America's most trusted source for information about cardiovascular health.

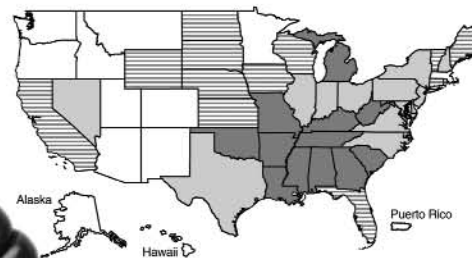
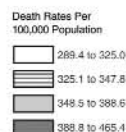
Call us for those urgent questions on state health policy issues such as:

- access to care
- disease prevention
- disease management
- emergency care
- heart & stroke research
- non-profit/tax issues
- nutrition
- physical activity
- stroke
- tobacco control

## Your State Contact

Alabama • Jean Scott, 334.832.4400  
 Alaska • Kristen Richmond, 907.263.2039  
 Arizona • Krista Salmon-Roberts, 602.414.5346  
 Arkansas • Barbara Kumpe, 501.375.9148  
 California • Kirk Kleinschmidt, 415.228.8423  
 Colorado • Erin Leary, 303.369.5433  
 Connecticut • Joni Arvai, 203.294.3541  
 Delaware • Carolyn Wisniewski, 302.633.0200  
 District of Columbia • Lisa McGehee, 804.965.6503  
 Florida • Patrick Kennedy, 850.878.3885  
 Georgia • Nettie Jackson, 678.385.2075  
 Hawaii • Don Weisman, 808.538.7021  
 Idaho • Mary MacConnell, 208.384.5066  
 Illinois • Mark Peysakhovich, 312.346.4675  
 Indiana • Robbie Barkley, 317.876.4850  
 Iowa • Randy Yontz, 515.244.3278  
 Kansas • Kevin Walker, 785.228.3437  
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 Missouri • Bonnie Linhardt, 573.446.3000  
 Montana • Cliff Christian, 406.495.8902  
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 West Virginia • Chuck Hamsher, 304.965.7998  
 Wisconsin • Maureen Cassidy, 608.221.8866  
 Wyoming • Jan Drury, 307.632.1746

1996-98 Total Cardiovascular Disease Age-Adjusted Death Rates by State





# Term Limits

BY JAMES CARROLL and DAVID MOSS

State officials and citizens continue to debate term limits for elected state offices and a sharp division exists between those favoring term limits and those who oppose them. Legislation to alter term limit laws is the newest wave to hit state capitals.

Possibly the most well known term limited position in United States government is the office of the President. According to the 22nd Amendment to the U.S. Constitution, no president may serve more than two four-year terms. Similarly, 38 states currently have gubernatorial term limits in place. Of these states, 31 allow a governor to serve two consecutive four-year terms, while two other states limit a person to eight years of service in any 16-year period. Five states allow two consecutive four-year terms, after which a person must take a four-year respite to be eligible again.

Despite the popularity of term limits for the highest executive branch offices, opposition has developed to term limits for legislative offices. Citizens and lawmakers continue to debate the benefits of state laws regarding term limits for congressional seats, state legislative office and local offices. Seventeen states have enacted state legislative term limits, while no term limits exist for members of Congress. Consistency exists among states regarding gubernatorial term limits, but the models for state legislative term limits vary greatly. Limits for lower chamber members range from six years (in three states) to 12 years (in four states). The remaining nine states limit House or Assembly members to eight years of service. Fewer differences exist regarding term limits in the upper chambers of the state legislatures. Twelve states allow Senate members to serve eight years, while the remaining four states allow for 12 years of service. One state, Oklahoma, allows for a total of 12 years of service in the House and the Senate combined.

Twenty-one states successfully passed federal congressional term limits, including 16 of the 17 states now with state legislative term limits. The United States Supreme Court, however, struck down the congressional laws in a 5-

4 decision in the 1995 case of *U.S. Term Limits vs. Thornton*. The Court held that such limitations could not be allowed without a constitutional amendment granting states the power to set qualifications for members of Congress.

Opponents of term limits often argue that denying citizens the opportunity to vote for a candidate infringes on our democratic system. At least four states (Arizona,

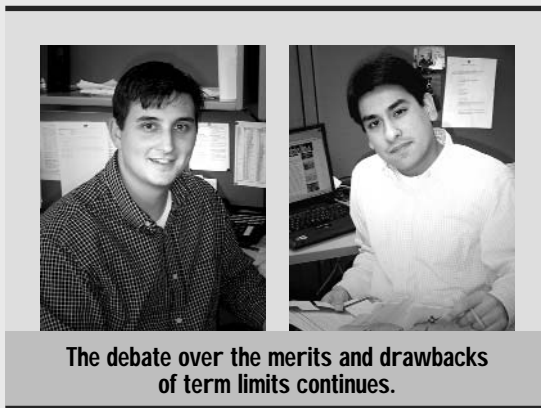
Idaho, Missouri and Wyoming) considered legislation that would amend their states' constitutions to repeal legislative term limits. Of these four states, Idaho is the only one to successfully repeal a term limit law. Lawmakers who oppose term limits often cite a decline in institutional knowledge among newly elected officials and increased power to the unelected bureaucracy as negative effects of term limits.

