HOT TOPIC: 2012 Preview

Congress Stalls, States Take Action

5 Keys to an Effective Efficiency Commission

What Works to Create Work

3 Doses of Preparation for Health Care Reform

PLUS: How Technology is Changing the Redistricting Process
Today’s state leaders are forced to deal with increasingly difficult challenges in an ever-changing world. To that end, The Council of State Governments is committed to helping building better leaders, equipped to handle these challenges, through the CSG Toll Fellows Program. Each year, the program brings rising state leaders from across the country together for a week of intense leadership training. Toll Fellow participants have the opportunity to learn more not only about themselves, but also about their peers from across the aisle, across the branches and across the country.

No other program will give you the big picture on leadership like the CSG Toll Fellows program. Providing the personal and professional insights and skills needed to inspire team and consensus-building, communicate with constituents, address various media outlets, achieve necessary work-life balance and handle extreme adversity is only the beginning. We invite you to become a part of the Toll Fellow Community.

Apply for the 2012 Toll Fellows Program today. Application, deadlines and additional information are available at www.csg.org/LeadershipCenter/TollFellow.
On the Cover

Chairs of The Council of State Governments’ regions are featured on zoned editions of the January/February Capitol Ideas.

CSG EAST | CO-CHAIRS
New Jersey Assemblyman John S. Wisniewski
New Jersey Sen. Jim Whelan
Photo by Jerry Casciano

CSG MIDWEST | CHAIR
Ohio Rep. Armond Budish
Photo by Rodney Margison

CSG SOUTH | CHAIR
West Virginia House Speaker Richard Thompson
Photo by Rodney Margison

CSG WEST | CHAIR
Wyoming Rep. Rosie Berger
Photo by Diana Volk

January/February 2012

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2012: An Unforgettable Year

Time Magazine editors named the protestor as their Person of the Year for 2011. The choice reflects what many state leaders already know: The public square is a volatile place right now.

Resentment, frustration and discontent with government are widespread and the consequences are being felt in statehouses around the country. Recall elections and threats of recalls are on the rise. The Tea Party and Occupy movements have mobilized and given voice to a broad spectrum of political dissent. Against this backdrop, 2012 will easily be a year in which politics dominates our national attention.

In this issue we look deeper into the consequences of a Congress that has shown itself to be unable or unwilling to address many of the most pressing issues of the day. With inaction prevalent at the federal level, many states have emerged as the real innovators in crafting common sense solutions to move America forward. In the pages that follow, we share many of the significant ways in which state leaders are taking action to address issues and serve the public.

The legislative sessions to be convened in 2012 promise to be among the most challenging in history. Although state revenues appear to be on the rebound, they are just now recovering to 2008 levels. As a result of economic conditions, states are experiencing soaring caseloads for public assistance, health care, free and reduced school lunches, and an array of other social services. Unfunded liabilities in public pension funds have many states finding new ways to enhance the sustainability of those funds while redefining employee benefits. States are finding ways to be creative as they work to govern in a time of unrest.

CSG is an organization of the states, commonwealths and territories. Our priorities reflect those of the states. Our first priority is always to help state leaders achieve excellence. CSG works hard to provide a robust array of resources to help state leaders succeed. One of our greatest strengths is our regional focus. This issue is unique because we have produced four different covers for this one issue. The covers feature the state leaders who serve as chairs or co-chairs of each of our four regions. We know you value the work of our regions because they bring together state leaders who share common interests and challenges. In this issue we have included an easy-to-use guide to both national and regional CSG resources. Please put these resources to work for you and keep these guides handy as the 2012 legislative sessions get underway.

2012 won’t be an easy year to serve in public office. It also will be a year in which state leaders will be called upon to rise above the noise and static of the protests and craft real solutions that work to address the challenges our states and nation faces. As the new year dawns, we wish you good judgment, clear thoughts, powerful insights and many new friendships. We hope CSG is a place where you will find all of those things and much, much more.

Very truly yours,

David Adkins
“I always believed that this was a long-term project.”
—President Barack Obama, in an interview with CBS’s “60 Minutes,” discussing the task of reviving the nation’s economy

“The math is different at the state level than it is at the federal level.”
—Matthew Gardner, executive director of the Institute on Taxation and Economic Policy, discussing in The New York Times how big corporations pay little in taxes and why states face problems the federal government doesn’t face when cutting taxes

“The time to level the playing field is now, as there are no effective barriers to complying with the states’ sales tax laws.”
—Former Mississippi Gov. Haley Barbour, reported by the Associated Press, backing a Congressional proposal that would allow states to collect state sales taxes directly from online retailers

“We have to begin talking about the benefits of saving, and how we might restore a balance between saving and spending.”
—Princeton professor Sheldon Garon, author of Beyond Our Means: Why America Spends While the World Saves, discussing America’s savings problem with NPR

“If we do nothing, this line will bankrupt our state. We’re going to step up and do something to stop these increases.”
—Florida Gov. Rick Scott in The Miami Herald, announcing plans to spend more on education this year partly by cutting Medicaid payments to hospitals

“This job-creating economic plan defies the political gridlock that has paralyzed Washington and shows that we can make government work for the people of this state once again.”
—New York Gov. Andrew M. Cuomo in The New York Times, announcing a tax overhaul that raises taxes on the wealthiest residents and lowers taxes for the middle class in the state
The New Jersey Assembly is considering a bill that would place stricter requirements on teenage drivers and their parents. The Assembly Transportation committee advanced Assembly Bill 3309, sponsored by John Wisniewski and Pamela Lampitt, in late November 2011, according to The Star-Ledger of Newark.

Under the proposed legislation, parents of teens with a learner’s permit would have to participate in a mandatory teen driver orientation course. The teenage drivers would be required to practice driving for up to 100 hours. Parents or supervising adult drivers would log the practice-driving hours on an honor system.

Proponents of the bill have stressed the importance of requiring more parental involvement in the process. Pam Fischer, head of the New Jersey Teen Safe Driving Coalition, told The Star-Ledger that “teens whose parents set rules and monitor their activities in a helpful and supportive way are half as likely to crash, 71 percent less likely to drive intoxicated and 30 percent less likely to use a cell phone while driving.”

If passed, the bill would extend the length of the learner’s permit phase from a minimum of six months to one year; it would be one of the strictest teen driver safety laws in the country.

“Recognizing that no other age group on the road has a higher crash risk, lengthening the permit phase from a minimum of six months to 12 months will give teens the opportunity to practice driving over a longer period of time—which is critical,” said Fischer.

The proposed law would build on previous teen-driver safety laws passed by the state. In 2010, New Jersey enacted Kyleigh’s Law, requiring drivers under 18 to display a decal on the front and rear license plates of their car.
RECREATIONAL TRAILS
A $1.3 million federal grant will help Missouri improve the state's recreational trails. The Recreational Trails program, an assistance program of the U.S. Department of Transportation’s Federal Highway Administration, funds the development, improvements and maintenance of recreational trails and trail-related facilities. The money from the program will be divided among 11 trail projects.

PRESCRIPTION DRUG ABUSE
CVS Caremark notified some physicians in Florida, the nation's “pill mill capital,” that its retail pharmacies will not fill prescriptions written for schedule II narcotic controlled substances. Florida’s new prescription drug database, which allows pharmacies and law enforcement to track prescriptions, may be the cause of the retailer’s decision. Supporters of the database say as pill mills are closed, prescription drug abusers are turning up at retail pharmacies, some of which are cautious of the surge in new customers.

SCHOLARSHIPS
The Tennessee Senate Lottery Stabilization Task Force has made its recommendations to close a widening deficit in the scholarship fund financed by the state lottery, The Tennessean of Nashville reported. Beginning in 2015, the plan would reduce by half the $4,000 scholarship for students who don’t achieve both a 3.0 or greater grade point average and at least a 21 on their ACT tests. The recommendation also included an additional $10 million for needs-based scholarships.

SPECIAL SESSION
West Virginia Gov. Earl Ray Tomblin was hoping to call the legislature into session in December to address new natural gas regulations, according to the Charleston Daily Mail. For two years, legislators have debated regulating the gas industry, which has expressed interest in drilling from a large underground supply of gas in the Marcellus shale rock formation that extends from New York, through West Virginia and into Ohio.

Oklahoma Winds
The Minco II Wind Energy Center in Oklahoma recently began operations to generate power for a 130,000-square-foot Google data center, according to NewsOK. NextEra, the owner of the wind farm, negotiated a 20-year contract with Google to supply power to the facility. NextEra Energy Resources has more than 300 wind turbines in operation in Oklahoma with a capacity of nearly 550 megawatts.

Texas Tax Changes Short on Delivery
Tax changes made by the Texas Legislature in 2006 haven’t delivered revenue to offset local school property tax cuts. A higher business franchise tax was projected to bring $4 billion into the state’s general fund, but the actual amount was $2.7 billion less than expected.

The state constitution requires voter approval for increases to personal income tax rates, but the Texas Supreme Court has ruled that business taxes do not require voter approval, according to The Statesman in Austin. Therefore, state legislators are planning to simplify the law.

The business tax is a major source of revenue in Texas, second only to the sales tax, and is needed to pay for basic state functions. Collections from both taxes slumped along with the economy in recent years, forcing lawmakers to cut state spending to balance the budget.

Speaker Joe Straus has charged the House Ways & Means Committee with evaluating the state’s entire tax structure. The committee will determine the effects of taxation on economic growth, capital investment and job creation. As part of the review, the committee is to “evaluate the franchise tax and determine whether the tax structure should continue to exist in its current form or in a revised form, or whether the existing tax structure should be repealed and replaced with a different business tax.”

To learn more about these and other developments in the Southern Region, visit: capitolideas.csg.org and www.slatlanta.org.
The Midwest

GREENHOUSE GASES
The University of North Dakota has started a pilot program designed to reduce the university’s use of coal by 10 to 20 percent, according to the Grand Forks Herald. The university will use glycerin, a product originally derived from canola oil, to reduce the amount of greenhouse gases emitted from the school’s coal power plant. The university will purchase the glycerin from BenchMark Energy Corp., which plans to build a plant in Grand Forks, N.D.

LIQUOR SALES
Since Michigan lawmakers voted to lift the ban on Sunday morning alcohol sales a year ago, nearly 6,000 businesses have received the special permit allowing alcohol sales before noon, the Jackson Citizen Patriot reported. Businesses pay an additional $160 annual fee for the permit. According to the Michigan Liquor Control Commission, about $950,000 in revenue has been generated since the ban was lifted.

CAMPAIGN FINANCE
South Dakota is making it easier to examine and track campaign contributions in state elections. According to The Associated Press, Secretary of State Jason Gant’s new site, www.sdos.gov, will allow the public to search by many variables, including by both candidate and donor. Before the introduction of the new system, which cost $17,000, the public had to rely on scanned images of the reports filed by candidates.

CIVIL UNIONS
Illinois will begin to allow couples who have entered into civil unions to file joint state income tax returns this month, according to The Associated Press. Gov. Pat Quinn has pressed for the change, which is mainly symbolic, since he signed the state’s civil union law in January 2011. Illinois will become the 10th state, in addition to the District of Columbia, to allow joint state returns.

ENERGY RATE HIKES
In late November 2011, the Kansas Corporation Commission was set to hold the first of two public hearings on Westar Energy’s $91 million rate hike request, according to the Lawrence Journal-World. If the proposal is approved, Westar customers would see an approximate $6.50 increase on their monthly bill. The state’s largest electric company would use the money from the rate hike to update programs, comply with environmental regulations and fund its employee pension system.

