HOT TOPIC: 2011 Preview

Legislative Sessions Hinge on Money, Money, Money

Laying Groundwork for the Future
CSG National Chair David L. Williams

The Best Advice I Ever Got

5 Challenges to State Budgets

What the Elections Really Mean

“I look forward to continuing my work with CSG next year as we continue to ensure states maintain their rightful place in dealing with issues they are uniquely qualified to address.”
—Kentucky Senate President and CSG National Chair David L. Williams

PLUS: California First Lady Maria Shriver on Alzheimer’s Disease  www.csg.org
"If I can make America stronger giving it clean, efficient, low-priced energy, then I'm doing my part. I'm making America better."

Shane Evans
Dispatcher
Arch Coal's Black Thunder Mine

Shane's brother is on active duty in Afghanistan. And Shane will be the first to tell you that what he is doing doesn't begin to compare to the sacrifice his brother is making. Still, he feels that he and his fellow miners at the Powder River Basin's Black Thunder Mine are doing their part to make America stronger by providing all of us the affordable and reliable electricity that coal makes possible.

"The coal we have keeps America's energy secure – we don't have to go outside our own country to get it." Shane says. "In the Powder River Basin alone, we have 100 billion tons of coal." According to Shane, coal is, without a doubt, America's fuel. To learn more about Shane and coal's vital role in a secure energy future, visit americaspower.org.
ON THE COVER

Kentucky Senate President David L. Williams, the 2010 chair of The Council of State Governments, believes some issues are best left to the states. As chair of CSG, Williams has worked to further that philosophy, and points to the National Center for Interstate Compacts as one way states come together to address common issues.

COVER PHOTO BY SUZANNE FELICIANO

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GOV. JIM DOUGLAS
Meet Vermont’s governor.
The elections earlier this month were a sober reminder of the challenges faced by elected state officials. Much of the electorate was in a surly mood and they were more than willing in most states to vote for change—just as they voted for change in 2006 and 2008. The volatility of politics is a symptom of the anger and frustrations many voters have with a struggling economy. While the emotions that fueled many voters’ actions were clear, the strategies to address their concerns were less obvious.

One of my favorite political movies is “The Candidate” starring Robert Redford. The movie tells the story of a dark horse candidate’s run for the U.S. Senate. The final scene portrays the candidate right after he is told he won the race. He is sitting on the desk in his headquarters hotel. Supporters are heard in the hall. He turns to his campaign aide and asks, “What do we do now?” I have to imagine many of the 29 new governors-elect, dozens of new constitutional officers-elect and hundreds of new legislators-elect had a similar realization on election night this year. In this issue of Capitol Ideas we attempt to look ahead and provide insight into how state leaders can begin to answer the question, “What do we do now?”

November will for many of us always be remembered as election month. We also remember November for two other very important reasons, Veterans Day and Thanksgiving. Both give us a chance to pause and reflect on our fortunes as Americans.

Nov. 11 is set aside to honor our veterans. While the war in Afghanistan received little notice in this election cycle, it is a forbidding place in which members of our armed services, including many states’ National Guard members, risk their lives daily to pursue their mission on our behalf. The Council of State Governments salutes all our men and women in uniform and remembers those fallen who have given the ultimate sacrifice to secure our freedoms. Let us never take their service and the sacrifices they and their families make for granted.

November is a month for gratitude as well. Those of us at CSG have much for which we are thankful. This year we were blessed with the strong leadership of our national president, South Dakota Gov. Mike Rounds, and our national chair, Kentucky Senate President David L. Williams. Both leaders called us to rise to the challenge of the times and provide state leaders with the ideas, innovations and insights they need to craft solutions. As executive director, I am thankful for the team of dedicated professionals with whom I am honored to work. Just as our members consider public service a calling, the employees of CSG consider their service to our members to be a calling worthy of their best effort.

Together we have achieved a great deal for the community of states, but the next biennium promises to be among the most challenging in a generation. We are thankful for the trust state leaders have placed in us, for allowing us to be a part of your public service journey and we pledge to continue to work hard to help you make a difference for those you serve.

We are also thankful for the many state leaders who are concluding their service in public office this year. In this issue we pay a special tribute to one such leader, Vermont Gov. Jim Douglas, a former CSG national president. He has inspired me by his example and we will not soon forget his significant contributions to our organization. Thank you Gov. Douglas.

I believe the majesty of our American form of government and the people who serve in our institutions of government are equal to any problem. As a nation we are truly blessed. Service to others remains the most eloquent expression of our freedom. Let us pause and give thanks.

Very truly yours,

David Adkins

An Attitude of Gratitude
The Council of State Governments

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executive committee
“I take as my challenge forging a common purpose, but a common purpose based not just on compromise but based on a vision of what California can be.”

—California Gov.-elect Jerry Brown following his election night win. Brown called for an end to the divisiveness in Sacramento and in Washington, D.C.

“I did not change West Virginia alone and I will not be able to change Washington alone. I’ll work with everyone who is willing to put this country first.”

—West Virginia Gov. Joe Manchin, former CSG president, in his victory speech after his election to the U.S. Senate

“No matter how you voted, I plan to get to work for you.”

—South Carolina Gov.-elect Nikki Haley in her victory speech Nov. 2

“This was not about winning the election. That was the easy part.”

—Indiana Rep. Brian Bosma, the House Republican leader who will become House speaker in January

“The national mood, (the) anti-incumbent mood, spoke loudly in Minnesota.”

—Minnesota Senate Majority Leader Larry Pogemiller, quoted in the Minneapolis Star-Tribune. Pogemiller said he called Senate Minority Leader David Senjem to congratulate him on taking the majority.
**The East**

**PRISON CELL PHONES**
New Jersey corrections officials are testing new technology to detect illegal cell phones in jails and prisons, according to *The Star-Ledger*. The state is considering using special cell phone detection equipment from Berkeley Varitronics Systems, the newspaper reports.

**FEE-FOR-SERVICE**
The current fee-for-service system for health care payments is broken and needs to be fixed, according to Massachusetts Sen. Richard Moore. Massachusetts is looking to move away from the fee-for-service model, according to a newsletter from The Council of State Governments Eastern Regional Conference. Critics say the current system adds to high health care costs and can hit patients hard in out-of-pocket costs, the newsletter reports.

**PRIVATIZING RECYCLING**
Delaware is getting out of the recycling business and instead using private companies for recycling and landfill programs, *The News Journal* in Wilmington reports. The Delaware Solid Waste Authority will end statewide curbside recycling service April 1, instead using private hauler alternatives, according to the newspaper. The agency will also end curbside yard waste pickup in some counties by December, the newspaper reports.

**SURPLUS**
New Hampshire’s budget surplus hit $70 million for the 2010 fiscal year, according to a press release from Gov. John Lynch’s office. That surplus was made possible by lawmakers and the governor closing a projected $300 million budget shortfall for 2010, according to the press release. Even more good news, revenues for the 2011 fiscal year are more than $2 million above projections so far, the press release said. Business taxes for September were more than $1 million higher than projections, according to the press release.

**SUGARY DRINKS**
New York Gov. David Paterson and New York City Mayor Michael R. Bloomberg submitted a plan in October to the U.S. Department of Agriculture’s Office of Temporary and Disability Assistance to prevent people in New York City from using food stamps to buy sugar-sweetened beverages, according to a press release. Under the plan, those on food stamps would still receive the same amount of Supplemental Nutrition Assistance Program funds, but would not be able to purchase sugar-sweetened beverages for two years, the press release reports.

Last year, there were 43,000 foreclosures in Maryland and it’s not over yet. Another wave is coming as five-year adjustable rate mortgages taken out in 2006 come due next year.

That’s according to Maryland Delegate Doyle Niemann, who authored a foreclosure mediation law in his state.

“A lot of people are stuck with big loans on overvalued houses that they can’t pay,” Niemann said.

The foreclosure mediation bill in Maryland, among other things, gave homeowners the right to have a face-to-face meeting with the lender (the mediation) to discuss options for their mortgage and also put a $300 fee on all foreclosure filings. That pool of money, generated by the filing fee, will go to fund the statewide foreclosure prevention program and its counselors, Niemann said.

“Our approach to this was not to stop foreclosures, not to keep people in houses who can’t pay … but to give homeowners notice and time to fix the problem,” Niemann said, “and to sort of encourage rational decision making by lenders.”

A similar program just launched statewide this year in Maine.

The program provides more counseling on the front-end so people don’t get into foreclosure and also provides the mediation—or formal discussion meeting—that will help people get through the foreclosure process offering alternatives to losing their home, said Maine Rep. Sharon Treat, who authored the bill.

“It managed to get funding at a time when our budget was in terrible shape—in fact we were cutting the budget,” Treat said. By closing a loophole in the real estate transfer tax, the state was able to fund the program with more than $1 million.

That goes to fund court mediation and the foreclosure counseling program, she said.
Tennessee Moves to Block Mountaintop Removal Coal Mining

Tennessee submitted a petition in October to the federal government to block mountaintop mining on state-owned ridgelines, the Environment News Service reports.

The petition on mountaintop removal may be the first of its kind filed by a state government, the news service reports. The document was filed with the U.S. Department of the Interior’s Office of Surface Mining and asks the federal government to study and begin a public dialogue on the suitability of state-owned lands in the Northern Cumberland Plateau for mountaintop removal mining, according to the news service.

If the petition is approved it would prevent surface mining of coal for 600 feet on each side of the ridgelines in the Northern Cumberland Plateau, creating a 1,200-foot ridgetop corridor that encompasses an estimated 67,000 acres, according to the news service.

Although the state controls the surface rights to the area covered by the petition, others own the mineral rights, The Tennessean of Nashville reports. Chuck Laine, president of the Tennessee Mining Association, told The Tennessean the state could only afford the property surface rights but not the mineral rights. His group opposed the measure and said it’s a move by the Tennessee Mining Association, told The Tennessean the state could only afford the property surface rights but not the mineral rights. His group opposed the measure and said it’s a move by the state to take the mineral rights away from the owners without proper compensation, according to the newspaper.

Supporters of the petition say the mountaintop removal mining endangers the environment in the area. Much of the land covered in the petition is upstream from the Big South Fork National River and Recreation Area—a major recreational economic engine for the state, the news service reports. Recreational activities offered in the Big South Fork National River and Recreational area represent a $10 million to $16 million economic benefit a year for the region, according to a 2005 report by the National Park Service.

The petition, others own the mineral rights, The Tennessean of Nashville reports. Chuck Laine, president of the Tennessee Mining Association, told The Tennessean the state could only afford the property surface rights but not the mineral rights. His group opposed the measure and said it’s a move by the state to take the mineral rights away from the owners without proper compensation, according to the newspaper.

INSURANCE FRAUD
In a down economy, Arkansas is seeing more cases of insurance fraud, according to the Arkansas News Bureau. Insurance fraud cases investigated by the state increased from 356 cases in 2005 to 536 cases in just the first eight months of 2010, Greg Sink, director of the Arkansas Insurance Department’s criminal investigation division, told the news bureau.

REVENUES UP
Here’s some news officials aren’t used to hearing: Tax revenues were up in Georgia for September, according to the Atlanta Business Chronicle.

OIL SPILL EFFECTS
State officials will be dealing with the effects of the oil spill in the Gulf of Mexico for years to come, according to The Times-Picayune. In fact, the Louisiana legislature formed a Joint Natural Resources Committee to address the impacts of the oil spill on the state’s seafood industry and the environment, the newspaper reports.

FORECLOSURES
Virginia Gov. Bob McDonnell’s Foreclosure Task Force launched an informative foreclosure website in October to assist residents facing the possibility of losing their home through the foreclosure process, according to a press release from McDonnell’s office. The website—www.virginiaforeclosureinfo.com—provides information on locating housing counselors, frequently asked questions and other foreclosure resources. “This newly designed website will provide Virginians with important information on the state’s foreclosure problem,” McDonnell said in the release.