Even though many state officials

embrace term limits, several states considered measures to alter their term limit laws. Legislation in five states to change either the length or number of terms failed to pass during this year's sessions. In addition, California voters rejected a ballot initiative in March to allow voters to petition the Secretary of State to allow a state legislator to serve one additional term. Some officials recognize value in term limits, but still consider them a work in progress.

Other state lawmakers are content with the function of democracy under term limit laws. Many officials contend that the benefits of term limits can outweigh the costs mentioned above. According to these lawmakers, term limits bring new opportunities and new individuals into the democratic process.

Because widespread consensus regarding term limits eludes many states, lawmakers continue to introduce bills on both sides of the debate.



The debate over the merits and drawbacks of term limits continues.

*James Carroll is the Southern Regional Coordinator for The Council of State Governments, and David Moss is a Research Analyst for The Council of State Governments.*



## All states now offer college savings plans

With the recent launch of Georgia's Higher Education Savings Program, South Dakota's College Access 529 and Hawaii's TuitionEDGE, all 50 states now have an operational Section 529 state college savings program. Over three million children across the country have been enrolled in a state college savings plan. Parents and other individuals have saved more than \$18.9 billion to help pay for future college costs. More importantly, in excess of 154,000 students have used nearly a billion dollars from these plans to fund their college education.

The mission of the state plans is to

increase access to higher education by offering families a way to save for college tuition. State college savings plans come in two forms: prepaid tuition programs and savings plans. The prepaid tuition program offers families a method to pre-pay tuition based on today's costs of college tuition and provides a guarantee to keep pace with tuition inflation. The savings plans offer dedicated qualified state college savings accounts, which provide families a variable rate of return in a tax advantaged college savings account.

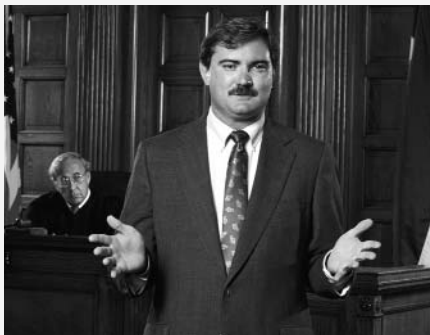
Last year, the programs received federal tax exemption as part of the Economic

Growth and Tax Relief Reconciliation Act of 2001. Participants in both types of programs receive federal tax exemption on the investment earnings of the accounts when the funds are used to pay for qualified higher education expenses.

In addition to the federal tax exemption, 23 states also offer significant state tax incentives, which include deductions from state income taxes based on annual contributions. By the end of 2002, all 50 states and the District of Columbia will have operational savings plans and 20 states will also offer prepaid tuition plans to their residents.

## National Youth Court Conference 2002

Nearly 1000 youth and adults from 47 states, the District of Columbia, Puerto Rico and Canada attended America's Youth Justice System, The National Conference of Youth Courts 2002, in Arlington, Virginia. Adults and youth interested in developing or improving a youth court program, (also called teen peer, or student court) attended more



than 65 workshops offered on topics such as volunteer training, program evaluation, public speaking, ethics, legal issues, creating constructive sentences and restorative justice.

In youth court, juvenile offenders are questioned, defended and sentenced by their peers. Currently, there are over 860 active youth court programs operating in district-level juvenile justice systems, schools and community-based organizations. This number has risen from 78 operational courts in 1994 — a 1,200

percent increase.

The conference was conducted by the National Youth Court Center at the American Probation and Parole Association and sponsored by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice and the National Highway Traffic Safety Administration, U.S. Department of Transportation. Featured speakers included Deputy Assistant Attorney General Cheri Nolan and NHTSA Deputy Administrator Annette M. Sandberg. New resources to help support youth courts were released at the conference and the Urban Institute released findings from the first ever National Teen Court Evaluation.

The National Youth Court Center at the American Probation and Parole Association, one of CSG's affiliate organizations, provides training and technical assistance and serves as an information clearinghouse to youth court programs in the United States. The Center aims to assist communities in developing and operating effective youth court program models that strengthen the ability of the juvenile justice system to hold youths accountable for their behavior, while enhancing public safety through active youth participation in the juvenile justice system.

## Court honored

On June 5, 2002, the Youth Court Volunteer Training/Education Materials package, developed by the American Bar Association through a subcontract from the National Youth Court Center at the American Probation and Parole Association and sponsored by the Office of Juvenile Justice and Delinquency Prevention, won the "Distinguished Achievement Award for Instructional Materials for Children" at the 2002 Distinguished Achievement Awards Gala. The National Press Club hosted the Gala.

This award is considered a premier award for excellence in publishing. There were more than 1,000 entries and 299 finalists for the six categories of awards ceremony. Other nominees included Scholastic Inc., National Geographic Society, Sesame Street, and TIME for Kids.

The Youth Court Volunteer Training/Education Materials package contains student-training manuals for each program model of youth court, an instructor's guide, a promotional video, and a CD-ROM. To order a copy of the complete package (cost \$45), call 1-800-285-2221.