MINNESOTA TAKES STEP TO STRENGTHEN ANTI-BULLYING LAW

Minnesota Attorney General Lori Swanson in November called on the state legislature to enact a tougher anti-bullying law. According to a press release issued by the attorney general’s office, the proposed law would be modeled after anti-bullying legislation passed in North Dakota in 2011.

Minnesota’s anti-bullying law is one of the shortest, in length, in the nation. It requires schools to adopt a written policy that prohibits bullying, but it doesn’t require specific standards or reporting requirements. The attorney general’s office said the state’s current law has been given the lowest grade of any state with an anti-bullying law by the watchdog group www.bullypolice.org.

According to a 2011 study by the Minnesota departments of Health and Education, 13 percent of the state’s sixth, ninth and 12th graders are bullied at least once a week.

“When bullying happens, a lot of it happens in the dark. Bullies rely on power and they rely on people not doing anything about it,” Swanson said during a November news conference. “What we’re trying to do is foster an environment where bullying would be reported and taken seriously.”

The proposed legislation would require all school districts to adopt an anti-bullying policy by Jan. 1, 2013. The school policies would prohibit students from engaging in bullying or retaliation; establish procedures for immediate reporting; establish procedures for schools to follow in investigative reporting; establish disciplinary measures; require law enforcement to be notified if there is reasonable suspicion that a crime has been committed; establish strategies to protect bullying victims; and establish bullying prevention programs in grades K–12.

Rep. Debra Hillstrom will be the chief sponsor of the bill, the Star Tribune reported.
Medical Marijuana Referendum
Montana voters will decide in November whether to keep or repeal a restrictive medical marijuana law passed last year. The 2011 law created a much more limited medical marijuana program than the one the state has had in place since 2004. More than 36,000 voters signed petitions to put the referendum on the November 2012 ballot, the Independent Record of Helena reported.

Capitol Renovations
Wyoming state officials are considering a new $70 million office building near the current capitol to house year-round workers, according to The Associated Press. The State Building Commission recommended setting aside $4.4 million for design of the building last October. The appropriation is expected to be considered at some point during the 2012 budget session.

Employees weren’t shy about sharing their negative job experiences with the administration. Only 35 percent agreed they were satisfied with the opportunities for growth and advancement, while 30 percent agreed when asked if workers have the “capacity to act on innovative ideas.”

Workers also questioned leadership in their agencies. Only 43 percent said they had confidence in leaders and 35 percent agreed that leaders give a clear picture of direction.

Eric Brown, a spokesman for the governor, said the administration will use the survey results as a starting point for making improvements.

“Statistics show that workers feel more engaged when they see that leaders care about their work and their well-being,” he told The Denver Post.

The survey, released in November, cost more than $200,000 to send out electronically to nearly 100,000 state employees—full-time, part-time, temporary and seasonal—from all branches, according to The Denver Post.

Of the 100,000 employees surveyed, 20,466 responded to the survey. Brown said the governor’s office was very encouraged by the number of employees participating in the survey.

Heath Care
Arizona Gov. Jan Brewer announced a plan in November to temporarily restore the state’s subsidized health insurance program, KidsCare. According to The Arizona Republic, the state froze enrollment in the program in January 2010 to help close a budget deficit. Under the new proposal, which must be approved by the Centers for Medicare and Medicaid Services, money will be pooled from Phoenix Children’s Hospital, Maricopa Integrated Health System and the University of Arizona Health Network in order to receive extra federal funds. The temporary plan would allow more than 19,200 children to enroll in KidsCare.

Organic Foods
Hawaiian farmers and produce handlers have received close to $100,000 from the federal government to help them become certified to grow and handle organic foods, The Associated Press reported. The state’s Department of Agriculture will use the funds to reimburse farmers for inspections and certification. The money also will be used to create a program to help companies become certified as organic processors and handlers.

Census Data
Nearly one of every two African-American children in Oregon lives in poverty, U.S. Census data reported in November found. The Oregonian in Portland reported that 49.3 percent of the state’s 20,000 African-American children fell under the poverty level in 2010. The state’s African-American population has been troubled by double-digit unemployment rates for more than three decades, the newspaper reported.
Carrying the Load

About 95 percent of all legal cases initiated in the United States are filed in the state courts. “Examining the Work of State Courts”—a joint project of the Conference of State Court Administrators, the Bureau of Justice Statistics and the National Center for State Courts that was released in November—found the total caseloads in state trial courts exceeded the 100 million mark for the seventh consecutive year. The project also revealed that 2009 sustained the record high caseloads experienced in 2008.

Civil, domestic relations, criminal and juvenile cases account for almost half—48 million—of those cases, with traffic violations making up the balance. Courts of general jurisdiction saw an increase of about 1 million cases, while limited jurisdiction courts saw a decrease of roughly the same number. General and limited jurisdiction courts are complementary parts of a two-tiered system and typically divide a caseload based on severity, value, statute or sometimes, geography. Single-tiered systems hear all the cases filed in a state regardless of severity, value, statute or geography. California, Iowa, Illinois, Minnesota, the District of Columbia and Puerto Rico have single-tiered court systems.

The population-adjusted rate of incoming cases was 1 percent higher in 2009 than in 2000, the benchmark year.

The number of judges in general jurisdiction courts varied widely by state, ranging from 1 per 100,000 in South Carolina to 6.8 per 100,000 population in North Dakota. Incoming non-traffic caseloads ranged from 370 cases per judge in Massachusetts to 5,011 per judge in South Carolina. In single-tiered courts, the number of judges ranged from 4.4 per 100,000 population in California to 10.3 per 100,000 population in the District of Columbia. Incoming non-traffic caseloads ranged from 893 cases per judge in Puerto Rico to 2,211 cases per judge in California. About 70 percent of the 106 million incoming cases in state trial courts in 2009 were processed in courts of limited jurisdiction.

Note: Mississippi and Oregon were unable to provide data for 2009.

Cases per Judge, 2009

General Jurisdiction Courts

**Under 1,000**
- Massachusetts » 370
- Idaho » 493
- Alaska » 508
- Nebraska » 614
- Rhode Island » 734
- West Virginia » 735
- Wyoming » 828
- Montana » 975

**1,000–1,499**
- Hawaii » 1,062
- New York » 1,203
- Colorado » 1,241
- Kentucky » 1,323
- New Hampshire » 1,358
- Delaware » 1,429
- Michigan » 1,439

**1,500–1,799**
- Pennsylvania » 1,517
- New Mexico » 1,523
- Oklahoma » 1,580
- Alabama » 1,582
- Washington » 1,582
- Louisiana » 1,669
- Kansas » 1,786
  - Median » 1,791
- Arizona » 1,795
TOTAL INCOMING CASELOADS REPORTED BY STATE COURTS, BY JURISDICTION, 2009
IN MILLIONS

- Traffic: 58 million
- Juvenile: 2 million
- Criminal: 20.7 million
- Domestic Relations: 5.8 million
- Civil: 19.5 million

The printed version of this graphic incorrectly refers to the incoming caseloads by percentages; the numbers refer to millions in regard to the total incoming caseloads reported by state courts in 2009.

SINGLE-TIERED COURTS

- Puerto Rico: 893
- Minnesota: 1,429
- Illinois: 1,470
- Median: 1,573
- Iowa: 1,680
- District of Columbia: 1,906
- California: 2,211

1,800–2,099
- Virginia: 1,833
- Arkansas: 1,838
- Texas: 1,960
- Ohio: 1,973
- Missouri: 1,977
- Tennessee: 1,984
- Maryland: 2,058
- Wisconsin: 2,065
- Vermont: 2,084

2,100–2,999
- Nevada: 2,213
- Georgia: 2,222
- Maine: 2,249
- North Dakota: 2,288
- Connecticut: 2,354
- Indiana: 2,639
- Utah: 2,706
- South Dakota: 2,985
- Florida: 2,986

OVER 3,000
- New Jersey: 3,228
- North Carolina: 3,403
- South Carolina: 5,011
Now that the requiem has been written for the Super Committee, states face a mixed bag with the “sequestration” that comes with the failure of the committee to act to set the federal budget on sound financial footing.

Medicaid represents the center of gravity of the state-federal fiscal relationship, and the Super Committee’s failure to reach a compromise has spared the program from near-term cuts. However, the nearly $190 billion in discretionary pass-through grants state and local governments receive are squarely in the crosshairs of the sequestration process.

Barring an unlikely effort to defang the automatic cuts contained in the Budget Control Act of 2011, Congress will be required to sequester, or remove from consideration, set amounts of discretionary spending below the $1.05 trillion 2011 fiscal year baseline spending level to achieve $1.2 trillion in savings by the end of 2020.

Beginning in 2013, federal discretionary spending will dive nearly $100 billion to a total discretionary level of $967 billion and will then slowly increase each year thereafter. Total federal discretionary spending will not crest above the 2011 fiscal year level until 2019.

Sequestration will hit security and nonsecurity spending equally. Security spending includes not only the military, but also the State Department budget, foreign aid, intelligence agencies and many other aspects of the U.S. national security posture. But the military is the biggest part of the security budget, and cuts could mean another impact on states: The Department of Defense may be forced to conduct another round of Base Realignment and Closure, or BRAC, as early as 2015.

The coming push to shift more cuts from the $917 billion compromise to domestic spending is reinforced by the fact that domestic spending will fare much better than defense under sequestration.

Although cuts to Medicare are capped at 2 percent per year, the cap still allows for $123 billion in Medicare spending to be trimmed over nine years. In addition, while Medicaid, the Temporary Assistance to Needy Families, or TANF, and the Supplemental Nutrition Assistance Program, or SNAP, are exempt, some other categories of mandatory domestic spending—including farm subsidies and the new health exchange insurance subsidies under the Affordable Care Act—are not exempt and may experience cuts of almost $50 billion.

As a result, the total amount of domestic discretionary spending subject to sequestration comes in at roughly $300 billion.

A preliminary estimate of the impact of sequestration on pass-through grants conducted by Federal Funds Information for States predicts that federal grant funding will drop by more than $24 billion in the 2013 fiscal year. Final cuts could go even deeper, however, as even small cuts to federal agencies of 2 to 5 percent often translate into magnified cuts to state grant accounts of 20 percent or higher.

States will be able to pass on many of these cuts to local governments or community service providers. States, however, will have to backfill some of the education funds set to meet the chopping block—particularly Title I disadvantaged schools funding and IDEA special education money—with state general fund dollars on a near one-to-one basis or risk court actions that could force states to spend even more money than they would otherwise.

The age of austerity has clearly arrived. It is still too early to know how heavy the axe will fall on each account and which cuts will gash the deepest into wobbly state general funds.

But the axe is coming and it will hurt.
As Congress remains gridlocked over just about every issue that comes before its members, states are addressing the inaction with innovation. Congressional inaction has forced states to address problems in transportation and education, as well as take a leading role in the immigration debate. Congress has failed to reauthorize the Elementary and Secondary Education Act, also known as No Child Left Behind, and the surface transportation law, known as SAFETEA-LU. Federal lawmakers also are dragging their heels on overhauling immigration, but the U.S. Department of Justice is taking legal action against states that address the issue.
Under No Child Left Behind, 80 percent of America’s public schools would get an F. That’s the grade U.S. Secretary of Education Arne Duncan would give the schools based on NCLB, the 2001 reauthorization of the Elementary and Secondary Education Act. Congress has failed to reauthorize the bill since that time.