SCHOOLS
North Carolina’s Board of Education approved changes to the way public schools are graded, according to the News & Observer in Raleigh. The changes mean the schools will be graded on how well they prepare students for college and the work force, as well as how many students enroll in challenging math classes, the newspaper reports. Those changes also mean test scores will have less significance for high schools, according to the newspaper. The board wants to implement the new system in 2013, but the plan would require action from the legislature, according to the News & Observer.

© Corbis / Cindy Kasab

To learn more about these and other developments in the Southern Region, visit: capitolideas.csg.org and www.slcatlanta.org.
Midwestern states are considering ways to do more with limited resources. One of the options is the consolidation of schools and districts.

In Iowa, for example, the number of districts considering a merger is on the rise, according to state education officials. The state has received about a dozen requests for reorganization feasibility studies, the Quad-City Times reports.

So far, six school districts voted to merge into three districts for the 2011–12 school year, and several more are considering similar action, state officials say.

Researchers at Michigan State University found the state could save $612 million a year after three years by consolidating district administration, but not schools themselves. The plan proposes turning the state’s 550 districts into 57 districts made up of one county or more. A second proposal would save $328 million by keeping current district boundaries but administering transportation, food services and maintenance at the county level, according to Michigan State University.

Earlier this year, The Brookings Institution and the Greater Ohio Policy Center suggested school consolidation as a way to reform governance in that state. A February report suggests setting up a commission to cut the number of school districts by one-third.
The West

TEXTING & DRIVING
Idaho Sen. John McGee plans to introduce a bill in the 2011 session to ban texting while driving, according to The Associated Press. A similar bill in Idaho was approved by the Senate in 2010 but died in the House, the AP reports. Texting while driving is banned in at least 30 other states.

LIEUTENANT GOVERNOR
Arizona Proposition 111 on the November ballot would have changed the title of secretary of state to lieutenant governor. The initiative would also create team election of the governor and lieutenant governor on the general election ballot. Forty-five states have a lieutenant governor, according to the National Lieutenant Governors Association, a CSG affiliate. Voters rejected the proposal.

RADIATION OVERDOSE
A new law in California requires hospitals and clinics to record radiation doses for CT scans and to report overdoses to patients and their doctors, according to The New York Times. The law comes after nearly 270 patients received up to eight times more radiation than expected during CT scans at Cedars-Sinai Medical Center in Los Angeles, the newspaper reports. Those overdoses continued for more than a year until discovered by the hospital, the newspaper reports.

VACCINES
Alaska will no longer give free vaccines to adults at public health clinics, according to the Anchorage Daily News. The move is a response to decreased vaccine funding to the state from the U.S. Centers for Disease Control and Prevention, the newspaper reports. The state was distributing more than 65,000 free vaccine shots to adults a year, but by January, Alaskan adults will no longer get free flu, pneumonia, tetanus and other vaccines.

LEGISLATURES INNOVATE
Western legislatures contributed to a Legislative Innovations project by The Council of State Governments-WEST featuring dozens of new ways to run legislatures more efficiently and transparently. From Alaska to Hawaii and all states in between, legislatures shared ideas including: providing child care for children of legislators and staff, a public access room to involve more citizens in the legislative process, online public opinion polls during legislative sessions, consolidation of interim committee days, creative lesson plans for civic education, detailed legislative district profiles and much more.

Utah Studies Infant Mortality Rates

In Utah, African-American and Pacific Islander babies have some of the highest infant mortality rates, the Deseret News in Salt Lake City reports. Pacific Islander infants younger than 12-months-old die nearly twice as often—with an infant mortality rate of 8.8 deaths per 1,000 births—than other infants statewide, the newspaper reports.

The state wants to reverse that trend. With the help of a $130,000 federal grant from the U.S. Department of Health and Human Services spread over three years, the state will study the phenomenon, the newspaper reports.

“In our black and Pacific Islander populations, we are 20 years behind the rest of the state at preventing infant death,” Owen Quiñonez, program manager for the Utah Department of Health’s Center for Multicultural Health, said in a press release announcing the grant.

“We will be doing an assessment that involves conducting surveys to identify barriers that people come up against and help them choose healthier lifestyles,” April Young Bennett, a specialist with the Utah Department of Health’s Center for Multicultural Health, told the newspaper.

Many minorities in Utah are without insurance, the newspaper reports. The highest uninsured rates are among the state’s Hispanics at 35.7 percent, the newspaper reports. Statewide, 11.1 percent of Utah residents are uninsured, according to the newspaper.
Trust in Government

While trust in government at all levels has dropped, state and local government still enjoy higher levels of trust than the federal government.

**IMPACT IN YOUR DAY-TO-DAY LIFE »**

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The number of people who agree the federal government has gone too far in interfering with state matters has also increased, while those who believe it hasn’t has decreased.

**OUTREACH**

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**Collecting Unemployment Benefits**

Despite high unemployment rates and extensions of emergency unemployment insurance that passed during the recession, not every person who is eligible to collect unemployment benefits under the laws of their state actually receives that funding. Those recipiency rates vary by state, according to the Economic Policy Institute using figures from the U.S. Department of Labor, Employment and Training Administration. Those eligible for unemployment benefits who actually receive them range from 98 percent in Connecticut to 33 percent in South Dakota.

The percentage of those eligible for unemployment benefits who receive funding, by state:

- **30%**: South Dakota, Texas
- **40%**: Georgia, Virginia
- **50%**: Connecticut, New York, Vermont

*Figures may not add up to 100 due to rounding.*

*Source: Pew Center on the States: The People and Their Government*
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60% | 61% | 62% | 63% | 64% | 65% | 66% | 67% | 68% | 69% | 70% | 71% | 72% | 73% | 74% | 75% | 76% | 77% | 78% | 79% | 80% | 81% | 82% | 83% | 84% | 85% | 86% | 87% | 88% | 89% | 90% | 91% | 92% | 93% | 94% | 95% | 96% | 97% | 98% | 99% | 100%

Over the past three fiscal years, state budgets have undergone a period of extraordinary distress. The onset of the Great Recession brought enormous economic uncertainty, highlighted by plummeting state tax revenues. As a result, policymakers were forced to implement tax increases as well as make almost continuous cuts to programs and personnel within even the most sacrosanct areas of state budgets.

These actions, combined with significant assistance from the federal government through the American Recovery and Reinvestment Act of 2009, have been able to at least temporarily stem the tide of rising deficits. Now the national economy and state revenues are in a fragile state of recovery, but instead of breathing a collective sigh of relief, states are bracing themselves for even larger fiscal challenges.

In the near term, states face a shaky revenue picture coupled with the impending expiration of the remaining federal Recovery Act funding initiatives. State revenues will grow throughout the 2011 fiscal year, although at a more moderate pace than most states originally forecast. Then, as the national economic recovery accelerates, so too will growth in tax collections. However, growth will not be substantial enough to offset the 2012 fiscal year expiration of the remaining Recovery Act assistance programs. Subsequently, most states will see deficits continue into the 2012 and 2013 fiscal years.

While the Recovery Act assistance programs were of paramount importance to balancing budgets, they were ultimately intended as a temporary solution, allowing states time to more deliberately and systematically address fiscal deficits without shocking the economy further.

Unfortunately, a majority of states relied too heavily on this assistance and failed to address long-term structural fiscal issues, which the recession amplified. During the 2009 and 2010 fiscal years, aggregate state tax revenues declined approximately $80 billion, according to the Nelson A. Rockefeller Institute of Government. However, during that same time period, states actually closed collective budget deficits in excess of $300 billion, according to a report from the Center on Budget and Policy Priorities.

Portions of the difference can be attributed to declines in nontax forms of state revenue and cyclical enrollment increases within Medicaid and other social assistance programs. However, most of the difference represents growing structural deficits within state budgets from organic growth in the demand for state services to ever-increasing pension and retirement obligations.

These challenges, particularly those facing states in the near term, must be addressed with great care and consideration for the fragility of both the local and national economic recoveries. If not, some states run the risk of falling back into recession and taking the broader national economy with them.

The national unemployment rate is already likely to return to double digits in coming months, and a number of states are still in recession or are seeing their recoveries stall. Subsequently, chances of a national double-dip recession over the next 12 months have steadily increased since earlier this year from 1-in-5 to 1-in-3.

Policymakers must simultaneously address these near-term issues as well as long-term structural imbalances that they have kicked down the road for too long. Striking the proper balance between these two priorities will be difficult but imperative to ensuring the future fiscal health of state governments for years to come.
The early analyses of the 2010 elections have emphasized, with good reason, the Republicans’ capture of the U.S. House of Representatives and the dents they made in the Democrats’ Senate majority. This broad national pattern was important, to be sure, but upon reflection, even the House takeover may not be the most significant election result, in that the breadth of the GOP victories was more than matched by its remarkable depth—in governorships and especially within state legislatures.

Control of the U.S. House and Senate has vacillated between the two parties over the past 16 years, since the 1994 Republican tsunami. The switch of one chamber, even with a swing of more than 60 seats, seems almost ordinary given the nationalized elections of 2006 and 2008. But the GOP’s addition of more than 680 state legislative seats may reflect a more profound change, in that Republicans now hold an edge in total numbers that has not been matched since before the New Deal era. Moreover, Republican control of at least 55 chambers and at least 29 governorships offers further evidence of a deep party victory.

In my home state of Kansas, Republicans predictably swept the six statewide contests—five of which were in Democratic hands—by margins of about 20 percent. This tide essentially wiped out the Democrats’ modest influence in the state legislature where they lost 16 seats and any hope of combining with Republican moderates to build a working coalition.

**Implications of Sweep**

So what are the implications of this historic electoral sweep?

Legislators who win their seats in such elections have less political experience and may well owe their victories to the short-term forces of the moment. In 2010, the Tea Party and Republican activists provided almost all the energy behind the wave of triumphs. The good news for Republican leaders and governors is that they have many more majorities to work with, but this is no unmixed blessing. Much like incoming U.S. House Speaker John Boehner, state legislative leaders will have to address the wishes and demands of scores of new lawmakers supported by the Tea Party.

In policy terms, this may create some serious problems as states seek to rebuild their budgets in the absence of federal stimulus money, and perhaps less funding from other federal sources. For many new legislators, raising taxes is completely off the table, while exploring deep cuts...
stands initially as a more likely option. This also could pose difficulties for the new class of GOP governors, who will be held responsible for drastic reductions in programs, especially within the education and health care sectors.

If some of the policy struggles are not completely predictable, that is not the case with redistricting decisions, both state and federal. Of particular importance are redistricting plans in those states that will either lose or gain a congressional seat. In states that are losing U.S. representatives, Republicans picked up several houses, including both Michigan chambers and the Democratic House in Ohio, which will shed two seats. In Missouri, the seat held by Democrat Russ Carnahan may well be targeted in the plan to be put forward by the Republican-dominated legislature. Overall, one estimate sees Republican-dominated states—as opposed to split or Democratic ones—as redrawing more than half the congressional districts across the country.

Although the political science literature downplays the role of redistricting in determining party balances, the impact is greatest when a state’s number of representatives changes, and here Republicans emerged with a decided advantage. Moreover, states that will gain seats are overwhelmingly located in the South and West, where Republicans dominate.

Long-Lasting Impact

A longer-term approach to the GOP tide of new legislators emphasizes what the 2010 results mean for the pool of state legislators for years to come. By far the most common entry points for national politics in the U.S. are its state legislators. They constitute the pool from which House members, senators (increasingly, à la Marco Rubio in Florida), and governors will come. Landslide elections change the nature of this pool dramatically, often replacing veteran lawmakers of one party with rookies from the opposing one. Over time, these new entrants embark upon their own political careers, becoming legislative veterans, or losing elections, retiring or running for higher office—often framed by term-limit strictures.