For more information on youth courts, contact the National Youth Court Center at 859-244-8193 or visit online at [www.youthcourt.net](http://www.youthcourt.net).

## Lifesavers 2002 - NHTSA Award presented

Tracy Godwin Mullins, Director of the National Youth Court Center, Lexington, KY has been selected to receive the Lifesavers 2002 – National Highway Traffic Safety Administration (NHTSA) Award at the Lifesavers National Conference On Highway Safety Priorities on June 11, 2002 in Lake Buena Vista, Florida.

Lifesavers is the annual “highway safety” conference, sponsored by numerous safety organizations including NHTSA. Lifesaver awards are given to individuals for outstanding contributions to highway safety. The NHTSA Public Safety Award recognizes Tracy Godwin Mullins, Director of the National Youth Court Center, for her leadership and dedication to the prevention of underage

drinking and impaired driving through the implementation of youth court programs nationally.

Mrs. Godwin Mullins is a senior research associate with the American Probation and Parole Association (APPA) and has been the youth court project director since the initiation of a NHTSA grant in FY94. Under her direction APPA has expanded community youth court (also known as teen court, peer court, or school court) programs by many hundreds. Extensive support materials and a web site have been developed. The engagement of an additional federal partner, the Office of Juvenile Justice and Delinquency Prevention, to continue funding to support youth courts has been achieved. This program has achieved



*Tracy Godwin Mullins*

success in all ways: addressing the needs of youth, providing communities with welcome assistance, developing professional and popular publications and training, and garnering significant support from other national organizations.

## Northwest legislators discuss river basin policies

Legislators from Montana, Idaho, Washington and Oregon gathered May 6-7 in Olympia, Washington for the tenth meeting of the Legislative Council on River Governance. Resolving water disputes among the four states and finding ways to work with the Bush Administration on fisheries, water and hydropower management topped the agenda.

Lawmakers also discussed potential threats to Northwest power facilities in the wake of 9/11. In his capacity as the

the interdependence of gas, water, transportation and electrical transmission systems among the Northwestern states and Alberta and British Columbia. He said cooperation is now essential because of the susceptibility of these systems to terrorists. Morris briefed legislators on PNWER’s critical infrastructure plan for the region. He suggested the region needs to rethink the rationale behind some hydropower site decisions in order to disperse rather than concentrate critical infrastructure.

With regard to national domestic policies affecting the Northwest, Bob Lohn, the new regional administrator of the National Marine Fisheries Service, outlined his management approach to the Endangered Species Act, saying that the federal government is only one of several partners with an interest in species listing. Lohn told state lawmakers that the Act was intended to be “an emergency room, not a rest home.”

Lohn’s remarks, along with those of Larry Cassidy, chair of Northwest Power Planning Council, and Steve Wright, administrator of the Bonneville Power Administration, struck a recurring theme

of cooperation with states. These guest speakers stressed expanding the number of players in the policy process and granting discretionary authority and funding at the sub-basin planning level.

Opportunities offered by guest speakers to participate in the policy process will constitute the framework for the next meeting of the Council to be held in Helena, Montana in late September. Council members thanked Senate President Tom Beck for his leadership of the Council over the past year as the gavel was passed to Washington Sen. Harriet Spanel. Sen. Spanel will chair the Council in the coming year.

The Legislative Council on River Governance is made up of legislators from Montana, Idaho, Washington and Oregon. Legislative leaders in the Northwest organized the Council in 1998 as a way to increase the legislative role in decisions affecting water, power and salmon habitat in the Columbia and Snake River Basins. CSG-WEST has served as the convener of the Council under the direction of the legislative steering committee and the legislative staff in the four states.



*Montana Senate President Tom Beck (left) discusses Washington Rep. Jeff Morris’ presentation at the opening session of the Legislative Council on River Governance.*

president of the Pacific Northwest Economic Region (PNWER), Washington Rep. Jeff Morris emphasized



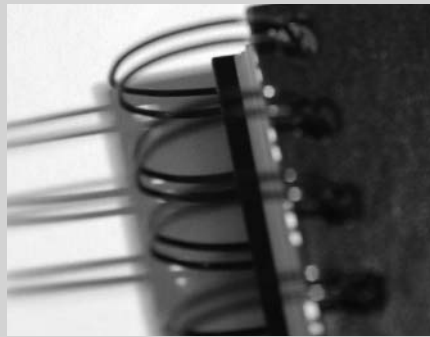
## Bowhay Institute for Legislative Leadership Development

On July 12-16, 33 legislators from the 11 member states of the Midwestern Legislative Conference (MLC) and three members of the MLC's affiliate members, the provinces of Ontario and Saskatchewan, gathered in Madison, Wisconsin, to take part in the eighth annual Bowhay Institute for Legislative Leadership Development.

A steering committee of Midwestern legislators, co-chaired by Ohio Sen. Kevin Coughlin and Minnesota Sen. Mark Ourada and vice chaired by Illinois Rep. Mike Smith, awarded this year's fellowships through a competitive, nonpartisan process. This year's group joins the ranks of 225 lawmakers who have completed the BILLD program in previous years. For a complete list of the 2002 BILLD class, visit <http://www.csgmidwest.org/billd02.htm>.