President Obama released a blueprint in March 2010 emphasizing the goal for reauthorization: By 2020, all students will graduate ready to succeed in college and the workforce.

Efforts to pass the reauthorization failed. Although the House and Senate education committees have tossed around drafts, bipartisan language seems to be a difficult challenge for a reauthorization of the 10-year-old bill.

“The current No Child Left Behind law reminds me of the old Clint Eastwood movie, “The Good, the Bad, and the Ugly,”” Idaho Superintendent of Public Instruction Tom Luna told the Senate Committee on Health, Education, Labor and Pensions in November. “The good is that it created a standards-based system where schools are accountable for every child. The bad is it is a one-size-fits-all model that is difficult to implement in rural states like Idaho. The ugly is the federal government now sets the goal and prescribes the programs we must use to meet that goal.

If those programs don’t work, we are held accountable.”

**State Waivers**

Based on Congressional inaction on reauthorization, President Obama announced Sept. 23, 2011, that states could find their own path to a better grade in serving students—they can apply for waivers in exchange for committing to implement educational transformation initiatives to ensure students are college- and career-ready.

Duncan noted that states are moving past Congress and banding together to develop rigorous academic standards and assessments,
next-generation accountability systems and teacher evaluation systems based in part on student achievement.

“Clearly, there’s tremendous urgency for reform at the local level because our economy and our future are directly tied to the quality of public education,” Duncan said in a November press release. “States and districts want flexibility from NCLB so they can make local decisions in the best interests of children—and they can’t wait any longer.”

To apply for the waiver, states must address four major areas:

» College- and career-ready academic standards with aligned student assessments;

» A rigorous state accountability system;

» A plan to design, pilot and implement an educator evaluation system based on multiple measures, including student growth measures; and

» A commitment to evaluate and refine state-level requirements such as reporting and administrative requests to reduce the burden on schools and local districts.

By November, 11 states—Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, Oklahoma and Tennessee—submitted official requests for waivers. Peer reviews will be completed soon and first-round states will be notified of their status by mid-January. Reviewers include representatives from local school districts, higher education and national education agencies.

State Strategies

Promising strategies are included in the state plans.

Minnesota is placing an emphasis on its state accountability system that will target both test scores and other measures of student growth, such as increasing achievement results of students of color. Under the current system, a majority of schools are labeled as failing because small groups of students didn’t meet their target scores in reading or math.

Minnesota Education Commissioner Brenda Cassellius has high hopes for the change.

“I think (the new system) will be a fairer, more accurate way to judge school performance. We recognize that proficiency is important, but it’s not the only factor that is important,” she told the Pioneer Press in St. Paul in November.

Schools like Eastview High School in Apple Valley, Minn., hope the state waiver request is approved. The school’s ACT scores and graduation rates are higher than the state and national averages, but certain student populations—such as low-income and students with disabilities—haven’t met their progress goals under NCLB standards and that puts the school on the state watch list.

Jane Berenz, superintendent of Rosemount-Apple Valley-Eagan school district, noted the current system is unfair as it zeroes in on a few dozen students out of more than 2,000 in the school.

“If everyone is failing, then no one is failing,” she said. Putting schools on the state watch list for subpopulations that don’t meet Adequate Yearly Progress, known as AYP, doesn’t showcase the true achievement of the majority of the students in the school, she said.

Minnesota education officials propose that schools be assessed on a variety of measures, which would result in fewer schools facing sanctions if they didn’t meet their goals. This year, 1,056 schools didn’t make AYP and 442 of those receive federal funding specifically focused on strategies for low-income students. Under the proposed system changes, only about 130 schools would be identified as underperforming.

Kentucky state Sen. Mike Wilson noted the importance of state legislation in any education transformation at a recent Policy Academy for Newly Elected Legislators, sponsored by The Council of State Governments.

“If we didn’t have Senate Bill 1 in Kentucky, we’d be in a very different situation,” Wilson said of legislation enacted in 2011 that requires the state to begin a new assessment and accountability system. “The power of that legislation is driving our reform.”

Eleven states will find out shortly whether they can change their standards. But they won’t be the last to seek those changes; 39 states, Washington, D.C., and Puerto Rico have stated their intent to request state flexibility from NCLB. The next deadline for waiver package applications is mid-February 2012, with an additional deadline later in the spring.
Pennsylvania Auditor General Jack Wagner believes his state has dodged a series of bullets in the past few years. Structural concerns on major bridge crossings in Philadelphia, Pittsburgh and Washington County in southwestern Pennsylvania have resulted in bridge closings and weight limitations. But they could have produced much more catastrophic consequences. While there was no loss of life as a result of these structural deficiencies, Wagner—who was a safety engineer before joining state government—worries what the future will bring.

“I am very concerned that we’re keeping up with a maintenance schedule that is adequate and keeping these structures safe,” Wagner said. “State government especially has a critical need to invest in what we consider to be bridges in disrepair to make sure this network remains safe and, at the same time, is efficient and effective.”

According to the Federal Highway Administration, Pennsylvania has nearly 6,000 bridges rated as structurally deficient—the most of any state. Transportation for America reported in October that more than 18,000 of the nation’s busiest bridges, clustered around metro areas, are rated as structurally deficient. These cities are some of the nation’s most vital economic engines. Pittsburgh has the highest percentage of deficient bridges—30.4 percent—for a metro area with a population of 2 million or more. Last summer, a transportation funding advisory commission assembled by Pennsylvania Gov. Tom Corbett called for a series of strategies to help fill an estimated $3.5 billion gap in funding for infrastructure. They included increasing registration and license fees and raising a component of the state gasoline tax to produce $2.5 billion more for highways, bridges and mass transit.

When the governor and state lawmakers appeared at odds last fall over when to take up the commission’s recommendations, one of the most strident voices favoring their adoption came from an unlikely source: Wagner, the state’s fiscal watchdog, who normally finds himself advocating for less state spending.

“But I also realize the predicament that our economy is in and America has a golden opportunity here; Pennsylvania has a golden opportunity,” he said. “(Infrastructure investment) is the easiest and quickest and most sensible way for our commonwealth and the country to put people back to work in a recession.”

Oklahoma Sets an Ambitious Goal

Just below Pennsylvania in terms of states with the highest percentage of deficient bridges is Oklahoma. Oklahoma City and Tulsa also rank at the top in the Transportation for America report for percentage of deficient bridges in cities their size.

When structural deficiencies forced lower truck weight limits on bridges around the state, that has a direct economic impact on the state’s agricultural and commercial sectors. Oklahoma officials say. Trucks are sometimes forced to go out of their way, adding to delivery times and the cost of doing business in the state.

But Gov. Mary Fallin has set a goal for the Oklahoma Department of Transportation that she hopes will take the state from one of the worst in the nation in terms of bridge conditions to one of the best: repairing all of the deficient bridges on the state highway system by 2019.

“At the end of (2010), we had 706 structurally deficient bridges on our list and we had funding in place at the time for all but 293 of them,” said the department’s Chief Engineer Gary Evans. “The governor asked us when we rebalanced our eight-year work plan … to put as many structurally deficient bridges into (it) that we could.”

Evans and his team were able to add another 126 of the 293 remaining bridges to the plan using already anticipated revenues. To help fund the remaining 167 bridges, the governor has asked the Oklahoma legislature to increase the amount of state revenue set aside for road and bridge repairs by $15 million a year and raise the road and bridge maintenance cap for the eight-year period to $550 million. The state currently sets aside $41.7 million a year for road and bridge repairs and has a funding cap of $435 million for the eight-year plan. Fallin has said expected growth in state revenue from anticipated increases in economic activity will account for the additional revenues and that increases in taxes, tolls or fees won’t be necessary.

Evans believes convincing the legislature to make the increased investment should be an easy sell because state officials have done their homework—setting a goal and making plans to keep the public in the loop about progress toward meeting the goal.

“We have asked for money for specific purposes—for the purpose of (addressing) our structurally deficient bridges,” Evans said. “We will be very open and transparent. It’s easy to keep track of what we’ve been able to accomplish. We haven’t hired new employees. … We’ve taken the money and put it directly into hard assets and that transparency and accountability has worked well. I think it is something that the public can get behind.”

Political Challenges

But the political winds can’t always be predicted. Otherwise, the nation’s infrastructure would probably not be in the condition it’s in, observers say. Still, state lawmakers who may be...
“In these times when you see the federal government . . . up in the air as to what’s going to go on in the future, I think it’s more and more important for (state officials) to make sure that they’re playing their role in funding the transportation systems for the futures of their states.”

—Gary Evans, chief engineer Oklahoma Department of Transportation

centered about the potential political consequences of voting for the tax and fee increases that may be necessary to fund infrastructure improvements are looking at it in the wrong way, Pennsylvania’s Wagner said.

“I think a worst case scenario is a legislator didn’t act in the interest of public safety and enhancing the economy of Pennsylvania,” he said “Because there is no doubt (state) government has to take the lead when it comes to infrastructure investments and by taking the lead, you send a very positive message to the private sector that government is doing what they’re supposed to be doing.”

Wagner said continuing federal inaction on new legislation to authorize surface transportation programs is another reason state government shouldn’t wait to move forward to meet their infrastructure needs. The previous legislation, known as SAFETEA-LU, officially expired in 2009. Congress has been stymied to come up with a permanent successor ever since.

“We in state government don’t have a lot of impact on what will happen going forward at the federal level,” he said. “We do control our own destiny here in Pennsylvania and the more we do for ourselves, the better positioned we are going forward if something positive happens at the federal level because it will enhance our ability to get more federal funds for these projects.”

Oklahoma’s Evans agrees.

“In these times when you see the federal government . . . up in the air as to what’s going to go on in the future, I think it’s more and more important for (state officials) to make sure that they’re playing their role in funding the transportation systems for the futures of their states,” he said.
Feds & States Face Off Over IMMIGRATION LEGISLATION

by Jennifer Ginn

When a federal judge issued an injunction against some of the more controversial parts of Arizona’s stringent immigration law in July 2010, Gov. Jan Brewer, a 1995 Toll Fellow, declared, “The fight is far from over.”

Brewer’s words may very well be prescient in the battle over immigration laws in primarily Southern and Western states as the federal government breaks from its usual reluctance to intervene in state legislative efforts.

“It’s pretty unusual,” said Peter Spiro, a professor of immigration and constitutional law at Temple University in Pennsylvania. “This immediate level of activity related to immigration is unprecedented… It’s a matter of immigration having grown so dramatically in recent years, along with the inability of the federal government to address the perceived problems associated with it.”

More than 1,500 bills and resolutions regarding immigration were introduced in the first quarter of 2011, according to the National Conference of State Legislatures. While few of those bills actually passed, several states—including Alabama, Georgia, South Carolina and Utah—adopted far-reaching immigration legislation.

Those new state laws include pieces from Arizona’s Senate Bill 1070, passed in 2010, and are commonly referred to as “Arizona-like” immigration policies. Like the Arizona law, legislation passed in 2011 include such measures as requiring officers to check a person’s immigration status while enforcing other laws and making it a state crime for immigrants to not be carrying their registration documents.

As in Arizona, the U.S. Department of Justice is challenging all of these measures.

Muzaffar Chishti, director of the nonpartisan Migration Policy Institute at the New York School of Law, said he thinks the DOJ is challenging these state laws, in part, to maintain the federal government’s prerogative in immigration and foreign relations.

