

December 20, 2004

Stormy weather?



Politics & leadership WA, meet FL	5
Governors Schwarzenegger's power plays	6
Bird's eye view	3
Hot issues	9
Once around the statehouse lightly	11

Top Story

States have finally slogged their way out of a four-year long budget morass, but while the news is good now, budget experts are wary of what might be just around the corner.

SNCJ Spotlight

State budget forecast: partly sunny with chance of thunderstorms

Conditions on the state budget front have brightened considerably over the last two years; the widespread revenue shortfalls and budget gaps that characterized FY 2003 have almost entirely dissipated. But major fiscal challenges looming on the horizon have budget forecasters warning not to put away the umbrellas just yet.

At this same time two years ago, the budget outlook for state govern-

ments was pretty dismal. Nearly half of the states were projecting revenue shortfalls for FY 2003, according to the National Conference of State Legislatures (NCSL). What's more, thirty-one states faced budget gaps, which cumulatively totaled roughly \$17.5 billion. Things looked a lot better last November. The number of states forecasting revenue shortfalls was down to 16 and just 10 states were expecting a budget gap, with the aggregate cut to \$2.8 billion.

NCSL's *State Budget Update: November 2004*, released last week, shows the positive trend has continued. According to the 50-state survey of legislative fiscal officers, revenues for the first four months of FY 2005 (the majority of states beginning their fiscal year July 1) are at or above projected levels in virtually every state. Only three states — MICHIGAN, NEW JERSEY and TENNESSEE — reported revenue collections below forecast. And that status may change for New Jersey in the spring, when revenue from a recently enacted tax increase starts coming in.

Generally, states are reporting strong growth in at least one major revenue category. For most, it's personal income taxes and sales taxes, which account for about two-thirds of state tax collections. Only New Jersey and NORTH CAROLINA reported personal income tax collections below forecast, while seven states reported sales taxes coming in below estimates. A number of states have also reported double-digit growth in corporate income taxes. For instance, ARIZONA's corporate income tax collections are 47 percent higher than projected, GEORGIA's are 97 percent above forecast and HAWAII's collections are 106 percent over last year's. Several states are reporting that revenues from all three taxes are up. CALIFORNIA, for example, is projecting that collections from the three taxes will be \$2 billion above budget estimates by the end of the fiscal year. In addition, energy-related taxes are exceeding projections in seven states, including ALASKA, where crude oil prices are running 33 percent higher than forecast, which could enable the Last Frontier State to end the year with a decent surplus rather than the shortfall it had predicted last November. Analysts point out that all of the highly positive results are at least partly attributable to the conservative nature of last year's revenue forecasts. But at the very least, the numbers reflect a revenue recovery, which is welcome news to state lawmakers.

Slightly less encouraging is the fact that budget overruns were reported by about half of the states this year, although the overages are less severe than in previous years. As in the past, Medicaid is the category cited most frequently;

*State Recaps
available this
week on the
State Net Web site*

AK, AL, CA, CO, CT, FL,
GA, HI, IA, ID, IL, IN, KS,
KY, LA, MD, ME, MI, MN,
MO, MS, NC, NE, NH, NM,
OK, PA, RI, SC, SD, TN,
US, UT, VA, VT, WA, WI,
WV, WY

2003-04 State Session
Recaps showcase legislative
statistics for each state.

sixteen states reported their Medicaid spending was over budget through October. Corrections spending is another problem area this fiscal year, with seven states reporting overruns. Other trouble spots include state employee health coverage, welfare, mental health services and K-12 education.

But, overall, the news is good. Budget gaps for FY 2005 were reported by only three states, Michigan (\$464 million), NEBRASKA (\$62.1 million) and NEW HAMPSHIRE (\$41 million), for a combined total of \$568.1 million — less than a thirtieth of the aggregate for FY 2003. And Nebraska's budget gap is largely the result of a statutory requirement mandating the transfer of excess revenue collections to the state's rainy day fund. If that provision did not exist, the Cornhusker State would not be projecting a gap.