The Midwestern Office of The Council of State Governments produces the Bowhay Institute in collaboration with the

University of Wisconsin's Robert M. La Follette School of Public Affairs. The five-day program consists of seminars on leadership training, professional development and policy analysis taught by La Follette faculty, professional development experts and legislative leaders from



across the region.

Funding for the 2002 BILLD program was provided through grants from: Verizon Communications; Aventis Pharmaceuticals; Bayer Corp.; Merck &

Co., Inc.; Novartis Pharmaceuticals; Pfizer Inc; Johnson & Johnson; Pharmacia; Philip Morris Management Corp.; TAP Pharmaceuticals; United Parcel Service; American Chemistry Council/American Plastics Council; PG&E\* National Energy Group, and Qwest.

The Bowhay Institute is named in honor of the late James Bowhay, long-time director of CSG's Midwestern Office. For more information, contact Laura A. Tomaka at 630-810-0210.

*\*PG&E National Energy Group and any other company referenced herein, which use the PG&E name or logo, are not the same company as Pacific Gas and Electric Company, the California utility. These companies are not regulated by the California Public Utilities Commission, and customers do not have to buy products from these companies in order to continue to receive quality-regulated services from the utility.*

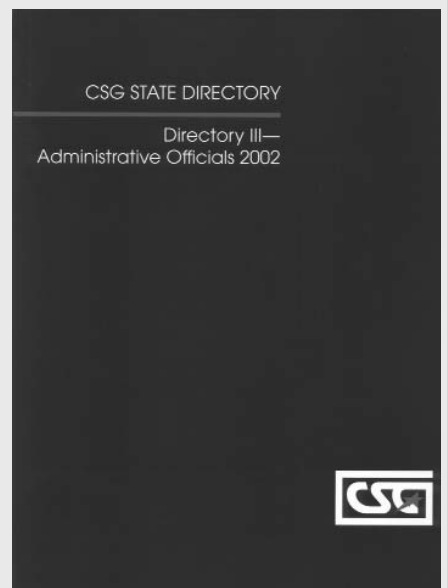
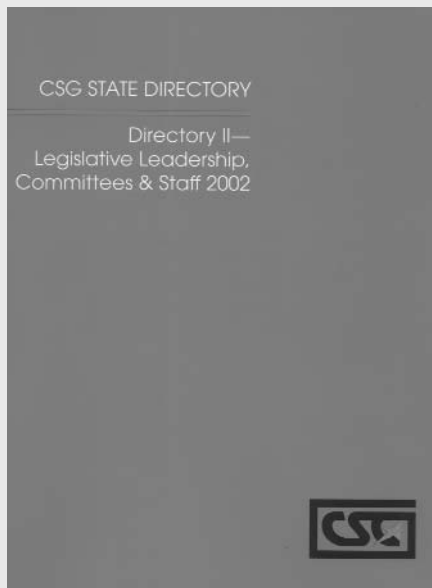
## CSG State Directory II, III now available

CSG Directory II includes the name, address, phone, fax and e-mail and web address of officers and principal staff and selected standing committees of

the Senate and House of each state and U.S. jurisdictions, as well as primary contacts for selected legislative functions. New officers and staff listings this year include chiefs of staff for senate presidents, senate minority leaders, house speakers, and house minority leaders. New committee listings include budget/appropriations, corrections, security and technology. The directory gives a listing of all states and U.S. jurisdictions by position, issue area or legislative function.

CSG Directory III provides the name, address, phone, fax, e-mail and web address for elected and appointed officials with primary responsibility in more than 110 state government functions. Sample categories include Administration, Arbitration and Mediation, Banking, Borders Management, Debt Management, Elections Administration, International Trade and State Security, to name a few.

To order, please contact CSG's publication sales order department at 1-800-800-1910 or access CSG's online store at: [www.statesnews.org/store/](http://www.statesnews.org/store/)



## NSAAS meets with ag commissioners

Delegates from the Eastern Office's Northeast States Association for Agricultural Stewardship (NSAAS) met in early June with state agriculture commissioners from across the Northeast to discuss ways of increasing regional cooperation on farm issues.

NSAAS Chair, Sen. Marge Kilkelly of Maine, and Sen. Sara Brannon Kittell of Vermont, conferred with the Northeast commissioners at their annual meeting in Newport, R.I. June 2-4. NSAAS Washington consultant Fran Boyd also attended. Kilkelly and Kittell said that improved coordination among the region's state agriculture officials was key to the inclusion of so many Northeast-friendly provisions in the 2002 Farm Bill passed last month. Indeed, agriculture officials from across the region hailed this year's Farm Bill as one of the most beneficial to the Northeast ever.

"Northeast farmers make an important contribution to our nation's economy, and it's heartening to see that our efforts have encouraged the federal government to begin recognizing that," Kilkelly told the commissioners. "Rather than rest on our laurels, we need to work aggressively to improve regional collaboration even further, so that we speak with one strong, focused voice when it comes to fighting for our farmers."