“But it is also clearly politics,” Chishti added. “A lot of these measures have obviously geared up massive opposition in the Latino community. The federal government wants to be seen as supporting those concerns. That’s not without any political meaning given the relative importance of the growing Hispanic vote.”

State policymakers, meanwhile, are reluctant to cede much ground despite looming federal challenges.

“It’s hard to tell what a court will do,” said Alabama Sen. Scott Beason, one of the sponsors of that state’s immigration legislation, House Bill 56. “We’ve got a very complete package on the table, … Would I think they’d agree 100 percent? I’d hope so, and I think we’ve done a great job. Will they agree 100 percent, probably not.

“Pushing what we’re pushing for is going to give states more leeway to deal with these issues the federal government refuses to deal with. If we sit back and did nothing, the line wouldn’t have moved at all. I don’t feel the Supreme Court will say we can’t do anything.”

Arizona—The Proving Ground

Chishti said Arizona’s law is an important landmark in the state versus federal debate over immigration law. The DOJ waited until the last day to file a lawsuit against Senate Bill 1070. The reaction times are now coming quicker, however. A federal judge in late June enjoined parts of Georgia’s immigration law—House Bill 87—before the law could take effect.

A federal judge in September upheld most parts of Alabama’s House Bill 56, signed by the governor in June, but did enjoin a couple of provisions because they pre-empted federal law.

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ruled a 2007 state law imposing sanctions on businesses that hire illegal immigrants was constitutional.

The U.S. Supreme Court will hear a case involving Senate Bill 1070—whether officers can check a person’s immigration status while enforcing other laws—this spring. Spiro doesn’t expect one clear winner in the case.

“My opinion is they’ll split the difference,” he said. “They will show some sympathy to what is motivating the states in these cases … The provisions related to determining whether someone is an illegal alien or not, those provisions will be upheld. The provisions that make illegal immigration a crime under state law, I think they’ll be shot down. … It’s not going to be a clear shut-out for either side.”

**Political Wrangling Continues**

The debate over immigration laws is now spilling over into Congress. U.S. Sen. Jeff Sessions of Alabama has said he intends to co-sponsor a bill that would keep the DOJ from taking part in lawsuits over state immigration legislation.

“The Department of Justice—the chief law enforcement agency in this country—has failed in its responsibility to enforce federal immigration laws,” Sessions said in a press release.

“The Justice Department needs to stop going after states that are taking steps in harmony with federal laws to see that our immigration laws actually are enforced and to help end the lawlessness.”

Chishti believes Congress should be redefining the roles of federal and state governments in immigration reform rather than discussing this type of legislation.

“There’s obviously a strong campaign to minimize the ability of the federal government to intervene.” Chishti said. “… Sen. Sessions, frankly, I don’t think is going to get anywhere.”

Chishti said there probably is a limit to how many states will try to pass restrictive immigration laws. With Supreme Court challenges looming in several states, policymakers may decide that such laws are simply too expensive—both financially and politically.

“There is a cost attached to defending all these lawsuits,” Chishti said. “That’s a real cost at a time when state budgets are restrained. I think some legislatures are really concerned about that.”

Beason of Alabama is one of those concerned.

“Alabama was recently told … if there were violations of civil rights, we’d be at risk of losing federal funding,” Beason said. “I don’t know how the Department of Justice does that, but just to say that is very disturbing.”
As the longest-serving legislative leader in the U.S., can you give us some historical perspective on the situation the country is facing now?

“I just finished reading the book ‘George Washington,’ by (Ron) Chernow. … (In Washington’s) farewell to people …, he disparaged political parties and he said they are a major problem in governance. They were major problems in George Washington’s times, and adherence to same is a major problem in our current times.”

Political parties are a problem for governance?

“We find for example that a number of people adhering to doctrines, to political parties, have taken an oath of no tax increases before they are even sworn into office. Washington also, in his farewell speech to Congress, said that elected officials cannot have an aversion—he used the word aversion—to taxes, as you need revenues to support government. He was referring to a whiskey tax. … He had to get on his horse and take charge of his troops and suppress a revolt that one of its political parties and its populism was forming against taxes. … The more things change, the more they stay the same with political parties and taxation.”

So was there a time when that wasn’t the case?

“When I first got involved in politics in the early 1960s …, continuing on up and through the 1970s, it was not so much what political party you belonged to, but what could you do to help the state and what could you do to move the state forward. People of both parties could come together and support a common agenda to move the state forward. Now in the last two decades, … it appears to be the obligation of the party who’s not in power to vote against and to do everything possible to thwart the agenda of the party in power so that the party out of power can become the party in power, rather than working across party lines for the benefit of the common good.”

Do you believe it began on the federal level and has filtered down to the states?

“Very much so. … Dwight D. Eisenhower, who presided over a (Democrat-controlled) House and Senate, was asked to define democracy. He defined it in one word: cooperation. No matter who, if it’s a Republican or Democrat, as president of the United States, leaders in other party should find a way to work with that president, especially if the ideas help move the country forward. … We had a Republican governor not so long ago. Although I opposed him politically when he ran and I opposed him when he ran for re-election, I helped to pass his agenda.”

What’s it going to take to fix the political problems we face?

“It’s going to have to be a sea change; it’s going to have to be a major turnaround in the terms of the thinking of the American people. (Author Thomas) Friedman talks about a new party. I hope it’s not a new party. I like the existing parties. I’ve been involved with both parties and I work well with both parties on the floor of the Senate. I respect my Republican minority. I like each and every one of them individually. I respect their views.”

From your long tenure as a legislator, what do you see as the biggest challenges states are facing?

“The number one challenge the states are facing right now is the federal government. … If the Super Committee doesn’t come up with an agreement, then it’s going to be a 30 percent cut in Medicaid and Medicare, and states are going to have to cut back accordingly. Our colleges are going to have to cut back; the money states are receiving in terms of medical research is going to be decimated. So much of what happens in the future depends upon the ability of our Congress to reach an agreement.”
Maryland Senate President Thomas V. Mike Miller, the longest-serving state legislative leader in the country, understands as a historian the impact of tough recessionary times on state governments. He also has learned that firsthand, first as a legislator serving since the 1970s, and as the Senate leader starting in 1987.

7. **How did previous recessions affect states and how did they deal with it?**

“In the ’90s, ’90-’91-’92, we had very tough times. We raised the millionaires’ tax and put it in place only for a three-year period of time and then we had it lapse. We raised the gas tax. At the same time, we made significant cuts. Not to say that we haven’t done it this time as well.”

8. **What can we learn from times in which states had a lack of money for programs?**

“The secret is cooperation. For example in the ’70s when we had this time, in the ’90s when we had this time, we had Democrats and Republicans working together to solve the problem. When I passed the gas tax (in Maryland) in 1992, both Republican leaders in the House voted for the bill. No Republican (today) would even dare vote for a gas tax increase no matter how deserving or how much it might benefit their area (because of the primary elections).”

9. **What do states do when they are cutting into the bone and can’t provide services?**

“We come up with a mix of revenues as well as cuts. … Franklin Roosevelt said taxes are the dues you pay to belong to society. You have to make certain that they’re not excessive, that they’re not penal, that they don’t punish any one group. You need revenues to pay your teachers, to pay your policeman; you need revenues to build roads build schools. … Taxes should be the last resort, but they’re a factor that should be on the table to solve problems.”

10. **What advice would you give to newer legislators?**

“Honestly and truly, I’d study history. Study the workings of other states. Read the various publications … involving state legislators. I have our Department of Legislative Services clip stories on how to improve the legislative process and how other states involve the legislative process. In doing so, I’ve studied how states have changed the rules to make the body work more efficiently. … You study how other things are done and find ways to improve on it.”

“Now in the last two decades, … it appears to be the obligation of the party who’s not in power to vote against and to do everything possible to thwart the agenda of the party in power so that the party out of power can become the party in power, rather than working across party lines for the benefit of the common good.”

—Maryland Senate President Thomas V. Mike Miller
Many states are taking unprecedented steps to address the massive unfunded liability in their government pension plans. Changes to existing benefits, for example, have been unheard of before, but now are on the table.

Keith Brainard, research director for the National Association of State Retirement Administrators, said more than 40 states have made changes to their pension plans since 2009, some of them more than once.

One thing actually reducing costs is the decreased state and local government workforce, Brainard said.

“More than 3 percent of state and local government workforce has gone away over the last three years,” he said. “That has multiple effects—it reduces payroll costs for the employer, but it also can reduce pension costs and pension liabilities.”

As for those employees still on the government payroll, here are four areas of change they’ll face in state pension systems.

1. WORK LONGER

Some states are changing the age requirements and adding years of service for employees to be eligible for retirement. Others have increased the vesting period for pension payments.

“Typically,” said Brainard, “a pension plan is based on the final average salary of the last three years. A lot of states have moved that from three to five years.”

And, he said, many states are increasing the penalty for employees who retire early or eliminating any financial incentive for them to retire early.

“It’s possible to have such a small reduction that an employee could decide that they would be just as well off to retire early,” Brainard said. That is changing, he said.

2. PAY MORE

Some states are increasing employee contributions for their retirement benefits.

“A lot of states that have increased employee contributions have also reduced employer contributions,” said Brainard. “They’ve basically swapped out contributions with some of the employees and offset the additional costs by having employees pick those up.”

But some states, he said, have increased what the state and local governments are contributing to the pension plans.

The higher employee contributions could be set on a tiered basis, with existing employees paying less than future employees, Brainard said. Missouri, for instance, established a new tier for contributions by employees hired as of July 1, 2010. Previously, state employees were not required to contribute to their pension plans.

3. GET LESS

Some states are reducing, or even freezing, cost-of-living adjustments, or COLAs.

Colorado, Minnesota and South Dakota all adjusted statutory provisions covering COLAs for existing retirees. While those states’ decisions faced immediate lawsuits, other states are following in their footsteps in putting everything on the table in their efforts to fill the growing holes in their pension plans.

New Jersey, Brainard said, has postponed a COLA for retirees until its pension plans reach 80 percent funding level. That effectively takes the COLA off the table for several years. Maine has postponed its COLA for up to four years. In Oklahoma, which had an ad hoc COLA that required annual legislative approval, the legislature has said no COLAs will be given until they can be paid for, essentially taking them off the table indefinitely.

4. MAKE A SWITCH

Discussion was heavy a few years ago for switching from the traditional defined-benefits plan to a defined-contribution plan, similar to 401(k)s in the private sector. In reality only two states—Michigan state employees since 1997 and all Alaska public employees, since July 2006—have made a wholesale switch, said Brainard.

Some states, however, are looking at hybrid plans or offering a choice. Indiana, for instance, approved a defined contribution choice for new state hires beginning in 2012. Rhode Island is switching most active members, beginning in July, to a hybrid plan that will take the form of lower defined benefits combined with required participation in a defined-contribution plan.
During the past three decades, states have developed various incentive programs designed to encourage economic activity in order to create, retain or expand business opportunities. In addition to tax and financial incentives, some states have used customized, company-specific incentives to engage in bidding wars with other states, making interstate competition for industries and businesses increasingly intense. Many have offered incentives to recruit business and financial investment from abroad.