Despite the states' improved financial outlook, however, many state fiscal officials said budget problems will be a major focus of their 2005 legislative session.

Thirty indicated that Medicaid, the rising costs of health care in general and other health-related issues would top their legislature's agenda. Twenty-six said K-12 education, including the continuing financial strain of No Child Left Behind, would be a priority. Replacing one-time revenue sources used to balance FY 2005 budgets is also expected by many officials to occupy a good chunk of their state legislators' time. Then there's budget reform, tax reform, corrections funding, transportation funding, higher education funding, gaming and a host of other

Bird's eye view



States slowly closing budget gaps

The long, slow recovery for state budgets is still ongoing, according to a new report issued by the National Conference of State Legislatures. The 50-state survey shows that only three states are now reporting budget gaps for FY 2005, as opposed to 10 states that showed deficits in FY 2004 and 31 that were in the red for FY 2003. This is a welcome sign for cash-starved states, which have closed an aggregate budget gap of more than \$235 billion since FY 2001. The three states still with a deficit have a total gap of \$568 million, a far cry from the combined \$2.8 billion hole the 10 deficit states faced last year. The accompanying map shows the states that faced budget gaps for FY 2004 and which face gaps in FY 2005.



Source: National Conference of State Legislatures

issues mentioned by the survey respondents. As MARYLAND Delegate and NCSL President John Hurson put it, “Revenue improvement is extremely welcome news. However, higher Medicaid costs and concerns for programs that have been cut or underfunded in the last few years will put tremendous pressure on state budgets.”

There will, however, be at least one bright spot — a silver lining — in all the gloomy budget deliberations. WYOMING lawmakers will evidently be spending much of their time debating what to do with a projected \$606 million budget surplus (NCSL.ORG).

— *Compiled by KOREY CLARK*

BUDGETS IN BRIEF: VIRGINIA

Gov. Mark Warner (D) proposed that the Old Dominion State spend almost \$3 million to hire more DNA scientists in order to improve state crime labs. Warner’s budget proposal will include hiring 20 new scientists and expanding a regional lab in Norfolk, all aimed at clearing

a backlog of more than 13,000 drug cases (WASHINGTON POST). • **CONNECTICUT** Gov. M. Jody Rell (R) said she will set aside between \$10 and \$20 million for embryonic stem cell research in her 2005 budget. Rell called the funding “seed money,” but at least one Democrat, House Speaker-elect James Amann, said the Constitution State should dedicate even more funding to the controversial technology, calling Rell’s proposal “a drop in the bucket” (HARTFORD COURANT)

The Week in Session

States in Regular Session: DC, NY, OH

States in Special Session: OH “a”

States in Recess:
CA, DE “c”, IL, MA, ME, MI, NJ

Currently Prefiling (Drafts for 2005):
AL, AR, AZ, CO, CT, FL, GA, IN, KY, MA, MO, MT, ND, NH, NV, OK, SC, TN, TX, VA, WY

States Adjourned:
AK, AL, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD “2003 session”, MD, ME, MN, MO, MS, NC, NE, NH, NM, OH (Senate Only), OK, PA, RI, SC, SD, TN, US, UT, VA, VT, WA, WI, WV, WY

States in Special Session Adjourned:
AK “a”, AL “a”, AR “b”, CA “a”, CA “b”, CA “c”, CA “d”, CA “e”, CT “a”, CT “b”, CT “c”, CT “d”, DE “a”, GA “a”, IA “b”, IL “a-q”, KY “a”, LA “a”, ME “a”, ME “b”, MS “a”, MS “b”, MS “c”, NC “c”, NV “a”, NY “a”, OK “a”, OR “a”, TX “d”, UT “a”, UT “b”, UT “c”, VA “a”, VA “b”, WA “a”, WA “b”, WA “c”, WI “d”, WI “e”, WI “f”, WI “g”, WV “a”, WV “b”, WV “c”, WY “a”

States Projected to Adjourn: FL “a”