The point is that an electoral tide often produces an initial impact when all the newly elected legislators enter, armed with a fresh mandate. Over time, their energy fades, but many of the lawmakers remain and build their political careers, wending their ways through their legislatures and often to higher office. To be sure, they may modify their views over time, but most remain reasonably true to their initial ideologies and policy positions. Thus, in 1974 Californians elected Henry Waxman and George Miller, two staunch liberals, to the U.S. House. Despite various interim achievements, their major policy impacts came 35 years later in the 111th Congress, as chairs of the Commerce and Education/Labor committees, respectively.

It may well be that 20 years from now, a handful of the thousand or so new Republican legislators will have some similar impact, as U.S. senators or governors or—who knows?—as president. What we do know is that the largest pool of future national politicians changed dramatically in the wake of the election, becoming far more Republican and conservative. And that could ultimately represent the largest impact of the Deep Red tide of 2010.

Burdett Loomis is currently at work on Kansas Pastoral, an analysis of major policy change between 1960 and 1975 in the Sunflower State.
Gubernatorial* Party Control

*Minnesota governor’s race was not officially decided at press time, although the Democratic candidate unofficially had 10,000 more votes.

Legislative* Party Control

*The information presented is based on the projected party control as of press time. Undecided races in the New York and Oregon Senates could affect the party control within those chambers.
Greg Brophy is well-known as one of the most outspoken fiscal conservatives in the Colorado Senate. Brophy, however, is relieved that Colorado voters last month rejected a trio of anti-tax ballot measures that would have reduced state revenue by $2 billion.

“I’m a fan of limited government,” Brophy said. “I’m not a fan of anarchy.”

One of the ballot questions would have made school districts cut property tax rates in half and backfilled those cuts with state funds. Another would have reduced income taxes, vehicle sales taxes and other fees. The third was in many ways the most restrictive: It would have banned the state from issuing any kind of debt and imposed severe restrictions on the amount of debt that local governments could take on. All three measures were defeated soundly.

“They were bad policy,” Brophy said.

He doesn’t have high hopes for the coming legislative session’s budget negotiations. Even with voters rejecting the three anti-tax measures, Brophy says balancing the budget next year is “going to be really, really hard.”

Colorado is one of many states where ballot questions put to voters came with deep fiscal consequences for the future. Even in a year marked by calls for limited government and lower taxes, however, the results were mixed. Massachusetts voters said no to one big tax cut but yes to a smaller one. And Washington state voters decided against instituting a state income tax.

In all, voters weighed in on 160 statewide ballot measures Nov. 2, approving measures that could both help and hurt states’ bottom lines. The results are significant because more than half the country’s states will have new governors at the helm and scores of legislative chambers will have new leaders. Together, this new group of leaders will face yet another year of budget deficits—this time, without the help of the federal stimulus.

**Taxing Contradictions**

The income tax proposal in Washington was one of the most closely watched in the country. That was in part because it was backed by Bill Gates Sr., the father of the Microsoft founder, and opposed by Microsoft CEO Steve Ballmer. The initiative sought to create the state’s first income tax, limited to high wage earners. Voters there were in no mood for new taxes—or borrowing, it seems. They not only rejected the income tax but also rolled back a new sales tax on candy, bottled water and soda; reinstated requirements that make it harder for lawmakers to raise taxes and fees; and rejected a $505 million statewide bond issue for improvements to public schools.

Elsewhere, voters were willing to go in different directions on taxes. In Massachusetts, voters were asked whether or not to keep a recently passed sales tax on alcohol. They decided to get rid of it, costing the state about $100 million in lost revenue. “This jeopardizes an already stressed budget,” says Rep. Jay Kaufman, who chairs the Joint Committee on Revenue.

But Bay State voters also had the chance to reduce their state sales tax rate by more than half. In that case, they opted not to. “That would have had tragic consequences to every area of state and local services,” Kaufman said. Had that measure passed, it could have doubled the state’s projected budget deficit next year to $5 billion.

The biggest contradictions among voters occurred in California, where seven of nine measures on the ballot carried budget implications. Some of those dealt with matters of budgeting procedure, a crucial point in a state where legislative stalemates stalled budgets in recent years. Voters approved a measure allowing lawmakers to pass a budget by a simple majority vote, rather than the two-thirds supermajority that was required. Proponents say the change will get a budget passed on time.

But California voters also decided to tie lawmakers’ hands in other ways. For example, any increase in fees must now pass with a two-thirds vote. Also, the state will no longer be able to use local government or transportation funds to help balance the budget, as it did last year when the state raided some $5 billion from various local funds to help close its budget gap.
Other questions in California had more direct budget consequences. Voters could have repealed more than $1 billion in new corporate tax breaks, but chose not to. And the failure of Proposition 19, the high profile effort to make California the first state to legalize marijuana, had less-noticed fiscal consequences. Under that plan, taxes on marijuana could have raised hundreds of millions of dollars in revenue.

Budgets Strained and Bolstered

In Arizona, a state whose budget has been ravaged by the recession and its aftermath, voters created a new $450 million hole. They rejected two ballot measures lawmakers were banking on to balance the books. The measures would have taken money from a land conservation fund and from an early childhood development program and redirected the funds to the state general fund.

In Florida, voters rejected a measure that would have saved the state billions of dollars by relaxing limits on class sizes in schools. And in Oregon, voters approved a mandatory minimum sentencing law slated to cost $1.4 million in the first year alone. The measure doesn’t indicate how to pay for it.

On the flip side, voters in Oklahoma, South Carolina and Virginia all approved measures aimed at helping their states weather future recessions by beefing up “rainy day fund” cash reserves.

Election Issues Tackled

Apart from fiscal issues, voters also made changes to how political lines are drawn, who can vote and how long some politicians can stay in office.

California took a step toward taking politics out of redistricting by approving a measure that lets a 14-member commission draw the new lines for U.S. congressional districts, rather than the legislature. Voters rejected a competing measure that would have disbanded the commission voters approved in 2008 for drawing the new lines for state offices.

Florida voters also approved two ballot measures aimed at taking the politics out of redistricting for congressional and state districts. While the legislature still redraws new lines in Florida, the measures set out standards that must be followed, such as making the districts contiguous and following existing geographical boundaries when possible.

“It’s time to put an end to the corrupt practice of gerrymandering,” said Bob Edgar, president of Common Cause, “and I’m glad to see voters in two of our largest states, California and Florida, leading the way.”

In another election-related measure, Vermont will now allow 17-year-olds to vote in primaries if they turn 18 by the date of the general election. In Oklahoma, where term limits already existed for lawmakers, most statewide officeholders now will be restricted to no more than eight years in office. Nebraska nixed the idea of abolishing the office of the treasurer. And in Illinois, where one recent governor is in jail and another was convicted of lying to the FBI, voters agreed to set up a process for recalling their governor.

Pamela M. Prah is a staff writer for Stateline.org, a project of the Pew Center on the States.
Michigan Gov. Jennifer Granholm has led her state through turbulent times and turmoil facing the auto sector—her state’s signature industry. Even during the economic downturn, Michigan still received high grades for management from the Pew Center on the States’ “Grading the States” report.
“Citizens are filled with anxiety. They feel the need for an improved economy and more personal opportunity and look to their leaders to deliver on both, immediately.”

—Michigan Gov. Jennifer Granholm

experience, which is why I asked a respected, seasoned state senator, John Cherry, to be my lieutenant governor to help forge relations with the legislature. I must say, however, that no amount of sugar or experience would have softened the tough work we’ve had to do in Lansing. The wrenching budgets we’ve wrestled with have made my relations with the legislature prickly, but while it wasn’t pretty, ultimately, we balanced the budget every year and kept our key priorities intact.”

5 What, in your past life, helped you handle the transition to the governorship?

“Values. My first act as governor was to issue a lengthy executive order on ethics, and my administration has not veered from it. When I was growing up, my dad used to say, ‘Don’t do anything you wouldn’t want to read on the front page of The New York Times.’ That advice has served me well. I am also blessed with the most fantastic spouse in the world; without Dan Mulhern’s support and willingness to sacrifice, I simply would not have been able to serve in such a demanding role.”

6 How difficult has it been to accomplish your goals during the economic crisis, and what were you able to do to advance those goals?

“We have used this wrenching crisis to make big changes. The crisis allowed us to persuade people to reform education; it screamed the need to diversify our economy; and it exhorted us to protect people from falling through the safety net during the transition from an old Michigan economy to a new one. The crisis demanded that government be more nimble and efficient. For example, Michigan government is the smallest it has been since the 1970s. I have cut more than any governor in Michigan history—resolving more than $10 billion in deficits since 2003. We have cut more as a percentage than any state in the country. I have eliminated 25 percent of state departments, closed 13 prison facilities, and reformed public employee pensions and benefits. We have put every possible task, permit and process online and are now the number one state in the country for e-government, according to the Center for Digital Government’s annual survey. We would not have been able to make tough changes without the impetus of the crisis.”

7 What is the most important quality a governor can have to work with a wide range of people—from constituents to legislators to the business community?

“When tackling problems, it’s important to be both pragmatic and understanding of the value of compromise. You also must be open-minded, since no one person has a monopoly on good ideas. While it is true that each person has their own beliefs, it is important to note that rigid ideology serves no one but the ideologue.”

8 You’re also a wife and mother. How do you balance the demands of the governor’s office with the demands of family life?

“I am blessed with three wonderful children and my husband, Dan, who, as I mentioned, has proven to be the most supporting, selfless husband on the face of the earth. They have made this eight-year journey possible.”

9 What do you foresee as the biggest challenge facing governors next year?

“The biggest challenges facing the nation’s governors are the fallout from the economic realities of a nation still working to grow itself out of a recession, the impossible competitive disadvantage states are in when faced with globalization, and the fact that the electorate is wildly impatient. Education is key. One thing is certain, however—education is key. The competition is no longer just with Indiana or Kansas, it’s with India or Korea. So don’t let the crisis go to waste. Know that there are no ‘quick fixes,’ no magic wands when it comes to creating jobs in a global business marketplace. One thing is certain, however—education is key. The competition is no longer just with Indiana or Kansas, it’s with India or Korea. So don’t waste your time on the millions of nonessential tasks that come to your desk. Take the long view, focus on the essential and educate your citizens to compete in a global economy.”

10 What is the top advice you would offer to new leaders as they take over governorships?

“My advice is to get your ego out of the way, roll up your sleeves and get to work. You have been called to serve at an extraordinary time, so don’t let the crisis go to waste. Know that there are no ‘quick fixes,’ no magic wands when it comes to creating jobs in a global business marketplace. One thing is certain, however—education is key. The competition is no longer just with Indiana or Kansas, it’s with India or Korea. So don’t waste your time on the millions of nonessential tasks that come to your desk. Take the long view, focus on the essential and educate your citizens to compete in a global economy.”

1 What was the biggest challenge you faced as governor of Michigan?

“Michigan has the toughest economy in the nation. Since 2000, we have lost almost 900,000 jobs due to the global shift of manufacturing jobs to low-wage countries. For 100 years, Michigan’s economy was seven times (more) auto-manufacturing centered than any other state, and therefore globalization has hit us harder than anywhere else. Our massive budget contraction is but a symptom of this enormous structural shift in our economy. This economic challenge culminated with two of the Detroit Three automakers entering bankruptcy in 2009—the largest bankruptcies in American history. Finally, today we are starting to see a stronger and more stable auto sector.”

2 What was the most surprising thing you learned as governor?

“I was stunned that, before 2008, the nation had no industrial strategy to keep manufacturing jobs in America. We know that we can’t keep the low-skilled jobs, but I was stunned that our nation was embracing a hands-off policy that would only serve to facilitate the movement of jobs and manufacturing infrastructure to other nations—nations that are our economic competitors. With the current administration, however, there is now a will to partner with manufacturers to help level the playing field to keep important segments of this vital sector in America.”

3 What has been your biggest accomplishment as governor?

“Two things: I’m proud of our work to educate our citizens—raising standards, raising scores, lowering the dropout rate, educating all, and I’m proud of what we’ve done to diversify Michigan’s economy. We’re growing six emerging sectors: clean energy, advanced manufacturing, life sciences, homeland security, tourism and film. Since 2003, we have over 1,050 new or expanded companies, making Michigan repeatedly one of the top three states in the country in attracting new businesses, according to Site Selection magazine. In no area have we enjoyed more success than with the batteries to power the electric car.”