A new report from The Council of State Governments details trends and options for the future in state business incentive plans. A new feature for this year’s report is an accompanying Web tool—www.csg.org/businessincentives—that provides access to state business incentive profiles. The Web tool provides information about the state’s primary economic development agency or program and allows users to compare a number of measures across states, including current incentives, key tax rates and key indicators, such as educational attainment, income and population.
In the hunt for jobs, states are re-evaluating their use of scarce resources and that could mean changes for state business incentive programs.

States invest an enormous amount of resources into economic development programs and incentives, in some cases upwards of half a billion dollars per program annually. The payoff can be landing much-needed jobs in a sluggish economy.

Many states have looked to particular industries to find a niche for their development strategies. Three of those industries—the film industry, the “green” economy and the automotive industry—have drawn the attention of several states.

**Film Incentives**

States spent nearly $6 billion in the past 10 years to attract the film production industry, according to The Tax Foundation. Michigan, for example, has invested heavily in efforts to bring film production to the state. The state set up the Michigan Film Office in 1979 and has been investing millions of dollars a year into incentive programs for films, attracting big Hollywood productions like “Transformers 3” and “The Ides of March.”

But the recession and fiscal cutbacks led to changes in the state’s incentive programs this year.

According to Michael Finney, president and CEO of the Michigan Economic Development Corporation, the way incentives are used—in general and for film incentives specifically—changed significantly in 2011.

In his first term, Gov. Rick Snyder modified many of the state’s incentive policies, including placing an annual cap on the amount of incentive dollars that could flow into certain programs.

According to Finney, in 2010, the state spent nearly $300 million on all state development programs, including more than $60 million on the film industry, with no annual budget cap (limit on spending) on incentives. In 2011, Snyder capped incentive spending at $100 million, plus $25 million for film subsidies with an additional $25 million available for assisting start-ups—meaning the state in 2011 will spend less than half what it did in 2010 on incentives.

However, alongside the new caps placed on incen-
The “New Energy Economy” has emerged as a key focus of many state economic development programs, with as many as 39 states developing policies and making explicit investments to advance green economic development as part of their Great Recession recovery strategies. Every state plus the District of Columbia and Puerto Rico offers two or more types of incentives for renewable energy. Similarly, 48 states, the District of Columbia and Puerto Rico offer at least one type of incentive for energy efficiency.

Tennessee has focused some of its development efforts on solar manufacturing with good results. “Two years ago, we set upon a strategy to make Tennessee a significant player in the solar industry. Since then, we’ve seen more than $2 billion in capital investment, more than a thousand jobs created, and, with the development of the Solar Farm and existing solar companies located in west Tennessee, we have truly created a statewide solar footprint,” former Governor Phil Bredesen said at a press conference last year.

Sujit CanagaRetna, senior fiscal analyst for The Council of State Governments’ Southern office, said the new energy economy has the potential to reinvigorate America’s lagging manufacturing industries and states recognize that potential. “States are investing in a number of renewable energy industries—including solar, wind, biofuels, geothermal and hydropower—in an effort to stimulate economic development, preserve the environment and foster energy independence,” said CanagaRetna.

In addition, the opportunity for attracting capital investment in clean technology is significant and growing. Pew Center on the States reports that in 2008, investors poured $5.9 billion into American clean energy businesses, a 48 percent increase over investment levels in 2007.

**Automotive Manufacturing**

Efforts to attract automotive manufacturing plants are nothing new—states have laid out incentives for such manufacturing in the past three decades. And many state economic development agencies have been quite successful—especially in the South. “For nearly three decades now, the ‘Drive to Move South,’ that is, the location of a dozen or so foreign automobile manufacturers and an array of parts suppliers in many Southern states, remains a major economic boost, not only for the individual state economies but also the regional and U.S. economies,” said CanagaRetna. “These foreign automaker assembly plants and parts suppliers have generated billions of dollars in economic impact and tens of thousands of direct and indirect jobs.”

Alabama, for example, is home to 350 automotive-related manufacturers. Their presence in Alabama is due at least in part to incentives offered by the state. The economic impact of the automotive industry in Alabama has been substantial. “The automotive industry has invested more than $7 billion in Alabama and created more than 35,000 new jobs in the state,” said Alabama Development Office Director Greg Canfield. “We value their presence in Alabama and appreciate the fact that they have helped keep our economy stable. We will continue working hard to land the next industrial opportunity, expand industries that are already here, and provide opportunities for Alabama’s work force.”

**Policy Concerns Regarding the Use of Incentives**

While every state and Puerto Rico use economic development incentives, the effectiveness, impact and true costs of those programs are greatly debated among researchers.

Although they continue to be a popular economic tool in many states, some state leaders are increasingly critical of programs that pull revenue away from a shrinking tax base without clear evidence of a payback.

Some of the criticisms of an incentive-focused development strategy include:

- Incentives are a zero-sum game because they create bidding wars among states. One state luring business away from another with the promise of tax benefits does not create any new economic activity—it just transfers existing activity into another geographic location.
- Some studies have shown a company’s decision to locate in a particular state has little to do with the incentives offered and more to do with the pre-existing assets of a state, such as workforce education levels, transportation capacity and access, housing affordability and a geography that is appropriately located for the firm’s needs.
- Incentives are used inappropriately to correct weak spots in the economic climate, tax or regulatory infrastructure of a state. Correcting problems in a piecemeal manner prevents states from engaging in strategic planning to improve their overall business climate, including potentially necessary reforms to regulatory barriers, tax codes, and business permitting systems, workers’ compensation systems and labor relations.
- The use of limited state dollars on incentives erodes the tax base, leaving critical services—such as transportation infrastructure or education—underfunded. In addition, a loss of tax dollars because of incentive programs could lead to additional taxes to make up the difference, which in turn leads to uncertainty, inequity or instability in the tax system.
WHAT WORKS TO CREATE WORK:
Job Creation isn’t Easy, but Subsidies and Tax Incentives Aren’t the Answer
by Dane Stangler

In late 2011, a Midwestern state provided hundreds of thousands of dollars in tax incentives to an international company to assist in adding 150 new jobs to its existing office in the state. Press releases went out and business journalists duly covered the news; it was greeted as another notch in the belt for the governor and state department of economic development, and as a boon to the state economy.

Yet this event, which repeats itself all over the country every year, is the mark of a hollow economic strategy. Dollars for job creation is a tried, tested and failed method of spurring economic growth. In past attempts, the new jobs that are announced by a company tend to be filled by people who already have jobs. No “new” jobs get created in that city or county. In the example at hand, in fact, this company had cut a few hundred jobs from this location just a few years before.

Studies have found, moreover, that incentive schemes like this attract in-migrants to fill the “new” jobs created—usually from elsewhere in the same state. From a local perspective, this is mostly a good thing. Even though non-locals fill the jobs created, this still means new demand for housing and new dollars circulating in the economy. But from the state’s perspective, this merely reshuffles employment.

The voice of the academic literature on incentives, tax credits and “place-based” policies is almost uniformly negative. If the goal is new job creation, higher wage growth and better standards of living, they do not work. States and local governments, however, show few signs of ceasing this activity. When, after all, have policymakers listened to researchers anyway?

The studies themselves have shortcomings: time periods dictated by data availability rather than economic realities; varying definitions that make comparisons difficult; and, often, ideologically motivated findings.

Most frustratingly, for scholars no less than policymakers, a tremendous number of non-policy factors heavily influence state economic performance. The effect of these—weather, coastal distance, the existing economic mix of a state—also varies from state to state. For some states, policy can make a large difference to the economy; for others, not so much.

Faced with tightening budgets and increasing exposure to global competition, states have turned to entrepreneurship as the latest policy strategy. After years of modest or even negative returns on the type of incentive package described above, states now seek “home-grown” economic development through assistance to new and small companies. This counts as progress but, unfortunately, we often find old wine in new bottles. Industrial districts and enterprise zones—generally ineffective policies—are relabeled “startup hubs.” Another popular tool is a loan guarantee program, whereby the government guarantees bank loans to business borrowers—especially entrepreneurs—who would otherwise not get loans.

Loan guarantees, however, have been found to be rather underwhelming in their effect and typically do not lead to the increase in business formation and job creation that policymakers seek. This finding actually applies to most subsidization schemes and is the thrust of Josh Lerner’s book, Boulevard of Broken Dreams, which documents how attempt after attempt to use public money to spur entrepreneurship has failed.

So what can states do? States are right to see entrepreneurship as a more promising pathway to economic growth than tax incentives, but it is clearly no easier to promote entrepreneurship.

In February, the Kauffman Foundation will release a menu of policy ideas for states wishing to boost firm formation. We recognize, as noted, considerable variation in state economic situations—the ideas will apply with more or less force depending on a state’s other characteristics.

We believe that states can do a good deal in the following areas:

• Free the process of technology commercialization in universities from bureaucracy and monopoly.

Dane Stangler is a director at the Ewing Marion Kauffman Foundation, which strives to advance entrepreneurship and improve the education of children and youth. Its program areas focus on entrepreneurship, advancing innovation, education, and research and policy. Stangler researches and writes on a wide variety of subjects, including entrepreneurship, expeditionary economics and cities. He initiated and manages the Kauffman Foundation Research Series on Firm Formation and Economic Growth, and contributes to the blog, Growthology.
• Encourage land use flexibility and inter-jurisdictional competition at the local level.
• Simultaneously simplify and broaden the base of the corporate income tax.
• Promote effective entrepreneurship education programs at colleges, universities and community colleges.

While entrepreneurship education programs exist by the dozens across the country, few of them have shown positive results. A new wave of experiential programs has emerged from places such as the University of Miami, Syracuse and Stanford that might be better models for other schools to replicate.

More details will be forthcoming in the Kauffman report, but the basic thrust of these and other ideas is that states must embrace “economic turbulence” — the starting, failing, shrinking, and growing of new and old companies that is the source of productivity gains and rising standards of living. In the past, through subsidies and tax incentives, states have sought to suppress such turbulence. That can no longer be the case.

IN SEARCH OF JOBS
Florida Gov. Rick Scott, in photo at left, talked about job creation during a pre-legislative news conference in Tallahassee in November. Above, more than 200 people attended a Kitchen Table Summit event at Inglewood High School in Inglewood, Calif., in August to vent their frustrations about the lingering recession and call on their elected officials to focus on job creation. While attention is focused on job creation, states face many challenges in creating an environment where entrepreneurship can thrive.
The Great Recession spawned a wave of temporary commissions or groups with one simple goal: Save the state money while creating an environment for agencies to better provide the services state government should provide. At least 24 states created these kinds of commissions, either during or in response to the recession, according to a recent survey by The Council of State Governments. The commissions were designed to analyze state government efficiency in delivering services, organizational redundancies and to identify opportunities for budgetary savings.

Efficiency commissions may be commonplace, but successful commissions have five key ingredients.

1. **BUY-IN FROM ALL PARTIES INVOLVED**

   The effort cannot be ideologically driven and it must remain bipartisan and inclusive throughout the effort.

   In Colorado, a program created by then-Gov. Bill Ritter—the Government Efficiency and Management Performance Review—made 91 recommendations that were projected at the time to create $205 million in financial benefits over the next five years. Those recommendations included methods to control health care costs, improve public safety, implement “greener” approaches to energy use and improve efficiency through information technology, among other areas.

   Mark Cavanaugh, now with the state’s Department of Higher Education, managed the project for the governor and explained that the approach to the commission’s work was unique: It began by soliciting recommendations from a wide variety of state employees, ultimately receiving around 12,000 responses.

