Expect significant state-by-state shake-ups in party control, but the nation’s overall partisan composition likely will not tilt much

By Julia Nienaber Hurst

ew Americans can ignore the approaching roar of the November 2 elections. While voters will choose a president and other congressional figures, more than 20 states may also see changes in legislative party control in one or more chambers—an outcome that could dramatically influence state policy work. Eleven governors’ seats are up for election and nearly 80 percent of the nation’s legislative seats are up for grabs.

The Western region is likely to see the most change because of elections. This region has open governors’ seats in Montana, Utah and Washington, and four states in the region are on the radar screen for potential party-control changes.

The Southern region could also see a significant shake-up with open gubernatorial seats in West Virginia and Missouri, and legislative party-control changes possible in North Carolina and Oklahoma.

State observers may expect the elections to reveal continuing Republican gains in legislatures, an emerging trend in the election of young officeholders, and a sustained diversity of genders and ethnicity among officeholders. Over-all, the states are likely to remain near parity in party control, or to show some Republican gains. How-ever, the potentially significant changes in party control among the chambers in each state may cause shifting priorities in the future course of issue work in the states.

Whatever the outcome of the presidential election, both campaigns indicate the next president will address taxes, education, and health care in ways that may dramatically impact states and territories. A look at the unresolved issues of 2004 and the initiative questions appearing on state ballots in November also suggests social and economic issues may permeate 2005 legislative sessions. Finally, public safety and emergency planning remain necessary issues for states and territories to address.

Offices Open

In 2004, there will be gubernatorial elections in 11 states, American Samoa and Puerto Rico, according to the National Governors Association. Currently, there are 22 Democratic and 28 Republican governors. The gubernatorial seats up for election show a great deal of similarity. Five Republican seats and six Democratic seats are up for election, and of those, the Democrats are defending three open seats, while the GOP is defending two. In order to maintain the current national party composition, Democrats must win six seats.

Fourteen elections will be held in November for the states’ “number two” office. This office is the first in line for gubernatorial succession in a state. In nine of the 14 upcoming elections, this office carries the title of lieutenant governor. In elections in West Virginia, Tennessee, New Hampshire and Maine the Senate president is first in line of succession. In Oregon, the secretary of state is the number two office.

Of the lieutenant governors, the seats in Missouri, Montana and Utah are open. In five states—Delaware, Missouri, North
Carolina, Vermont and Washington—the candidates run on a ticket separate from the governor, although in each case the governor is also up for re-election this year. American Samoa and Puerto Rico will also have elections for that position. Ballots in Indiana and Virginia will contain questions clarifying and deepening the gubernatorial succession line.

In an era of homeland security concerns, the office of lieutenant governor has taken on greater importance as states strive to clarify and deepen lines of gubernatorial succession. In addition, in many states, lieutenant governors have been given significant new leadership roles regarding homeland security. In Nebraska, Indiana, and Vermont, for example, the lieutenant governors have key roles in homeland security, and in Missouri, the idea of placing counter-terrorism leadership under the office of the lieutenant governor has become a campaign issue.

More than 78 percent of the 7,382 seats in the nation’s legislatures are up for grabs this year, according to the National Conference of State Legislatures. NCSL reports that in 26 chambers, a shift of just three seats could alter party control. According to NCSL, the hottest state legislative contests this year are in:

- Colorado, where the Senate Democrats need one seat to take control;
- Indiana, where House Democrats hold a one-seat advantage in a chamber that has gone back and forth in party control for the past several years;
- Maine, where in the Senate one seat separates the parties and all the seats are up for election;
- North Carolina, where the House of Representatives is currently tied;
- Oregon where the Senate is tied; and
- Washington state, where the House and Senate are “toss ups” for party control.

Oklahoma will be a “hot spot” for turnover as the effect of term limits will be felt for the first time. Forty-two incumbent legislators are barred from running for re-election. NCSL reports that Republicans need only three seats to take control of the Oklahoma House. NCSL also predicts that partisan control or partisan gains in Montana and Georgia could be affected by redistricting going into effect in the two states.

While NCSL says 12 states will be affected by term limits in November, term limits have not yet had their full impact on states. According to the nonprofit group U.S. Term Limits,
Term limits will become effective in Nevada in 2006, in Louisiana in 2007, and in Nebraska in 2008. As of September 15, the Ballot Initiative Strategy Center (BISC) showed that term limits questions would appear in November in four states. In Arkansas and Montana, voters will be asked to extend the length of time legislators may serve under term limits. In Oregon, the measure would limit legislative service time. In Rhode Island, the measure would impose term limits on the speaker of the House and the Senate president.

Headed into the election, 21 legislatures are Republican controlled while Democrats control 17. Eleven states are split between the two parties. “The two major parties are at near parity,” said NCSL Senior Fellow Tim Storey. “The big question for 2004 is this: Will Democrats reverse a trend that has seen seats drop away steadily for 30 years? Or will the GOP solidify its status as majority party (overall nationally) in the legislatures?”