4 How did you utilize your experience as Michigan’s first female attorney general and federal prosecutor in your relations with the other two branches of government?

“Most of my experience has been in the executive branch, with a small stint as a judicial clerk for a federal appellate court. I had limited legislative

GOVERNOR JENNIFER GRANHOLM | 10 questions
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“I firmly believe the Toll Fellowship Program is an excellent resource for anyone hoping to better their leadership capability as well as build their character.”

“The Toll Fellowship Program was the most exciting and educational program I have had the pleasure of attending! My peers and I returned to our states inspired to serve and enact positive change.”
—West Virginia Secretary of Administration Robert Ferguson Jr. | Class of 2008

“The Toll Fellows Program was the absolute best program of any kind in which I have had the pleasure of participating. It was educational, informative and an overall outstanding experience that I would encourage anyone to be a part of if given the opportunity.”
—Alabama Secretary of State Beth Chapman | Class of 2009

“Toll Fellows is a one-of-a-kind opportunity to learn from members of all three branches of government. As a judicial member the experience was especially worthwhile. Tolls left me energized—one of the most worthwhile experiences of my life!”
—Alabama Chief Justice Sue Bell Cobb | Class of 2004

“Tolls was one of the most worthwhile experiences of my life. CSG covered all the bases from personal assessment, to teambuilding, to public speaking to meaningful and intense collaboration with people we’d just met. We all came away much stronger and energized to climb new mountains.”
—Georgia Office of Customer Service Administrator Joe Doyle | Class of 2009
Letters in the Desk

It’s long been tradition that U.S. presidents leave letters in the desk to their successors. In that vein, we’ve asked two governors who’ve served as president of CSG to offer advice and insights they might leave for their successors. With 29 new governors taking office in January in the states and territories, their advice may well be of value beyond their states’ boundaries.

REMEMBER OUR ROLE

South Dakota Gov. Mike Rounds
2010 President of The Council of State Governments

It is paramount for government officials to recognize that most of the people who elect us pay their bills and live within their means. They expect us to do the same in government.

Unfortunately, when it comes to the tempest in a teapot known as the legislative session, people who seek taxpayer dollars are unafraid to put pressure on lawmakers to spend more money. They do so with little regard for the taxpayers who pay the bill.

Government officials should remember that we cannot spend money unless we have it. Someone has to act as the mature adult and just say no, even when it’s not pleasant to do so.

Keep the big picture in mind: Government doesn’t create anything. Hard-working citizens do.

Although government has a role, we should recognize that its role is to serve citizens—not expect citizens to serve government.

Finally, governors must be selective in determining the issues in which they invest their time. It’s important to remember there is a difference between challenges requiring solutions and issues of life and death—such as war.

As governor and commander-in-chief of the South Dakota National Guard, I have tried to never lose sight of the fact that our country is at war.

I have made it a priority to always make time for those military men and women who put their lives on the line, whether it be deployment ceremonies, welcome-home ceremonies or attending the funerals of those brave soldiers who died for our country. We are only free because of their service.

BE ACCESSIBLE

Vermont Gov. Jim Douglas
2006 President of The Council of State Governments

There is no more important advice that I can give to the next governor of Vermont than to constantly talk with and listen to the people you serve. As governor, I’ve worked tirelessly to be with Vermonters, listening to their ideas, their concerns and their hopes for the future.

It is those conversations that guide you when decisions come across your desk that affect the lives of Vermonters.

Be accessible. Vermont workers and families are busy making a living, building their lives and their communities. They deserve a government that is open and accessible to their needs and a governor who has integrity and is honest about the challenges we face as a state. As governor, you have a tremendous responsibility to show that government is, indeed, working for them.

When you hear a mother or a father tell you how difficult it is to find an affordable place for their family to live, you are compelled to work harder to make Vermont more affordable so that we can keep our young families in our communities. When you hear an employer tell you that energy costs are making it harder to hire workers, you are motivated to reduce that burden to create more jobs. And when you hear from older Vermonters who are considering moving from our state because they can no longer afford their property taxes, you are inspired to reform the education financing system.

Vermonters share a common desire for a better tomorrow. While not everyone will agree with every solution, it is important that all Vermonters know that their concerns are heard, their opinion matters and that their point of view is considered.

These are not easy times to govern. But our democracy is strongest when we come together to solve difficult challenges. And the best way to come together is to ensure a robust dialogue between elected leaders and those they serve.
Somebody Told Me…

The Best Advice I Ever Got

People in public life often are given great nuggets of wisdom that serve them well in their work. Here, we share some of the best advice our members have received.

“One will never be disappointed in the field of electoral politics if one accepts that loyalty and gratitude are rare commodities and that advancement is not necessarily based on merit.”
—Russell Copeman, a former Québec legislator who is now associate vice president at Concordia University, received this bit of advice from his first political aide.

“Listen to whomever and from whatever source you prefer, but also listen carefully and understand the points of view and messages of those with whom you disagree.”
—Ohio Rep. Kathleen Chandler

“How to understand politics: All politics is local; the issue is not the issue; follow the money.”
—Bob McCurley, director, Alabama Law Institute

“If you make good policy, the politics are already taken care of.”
—Maine Secretary of State Matt Dunlap took this advice from a statement of frustration on the House floor from then Speaker Mike Saxl.

“Don’t hate others for what they believe.”
—Brian Moore, former legislator, New Mexico

“When I first became a representative, U.S. Sen. Malcolm Wallop gave me two pieces of advice: First, that the best governing takes place at a local level, and second, that we should come to a conclusion and then live by that conclusion.”
—Wyoming Rep. Rosie Berger

“Some of the best advice offered to me were to be passionate about your job and how your work benefits others . . . (and) the importance of building and maintaining strong relationships with people.”
—Craig Hall, chief financial officer, Massachusetts

“The best way to get promoted is to give management that which they do not have. If you can sell them on it, they will open the doors because they will want more of it.”
—Mark Anastas, division administrator, Nevada
“Make your own destiny. Don’t wait for others to make up their minds about running the race you are considering. You get in first and maybe you will make your own destiny.”
—Kentucky Secretary of State Trey Grayson was given this advice from former Republican Party Chair Ellen Williams when he was trying to decide whether to make his first run for political office.

“It is easy, terribly easy to shake a man’s faith in himself. To take advantage of that, to break a man’s spirit is the devil’s work.”
—Nebraska Sen. Annette Dubas was given this George Bernard Shaw quote by a friend during her first campaign when things were getting nasty. She keeps it above her computer as a daily reminder to choose her words carefully.

“If you give your word, do what you say you’re going to do or at least be found trying!”
—Herman Williams, director of Governmental Affairs in Arkansas, was given this bit of advice from his late father, Elijah Hill.

“Love what you do because you may not always get to do what you love. Do what you have to do so you can do what you want to do. Never give up!”
—Alabama Secretary of State Beth Chapman

“Change is a challenge to the adventurous, an opportunity to the alert, and a threat to the insecure.”
—Pamela Booth, an administrator with the Connecticut Legislative Regulation Review Committee, was given this William Arthur Ward quote by her first boss after she was offered a promotion; the quote helped her make her decision.

“Be true to your values but always be ready to give up who you are for who you might become.”
—North Carolina State Controller David T. McCoy received this advice from Jake Whitecrow, a tribal elder of the Oglala Sioux Tribe. As a result, McCoy gave up very comfortable positions to serve new roles in state government.

“The only thing you’ve got is your reputation; it takes a lifetime to build and a moment to lose.”
—Alaska Rep. Lindsey Holmes received this advice from her father when she passed the bar exam, and it has been “golden advice” in law, politics and life.

“Now, I taught you how to do this— you go help a new legislator just like I helped you.”
—Kansas Rep. Elaine Bowers was told this by former Speaker Melvin Neufeld after his defeat in his primary race this year. She has quite a few “Melvinisms” to share with new legislators. She wrote his top 10 answers to any political question on a fast food restaurant napkin and plans to make copies.

“Believe in yourself.”

“HOLD ON TO YOUR VALUES”

“Pass it along.”
2011 is not expected to be a fun time in state government; neither is 2012 or even 2013 for that matter. The “easy” cuts have been made and absent a substantial revenue rebound, the hands of leaders in most states will be tied when it comes not just to funding new programs, but also in keeping existing ones afloat. Since 2008, 46 states have made deep cuts in key budget areas, such as education, public health and state work forces, according to the Center on Budget and Policy Priorities. And to make matters worse, Recovery Act and Jobs dollars that had propped up sections of state budgets are being spent down or have been exhausted completely.

Combined with information from the Pew Research Center indicating that 55 percent of American adults have been directly impacted by the recession via job losses, reduced income, missed mortgage payments and bills, it paints a stark picture pitting what Americans really need from their government against what government truly has the capacity to provide.

It is difficult to believe, as some pundits would proclaim, that generations of unemployable Americans essentially will be lost. But citizens’ view of government and its role, as well as their perceived return on investment, i.e. taxes, may be forever changed. Civic confidence may indeed take a generation or two to rebound. A recent report from The Pew Center on the States, in cooperation with the Public Policy Institute of California, examines the attitudes of the citizenry about their state’s budget crisis—the first time those attitudes have been examined.

Among the survey’s top findings: government performance matters; citizens want essential services protected; they are tired of government borrowing; and they have simply lost faith in government’s ability to get it right.

In an additional update from the Center on Budget and Policy Priorities, through the 2009, 2010 and 2011 fiscal years, states have managed to close budget shortfalls in excess of $425 billion through a combination of budget cuts, rainy day funds and federal stimulus money. The 2012 fiscal year, however, is expected to be worse with budget shortfall projections in excess of $140 billion, and only $6 billion in federal stimulus funds remaining, according to that report, “States Continue to Feel Recession’s Impact.”

That’s a tough pill for state leaders to swallow as they enter the 2011 legislative sessions with few choices open to them: Raise taxes or cut spending, neither of which sits well with an increasingly frustrated constituency.

The lingering budget crises in the vast majority of states is forcing a new level of creative problem-solving and tasking state leaders with accepting the “new normal” of budget conditions. Texas is considering a constitutional amendment permitting a statewide property tax to fund education—a bold proposal in a state that did away with the same revenue mechanism long ago. Montana’s secretary of state is proposing her state adopt an all-mail ballot system to conform not only to the trend of more citizens casting absentee ballots, but also to save the state money.

And California all but legalized marijuana, despite the divisive Proposition 19, when Gov. Arnold Schwarzenegger, citing state budget shortfalls combined with increased corrections costs, recently signed into law new provisions making the possession of less than 1 ounce of marijuana a finable offense of just $100. Like California, other state legislative agendas this January will almost certainly force a showdown between long-held social policies and the states’ budget outlook on topics such as gambling and mandatory sentencing.

While money, or the lack thereof, is the root of most problems states will face in 2011, there are several key areas in which states will be forced to act—either as a result of federal mandates, a lack of federal support or, in the case of state pensions, the fact that the bill has come due at the worst possible time.
States Find Ways to Deal with the ‘New Normal’ for Budgets

by Nathan Dickerson

When the Great Recession began in 2008, Indiana employed 17,864 people to provide state services. Now, the Hoosier State is operating at staffing levels lower than what they were in 1975, according to The National Governors Association Center for Best Practices.

That’s just one example of how states are redesigning how they operate to deal with life after the Great Recession. While the immediate shock and turmoil from the recession may have passed, as states craft their budgets in the upcoming legislative session, they face a painful new reality: They have substantially fewer resources for general funds and can expect slower growth.

This is the “new normal” for states. To cope, states have made difficult cuts.

While governors are increasing general fund spending in their 2011 budgets by 3.6 percent, according to the National Association of State Budget Officers, those increases don’t undo the damage done to budgets by cuts over the past three years. According to the Center on Budget and Policy Priorities, at least 46 states have made cuts in all major areas of state services since 2008, including health care in 31 states, services to the elderly and disabled in 29 states, K–12 education in 33 states and higher education in 43 states.