In addition to the Farm Bill, Kilkelly and Kittell discussed other vital issues, including emergency management, biotechnology, and food exporting. Federal representatives from the U.S. Department of Agriculture were there to help provide analysis of current law and the federal rules-making process.

Kittell said the meeting confirmed the benefits of regional cooperation. "I was pleased to join the Northeast agriculture commissioners here this week, because they really contribute so much to our efforts," Kittell said. "Their expertise is invaluable. They truly understand what is working, and

where more resources are needed, because they are on the frontlines of agriculture management. Only by working together, can we ensure the viability of our farms, which are so



*NSAAS chair Sen. Marge Kilkelly of Maine led the annual meeting in June.*

crucial to our region's economy and quality of life."

Kilkelly and Kittell also invited the commissioners to participate in two upcoming events. On August 3-4, NSAAS will meet in Buffalo, N.Y. to establish a plan for implementing provisions of the new Farm Bill, as well as tour area farms. Then, on Sept. 25, state officials from across the region will gather on Capitol Hill for "Northeast Ag Day." The group will meet with key members of Congress, and thank the region's congressional delegation for their efforts on behalf of the region's farmers.

An affiliate of The Council of State Governments/Eastern Regional Conference, NSAAS includes members from Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the Commonwealth of Puerto Rico. The organization is dedicated to promoting the region's small and medium-sized family farms. Towards that goal, it works with its members to increase regional cooperation on interstate and federal-state matters. The Association's membership includes the chairs, vice chairs and ranking members of the state legislative agriculture committees. The region's agriculture commissioners serve as advisory members.

## Officials visit EU

On May 19-23, Nebraska Gov. Mike Johanns, chair of the Midwestern Governors' Conference, led a delegation of the region's state agriculture officials to the European Union to discuss food safety and the benefits of applying biotechnology to agriculture. Originally scheduled for October 2001, the trip was planned in order to include state officials in the transatlantic dialogue about agricultural biotechnology. Officials from Iowa, Missouri and Ohio, as well as Nebraska, were part of the MGC delegation. Travel expenses for the delegation were provided by grants from the German Marshall Fund of the United States and the Pew Initiative on Food and Biotechnology.



*Nebraska Gov. Mike Johanns led an MGC delegation of Midwestern state agriculture officials on a May trip to Brussels, Belgium, to discuss food safety.*

During meetings held in Brussels, Belgium, the group discussed the proposed regulations to require labeling and traceability of genetically modified products in the European Union and talked to EU officials about reopening the approval process for allowing GM products into Europe. The approvals process has effectively been frozen for more than three years.

The delegation also met with Franz Fischler, the EU's agriculture commissioner, and Margot Wallström, environment commissioner for the European Union. They held a roundtable discussion with key members of the European Parliament's Environment Committee and met with groups as diverse as Greenpeace and EuropaBio, Europe's biotechnology industry organization.



## APPA passes Youth Court resolution

On June 9, 2002, the Executive Committee of the American Probation and Parole Association (APPA) adopted a resolution in support of the formation and expansion on youth courts. The resolution as it was adopted states:

“Therefore, be it Resolved, That the

American Probation and Parole Association joins in the celebration of the first National Youth Court Month and hereby recognizes the importance of youth courts to our communities and recommends that probation, parole, and community supervision agencies support and assist in the formation and

expansion of diversionary programs, known as youth court.”

The complete text of the Resolution, as well as information on National Youth Court Month (September 2002), can be found on the National Youth Court Center’s website at [www.youth-court.net](http://www.youth-court.net).

## NASFA holds annual conference & tradeshow

The National Association of State Facilities Administrators (NASFA) held its 2002 Annual Conference & Tradeshow in Salt Lake City on June 15-19. The conference provided state and corporate members the opportunity to share information on vital facility issues that are affecting the country’s state facilities administrators.

Utah Lt. Governor Olene Walker

was named the 2002 Innovations Award Winner. New Mexico and Texas were also recognized for outstanding state facilities programs. Gordon Nelson (Md.) was named overall winner of NASFA’s Incentive Program. Outgoing president Lamar Holland (Ga.) presented the 2002-03 president’s plaque to Tom Sandretto (Vt.).

NASFA’s 2003 Annual Conference &

## NASPE releases personnel office guide

The National Association of State Personnel Executives (NASPE) recently published *HR Management: State to State*, a comprehensive overview of each state’s personnel office, its responsibilities, current projects and future plans.

*State to State* allows readers to identify trends in public-sector human resource management, state personnel offices of similar structure and size, and to gain innovative ideas in human resource administration. This publication replaces *NASPE’s State Personnel Office: Roles & Functions* and seeks to allow readers to better compare information from state to state.

The publication also includes a NASPE speakers’ bureau directory and a listing of state personnel subject matter experts on topics such as ADA compliance, compensation and classification, recruitment and retention, retirement, and training.

This publication is available on CD-ROM or on a password-protected section of the NASPE Web site. For more information, contact NASPE Program Associate Lisa Collins at 859-244-8179 or at [lcollins@csg.org](mailto:lcollins@csg.org).

NASPE is an affiliate organization of The Council of State Governments and represents the directors and deputy directors of the central personnel agencies in the U.S. states and territories.