Officeholder Demographics
In August, Rutgers University completed the most comprehensive study ever done of persons under the age of 35 serving in public office. Based on 2002 data, the survey found approximately one in every 20 elected officials from city council to Congress were under the age of 35. It’s likely the trend of emerging younger legislators will continue, fueled partially by term limits. According to the NCSL, the two youngest legislatures currently are Florida and Ohio, two states where term limits have taken effect. NCSL tracks legislators under the age of 30, a younger age than used in the Rutgers study. In January of 2004, about 1 percent of the sitting legislators were under the age of 30.

The rise of young leaders is likely to affect issue work over time. Jason West, a 27-year-old mayor from New Paltz, New York, predicted in a July 2004 article in the Cincinnati Enquirer that the issues being addressed by state and territorial legislatures in the next decade will be dramatically different from today. “Give it 10 or 20 years when we (the young) are holding the state legislatures and Congress.”

According to the Center for Women in Politics, eight women served as governor as of July 2004. The female governors of Montana and Utah will not stand for re-election, but women are candidates in Delaware, Missouri and Washington state. The female governor of Puerto Rico is not seeking re-election. In 2004, the center reported that women held more than 1,600 of the nation’s state legislative seats, 22.5 percent. The states of Washington, Colorado, Maryland, Vermont and California have the highest percentages of women officeholders in the nation.

Ballot Questions
The BISC identifies several issue trends that are emerging on November ballots including gay marriage, medical malpractice caps and other “tort” restrictions, and gambling and taxes. On the August primary ballot, Missouri voters became the first to ban gay marriage since Massachusetts legalized the act. As of September 15, ballot questions to ban gay marriage had qualified in Arkansas, Georgia, Kentucky, Oklahoma, Oregon, Michigan and Utah, with other states also actively engaged in measures which may result in similar ballot questions.

Tort reform measures will likely appear on the ballot in at least a half-dozen states. In California, Proposition 64 would eliminate the right of public interest groups to bring certain lawsuits. Nevadans will consider an expansion of medical malpractice restrictions passed in 2002, and Oregon’s Measure 106 would also limit certain medical malpractice damages. Wyoming voters will consider two measures on tort regarding alternative dispute resolution and caps on malpractice damage awards.

In regard to revenue issues on the ballots, Oklahoma State Question No. 705 would create the Oklahoma Education Lottery Act. Among the states addressing some aspect of Indian

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tribal gaming on the ballot are California, Michigan and Oklahoma. In South Dakota, a question will appear regarding eliminating the state’s 4 percent sales tax on food. Colorado voters will consider a penny sales tax to fund light rail. And in Arizona, Proposition 101 would require that all voter-approved propositions expending money specify a funding stream other than the general fund. This would place the state’s general fund entirely under the control of the Legislature.

Other ballot items of note include California’s Proposition 66 which would limit the state’s “Three Strikes” law to violent felons only. Also in California, passage of Proposition 72 would overturn the Legislature-passed Health Insurance Act of 2003 (SB 2). The Health Insurance Act requires companies with 200 or more employees to buy health insurance for workers and their families by 2006. Firms with 50 to 199 employees are required to buy coverage for their employees starting in 2007. Nevadans will vote on whether to increase the state’s minimum wage by $1. And questions seeking to legalize or further legalize medical marijuana will appear in Alaska, Montana and Oregon.

2005 Legislative Issues

If the ballot issues are a measure, it appears both social and revenue issues will take a prime spot on the state and territorial legislative calendars in 2005. Certain trends that emerged in 2004 may also take greater hold in 2005 such as efforts to restructure or seek greater efficiencies from state government. These reformation efforts may take several forms such as consolidation efforts to seek cost savings, or they may result from further efforts to ensure public safety and homeland security.

The results of the presidential election will certainly affect the issue trends in states and territories. Whoever is elected president is likely to revisit tax policy, which impacts states that have tax structures tied to the federal structure. In addition, “No Child Left Behind” and education policy is likely to be a continuing electoral theme with action being carried over to the states and territories in 2005.

The Internet sales tax question also will remain an issue for states, regardless of the presidential election outcome. “While the 108th Session of Congress was unable to reach consensus on continuation of the Internet Access Tax Moratorium that expired October 1, expect that issue to reappear in 2005 in the 109th Congressional Session,” said Jim Brown, The Council of State Governments’ Washington, D.C., office director. “It may be wrapped into an overall discussion of federal preemption of state taxing authority. In an effort to satisfy U.S. Supreme Court restrictions, state and local groups are pushing Congress to take up and approve the Streamlined Sales and Use Tax Agreement (SSUTA). This would allow states and localities to effectively collect sales and use taxes on e-commerce purchases.”

As retail Internet sales grow, a University of Tennessee study reports that without congressional approval of the SSUTA, states stand to lose between $17.8 billion and $27.8 billion annually by 2008, while local governments will lose between $3.7 billion and $5.8 billion that year, said Brown.

Health care will likely take center stage in 2005 under either presidential candidate. Certainly federal action in that arena, be it on prescription drugs, health insurance or Medicaid and Medicare, will dramatically impact states.

—Julia Nienaber Hurst is executive director of the National Lieutenant Governors Association, an affiliate of CSG.