Scott Pattison, executive director of NASBO, said states had been seeing year-over-year spending increases at an average rate of 5.6 percent.

“The year-over-year increase is now likely to be an average of 3 to 4 percent, slower growth like many households,” Pattison said. “States will need to get accustomed to this more tepid and tempered growth—the ‘new normal.”’

State budgets are projected to be $52 billion less than the $687 billion allocated in 2008.

That means making even more drastic cuts, tapping into new taxes and fees or making longer-term changes. In Michigan, Gov. Jennifer Granholm is closing three prisons and five prison camps in an effort to save approximately $118 million annually.

Eleven more states began participating in the PowerBall lottery in 2010, raising the number of participating states to 42 for this nontraditional revenue source. Lottery revenue also has a particular advantage for vulnerable services. “The lottery funds can be dedicated to a specific cause,” said Charles Strutt, executive director of the Multi State Lottery Association. For example, Georgia, Tennessee, North Carolina, South Carolina and Arkansas direct their lottery funds to scholarships and education, he said.

Even with these actions, states are still facing severe budget gaps. According to NASBO, the budget gap for 2009–12 was roughly $300 billion. States have managed to close $170 billion of that gap, but a $127 billion gap remains. This means states must look at both short-term fixes and, considering that these challenges are the “new normal,” long-term fixes as well.

BUDGET CUTS CLOSE MUSEUM

DANA, IND.—Merv Hendricks, right, looked at a copy of The Daily Clintonian before touring the Ernie Pyle State Memorial in Dana, Ind. The museum and birthplace of the wartime journalist was one victim of state budget cuts in Indiana; the state Department of Natural Resources, citing low visitation numbers and state budget cuts, no longer wants to operate the Ernie Pyle museum and birthplace, which closed earlier this year.

(AP Photo/The Tribune-Star, Bob Poystri)
In Search for New Revenue, Taxes May Be the Answer

by Jennifer Burnett

When Texas legislators return in January for their next legislative session, they are in for a big surprise: a $21 billion budget shortfall over the next two years.

As much as 10 percent of that deficit can be attributed to a drop in projected sales tax revenue. The state relies on sales taxes for 60 percent of its revenue since it has no income tax.

Unprecedented budget gaps and the end of Recovery Act dollars will force even deeper cuts in state programs, and policymakers may have to rethink the road to a balanced budget.

As states struggle to fund even the most basic programs in 2011, an increase in taxes and fees seems unavoidable. States are taking a closer look at business incentive programs, taxes on the highest income earners, taxes on Internet sales or other out-of-state transactions, fees, temporary taxes and unemployment insurance taxes.

Any significant changes in tax rates may be proposed as temporary—for the duration of the current fiscal crisis—making them more palatable. It is often easier—politically and legally—to enact fees or frame increases as a fee rather than changing the type, number or size of taxes, so expect more states to impose fee increases as a way to raise revenue, said Joseph D. Henchman, tax counsel and director of State Projects at the Tax Foundation.

States have offered tax breaks and other financial incentives to attract businesses. Now, they may offer bigger breaks to draw much-needed dollars to communities.

In Michigan, for instance, filmmakers get a tax credit worth up to 42 percent of qualified production expenses. “The incentives have provided important economic benefits for the state, while also helping to diversify our economy,” Michigan Gov. Jennifer Granholm said in a recent press release.

According to the Initiative and Referendum Institute, taxes topped the list of most popular ballot measures this election season—either raising them or capping them.

States that don’t collect a tax surcharge from their high-income residents—so called “millionaire taxes”—may consider it. Those that have such a tax may rethink this strategy in hopes that a tax cut for the rich will give them a competitive advantage and encourage economic growth.

In Washington, for example, residents considered the state’s first-ever state income tax on individuals making more than $200,000. Earlier this year, Oregon voters declined to repeal a tax surcharge on high-income earners, and Arizona voters approved Proposition 100 in May, temporarily increasing the sales tax by one percentage point to 6.6 percent.

Voters in Massachusetts repealed a 6.25 percent tax on alcohol would have generated another $100 million for the state’s 2011 budget. In California, voters said no to a measure that sought to add an $18 surcharge to vehicle registrations to fund state parks and wildlife programs. Voters also made it harder for lawmakers to increase certain fees. Now, two-thirds of the legislature must support an increase.
State pensions are facing huge gaps and the problem isn’t going away.

The Pew Center on the States reported earlier this year that there is a $1 trillion gap between what states have collectively promised their current and retired workers in pension, health care and other retirement benefits and what they have on hand to pay for them.

Responding to this growing crisis will undoubtedly rank prominently on the 2011 legislative agenda of state policymakers. In fact, dozens of states have already initiated a range of legislative measures to lower their burgeoning pension costs by trimming benefits and increasing employee costs.

In Oklahoma, a state facing tremendous pension funding challenges, House Speaker-Designate Kris Steele announced in September that “modernizing and stabilizing state pension systems will be a major focus of House Republican lawmakers in the 2011 legislative session,” according to a press release from the House Republicans. “We must have a financially sound retirement system to keep our promises to past retirees, and we must modernize the system if we want to attract top talent in an increasingly mobile, global marketplace,” he said.

In 2010, New Jersey, another state facing intractable pension funding challenges, rolled benefits back 9 percent for new hires and legislation was enacted to ensure individuals can only collect a pension from one job in the statewide system. The state’s lawmakers said they were pleased they were able to resurrect pension reforms they were unable to pass in 2006 and 2008. “The fact that we’re finally moving forward with this unfinished business, I think the people of New Jersey are big winners today,” New Jersey Senate President Stephen Sweeney told The Star Ledger.

In Illinois, new state employees must now wait until they reach age 67 to receive full retirement benefits (previously they were eligible for retirement at age 62).

California Gov. Arnold Schwarzenegger’s discussions with unions representing public employees in his state resulted in employees having to contribute 10 percent of their pay, in some cases double the previous rate, to the state pension fund.

In Virginia, state employees hired after July 1, 2010, must now pay 5 percent of their salary to the state retirement system, while in Minnesota, vesting periods for public employees increased from three years to five years.

Perhaps in the most radical departure from the general trend, Colorado imposed benefit cuts not only on future hires but for current workers and retirees as well. The retirees have sued to block these cutbacks. Other states, such as New Jersey, saddled with diminishing pension funds and mired in rising levels of red ink, are carefully assessing the Colorado situation to determine the possibility of similar moves in their own jurisdictions.

**TOP 5 State Pension Issues**

1. Extending the age of retirement, i.e. access to benefits
2. Adjusting pension benefits for new workers and increasing contributions from these new workers and in Colorado, even retirees
3. Shifting retirement plans from defined benefit to defined contribution
4. Reining in state pension actuarial assumptions
5. Reducing the state work force, i.e. fewer people, fewer obligations

**NEW JERSEY PENSION CHANGES**

GLOUCESTER TOWNSHIP, N.J.—
New Jersey Gov. Chris Christie defended his proposed pension and health benefits changes that will cost teachers, police and other public workers more money at a September town meeting in Gloucester Township, N.J.

(AP Photo/Mel Evans)
In Montana, Oregon and Rhode Island, public universities are partnering with the private sector to grow the economy.

States are changing economic development efforts.

Just a few examples include Montana’s TechRanch, Oregon’s Innovation Council and Rhode Island’s Center for Innovation and Entrepreneurship. The public-private partnerships provide business development skills and assistance to aspiring students and entrepreneurs.

In Montana, for example, the TechRanch incubator welcomed three new start-up companies in April. TechRanch wants to help start-ups foster and not flounder. It provides the new companies with facilities and business guidance—a key to the ranch’s role in economic development.

“One of the unique advantages for entrepreneurs at TechRanch is the environment created by start-up companies. They are young and struggling but share resources, help each other and move forward,” Gary Bloomer, client development director of TechRanch, said in a statement.

The approach is working. The U.S. Chamber of Commerce ranked Montana first in entrepreneurship and innovation and 10th in overall growth, according to its recent report, “Enterprising States: Creating Jobs, Economic Development and Prosperity in Challenging Times.”

“The state places first in overall business start-up activity led by Bozeman-based Tech Ranch, an organization formed uniquely by private business leaders to coordinate entrepreneur support activities in the state,” according to the report.

State economic development programs have always aimed to create higher quality jobs that increase individual and statewide prosperity. Though that goal has not changed, the current economic climate has states seeking alternative means to achieve that goal.

Instead of the traditional economic development model that has relied heavily on business incentives and tax breaks states have begun to explore new, creative approaches to stimulate struggling economies.

While there is no universal panacea to create economic growth and jobs, there are some conclusions that can be drawn about successful efforts. Successful states have developed plans that play to their respective economic strengths.

In North Dakota, for example, where land is plentiful and wind provides an emerging energy source, the state has experienced considerable economic growth in both the agriculture and energy sectors.

Virginia is emphasizing research and development facilities that partner with the state’s university system. The facilities are conducting research on everything from the automotive industry to medical research and the next generation of high technology.

In both cases, the state determined its competitive economic advantage and then used that advantage to create jobs and spur growth.
States such as Virginia and New Jersey expect public-private partnerships to play an even greater role in transportation in the future.

An audit in Virginia this year recommended the state create a government office to deal with them. A panel on privatization in New Jersey said the state will likely have to turn more to private companies in the future to help fund transportation. The panel estimated the state could save more than $42 million a year by hiring a private firm to handle toll collection on the New Jersey Turnpike and Garden State Parkway.

Tolling is becoming an increasing part of how many states will pay for roads, particularly in densely populated areas. States are looking to the next federal authorization bill for guidance—its fate is still up in the air—one expanded use of tolling, especially on interstates, and the constitutionality of exempting in-state residents from tolls, as proposed in Virginia and West Virginia.

The first truck-only toll lanes are under construction in Florida and other states will likely continue to experiment with the approach. Variably priced lanes such as high occupancy toll lanes also represent approaches states are taking. States are also looking to save money by moving to all-electronic and cashless tolling.

For example, the Pennsylvania Turnpike is looking into cashless tolling to eliminate the toll road’s 615 toll collectors making up its network of 63 on- and off-ramp toll collection plazas, according to The Patriot-News in Harrisburg.

“Clearly, our customers are telling us how they prefer to pay—electronically. So a complete conversion is the next logical step, but a decision has not been made,” Turnpike spokesman Carl DeFebo told The Patriot-News.

Gas tax increases are again on the radar for next year. Wyoming will consider a 10-cent per gallon hike while South Carolina will consider a 5.5-cent hike.

And even with dwindling transportation funds in most states, some states did take action in funding roads and bridges. Kansas approved an $8.2 billion, 10-year transportation plan funded through bond sales, a sales tax increase and an increase in registration fees for heavy trucks. States such as Kentucky and Mississippi also authorized bonds to fund road construction.

But it may be Georgia that states look to in the future as a model. Gov. Sonny Perdue signed legislation this year that will allow voters to decide in 2012 whether to adopt a 1-cent regional sales tax increase to fund the transportation projects proposed for their region. Such regional approaches to transportation funding could be popular since they don’t require people who live in rural areas to fund urban public transit they don’t use.
California is the first state to pass legislation laying the groundwork for its health insurance exchange—a key component of the federal health reform law mandated to be in place in each state by Jan. 1, 2014.

“For national reform to succeed, it will be up to the states to make it work, and California is moving forward on reforms that will provide affordable and quality health care insurance,” Gov. Arnold Schwarzenegger said in a statement upon signing the bill in September.

Other states will follow California’s lead in 2011, with the possible exceptions of Utah and Massachusetts; both states have exchanges predating the federal law.

The exchanges will act as a central marketplace for individuals and small businesses to purchase health insurance and will also link eligible low-income individuals to state Medicaid programs.