*Tom Sandretto, Vermont (left) received the president’s plaque from Lamar Holland, Georgia, at the NASFA annual meeting in June.*

began the conference by welcoming everyone to Salt Lake City. The highlight of the meeting was the awards banquet, during which the state of California

Tradeshow will be held in Overland Park, Kansas, June 21-25. For more information about NASFA, log on to [www.nasfa.net](http://www.nasfa.net).



This calendar lists meetings as designated by CSG's Annual Meeting Committee. For details of a meeting, call the number listed. "CSG" denotes affiliate organizations of CSG. Visit CSG's Web site, [www.csg.org](http://www.csg.org), for updates.

Other meetings have value to state officials. Purchase a meeting listing by calling **1-800-800-1910** or emailing [sales@csg.org](mailto:sales@csg.org). Expose your meetings to thousands in the state government market through an advertisement, a Web listing, or a banner ad in *In the News*, CSG's weekly electronic newsletter. Get your free subscription to *In the News* at [www.csg.org](http://www.csg.org).

**AUGUST 2002**

*August 3-7* — **CSG/Southern Legislative Conference Annual Meeting** — New Orleans, LA — Sheraton New Orleans. Contact Colleen Cousineau at (404) 266-1271 or see [www.sclatlanta.org](http://www.sclatlanta.org)

*August 4-7* — **CSG Eastern Regional Conference Annual Meeting** — Buffalo, NY — Adam's Mark Hotel. See [www.csgeast.org](http://www.csgeast.org)

*August 7-11* — **American Legislative Exchange Council Annual Meeting** — Orlando, FL — Gaylord Palms Resort and Convention Center

*August 18-21* — **CSG/Midwestern Legislative Conference 57th Annual Meeting** — Fargo, ND — Holiday Inn. Contact Mike McCabe at (630) 810-0210

*August 25-28* — **American Probation and Parole Association 27th Annual Training Institute** — Denver, CO — Adam's Mark Hotel. Contact Kris Chappell at (859) 244-8204 or [kcappel@csg.org](mailto:kcappel@csg.org) or see [www.appanet.org](http://www.appanet.org)

*August 30-September 6* — **CSG/National Emergency Management Association 2002 Annual Meeting** — Asheville, NC — Grove Park Inn. Contact Karen Cobuluis at (859) 244-8143 or [kcobuluis@csg.org](mailto:kcobuluis@csg.org)

**SEPTEMBER 2002**

*September 14-19* — **National Association of State Telecommunications Directors** — Anchorage, AK — Hilton Anchorage. Contact Karen Britton at (859) 244-8187 or [kbritton@csg.org](mailto:kbritton@csg.org)

*September 22-25* — **CSG/National Association of State Facilities Administrators Western Regional Conference** — Santa Fe, NM — Radisson Santa Fe. Contact Marcia Stone at (859) 244-8181 or [mstone@csg.org](mailto:mstone@csg.org)

*September 28-October 3* — **CSG Henry Toll Fellows Program** — Lexington, KY — Hilton Suites at Lexington Green. Contact Allison Spurrier at (859) 244-8249 or [aspurrier@csg.org](mailto:aspurrier@csg.org) or see [www.csg.org](http://www.csg.org)

*September 29-October 2* — **Western State Treasurers Conference** — Sunriver, OR — Contact Adnee Hamilton at (859) 244-8174 or [ahamilton@csg.org](mailto:ahamilton@csg.org) or [www.nast.org](http://www.nast.org)

**OCTOBER 2002**

*October 9-11* — **CSG/National Association of State Facilities Administrators Southeastern Regional Conference** — Savannah, GA — Savannah Marriott Riverfront. Contact Marcia Stone at (859) 244-8181 or [mstone@csg.org](mailto:mstone@csg.org)

*October 27-28* — **CSG/National Association of State Facilities Administrators Eastern Regional Conference** — Albany, NY — Crowne Plaza Albany Hotel. Contact Marcia Stone at (859) 244-8181 or [mstone@csg.org](mailto:mstone@csg.org)

**NOVEMBER 2002**

*November 14-18* — **CSG/Fall Legislative Issues Meeting** — Destin, FL — Hilton Sandestin Beach Golf Resort & Spa. Contact Nai Vienthongsuk at (404) 266-1271 or [nai@csg.org](mailto:nai@csg.org)

*November 23-24* — **National Association of State Treasurers New Treasurers Symposium** — New York, NY — The Roosevelt Hotel. Contact Adnee Hamilton at (859) 244-8174

*November 23-26* — **State Government Affairs Council State Leaders' Policy Conference** — Scottsdale, AZ — The Phoenician. Contact Kelly Cummings at (202) 728-0500

*November 25-26* — **National Association of State Treasurers Issues Conference** — New York, NY — The Roosevelt Hotel. Contact Adnee Hamilton at (859) 244-8174

**DECEMBER 2002**

*December 5-8* — **CSG 2002 Annual State Trends and Leadership Forum** — Richmond, VA — Richmond Marriott. Contact Wanda Hines at (859) 244-8200 or [whines@csg.org](mailto:whines@csg.org)