   “We started this project from a very employee-focused viewpoint,” said Cavanaugh. “Our thinking was that in order to have successful implementation of the changes being recommended, you had to have buy-in and acceptance from those that will actually be doing the implementation: the employees.”

   The focus on gaining state employee support and input was clearly important to Ritter from the outset. The employee survey contained a message from the governor: “There is one thing that we know for sure—some of the best ideas come from the people who work in the programs and provide the services every day. We want to get your ideas about how to improve, how to provide better services and how to work more efficiently.”

2. **COMMITTED LEADERSHIP & CHAMPIONS**

   The project needs committed leadership and champions—preferably strong legislative and executive support, along with public support that will sustain the effort even through political change.

   Louisiana’s commission—the Streamlining Government Commission—exemplifies this practice. The commission included members from the legislative and executive branches of state government, as well as from the private sector. Tim Prather, the commission’s coordinator, said the panel was the perfect size—just big enough to have a representative set of interests at the table, but not a “huge, unwieldy group that can’t get things done.”

   A set of five advisory groups evaluated more specific policy areas, each of which contained at least two commission members.

   While the governor strongly backed the commission, the legislature also supported it.

   “Sen. Jack Donahue, our chair, really worked hard on this endeavor and continues to champion it in the legislature,” said Prather.

   The implementing legislation—Act No. 491—provided the scope and power of the commission that allowed it to function effectively.

   “Every aspect of government was fair game for evaluation, except for higher education, which had its own commission,” said Prather. “Everybody was a player in this effort, from the auditor’s office to the Department of Health and Hospitals.”

3. **SUCCINCT, EASY-TO-UNDERSTAND RECOMMENDATIONS**

   In every state commission, a final report or series of reports provide the recommendations of the group and generally offer guidelines for implementation.

   Cavanaugh said Colorado’s final report was intended to be like a “recipe book”—precise and easily duplicated.

   “We wanted to provide enough detail so that managers and employees could implement improvements like the ones recommended and then copy this process with other improvement opportunities in the future,” said Cavanaugh.
The effort must remain fully transparent throughout the entire process, from development through implementation and evaluation. Linking goals to clearly defined outcome and performance measures—and publicly reporting on them—allows those following the process to track progress.

Transparency in government in general has become more important to the public and policymakers, but when it comes to making major structural changes, transparency becomes paramount to an effort’s success and longevity.

The Utah Advisory Commission to Optimize State Government took transparency and reporting to the public very seriously, not just in public access to the group’s goals and final report, but also in the follow-up process as well.

The commission set up a user-friendly website called Optimization Tracking that enables the public to view progress (implemented, deferred, in review, etc.) on key recommendations of the commission. Users can dig into the details of a recommendation, the key outcomes for that recommendation and get the status or target completion date for that area.

Goals should be clear and identified. They should include the commission’s scope of operation—whether it will seek to find savings in existing programs or reform the structure of government itself—and its time frame for execution—long-term goals versus short-term goals, realistic time frame for study and implementation, etc.

In Utah, Gov. Gary R. Herbert made government transformation a goal from the beginning of his term, saying in his inaugural address, “As governor, I will lead the charge for government efficiencies in all that we are tasked to do. I pledge to lead a government that is open, honest, accessible and accountable.”

He then created the Utah Advisory Commission to Optimize State Government to conduct a broad-based, independent review of governmental processes and the state’s spending, with the end goal of making recommendations to “improve efficiency, enhance effectiveness and optimize performance in the State of Utah.”

The goals of Utah’s commission were made clear from the beginning and were governed by a succinct set of principles: The commission should be data-driven, have a long-term focus, be targeted on areas where a reassessment can “provide the greatest return to taxpayers,” receive recommendations from an independent and experienced perspective, recognize the limited nature of the commission to only recommendations—not policy implementation—and remain open to input throughout the process.

The time frame for the conclusion of the commission’s work also was clearly established and met.
With a Jan. 1, 2014, deadline looming for implementation of the federal Affordable Care Act, states are at different places in getting ready for health care reform. While two years seems like a long time to reach that target, the many steps states need to take to address the requirements of the federal legislation passed in 2009 may actually narrow that window of opportunity for action, according to Jennifer Tolbert, associate director with the Kaiser Commission on Medicaid and the Uninsured, a major initiative of the Kaiser Family Foundation, which provides information and analysis on health care coverage and access for low-income populations.

“Some states are moving ahead fairly quickly either with setting up exchanges, preparing their Medicaid program for expansion or undertaking other activities to get ready for health reform, while other states are not moving as quickly,” she said.

The legal challenges to health care reform may be slowing some states from taking action, she said, but with the U.S. Supreme Court likely to rule on at least parts of the bill this spring, that could prompt more state action.

Tolbert said states should be taking action in three primary areas—health care exchanges, Medicaid expansion and private market insurance reforms.

**Health Insurance Exchanges**

Two states—California and Maryland—have moved fairly quickly on the reform...
overall, and the health insurance exchanges in particular. Both states have passed legislation to establish exchanges and the appointed boards of directors are meeting on a regular basis. Both states have received establishment grants to set up exchanges.

Other states have taken little to no action with regard to exchanges, and that could create problems down the road, Tolbert said. Exchanges are intended to create a more organized and competitive market for health insurance by offering a choice of plans, establishing common rules regarding the offering and pricing of insurance, and providing information to help consumers better understand the options available to them, according to Kaiser.

“For states that have chosen not to move forward, awaiting resolution of these legal challenges, that puts them effectively two years behind in the planning process,” Tolbert said. “It would likely be difficult for states, unless they have been laying the groundwork, to enact legislation to establish an exchange during the 2012 legislative session.”

Without that enacting legislation, Tolbert said, states can’t make the critical decisions necessary around how the exchange will function.

“That means many of these states will be looking at passing legislation in 2013, which seems to suggest that they will not likely be ready to operate an exchange, a fully functional exchange, by Jan. 1, 2014.”

If that happens, the federal government will step in and operate the exchange, she said.

**Medicaid Expansion**

The Medicaid program will be expanded in 2014 to cover all adults and children up to 133 percent of the federal poverty level. Technically, Tolbert said, because of the 5 percent disregard, the program will cover up to 138 percent of the federal poverty level.

While states are used to making changes in their Medicaid programs, a lot of work remains to expand the program.

“There’s a fair amount of heavy lifting that needs to be done in the Medicaid program to get the programs ready to accept new enrollees that are expected to come onto the program and to streamline their eligibility systems to meet the new federal requirements,” said Tolbert.

The biggest issue with Medicaid, she said, is coordinating the new eligibility functions with the health care exchanges, “because if they haven’t built their exchanges, it’s going to be hard to coordinate those functions with Medicaid even if their Medicaid program is ready to accept their new enrollees.”

While the Affordable Care Act includes several provisions that will minimize costs to the states, policymakers must still think about funding. The biggest thing, said Tolbert, is changing the eligibility and enrollment systems.

The Centers for Medicare and Medicaid Services recently finalized a rule that allows for a $90 percent federal match for the information technology components of getting the Medicaid programs ready for 2014.

And, while the federal government picks up the cost of the newly eligible Medicaid population for three years, anyone who applies and is eligible under the previous guidelines would be covered under the current funding formula.

**Private Market Insurance Reforms**

The Affordable Care Act requires some changes to the private insurance market, and some of those changes have already taken effect. These early market reforms—like elimination of the lifetime limits on benefits and the provision allowing adult children to remain on their parents’ health insurance policies until age 26—are in effect, Tolbert said.

But, she said, the ideal situation in implementation of these reforms is the adoption of state laws. Only a handful of states have passed such legislation.

“What a number of states have done instead is issue bulletins or administrative rules to implement the new requirements,” she said.

Some states have taken no action, but the rules are being implemented and enforced, according to Tolbert.

“We know from our own survey of employer health benefits, as well as data from the most recent Census Bureau Current Population Survey on health insurance coverage, that young adults are getting coverage through their parents’ health insurance policies up to age 26,” she said.

"For states that have chosen not to move forward, awaiting resolution of these legal challenges, that puts them effectively two years behind in the planning process.”

—Jennifer Tolbert, associate director
Kaiser Commission on Medicaid and the Uninsured
The federal weatherization program received $5 billion in Recovery Act funding—a more than 10-fold increase in its 2009 budget of $450 million.

19 states have less than 1 percent of their State Fiscal Stabilization Funds left to be spent.

Transportation-related programs have $11.6 billion in unspent Recovery Act funds.

Unspent Stimulus by Program

Slightly less than 10 percent of the money set aside for the State Fiscal Stabilization Fund—used to help prevent states from making deeper budget cuts—remains unspent.

Fourteen of the 22 states, plus Washington, D.C., that have been given high-speed rail funds have not spent any of that money.

Slightly more than 4 percent of the $7.8 billion reserved for high-speed rail projects has been spent, the smallest of the programs.

Almost 40 percent of the funding set aside for energy efficiency and renewable energy projects had not been spent as of Nov. 4, 2011. That amounts to $6.5 billion.

Unspent funds are discretionary dollars that have been obligated but remain unspent or unreimbursed. Data reflect both funds that are slated to be spent by the federal government in a state, such as military construction, and funds that have been granted to states for program costs, such as transportation.

For more information, visit CSG’s Knowledge Center—www.csg.org/knowledgecenter.

Source: CSG analysis of Recovery.gov data.
As a whole, the 50 states, the District of Columbia and Puerto Rico had just 25.5 percent of their American Recovery and Reinvestment Act funds left to spend as of Nov. 4, 2011.

14 states, and the District of Columbia, have more than $1 billion in Recovery Act money not spent: California, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas and Washington.

**Delaware** has the largest amount of stimulus funds left unspent percentage-wise, with 55.7 percent still in the bank.

**Hawaii** has the greatest percentage of unspent funds in the highway infrastructure and investment program, with 54.7 percent still on the books.

11 states have more than $100 million in unspent broadband access funds.

**Montana and Oregon** both have 73 percent of their money reserved for expanding broadband access to the states.

California has the largest amount of unspent money for highways and infrastructure, with $640 million left unspent.
"Recently, Illinois approved sweeping changes to public pensions by creating a new tier of benefits for new employees. Our reforms will save taxpayers $72 billion and reduce future liabilities by more than a quarter-trillion dollars. But our work on pension reform is not over. In the next year, as pension costs continue to pressure the state budget, we will be working to further reform the system while preserving constitutionally protected pensions for current employees and retirees."

JOHN J. CULLERTON
Senate President
Illinois

"Growing health care costs continue to impede job creation and economic growth and the Massachusetts Legislature is committed to taking the first step in payment reform. We are focused on passing legislation that will improve governance and fiscal accountability in Massachusetts’ education collaboratives as a result of financial abuses in some of our collaboratives. And it continues to be our priority to improve efficiency, transparency and accountability in our state government through state finance reform legislation."

THERESE MURRAY
Senate President
Massachusetts

WHAT WOULD YOU LIKE TO ACCOMPLISH DURING THE NEXT LEGISLATIVE SESSION?
RESTORE FISCAL SANITY

“We will continue to focus on making Michigan a better state for our kids and grandkids. We will continue restoring fiscal sanity by getting government spending under control, retiring long-term debt and making Michigan a better place to find a job by making Michigan a better place to provide a job. Responsible budgets, revolutionized tax structure, removing regulatory barriers to expansion and job growth, and addressing the education of students are key to Michigan’s resurgence.”