States can establish one statewide exchange, regional exchanges or multistate exchanges or even opt-out of the exchange requirement and allow residents to access an exchange operated by the federal government. Every state—except Minnesota and Alaska, which chose not to apply—received $1 million planning grants from the federal government on Sept. 30, 2010.

Health reform gives states new roles in regulating health insurance, but many states will have to pass new laws next year to take on those roles. Thirteen states have no authority to review proposed increases in health insurance premiums, much less approve or deny the increases, according to the National Association of Insurance Commissioners.

Kansas Insurance Commissioner Sandy Praeger, an officer of the organization, told The New York Times many states will require new legislation. “The pressure is on us to prove what we do is effective, and for states that don’t have the authority to get it done.”

Some states are already seeking that authority. Maryland passed a bill in April that explicitly authorizes its insurance commissioner to enforce consumer protections in the new federal law. North Carolina Gov. Bev Perdue and by New Hampshire Gov. John Lynch signed similar bills this summer.

Federal health care reform also expands states’ Medicaid programs. While the new eligibility requirements do not take effect until Jan. 1, 2014, states must begin planning immediately to conduct outreach, track eligibility and handle increased enrollment and payment administrative duties.

The federal government will cover the increased costs for the newly eligible enrollees for three years but then states must put up a matching share. Even though the match tops out at 10 percent in 2020, the pressure on state budgets and Medicaid in particular is unlikely to subside any time soon, as states’ economic recovery lags the nation.
Education Reform ‘Has to be Led by States’ by Pam Goins

States aren’t waiting for reauthorization of the federal education law to find ways to boost academic achievement and student success. That education reform effort has already started and will continue next year.

“Reform can’t be led from Washington. It has to be led by states,” U.S. Secretary of Education Arne Duncan said to Virginia Gov. Bob McDonnell’s Education Summit in Richmond, Va., in late October, according to The Daily Press in Newport News, Va.

The states are doing just that. Whether armed with federal Race to the Top or Investing in Innovation grants or not, education reforms are in the pipeline.

In North Carolina, a sweeping piece of legislation—Senate Bill 1198—mandated an increase in the number of students earning a postsecondary credential in the fields of science, technology, engineering or mathematics to reduce the gap between needed workers and jobs in those fields by 2015. Graduates in those fields will go into business sectors such as the aerospace industry, which employs 9,500 people in the state, according to a press release from NASA.

In Connecticut, Senate Bill 438 requires schools with a dropout rate of 8 percent or higher to establish an online credit recovery program to help students earn needed credits. Students who are at risk of failing to graduate can complete online coursework, which will give them credit toward high school graduation requirements.

States are beginning to focus on third-graders when it comes to reading. In Arizona, House Bill 2732 created a new high-stakes reading mandate that was modeled after a similar law in Florida. The law requires third-grade students to read at a proficient level in order to move up. Third-graders who read below their grade level on the state’s academic test cannot be promoted. Indiana, Utah and Massachusetts all have similar laws and set statewide goals of reading proficiency by third grade.

On the other end of the academic spectrum, California has created the Student Transfer Achievement Reform Act, which guarantees community college students who earn certain associate degrees acceptance into a California State University baccalaureate program with junior status. While many states, community colleges and four-year institutions attempt seamless articulation, this piece of legislation could lead to more standardization of the community college curriculum statewide. The bill explicitly states that students completing an associate degree with at least a 2.0 grade point will be guaranteed admission and given priority status ahead of those without such a credential.

TOP 5
Education Issues
1. Standards, assessments and accountability
2. College and career readiness through effective high school completion
3. Closing the achievement gap among racial and ethnic groups
4. Teacher preparation and quality, including useful professional development
5. Public education funding

EDUCATION RALLY
RALEIGH, N.C.—After attending North Carolina Gov. Beverly Perdue’s Rally for Education at the Capitol with her mother, 6-year-old Sophie Wilkins of Durham carried a sign toward the Legislative Building to lobby for education funding.

(AP Photo/The News & Observer, Ted Richardson)
In Arizona’s Footsteps, States Tackle Immigration

by Mikel Chavers

Everyone’s talking about immigration … and it’s not just in Arizona.

Although Arizona’s Senate Bill 1070 drew attention this year for covering new ground in how states tackle immigration, other states will take up the issue next year.

“The (immigration) bills are going to come. Now whether they pass or are signed into law is another question,” said Arizona Rep. Adam Driggs, an immigration attorney and the chair of the House Judiciary Committee.

Driggs expects at least 22 other states will consider introducing Arizona copycat legislation. The law requires law enforcement officers to inquire and report immigration status.

Even legal issues facing the Arizona law (a federal lawsuit is still pending against it) and other immigration laws won’t slow down the movement, Driggs predicts.

Arizona’s new law is the poster child of restrictive or punitive actions when it comes to immigration—those are typically controversial bills, said Jon Blazer, an attorney with the National Immigration Law Center. Other state immigration measures, for example, seek to integrate immigrants into society, promote equal wages for all and prevent human trafficking, Blazer said.

“States may be a little bit unleashed in their pursuit in both approaches because of the failure of the federal government to act and an ever-declining faith that’s there’s ever going to be a federal immigration solution,” Blazer said.

So with essentially no hope for federal immigration reform, immigration will be a hot topic next year for state legislatures, Blazer said.

“I certainly think that many voters are frustrated with Congress’s inability to tackle the problem. And when voters talk with their elected officials, they’re skeptical when state legislators say that it’s a federal issue,” Driggs said. “And since we’re closer to the people … they want to see action from us.”

California may be a hotbed for more pro-immigrant measures, Blazer said. Previous immigration laws in the state include a law prohibiting landlords from inquiring about immigration status and a law ensuring victims of human trafficking and domestic violence have access to California state benefits regardless of immigration status, Blazer said.

In Arizona, Driggs said legislators will tackle birthright citizenship and the 14th Amendment next year, but he doesn’t know if such measures will pick up steam.

“Arizona can’t get enough of this stuff. No matter what they do, they’ll find some other loophole, some other thing or some other confrontation to choose,” Blazer said.

Blazer predicts California, Illinois, Maryland, Massachusetts, New Mexico, New York and Washington will pursue integrative immigration measures, while Arizona, Georgia, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee and Utah will pursue punitive immigration measures.
Redistricting Starts Now

Get a head start on redistricting with geographic information system (GIS) technology and data. Esri provides reliable current-year estimates and five-year forecasts that show trends and projected populations. Instead of waiting until the U.S. Census Bureau delivers demographic data to states in March, use GIS now to better evaluate redistricting scenarios.

To learn about GIS for redistricting, visit esri.com/redistricting.
NEW CONGRESS

TRADING ACTIVISM FOR AUSTERITY

For better or for worse, the outgoing Congress presided over one of the most consequential periods for state-federal relations in the past 50 years. From the stimulus to health reform, the 111th Congress passed legislation that will echo in state capitols for decades to come. As Washington waits to welcome a bumper crop of freshmen, however, it is clear that austerity will replace activism as the lodestar for the 112th Congress.

The state fiscal crisis has been front and center on Capitol Hill for the past two years. With the stimulus and, more recently, the Education Jobs and Medical Assistance Act, Congress moved $166 billion off the balance sheets of strapped state budgets.

The Center on Budget and Policy Priorities estimates this spending blunted 30 to 40 percent of state budget shortfalls in the 2009 and 2010 fiscal years and will make up for roughly 20 percent of the gap in the 2011 fiscal year. But with the federal government racking up $1 trillion-plus deficits, Congress’ appetite for further state support had waned even before the dramatic events on election day.

States on Their Own

What can states expect from the new Congress? Clearly, states will be on their own to cover their 2012 fiscal year deficits. Other big ticket items, such as a proposed $600 billion transportation bill, are headed for the deep freeze. The new Congress, however, may prove receptive to state concerns as they implement other high-profile initiatives.

Although the stimulus helped states balance their books, many state leaders fear health reform may break their budgets. A rough analysis by the Congressional Budget Office estimated the Medicaid expansion included in the Affordable Care Act will cost states $20 billion over the next 10 years. Most experts expect the bill for states to be much higher.

While high-profile efforts to repeal health reform will dominate the floor of the House in the first 100 days of the new legislative session, few pundits expect these efforts to make it past the Senate or the president’s veto pen.

However, the House will have more leverage in riding herd over the Department of Health and Human Services as it sets the guidelines for the new state-run health exchanges, rolls out grants for state tort reform pilots, and sets other regulations for health reform implementation that have direct implications for state budgets. In this arena, the 112th Congress will likely be eager to ensure that the Department of Health and Human Services adopts measures that grant states maximum flexibility.

Other issues, such as education, are more difficult to predict. On the one hand, the Obama administration has championed merit pay, school choice and other education reforms that resonate within the Republican Party.

The president indicated that he wants to work with the new majority to reauthorize the Elementary and Secondary Education Act, better known in its most recent guise as No Child Left Behind.

The administration’s strategy for catalyzing reform—grants to states like the Race to the Top program—fly in the face of both GOP pledges to rein in spending and conservative preferences to get the federal government out of the education business entirely.

Partisan Divide

Regardless of what issues are on the table, the debate on the Hill is likely to take on an already highly charged partisan environment to a new level. The march to 2012 will color every vote. In addition, the midterm elections, and the primary battles that preceded them, carved the middle out of both political parties. 2010 may go down in the history books as the Blue Dog Blood Bath with fully half the 54 members of this moderate caucus exiting the Congress through retirement or defeat.

While it is too early to predict how the 112th Congress will impact the states, it is clear states will have their attention. With both parties looking to solidify gains or rebuild strength through the 2011 redistricting process, the new House leadership will have one eye on the statehouse as they welcome a new crop of freshmen under the Capitol dome.
CONGRATULATIONS FROM CSG

FROM THE STATEHOUSE TO CAPITOL HILL

Several state officials across the country will make the jump from state to federal offices following the November elections.

**CALIFORNIA**  
Sen. Jeff Denham (R)  
U.S. House District 19  
Assemblywoman Karen Bass (D)  
U.S. House District 33

**COLORADO**  
Rep. Scott Tipton (R)  
U.S. House District 3  
Rep. Cory Gardner (R)  
U.S. House District 4

**DELAWARE**  
Attorney General Richard Blumenthal (D)  
U.S. Senate

**FLORIDA**  
Sen. Frederica Wilson (D)  
U.S. House District 17  
Rep. Sandy Adams (R)  
U.S. House District 24  
Rep. David Rivera (R)  
U.S. House District 25

**GEORGIA**  
Rep. Austin Scott (R)  
U.S. House District 8

**HAWAII**  
Sen. Colleen Hanabusa (D)  
U.S. House District 1

**IDAHO**  
Rep. Raul Labrador (R)  
U.S. House District 1

**ILLINOIS**  
Sen. Randall Hultgren (R)  
U.S. House District 14

**INDIANA**  
Sen. Marlin Stutzman (R)  
U.S. House District 3  
Secretary of State Todd Rokita (R)  
U.S. House District 4

**KANSAS**  
Sen. Tim Huelskamp (R)  
U.S. House District 1  
Rep. Kevin Yoder (R)  
U.S. House District 3

**LOUISIANA**  
Rep. Cedric Richmond (D)  
U.S. House District 2

**MARYLAND**  
Sen. Andy Harris (R)  
U.S. House District 1

**MICHIGAN**  
Sen. Hansen Clarke (D)  
U.S. House District 13  
Rep. Justin Amash (R)  
U.S. House District 3

**MISSISSIPPI**  
Sen. Alan Nunnelee (R)  
U.S. House District 1  
Rep. Steven Palazzo (R)  
U.S. House District 4

**NORTH DAKOTA**  
Gov. John Hoeven (R)  
U.S. Senate  
Rep. Rick Berg (R)  
U.S. House At-Large

**OHIO**  
Sen. Bob Gibbs (R)  
U.S. House District 18

**SOUTH CAROLINA**  
Rep. Tim Scott (R)  
U.S. House District 1  
Rep. Jeff Duncan (R)  
U.S. House District 3

**SOUTH DAKOTA**  
Rep. Kristi Noem (R)  
U.S. House At-Large

**TENNESSEE**  
Sen. Diane Black (R)  
U.S. House District 6

**VIRGINIA**  
Sen. Robert Hurt (R)  
U.S. House District 5  
Rep. H. Morgan Griffith (D)  
U.S. House District 9

**WASHINGTON**  
Rep. Jaime Herrera (R)  
U.S. House District 2

**WEST VIRGINIA**  
Gov. Joe Manchin (D)  
U.S. Senate
As one of the five fastest-growing states, Georgia continues to have formula growth due to enrollment increases in K–12, universities and technical colleges. The higher education increases in enrollment are buoyed by the slow economy driving citizens back to school. Growth in Medicaid has also been a significant strain on the state finances. We expect any revenue growth will be consumed by increased demand for these state services. Additionally, FY 2012 offers new challenges for Georgia’s budget writers because of the end of Budget Stabilization and FMAP extension stimulus funds. Combined with the depletion of reserves and other one-time funds, Georgia will begin FY 2012 with an approximately $1.3 billion budget deficit to address.”
GOVERNMENT STILL NEEDS TO BE MORE EFFICIENT

Sen. Lou D’Allesandro
Chair of the Northeast Legislative Budget Chairs’ Committee
New Hampshire

“What are you going to do with your general fund revenues that don’t seem to be improving? Does that mean you’re going to work, really work, at consolidating certain programs, consolidating certain agencies? You’re going to have to look at a number of ways to provide services in an efficient manner. We are looking at the monetization of certain assets: We’ve looked at California, Arizona (and) Connecticut. We have a couple of significant items we’re looking at, such as public-private partnerships.”