Letters indicate special/extraordinary sessions
Source: State Net, 12/17/04

— *Compiled by RICH EHISEN*



Politics & Leadership

WASHINGTON, MEET FLORIDA: From the time it first became clear in the waning hours of Nov. 2 that the WASHINGTON governor's race was going to be among the closest in U.S. history — one that likely would require a recount — Evergreen State election officials quickly assured everyone that their process would not become another version of the FLORIDA debacle from 2000. And it did, in fact, start out with a tone of civility, at least among vote counters and citizens who professed their faith that the matter would soon be cleared up and a replacement for outgoing Gov. Gary Locke (D) would be named. But with last week's second round of recounts producing more confusion than answers, the self-congratulatory back slapping has quickly been replaced by lawsuits, threats of lawsuits and a generally nasty tone from both Democrats and Republicans.

At the heart of the matter — as in Florida 2000 — is which votes should or should not be counted. Democrat Christine Gregoire started the lawsuit parade last week by asking the state Supreme Court to force counties to reinspect more than 3,000 previously disqualified absentee and provisional ballots, a request the state court flatly rejected. The high court said those ballots could only be recounted if they had been previously counted, which everyone agreed they had not been.

The decision sent Democrats into a snit, where they were soon joined by Republican Dino Rossi after election officials in King County — a heavily Democratic bastion viewed as a Gregoire stronghold — discovered another 573 previously uncounted absentee ballots. Rossi, who won the election night count by 261 votes and the machine recount by 42 votes, said the newly found ballots were highly suspicious.

“It's just too much of a coincidence. They just keep coming up with votes, and it has never benefited me,” Rossi said. “We're not going to take it lying down, I can guarantee you that.”

Republican Party Chairman Chris Vance was even more upset, particularly after King County officials found yet another 22 wayward ballots the following day. Vance erupted, saying, “This is the seventh time King County has made a mistake that has resulted in more votes. At this point it is impossible for us to determine whether they are colossally incompetent or completely corrupt.”

Republicans immediately started court action to prevent all of the previously



undiscovered votes from being counted. In the meantime, the King County Canvassing Board approved going ahead with verifying the 573 contested absentee ballots, but put off a decision on the 22 others. (LOS ANGELES TIMES, SEATTLE POST-INTELLIGENCER, ASSOCIATED PRESS).

Upcoming Elections

There are no elections currently scheduled.

POLITICS IN BRIEF: FBI agents last week raided the home of Nick Perata, a political consultant and the son of CALIFORNIA state Sen. Don Perata (D), the Golden State’s incoming Senate Pro Tem. The raid was the latest round in an ongoing federal investigation into the business dealings of the elder Perata and several of his business associates. The federal grand jury is looking into government contracts Perata’s associates have received in recent months (LOS ANGELES TIMES). • IOWA Gov. Tom Vilsack (D) proposed that the Hawkeye State bar candidates from using money on statewide races if that money was raised while they were federal officials. Vilsack denied that the proposal is a direct attempt to prevent U.S. Representative Jim Nussle (R) from transferring cash from his congressional campaign into a statewide fund for an Iowa gubernatorial campaign in 2006. Vilsack has said he will not seek a third term in 2006, but is thought to be considering a presidential bid in 2008 (DES MOINES REGISTER).

— *Compiled by RICH EHISEN*

Governors

SCHWARZENEGGER’S POWER PLAYS: CALIFORNIA Gov. Arnold Schwarzenegger (R) joined a host of state, federal and private energy officials last week in celebrating the elimination of an 84-mile bottleneck in the state’s electricity power grid. The Central Valley site, known as Path 15, was considered to be the state’s major choke point in the grid that links northern and southern California and a significant factor in the state’s massive power shortages four years ago. Those shortages are credited with being a primary factor in the state’s enormous budget problems that led to the recall of Democratic Gov. Gray Davis. Schwarzenegger hailed the addition of a third transmission line in spite of growing concern in some circles that there could be more shortages next summer. The governor dismissed those fears, saying “Trust

me, everything will be under control — your lights will be on.” Schwarzenegger also signed an executive order calling on all state buildings to cut their power use 20 percent by 2015. It was not entirely a feel good moment, however, as some critics accused Schwarzenegger of playing up the event in order to take credit for a project his administration had little to do with. The new line project was initiated by Davis and administered by the Bush administration.