*December 10-13* — **CSG WEST Western Legislative Academy** — Colorado Springs, CO — Doubletree Hotel. Contact Cheryl Duvauchelle at (916) 553-4423 or [cduvauch@csg.org](mailto:cduvauch@csg.org)

*December 11* — **AFI/ASI Joint Meeting** — Washington, DC — Hyatt Regency. Contact Barbara Houlik at (202) 624-5400

**FEBRUARY 2003**

*Feb. 13-16* — **National Lieutenant Governors Association State-Federal Meeting** — Washington, D.C. — Willard Intercontinental — Contact Julia Hurst at (859) 244-8111 or email [jhurst@csg.org](mailto:jhurst@csg.org). Visit [www.nclg.org](http://www.nclg.org)

*February 22-25* — **National Governors Association Winter Meeting** — Washington, DC — Contact Susan Dotchin at (202) 624-5327

**MARCH 2003**

*March 2-5* — **National Association of State Treasurers Legislative Conference** — Washington, DC — Willard Inter-Continental Hotel. Contact Adnee Hamilton at (859) 244-

8174 or [ahamilton@csg.org](mailto:ahamilton@csg.org) or see [www.nast.net](http://www.nast.net)

**MAY 2003**

*May 15-18* — **CSG Spring Meeting** — U.S. Virgin Islands — Marriott Frenchman's Reef. Contact Wanda Hines at (859) 244-8200 or [whines@csg.org](mailto:whines@csg.org)

**JUNE 2003**

*June 21-25* — **CSG/National Association of State Facilities Administrators Annual Conference & Tradeshow** — Overland, KS — Sheraton Overland Park Hotel. Contact Marcia Stone at (859) 244-8181 or [mstone@csg.org](mailto:mstone@csg.org)

**JULY 2003**

*July 11-15* — **CSG/Ninth Annual Bowhay Institute for Legislative Leadership Development** — Madison, WI — Fluno Center for Executive Education. Contact Laura Tomaka at (630) 810-0210 or [ltomaka@csg.org](mailto:ltomaka@csg.org)

*July 16-20* — **National Lieutenant Governors Association Annual Meeting** — Little Rock, AR — Peabody Hotel, Little Rock — Contact Julia Hurst at (859) 244-8111 or email [jhurst@csg.org](mailto:jhurst@csg.org). Visit [www.nclg.org](http://www.nclg.org)

*July 21-27* — **National Conference of State Legislatures Annual Meeting** — San Francisco, CA — Hotel TBA

**AUGUST 2003**

*August 9-13* — **CSG/Southern Legislative Conference Annual Meeting** — Ft. Worth, TX — Hotel TBA. Contact Colleen Cousineau at (404) 266-1271 or see [www.sclatlanta.org](http://www.sclatlanta.org)

*August 16-19* — **National Governors Association Annual Meeting** — Indianapolis, IN. Contact Susan Dotchin at (202) 624-5327

*August 17-19* — **CSG Eastern Regional Conference Annual Meeting** — San Juan, PR — Caribe Hilton. See [www.csgeast.org](http://www.csgeast.org)

*August 24-27* — **CSG/Midwestern Legislative Conference 58th Annual Meeting** — Milwaukee, WI — Hyatt. Contact Mike McCabe at (630) 810-0210

**OCTOBER 2003**

*October 23-26* — **CSG Annual Meeting** — Pittsburgh, PA — Hilton Pittsburgh. Contact Wanda Hines at (859) 244-8200 or [whines@csg.org](mailto:whines@csg.org)

**FEBRUARY 2004**

*February 21-4* — **National Governors Association Winter Meeting** — Washington, DC — Hotel TBA.

**JULY 2004**

*July 11-14* — **CSG/Midwestern Legislative Conference 59th Annual Meeting** — Des Moines, IA — Marriott. Contact Mike McCabe at (630) 810-0210

*July 18-25* — **National Conference of State Legislatures Annual Meeting** — Salt Lake City, UT — Hotel TBA

*July 28-August 1* — **American Legislative Exchange Council Annual Meeting** — Seattle, WA — Hotel TBA

**AUGUST 2004**

*August 14-18* — **CSG/Southern Legislative Conference Annual Meeting** — Little Rock, AR — Hotel TBA. Contact Colleen Cousineau at (404) 266-1271 or see [www.sclatlanta.org](http://www.sclatlanta.org)

**SEPTEMBER 2004**

*September 25-29* — **CSG Annual Meeting** — Anchorage, AK — Hotel TBA. Contact Wanda Hines at (859) 244-8103 or [whines@csg.org](mailto:whines@csg.org) or see [www.csg.org](http://www.csg.org)

**FEBRUARY 2005**

*February 26-March 1* — **National Governors Association Winter Meeting** — Washington, DC — Hotel TBA. Contact Susan Dotchin at (202) 624-5327

**JULY 2005**

*July 30-August 3* — **CSG/Southern Legislative Conference Annual Meeting** — Mobile, AL — Hotel TBA. Contact Colleen Cousineau at (404) 266-1271 or see [www.sclatlanta.org](http://www.sclatlanta.org)