JASE BOLGER
Speaker
Michigan

BALANCE THE BUDGET

“Always high on the priority list is balancing our state budget in a fiscally responsible way, with no new taxes or tax increases. We will continue our work to make sure Tennessee is open for business by keeping taxes low and minimizing regulation, fostering an environment where businesses can grow. Having just implemented education reforms for the Race to the Top program, we will monitor those reforms to ensure children are being given the very best education possible.”

BETH HARWELL
Speaker
Tennessee

IMPROVE EDUCATION

“I believe the crucial issues facing Louisiana will be education reform and economic development. The emphasis on improving elementary and secondary education will be a top priority during our regular legislative session as we try to improve educational opportunities for our children. The funds invested in education and its related programs will pay dividends. We (also) will make every effort to improve our economy through education and job creation.”

JOHN A. ALARIO JR.
Senator
Louisiana
CGER West holds Fall Training Seminar for Key Legislative Staff

Nonpartisan Western legislative service agency and research directors gathered in Las Vegas Nov. 14-15 for CGER West’s annual Fall Training Seminar. Alaska Legislative Affairs Director Pam Yarnes chaired the event. Key staff from Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Utah and Wyoming participated.

The event featured management training and sharing of best practices. Topics included organizational culture, new technology in Western legislatures and techniques for motivating legislative staff in tough economic times.

University of Nevada Reno’s Political Science Department Chair Eric Herzik painted a colorful portrait of “The Politics of the West.” Clark Kincaid from the William F. Harrah College of Hotel Administration, University of Nevada Las Vegas, offered lessons in the gold standard of customer service.

Colorado Legislative Council Director Mike Mauer and Idaho’s principal legislative research analyst Eric Milstead discuss how organizational culture affects the legislative workplace.

Learning Opportunities for First-time Legislators

About 75 first-term legislators, including several who were elected in Mississippi in November 2011, attended the final three education policy academies for newly elected legislators, known as PANEL. Led by the Council of State Governments’ education policy staff, the policy academies focused on college and career-readiness issues.

Two of the conferences, held in Cleveland and Atlanta in November, attracted 240 freshmen legislators from CSG’s Midwest and Southern regions. The final one, held Dec. 1-4 in Orlando, Fla., provided an opportunity for freshmen legislators from all four of CSG’s regions to network and become better informed about education policy issues. Legislators attending the policy academies in Cleveland and Atlanta visited schools that have been recognized for their use of innovative curriculum and teaching methods. The Bill and Melinda Gates Foundation, the William and Alva Heidt Foundation and CSG’s 21st Century Foundation funded the education PANEL meetings.

CSG conducted similar policy academies for first-term legislators from CSG’s East and West regions in the fall of 2011.

SIPO Honors Landrieu

The State International Development Organizations, or SIPO, recently presented U.S. Sen. Mary Landrieu of Louisiana the 2011 Trade Champion Award.

“Im humbled by the recognition SIPO gave me for my work on trade and exporting in America,” Landrieu said. “With 95 percent of the world’s customers outside of the United States and only 1 percent of small businesses exporting, we must pursue ventures to expand international trade in the small business community.”

SIPO is an affiliate of The Council of State Governments.
Border Legislators Meet

Legislators from nine of the 10 U.S.-Mexico Border States convened Nov. 17-19, in Saltillo, Coahuila, for the 24th Border Legislative Conference. Participating border legislators focused on the topics of repatriation procedures, cross border emergency management and economic development. The members were welcomed by Coahuila Gov.

Jorge Juan Torres Lopez. BLC members passed the 2011-1 Policy Statement on Immigration Reform, which expresses the interest of border lawmakers on promoting renewed immigration policy, and the 2011-2 Policy Statement on Human Trafficking, which focuses on the challenges the victims of human trafficking face and on ways to promote full collaboration among all service providers.

NEMA Presents Suiter Award

Jack Colley, former head of the Texas Division of Emergency Management, posthumously received the 2011 Lacy E. Suiter Distinguished Service Award from the National Emergency Management Association. NEMA presents this honor annually to a person who has made outstanding contributions to emergency management and whose career accomplishments are of unusual merit.

Colley served more than 12 years with Texas Department of Public Safety, and guided the state's response to major emergencies including Hurricane Rita and the crash of the Shuttle Columbia.

2012 Toll Fellows Program

Sept. 8-13 | Lexington, Ky.

Applications are being accepted for the 2012 Toll Fellows Program.
Applications Due by April 20

Learn more about these stories at capitolideas.csg.org.
Click on Stated Briefly under Departments.

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Before Utah even began its redistricting process, people were talking about lawsuits.

Lawsuits following the decennial redistricting process aren’t uncommon, but Utah lawmakers took a step this cycle to eliminate some of the potential basis for such a suit.

“If people are going to sue us anyway, let’s make sure they’re involved and they know what’s going on before they get to that point,” said Sen. Ralph Okerlund, chair of the Utah Senate Redistricting Committee, “and maybe we’ll be able to deflect some of that kind of thinking as we go through the process.”

Legislators opened up the process—complete with an online tool—to let anyone who registered, and agreed to draw complete plans, submit a redistricting map in one of four areas: congressional, state house, state senate and state school board. More than 1,000 residents signed up and submitted about 400 plans for consideration, according to John Cannon, general counsel for Utah’s Legislative Research Council.

The main reason for the change, said Okerlund, was to get the public more involved in the process. Therein lies the primary historical criticism of the redistricting process across the country.
“Just the word redistricting raises people’s blood pressure,” said Rich Leadbeater, state government industry manager at Esri, which designed the GIS-based tool Utah used for redistricting. “They just assume it’s bad.”

Bringing more transparency and opening up the process more for public involvement “lances the boil,” Leadbeater said. “It’s one thing to document the minutes of a meeting so everyone can see it’s above board, but it’s another to give them the same analysis tools to come to their decisions.”

GOAL: Public Involvement

Public involvement is one major goal in the redistricting process, according to Keesha Gaskins, who studies redistricting as senior counsel in the Brennan Center for Justice’s Democracy Program.

“When we talk about what’s ideal, we’re really talking about a process that allows for citizen input, that allows the redistricting authority to really understand how citizens see themselves—what communities they want to be a part of, how they’re represented,” she said.

She said it’s not enough to hold public hearings. Those hearings must include the people who are actually drawing the redistricting maps, not just the legislators who will be voting on them. And, she said, legislatures or commissions must build in time to review the public comments and revise plans if necessary.

“What people want to know is that they’ve been meaningfully heard and are a part of the process,” she said.

Utah’s public hearing process allowed anyone who had submitted a map and who was in attendance at one of the 17 hearings around the state to present their plan. Staff could, and did, make changes as the redistricting committee moved through the process, said Okerlund. Many people argued that their county fit better with a different county on several of the maps, he said.

“We actually moved a lot of lines because they had some good reasons,” he said.

Residents in Sanpete County, for example, didn’t like their county being split among three state House districts, according to Rep. Ken Sumsion, chair of the Utah House Redistricting Committee. The county has one of the largest populations in the state. Those residents drew numerous maps to avoid such a split.

“At the end of the day, the whole county was put into one House seat,” Sumsion said. “The public did make a difference and they were involved.”

The same is true for Tooele County. Because House districts were set at 36,852 population, part of the county would have to be represented by at least one other representative. But residents didn’t want the remaining 20,000 people split between two House seats. They made valid arguments and the county, once represented by three people, will now be represented by two.

“That wouldn’t have happened if citizens of Tooele hadn’t been involved,” Sumsion said. “I’m not sure it would have happened if we hadn’t had this online tool to where they could draw maps.”

PROCESS: Technology Changes

That technology is a key to opening up the process, many believe.

Ten years ago, states were able to create more precise maps with deviations down to zero. Cannon said the technology advancements over that decade have improved the process dramatically. In the last cycle, he said, the state still used census block and track numbers printed out and attached to legislation.

This time, everything was electronic, and changes could be made quickly and easily. The final maps, along with all those submitted throughout the process, are posted on redistrictutah.com.

“With our congressional plans, we had 20 different alternative bills that were proposed and we could do that quickly because we could create a block assignment file, burn it to a disk, and send it over real quick (to the legislature),” said Cannon.

Everyone—legislators and the public—could quickly view the plans on their computers, he said.

Gaskins believes the technology advancements ultimately will empower citizens to get involved … if they want to.

“(Surveys show) people don’t actually want to do the work themselves, but they want to know that the process is transparent enough for people who want to do the work to be able to access those processes,” she said.

Technology is allowing that to happen. “They have tools that allow them to access the process,” Gaskins said. “People don’t need to be powerless in this process.”

“Just like I, as a legislator, don’t get everything I want, different individuals in the public didn’t get everything they wanted, but certainly they influenced the process and their voice was heard.”

—Rep. Ken Sumson, chair
Utah House Redistricting Committee

About Independent Commissions

Twenty states appoint independent commissions to draw the redistricting maps in an effort to make the process more transparent and less controversial. While commissions can be good, Keesha Gaskins, who studies redistricting as senior counsel in the Brennan Center for Justice’s Democracy Program, said there’s nothing magical about commissions. It’s more about the process.

“Commissions themselves are not a silver bullet;” she said. “It does take out one thing the people see as one of the greatest problems, which, of course, is the self-interest of legislators.”

These states have independent commissions that draw the plan, advise the legislature or serve as a backup if the legislature fails to draw a plan.

- Advisory Commissions: Maine, Vermont
- Backup Commissions: Connecticut, Illinois, Mississippi, Oklahoma, Texas

“We want people to be involved and take advantage of the opportunity to be able to say what they think and have an influence on the legislature.”

—Sen. Ralph Okerlund, chair
Utah Senate Redistricting Committee
2011 ELECTIONS
Brought Some Changes

A few states held elections in 2011, with governors being selected in three states and legislatures undergoing change in two others. Hot issues debated during the year were decided at the ballot box. Here are the results of the 2011 general elections.

SENATE PRESIDENT RECALLED

Voters in Arizona successfully removed Republican Senate President Russell Pearce from office in what was the first-ever recall of a legislator in that state. He was defeated by Republican Jerry Lewis by a 53-46 percent margin.

Pearce, who had served in the legislature since 2001, was the author of the state’s controversial immigration law—a leading factor behind the recall effort.

Following Pearce’s recall, senators chose Republican Steve Pierce as the 2012 Senate president.

INCUMBENT GOVERNORS WIN EASILY

Three governors were elected during the 2011 election cycle. Kentucky, Louisiana and Mississippi held gubernatorial elections, none of which resulted in a party control switch.

In both Kentucky and Louisiana, the incumbent governors handily won re-election.

Louisiana Gov. Bobby Jindal, a Republican, was assured a second term when he received nearly 66 percent of the vote during the state’s Oct. 22 election. Jindal was opposed by political newcomer Tara Hollis, a Democrat, and a handful of third-party candidates.

In Mississippi, Republican Lt. Gov. Phil Bryant, a 1998 Toll Fellow, was elected to serve as the state’s newest governor. With 61 percent of the vote, Bryant defeated Democratic Hattiesburg Mayor Johnny DuPree.

COLLECTIVE BARGAINING LAW OVERTURNED

With an overwhelming 61-39 percent margin, voters in Ohio sent a message to the governor and legislature by rejecting a controversial collective bargaining referendum.

Voters elected to repeal Senate Bill 5, which was passed by the legislature and signed by Gov. John Kasich in March 2011. Among other things, the law would have prevented the state’s more than 350,000 public employees from striking, eliminated binding arbitration and disallowed the negotiation of pensions and health care.