ECONOMY STRAINS WORK FORCE

Jeff Herring
Executive Director of Human Resources
Utah

“Overseeing human resources for the state of Utah, my primary concern in these challenging times is to make sure we have an engaged, competent and effective work force for the public. In these times, we are like everyone, trying to do more with less. The slow recovery places a challenge on human resource areas such as training, compensation and employee development. In Utah, we managed the stimulus well and did not allocate much to ongoing budget items. Therefore, we will continue to be good stewards of the budget during these lean times and into post-recovery, whenever that comes.”

FIX BROKEN BUDGETING SYSTEM

Lt. Gov. Phil Bryant
Mississippi

“These are tough economic times that we continue to face here in Mississippi. Recently, our annual budget hearings were held and in just four days of these hearings, state agencies requested $1.3 billion in new money. While there are some very compelling cases, the fiscal reality is state government cannot operate as it has in the past. The legislative hearings also prove that we must fix this broken antiquated system of budgeting taxpayer money. In the next legislative session, I intend to introduce my ‘Smart Budget Act,’ a performance-based budgeting system where resources are allocated. I have also emphasized that this would be the worst possible time to increase any taxes on small businesses or the hardworking people of Mississippi.”
Learning from China


CSG Midwest Discusses U.S.-Canada Economics

James Fallows, an acclaimed journalist and national correspondent for The Atlantic, delivered this year’s keynote address at the 66th Annual Meeting of the Midwestern Legislative Conference. Fallows discussed how recent economic trends have impacted the U.S. and Canada, as well as how both countries can work to be more competitive in the global economy. Political columnist David Broder shared insights about the upcoming midterm elections. To read more about the sessions and presentations from the MLC Annual Meeting, read the September issue of Stateline Midwest, available at www.csgmidwest.org.

Supporting Pretrial Service Agencies

In June 2010, the American Probation and Parole Association passed a resolution to support efforts of pretrial services agencies in the U.S. The resolution underscores the importance of pretrial supervision in our justice system and highlights the fact that the bail bond industry cannot provide its equal in public safety. The resolution is available on the APPA website at www.appa.net.org. APPA is an affiliate organization of The Council of State Governments.

2010 CALS Class

The Southern Legislative Conference of The Council of State Governments recently concluded the 2010 Center for the Advancement of Leadership Skills (CALS) in Arkansas. The 2010 class included 22 emerging leaders from the legislative, executive and judicial branches of state government from Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina and Oklahoma.
IN MEMORIAM

THE COUNCIL OF STATE GOVERNMENTS RECENTLY LOST TWO RESPECTED COLLEAGUES WHO WERE DEDICATED TO PUBLIC SERVICE IN THEIR RESPECTIVE ROLES.

JASON JOHN BRYL

The Council of State Governments Justice Center lost a valued colleague, Jason J. Bryl, Aug. 15. Bryl, 41, was a research and data consultant who worked from the Austin, Texas, office. His work provided needed support to the organization and to the many policymakers looking for data-driven answers to difficult challenges in states across the nation. He was also a talented musician and was known for his sense of humor.

A 1994 graduate of the University of Wisconsin-Milwaukee, he is survived by his wife Mimi and two children; his mother and stepfather, Jeanne and Bill Schuknecht; his sister Sally; and brothers James and Rick. Services were held Aug. 19 in Austin, Texas.

ELTON K. MCQUERY

Elton K. McQuery, 92, a former director of The Council of State Governments-WEST, died Sept. 6 in Colorado. As director of what was then called the Western Office of The Council of State Governments, he was instrumental in organizing and implementing the Western Interstate Commission for Higher Education, and was a principal author of the Interstate Compact on Migratory Labor. He drafted the Interstate Enforcement of Family Support Act—the Run Away Pappy Act—to force fathers to pay owed child support that they avoided by leaving the state in which the support was due. He took college classes to keep his many interests stimulated, and he spent many years teaching “55 Alive” classes for AARP. Survivors include two sons, Dave McQuery, of Clifton, Colo., and Mark McQuery, of Englewood, Colo.; one daughter, Russet Morrow, of North Attleboro, Mass.; five grandchildren and six great-grandchildren.
CSG WELL-POSITIONED TO BUILD ON STRENGTHS

CSG’s outgoing chair, Senate President David L. Williams, looks back on a productive year

As states worked their way out of the Great Recession, The Council of State Governments gathered in May for the Economic Summit of the States. It was my goal as chairman of CSG to give state leaders the opportunity to share innovative solutions that have worked for them and to learn from others’ insights and ideas. State leaders in attendance had a robust dialogue on the issues. CSG created a place where state leaders could connect, collaborate and emerge with new ideas and a renewed sense of purpose.

The Economic Summit of the States laid the groundwork for future discussions and information sharing that will help states address budgetary concerns in the future. But it is just one example of how CSG has helped states over the last year.

CSG’s leadership approved a resolution in May reaffirming constitutional sovereignty under the 10th Amendment. The resolution also appealed for a continued and meaningful dialogue between state and federal officials on matters of common interest. During the 2009 and 2010 legislative sessions, 40 states introduced legislation or resolutions seeking to curb federal mandates and assumption of powers. CSG will continue to work diligently to ensure states’ rights are protected.

CSG, through its Washington, D.C., office, works to ensure states have a voice in issues facing Congress. And through its National Center for Interstate Compacts, CSG is leading the way to prevent federal pre-emption on issues best left to the states to handle. Interstate compacts are a very valuable tool to prevent federal intervention.

The proposed Prescription Drug Monitoring Compact, which will come before legislatures next year, will help states better address the growing problem of prescription drug abuse. By sharing information about prescriptions, states can work together to address drug diversion, prescription fraud, “doctor shopping,” and illicit use and abuse of prescription drugs. Legislators will consider adoption of the compact in their upcoming sessions.

Under CSG’s guidance, the Military Interstate Children’s Compact Commission launched this year to ensure an easier transition for children of our military service members when they move from state to state.

Photo by Joe Ruh, Northern Kentucky University
In both instances, it is leadership from the states providing solutions. State efforts like these are just some ways to circumvent federal intervention in state issues.

CSG also participates in activities with other organizations promoting states’ constitutional sovereignty. We participated in a symposium on federalism and state law with the Uniform Law Commission and other national organizations. Our goal is to begin a dialogue among federal, state and local governments in areas of shared interest.

In addition to working at a national level, CSG uses its regional focus to foster the collaborative environment many states need to grow economic development efforts that cross state boundaries and encompass many policy areas. Policymakers in each region have the opportunity to share innovative solutions with others who may be dealing with similar problems. Of course, bringing all those issues together for a national dialogue involving all three branches of state government sets CSG apart from other state services organizations.

Behind the scenes, CSG staff work hard to provide members of the legislative, executive and judicial branches information about a range of policy issues facing them today. For example, members of the education policy team at the national headquarters have been traveling around the country holding educational sessions about the Common Core State Standards Initiative, a state-driven effort to align K–12 curriculum and standards. Those efforts have paid off, as two-thirds of state legislatures have adopted the standards.

Our National Conference in December will once again explore the challenges of health care and feature an engaging debate on the effects of federal health care reform on the states. We look forward to next year, when we will again be focusing on the economy at the 2011 Summit in March. In October, CSG’s North American Summit will focus on relations between the U.S., Canada and Mexico.

The past year has been a time of great challenge for state governments, but also a time of progress. As state leaders, we have recognized things that are working in our states, and through CSG have come away with innovative solutions our neighbors have used before us.

I’ve enjoyed my year as CSG chair working alongside South Dakota Gov. Mike Rounds to lead the 77-year-old organization through this time of great economic challenge. I look forward to continuing my work with the organization next year as past chair as we continue to ensure states maintain their rightful place in dealing with issues they are uniquely qualified to address.

—Hon. Daniel Dean Narum
Judge of the District Court | Ellendale, N.D.
2010 Toll Fellow

“CSG has been a valued partner for Procter & Gamble for more than 25 years. CSG’s unique national and regional structure provides us valuable insights into priority issues and trends in the states and the opportunity to engage in policy matters important to our business. We have been pleased to support many CSG programs, including the 21st Century Foundation and the Henry Toll Fellowship program, because assisting states in meeting the tough demands of governance, especially in these difficult economic times, is crucial to creating a business climate where P&G can operate and prosper. P&G’s purpose is to improve the lives of more consumers in more parts of the world more completely and working with world class, forward-thinking organizations like CSG is fundamental to delivering this purpose.”

—Pat Hayes
State Government Relations | Procter & Gamble
CONSTITUTIONALITY OF FEDERAL HEALTH CARE REFORM

On March 3, 2010, Virginia Attorney General Kenneth T. Cuccinelli filed a lawsuit challenging the constitutionality of federal health care reform—the Patient Protection and Affordable Care Act. To date, 20 more states are also challenging the law’s requirement that individuals must carry health insurance or face a penalty. Here, two constitutional scholars share both sides of the issue.

POINT

‘Obamacare’ is Unconstitutional

Ilya Shapiro
Senior Fellow
Cato Institute

The new health care reform is unprecedented—quite literally, without legal precedent—both in its regulatory scope and its expansion of federal authority.

Among the serious lawsuits challenging its constitutionality, the strongest legal argument attacks the individual mandate to buy a health insurance policy. Never before has the federal government tried to force every man, woman and child to buy a particular good or service. Never before has it said that people face a civil penalty for declining to participate in the marketplace. And never before have courts had to consider such a breathtaking assertion of raw power under the Commerce Clause—not even during the height of the New Deal, when the Supreme Court ratified Congress’s regulation of what people grew in their backyards on the theory that such “economic” activity affected interstate commerce.

Seeing the weakness of their Commerce Clause claims, Obamacare’s proponents quickly shifted to Congress’s taxing power. But the individual mandate is not a tax: it is not among the provisions labeled as such (like the taxes on “Cadillac plans” and “indoor tanning services”); it is not enumerated among the legislation’s revenue-raising provisions; and its non-compliance penalty is a mere civil fine.

Even if one somehow classifies it as a tax, however, it would be unconstitutional because it is neither based on income, nor apportioned (if a direct tax), nor uniform (if an excise tax). Moreover, the Supreme Court has long held that Congress cannot use its taxing power as a backdoor means of regulating an activity unless such regulation is authorized elsewhere in the Constitution.