*July 31-August 3* — **CSG/Midwestern Legislative Conference 60th Annual Meeting** — Regina, Saskatchewan - Canada — Delta Regina. Contact Mike McCabe at (630) 810-0210

**AUGUST 2005**

*August 14-21* — **National Conference of State Legislatures Annual Meeting** — Seattle, WA — Hotel TBA

**DECEMBER 2005**

*December 1-4* — **CSG Annual Meeting** — Wilmington, DE — Hotel TBA. Contact Wanda Hines at (859) 244-8103 or [whines@csg.org](mailto:whines@csg.org) or see [www.csg.org](http://www.csg.org)

**FEBRUARY 2006**

*February 25-28* — **National Governors Association Winter Meeting** — Washington, DC — Hotel TBA. Contact Susan Dotchin at (202) 624-5327

**JULY 2006**

*July 22-26* — **CSG/Southern Legislative Conference Annual Meeting** — Baltimore, MD — Hotel TBA. Contact Colleen Cousineau at (404) 266-1271 or see [www.sclatlanta.org](http://www.sclatlanta.org)

**AUGUST 2006**

*August 12-18* — **National Conference of State Legislatures Annual Meeting** — Nashville, TN — Hotel TBA

# More than a leader

BY ALAN ROSENTHAL

**F**or an intriguing view of legislative leadership, read Robert Caro's *Master of the Senate*, a portrayal of Lyndon B. Johnson's Senate years in Washington, D.C. There's no denying that Johnson was a highly effective majority leader; there's also no denying that Johnson was a remarkably flawed human being. The LBJ way of leading — through manipulation and intimidation in furtherance of his personal ambition — is not the only way to lead in a legislature. Not if the career of Sid Snyder, the Senate Majority leader in the state of Washington, means anything.

Sid is the real thing. He grew up poor but borrowed enough money to open a grocery store — Sid's Market — in 1953. Four years before he went into business, he was hired as an elevator operator in the state capitol. He went on to work on the House and Senate staffs, serving as Secretary of the Senate for nearly 21 years. In that role, according to Washington Governor Gary Locke, "For all practical purposes, Sid Snyder created our state Senate as we know it today."

In 1990, 40 years after his career on the staff of the Legislature began, Snyder was appointed to the Senate to fill a vacancy. Later that year, he was chosen by his colleagues to be caucus chair. In 1995 he was elected Democratic Leader, and since has served both as Minority Leader and Majority Leader. Fiercely loyal to his constituency and his party, his first loyalty, however, has been to the legislature as an institution. When Washington voters approved a term-limits law, he supported the lawsuit to overturn it. He was a named plaintiff in the suit seeking to overturn a voter-approved requirement for super-majority votes on certain budget and tax issues, believing it to be an unconstitutional diminution of the legislature's power. In both cases Snyder's belief that the measures would weaken the legislature outweighed for him the potential political risk of challenging the electorate's decision.

Many legislative leaders, in order to do their jobs, keep members happy, and line up votes on issues, favor pragmatism over principle. Not Snyder. His faith in the legislative process, in law and parliamentary rules, and in protection of the rights of the minority party is strong enough to raise principle over pragmatism. Thus, in the 1997 session, when he was serving as Minority Leader, he threatened to resign

on a matter about which he felt most strongly.

Toward the close of the session, the Republican majority decided to change the Senate rule on reconsideration to pass a bill that had already failed twice. Snyder objected to a sudden change in the rules, which were part of a long tradition of how the Washington Senate conducted its business. After debate, with the majority finally bowing to expediency, Snyder took the Senate floor, made an angry speech criticizing the Republicans, and announced that he had no choice but to resign from the Senate. He would not serve unless the rules were respected.

Before he sent his letter of resignation to the governor, however, Snyder was urged by nearly all of his colleagues — including 23 of 26 Republicans — to rescind his resignation. "He's the glue that holds this place together ... like one big tube of Superglue," said Ralph Munro, the Republican Secretary of State at the time. Snyder reversed his decision and returned to the Senate a week after he had announced his resignation. Upon taking the floor, he was greeted with cheers and a standing ovation by his colleagues. Throughout Snyder's behavior was totally

genuine; he had been sincere when he left and he was sincere when he returned.

Because of his integrity and the respect in which he is held, not only as a legislative leader but as a human being, Snyder could engage in an act of conscience that few legislators would have attempted and even fewer could have pulled off. Snyder is a very different type of leader; he embodies the institution in which he serves. Whatever his ambitions, they do not involve exploiting the legislature, but rather caring for the legislature.

It could hardly come as a surprise to members of Washington state's legislative community that Sid Snyder won the 2002 William Bulger Excellence in State Legislative Leadership Award — an award cosponsored by the State Legislative Leaders Foundation, the National Conference of State Legislatures and The Council of State Governments. The only surprise in Washington was that he hadn't won it earlier.



**Alan Rosenthal  
calls Washington  
State Senator  
Sid Snyder "the  
real thing."**

*Alan Rosenthal is a professor with the Eagleton Institute of Politics at Rutgers University.*





December  
5-9, 2002

The Council of State Governments

# 2002 Annual State Trends and Leadership Forum