At the time of the election, the law had not yet taken effect.

LEGISLATIVE PARTY CONTROL SHIFTS

Two of the four states that held legislative elections in 2011 will have new party control.

In Virginia, control of the House will remain in the hands of Republicans, while the once Democratic-controlled Senate found itself deadlocked 20-20 after the elections. Republicans claim they will be the majority with Republican Lt. Gov. Bill Bolling having the ability to cast any tie-breaking vote; however, Democrats plan to challenge that assertion.

After several close races, the Mississippi House will be controlled by Republicans for the first time since Reconstruction. Republicans also will maintain control of the Senate.

In both Louisiana and New Jersey, no party control shifts occurred. The Republicans remain in control of both houses in Louisiana, while Democrats are firmly in control of both chambers in New Jersey.

PERSONHOOD AMENDMENT DEFEATED

Mississippi voters firmly rejected a ballot initiative dubbed the “personhood amendment.” The initiative would have amended the definition of a person to include “every human being from the moment of fertilization, cloning or the equivalent thereof.”

The matter, which had gained national attention leading up to the election, was defeated by a 57-43 percent margin. If passed, the measure would have likely drawn legal challenges due to its conflict with the Supreme Court’s 1973 Roe v. Wade decision.

Read more about the 2011 elections at the CSG Knowledge Center, keyword: Elections.
2012 ELECTIONS

PRESIDENTIAL PRIMARY DATES

JAN
- Jan. 3 » Iowa Caucuses
- Jan. 10 » New Hampshire Primary
- Jan. 21 » Nevada Democratic Party Caucus, South Carolina Republican Party Primary
- Jan. 28 » South Carolina Democratic Party Primary
- Jan. 31 » Florida Primary

FEB
- Feb. 4 » Maine Republican Party Caucus, Nevada Republican Party Caucus
- Feb. 7 » Colorado Republican Party Caucus, Minnesota Party Caucuses, Missouri Primary
- Feb. 28 » Arizona Primary, Michigan Primary
- March 3 » Washington Republican Party Caucus
- March 6 » SUPERTUESDAY
  Alaska Republican Party Caucus, Colorado Democratic Party Caucus, Georgia Primary, Idaho Republican Party Caucus, Massachusetts Primary, North Dakota Republican Party Caucus, Oklahoma Primary, Tennessee Primary, Texas Primary, Vermont Primary, Virginia Primary, Wyoming Republican Party Caucus
  - March 7 » Hawaii Democratic Caucus
  - March 10 » Kansas Republican Party Caucus
  - March 11 » Maine Democratic Party Caucus
  - March 13 » Alabama Primary, Hawaii Republican Party Caucus, Mississippi Primary, Utah Democratic Caucus
  - March 17 » Missouri Republican Party Caucus
  - March 20 » Illinois Primary
  - March 24 » Louisiana Primary

APR
- April 3 » District of Columbia Primary, Maryland Primary, Wisconsin Primary
- April 14 » Idaho Democratic Party Caucus, Kansas Democratic Party Caucus, Nebraska Democratic Party Caucus, Wyoming Democratic Party Caucus
- April 15 » Alaska Democratic Party Caucus, Florida Democratic Party Caucus, Washington Democratic Party Caucus
- April 24 » Connecticut Primary, Delaware Primary, New York Primary, Pennsylvania Primary, Rhode Island Primary

MAY
- May 5 » Michigan Democratic Party Caucus
- May 8 » Indiana Primary, North Carolina Primary, West Virginia Primary
- May 15 » Idaho Primary, Nebraska Primary, Oregon Primary
- May 22 » Arkansas Primary, Kentucky Primary

JUNE
- June 5 » California Primary, Montana Primary, New Jersey Primary, New Mexico Primary, North Dakota Democratic/NPL Caucus, South Dakota Primary
- June 12 » Ohio Primary
- June 26 » Utah Primary

DEBATES & CONVENTIONS

AUG

SEPT
- Sept. 3–Sept. 6 » Democratic 2012 National Convention Begins | Time Warner Cable Arena, Charlotte, N.C.

OCT
- Oct. 3 » First Presidential Debate | University of Denver | Denver, Colo.
- Oct. 11 » Vice Presidential Debate | Centre College | Danville, Ky.
- Oct. 16 » Second Presidential Debate (town hall meeting format) | Hofstra University | Hempstead, N.Y.
- Oct. 22 » Third Presidential Debate | Lynn University | Boca Raton, Fla.

ELECTION DAY » TUESDAY, NOV. 6

FOR MORE INFORMATION
- » Commission on Presidential Debates
www.debates.org
- » Democratic National Convention
charlottein2012.com
- » GOP Convention 2012
gopconvention2012.com
- » National Association of Secretaries of State
www.nass.org
The oldest current senate leader is Iowa Senate President John “Jack” Kibbie at age 82.

The youngest current senate leader is 36-year-old Nebraska Speaker Mike Flood.

19 women serve as chief justices in their state’s highest court.

Women serve as senate president in only 4 states or territories: Guam, Massachusetts, Minnesota and Rhode Island. The leader of the Guam Senate is called the speaker, not president.

Indiana Chief Justice Randall Shepard has served the most consecutive years as chief justice; he has held that post since March 1987.

The oldest governor currently serving is California’s Jerry Brown; he’s 73.

The youngest governor currently serving is South Carolina’s Nikki Haley—she’ll turn 40 on Jan. 20.

Newly elected Mississippi Gov. Phil Bryant has the shortest time in office; he will be inaugurated on Jan. 10.

The newest speakers will be Philip Gunn of Mississippi and Chuck Kleckley of Louisiana.

6 women serve as governor—in Arizona, New Mexico, North Carolina, Oklahoma, South Carolina and Washington.
Nebraska, Guam, The Virgin Islands and District of Columbia have a unicameral legislature.
Brian Selander, a 2011 Toll Fellow and chief strategy officer for Delaware Gov. Jack Markell, has worked with public officials in more than 20 states since he began his career in 1994. The way legislators and constituents communicate has changed dramatically during that time, but the need for a clear, consistent message remains the same. Here are his best practices on how to communicate with constituents.

**MAKE YOUR PRIORITIES CLEAR.**

“Prioritize, especially with email,” Selander said. Some legislators set up automatic bouncebacks to provide an immediate response to an email, such as: “Thank you so much for writing to our office. … While we appreciate all feedback, our priority is to the people of X district and that receives first priority for a response,” Selander said. Such an email makes clear, even with the bounceback, that the policymaker’s priority is still the people they serve.

**STATE YOUR VALUES.**

Don’t just say you support a certain bill, since what’s in that bill can change dramatically. Be precise about what you support in each bill a constituent asks about. “You need to be clear about what values you hold around that piece of legislation,” Selander said. “If it’s a health care bill, for example, the letter back should say, ‘I share your concern about the rising cost of health care and the need for greater accessibility and will follow SB 141 closely and will ensure those values are met before casting my vote.’ You make clear the larger values behind your position on an issue, but give yourself the possibility to maneuver if the bill changes.”

**TAKE A CHANCE.**

“Any contact you have with a constituent is a chance to reaffirm who you are and what your other priorities are. Even though they ask you about dog licensing laws, they probably would also like to know you’ve been working on jobs, schools and government efficiency,” Selander said. “Even if it’s only a few lines, don’t turn down the chance to explain some other areas where there could be common ground.”

**ASK FOR IDEAS.**

Selander said the instantaneous access provided by Twitter and email allows people to shoot off vague questions and concerns quickly, such as “We need to do something about crime.” Ask them to dig deeper. “People are surprised when you actually ask them for more thoughts about it,” he said. “… You can learn some really neat things from people when you ask them what we should do about crime. They appreciate that you actually do want to hear from them.”

**TALK STRAIGHT.**

Selander said policymakers shouldn’t try to use irony or humor in emails, texts or Tweets. “A joke that’s great when someone tells it at a meeting … doesn’t always translate well into writing, especially when it gets out of the district. … It’s great to be nice; it can be dangerous to be funny.”

**TAKE CARE.**

Although email, Twitter and Facebook make it easier than ever to communicate with constituents, they also make it easier for constituents to share what you say with everyone. Be careful what you share. “The old adage used to be, don’t say anything to a reporter you wouldn’t want to see on page one,” Selander said. “Don’t say anything to constituents you wouldn’t want to see on page one either. Everything is instantly viral now.”
National and Regional Meetings

Registration and application deadlines may apply. Visit www.csg.org/events for complete details.

For more information, visit: www.csg.org/events.

NEMA Plans Mid-Year Policy, Leadership Forum


NLGA Celebrates 50th Anniversary

The National Lieutenant Governors Association’s Federal-State Relations Meeting opens the 50th anniversary year offering networking with some of the nation’s top federal and state leaders. More than half the nation’s lieutenant governors are expected to attend, where they will examine such issues as health care, energy, education, communications and infrastructure. Speakers engage with attendees offering the most timely information on The Hill on issues impacting states and territories. Other attendees include staff, meeting sponsors and NLGA Conference Associates Partners (CAPs). To become an eligible attendee, contact NLGA Deputy Director Morgan Mundell at (859) 283-1400. Visit the NLGA website at www.nlga.us for details.
Virginia Supreme Court Chief Justice Cynthia D. Kinser may have made history last year as the first woman to lead her state’s court system, but the biggest challenge she faces is shared by chief justices around the country—male and female. The Great Recession has led to budget cuts across the judiciary, and Kinser believes that has major repercussions for everyone. “The old adage, ‘Justice delayed is justice denied,’ is completely accurate. Families, businesses—everyone suffers,” she said. She believes states don’t save money by cutting court budgets. “I think it costs the state more in the long run. Whether it’s lost business revenue or the wasted cost of investigating a crime, locking someone up and then ultimately setting them free without a trial because the court can’t hear the case—state resources are wasted and lost when the judicial system isn’t functioning properly.”
The mission of the Council of State Governments’ Southern Legislative Conference (SLC) is to foster and encourage intergovernmental cooperation among its 15-member states. In large measure, this is achieved through the ongoing work of the conference’s six standing committees and supporting groups. Through member outreach in state capitols, policy research, member delegations to points of interest, meetings and fly-ins, staff of the Southern Office support state policymakers in their work to build a stronger region.

The SLC’s six standing committees provide a forum that allows policymakers to share knowledge in their area of expertise with colleagues from across the South. By working together within the SLC and participating on its committees, Southern state legislative leaders are able to speak in a distinctive, unified voice while addressing issues that affect their states and the entire region.

MEMBER STATES
Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

ANNUAL MEETING
Southern Legislative Conference Annual Meeting
July 28–Aug. 1, 2012 | Charleston, West Virginia
SAVE THE DATE
2012 Meetings of The Council of State Governments

CSG 2012 Spring Leadership Conference
May 18-19, 2012
LaQuinta, Calif.

CSG 2012 National Conference
Nov. 30-Dec. 3, 2012
Austin, Texas

MLC Annual Meeting
July 15-18, 2012
Cleveland, Ohio

CSG MIDWEST
Midwestern Legislative Conference

CSG WEST Annual Meeting
July 20-23, 2012
Edmonton, Alberta, Canada

CSG 2012 Eastern Regional Conference
July 20-23, 2012
Atlantic City, NJ

CSG SOUTH
Southern Legislative Conference

ERC Annual Meeting
July 28-Aug. 1, 2012
Charleston, West Virginia

CSG EAST
Eastern Regional Conference

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