Obamacare raises many other constitutional issues—from violating 10th Amendment state prerogatives to infringing individual liberty and privacy rights. Finding the mandate constitutional would for the first time give Congress the power to enact “economic mandates.” The federal government would then have wide authority to require that Americans engage in activities of its choosing, from eating spinach and joining gyms—in the health care realm—to buying cars from General Motors.
Coverage Provision is Within Congress’ Power

The Patient Protection and Affordable Care Act is landmark federal legislation dramatically expanding nationwide access to health insurance and health care. Through its interrelated provisions, the Act seeks to reduce the number of uninsured Americans and the escalating costs they impose on the health care system. It creates new health benefits exchanges, expands Medicaid, provides tax credits and other incentives to subsidize the purchase of health insurance, prohibits certain coverage exclusions such as discrimination based on pre-existing conditions, and requires many employers to provide insurance.

In addition, the Act generally requires individuals to obtain health insurance. This minimum coverage provision mandates that individuals not subject to certain exemptions either purchase a minimally adequate health insurance plan for themselves and their families or pay an annual penalty.

Under longstanding Supreme Court case law, economic regulation like the minimum coverage provision is entitled to a judicial presumption of constitutionality. Applying that presumption, the provision is a constitutional exercise of two independent sources of federal legislative power.

First, it is a permissible exercise of Congress’s authority to regulate interstate commerce, and to pass measures that are necessary and proper to the exercise of that authority. Congress specifically found that the minimum coverage provision “regulates activity that is commercial and economic in nature: economic and financial decisions about how and when health care is paid for, and when health insurance is purchased.” The predicate for this finding is that virtually everyone will need medical services at some point.

Given that fact, Congress had a rational basis for concluding that refusals to purchase insurance to pay for these services, taken in the aggregate, substantially affect interstate commerce by raising insurance premiums. Congress also rationally determined that the provision is a necessary and appropriate component of its overarching regulatory scheme for the interstate markets in health care and health insurance.

Second, the minimum coverage provision also falls well within Congress’s power to lay and collect taxes. This power is very broad. The Supreme Court has repeatedly confirmed that a federal tax is valid if it serves the general welfare, is reasonably related to revenue raising, and does not violate any independent constitutional prohibition.

The court also affirmed that the taxing power is not invalid simply because it has a regulatory purpose or effect. The minimum coverage fee provision plainly satisfies these standards. Moreover, it is not a capitation or other direct tax, and thus is not subject to the requirement that such taxes be apportioned according to state population.
In the time it takes to read this paragraph, someone in America will develop Alzheimer’s disease. And there is very good chance you know them. More than 5 million people in the U.S. suffer from Alzheimer’s, and the economic impact of the disease is a staggering $300 billion per year, according to the Alzheimer’s Association. It predicts by mid-century, the number of people with the disease will triple.

These numbers are known all too well by California’s first lady, Maria Shriver. Shriver’s father, Sargent, was diagnosed with Alzheimer’s in 2003. She has since been an advocate for families like hers who have been affected by the disease.

Shriver has joined forces with the Alzheimer’s Association to shine a spotlight on the disease that has been in the shadows for far too long. In October, she released “The Shriver Report: A Woman’s Nation Takes on Alzheimer’s,” a comprehensive study of how Alzheimer’s affects women in particular — more than 10 million American women — as caregivers, advocates and patients.

“Alzheimer’s is a tsunami and women are at the epicenter, and every institution and family in America needs to start talking about long-term care options,” said Shriver.

Women are the focus of Shriver’s report because they are disproportionately affected. Not only are they the primary caregivers, but they also make up two-thirds of the patients who have Alzheimer’s. According to the Alzheimer’s Association, the lifetime risk is one in five for women, compared to one in 10 for men. This is because women generally live longer than men, and the risk of developing the disease increases with age.

Alzheimer’s generally begins with increasing difficulty remembering things. That memory loss eventually begins to disrupt daily life. Patients with the disease may no longer be able to complete familiar tasks and have difficulty solving problems. They may become confused about time and place and have decreased or poor judgment. In the advanced stages, the person may no longer be able to recognize loved ones or communicate, and may have difficulty eating or dressing themselves.

Ultimately the disease is fatal.

Angela Geiger, chief strategy officer for the Alzheimer’s Association, says to know Alzheimer’s is to fear it. “Nine out of 10 Americans who know someone with this disease are concerned that they or someone close to them will get it,” said Geiger.

She added the disease has reached epidemic proportions, and the numbers will continue to rise exponentially in the years to come unless we find a way to change the trajectory. Geiger said 78 percent of people polled in the report believe it is the responsibility of the government to find a cure.

Until that day comes, Shriver said she hopes the information in the report will put the focus on what we can do instead of what we can’t.

“I think much of the discussion about Alzheimer’s in the last year or two has been about the hopelessness, and I hope that this report takes away the ‘lessness’ and talks about the hope there is for people who get that diagnosis, for families who get that diagnosis, and for women who find themselves in the caretaking role with that diagnosis,” she said.

In fact, Shriver said government can do a lot of things, including instituting flexible work options, amending Social Security and amending the child care tax credit to include elder care at the federal level.

“State legislators can look at paid family leave, supporting Alzheimer’s centers, developing such centers and funding research into the disease, she said.

In California, where she has been first lady for eight years, the stem cell proposition of 2004 funds Alzheimer’s research.
“Alzheimer’s is a tsunami and women are at the epicenter, and every institution and family in America needs to start talking about long-term care options.”

—California first lady Maria Shriver

“We put a collaboration together of different centers to share their work, and I attended a big statewide task force where they have people from the government, people who have Alzheimer’s, and people who work in centers around the state together to try to put forth a plan,” said Shriver.

She is mindful of budget challenges, not only in her state, but also around the nation, so she is adamant that the burden not be placed at any one institution’s feet. She does, however, think governors and state legislators can “step up” and make science and research a priority. And, she said, they can listen to people who have the disease.

“People with the diagnosis can very accurately tell you what they need, what would be helpful to them,” said Shriver.

She believes states can develop guidelines for training caregivers and work with business leaders and chambers of commerce to educate about smart work policies such as providing flexible work options, telecommuting and using technology to allow people to amend their work day. She also believes options for women who are not only caring for someone with Alzheimer’s, but also still raising children should be provided. Geiger calls them, “the sandwich generation.”

“They can build playgrounds like we have here in California that are intergenerational where women can bring their children and their parents to the same place,” said Shriver.


ALZHEIMER’S BY THE NUMBERS

- 5.3 million people have Alzheimer’s
- It is the 7th leading cause of death
- $300 billion per year economic impact on government, families and businesses
- 10.9 million unpaid caregivers
- 12 states currently have a published state Alzheimer’s plan
- 18 states have a task force to develop a state Alzheimer’s plan

SENATE TESTIMONY

WASHINGTON, D.C.—Former U.S. Supreme Court Justice Sandra Day O’Connor, left, and California first lady Maria Shriver testified last year before the Senate Aging Committee. The panel heard from notables who called for increased scientific research and government funding for Alzheimer’s disease, which they warned would be a huge burden on American health care.

© MIKE THEILER/epa/Corbis
Chad Gallagher, a government relations consultant who served as director of Intergovernmental Affairs for former Arkansas Gov. Mike Huckabee, knows the power of a good message—both on the campaign trail and in the business of government.

**Know Your Audience.**
At times, Gallagher said, you will be at odds with your constituency. "I don't think you should reshape your position, but I think you should be very aware of your audience when you're shaping a message," he said. If, for instance, you’re speaking to rural voters and you oppose ethanol subsidies, understand that their position may be shaped by concerns of saving the family farm. "(You can say) I’m against these particular subsidies for this reason but here’s what I can do because I understand who you are."

**Keep It Simple.**
Gallagher recently worked debate prep for a candidate who was asked a question on tax policy. The answer, Gallagher said, was great … if he was doing a policy lecture at Harvard. His advice to the candidate was simple: "You’ve got to make that matter to me. If I’m raising a family and dealing with taxes, make me understand why what you just said means something to me," Gallagher said. But, he cautions, "a simple message doesn’t imply simple policy." There must be substance behind the message, he said.

**Leave Room at the Table.**
If you're looking to pass legislation, allow other people to have input. "Ultimately crafting a successful legislative endeavor is leaving room at the table for other people to be a part," he said. "Let people help you make it happen. If you leave more room at the table and (other people) can add their fingerprints to it, you have a (much) better chance at winning."

**Use Rhetoric Wisely.**
Legislators should be thoughtful about firing up the base. "We only have so many shots in the gun before the other side says, ‘That guy is a jerk. He’s always trying to kill us. We can’t work with him,’" said Gallagher. There’s a time and place to fire up the base and lob a bomb or two. Just don’t do it all the time. "Reserve the rhetoric for when it’s really needed."

**Compromise.**
In a legislative session, Gallagher said, normally you’re not going to get everything you ask for. "If you go into it with the concept it’s all or nothing, most likely you’re going to walk away with nothing," he said. Be flexible. "Craft the message in a way that shows there’s some room for flexibility."

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**How to Produce an Effective Political Message**
Chad Gallagher will share his insights during a session at The Council of State Governments 2010 National Conference in Providence, R.I., Dec. 5. Gallagher, a 2006 Henry Toll Fellow, will discuss the best and worst TV campaign spots of 2010.
Upcoming Meetings on the Road

Upcoming Meetings

**CSG 2010 National Conference**

Gergen, Ifill & ER Doctor to Speak
Dec. 3–6, 2010 • Providence, R.I.

David Gergen, former director of communications for President Reagan, and Gwen Ifill, moderator and managing editor of “Washington Week” and senior correspondent for the “PBS NewsHour,” will speak at the CSG National Conference in Providence, R.I. Dr. David Newman, also a featured speaker, will talk about health care reform from the perspective of an emergency room physician and director of clinical research at Mount Sinai School of Medicine.

Visit www.csg.org for more information.

**CSG 2011 Summit**

Growth and Prosperity
March 26–30, 2011 • Mohegan Sun, Uncasville, Conn.

Join The Council of State Governments in March as we continue to explore and discuss economic issues facing the states. The CSG 2011 Growth and Prosperity Summit will focus on job creation, business incentives, long-term planning and tapping into your state’s knowledge economy.

Visit www.csg.org for more information.

Visit www.csg.org/events for complete details.
This year was the first time in 40 years Jim Douglas’ name wasn’t on the ballot in Vermont. Douglas was first elected to the state House of Representatives in 1972 after he graduated from Middlebury College. He went on to serve as secretary of state and treasurer, before being elected to the first of four terms as governor in 2002. Vermont officeholders are elected for two-year terms. Douglas credits his success—he’s a Republican in a heavily Democratic state—to his willingness to work across the aisle and the advice he was given early on: “Be yourself; people will see through you if you’re not. Be honest; people can handle the truth even if it’s something that is uncomfortable for them. Always seek their advice; remember that you’re a public servant,” he said. “You’re accountable to the people and you need to continue to remember that you’re in office to fulfill their goals and their will.”

Do you know someone in state government who deserves a shout out? E-mail Mary Branham at mbranham@csg.org.

For more on Gov. Jim Douglas, visit: capitolideas.csg.org.
“If I can make America stronger giving it clean, efficient, low-priced energy, then I'm doing my part. I'm making America better.”

Shane’s brother is on active duty in Afghanistan. And Shane will be the first to tell you that what he is doing doesn’t begin to compare to the sacrifice his brother is making.

Still, he feels that he and his fellow miners at the Powder River Basin’s Black Thunder Mine are doing their part to make America stronger by providing all of us the affordable and reliable electricity that coal makes possible.

“The coal we have keeps America’s energy secure – we don’t have to go outside our own country to get it.” Shane says. “In the Powder River Basin alone, we have 100 billion tons of coal.”

According to Shane, coal is, without a doubt, America’s fuel.

To learn more about Shane and coal’s vital role in a secure energy future, visit americaspower.org.
Seasons greetings and warmest wishes for the new year from your family!