Meanwhile, Schwarzenegger also continues to ponder how to dramatically overhaul Golden State government, something he repeatedly promised to do during his election campaign. He is already considering calling for a special election some time in 2005 in an effort to get voters to approve a strict state spending cap and redrawn legislative and congressional lines, and now Schwarzenegger and his aides are also discussing a plan that would require a two-thirds vote of the Legislature to block the California Performance review, his plan to drastically overhaul state government. Currently, lawmakers could reject the CPR by a simple majority vote. Changes of such epic proportions in the approval process could only come about two ways — by Schwarzenegger pushing a bill through the Legislature or via a voter-endorsed ballot initiative. Given the highly unlikely possibility that lawmakers would voluntarily vote to weaken themselves, odds are definitely in favor of Schwarzenegger taking his argument directly to the voters. Schwarzenegger is expected to reveal his intentions during his State of the State speech on Jan 5. (LOS ANGELES TIMES, SACRAMENTO BEE, SAN DIEGO UNION TRIBUNE, SAN JOSE MERCURY NEWS)

BLAGOJEVICH SHOOTS DOWN

VIOLENT VIDEO GAMES: Saying he is “outraged” at video games like the controversial British import “JFK Reloaded,” which lets players take on the role of the slain president’s assassin, ILLINOIS Gov. Rod Blagojevich (D) last week proposed the nation’s first statewide legislation to regulate the sale and rental of violent and sexually explicit video games. Blagojevich called on Prairie State lawmakers to pass two bills that would make it a crime to rent such videos to minors, and would subject retailers to potential jail time and fines up to \$5,000 if they do. Retailers would also be required to label the games with “parental advisory” warnings similar to those found on some

Quote...

“What they’re doing is targeting video games with graphic sex and excessive violence to children, just like the tobacco industry targeted children with the Joe Camel advertising campaign. It’s all about making money.”

—ILLINOIS Gov. Rod Blagojevich (D) explaining why he proposed strict new regulations on retailers who carry sexually explicit or violent video games.

•
•

... unquote

"There's no way that this can stand the constitutional test. Is a video game involving the old Popeye series, which shows Popeye and Brutus in a fist-fight over Olive Oyl, violent? I don't know."

—*The response to Blagojevich's proposal from David Vite, president of the Illinois Retail Merchants Association. (CHICAGO SUN-TIMES).*

music CDs. Even if the Legislature approves the bills when it reconvenes in January, it is likely they will be challenged in court. (LOS ANGELES TIMES, CHICAGO-SUN TIMES).

PATAKI SENDING MESSAGE? The rumors of NEW YORK Gov. George Pataki's impending political demise may be, in the words of Mark Twain, "greatly exaggerated." The whispers around Albany of late have centered on a growing feeling that the governor's administration is adrift and that he personally is out of touch with both voters and his own party. But Pataki, the longest-tenured governor in the nation, shook up his administration last week by severing ties with his two closest

advisers, a move widely viewed as both a warning shot across the bow of his rivals and a call to arms for his supporters. Aides to the governor first said that canning the two consultants, each of whom had been with Pataki for a decade, was meant only to bring fresh faces into the mix, but they later added that Pataki was also anxious to remind friend and foe alike that he is still plenty capable of playing political hardball. Speculation has been rampant for months that Pataki will not seek another term as Empire State governor, and will instead focus on national office, most likely a run at the White House in 2008. (NEW YORK TIMES).

DOUGLAS WANTS NUDE OFF HIS DESK: VERMONT Gov. Jim Douglas (R) stirred up a small hornet's nest last week when he decided that a replica of "The Greek Slave" — a 19th century sculpture protesting slavery — be removed from his desk. The original work, which shows a woman awaiting sale at an auction in a slave market, was created by Vermont-born artist Hiram Powers between 1840 and 1860, and was a prominent symbol of the abolitionist movement before the Civil War. Douglas infuriated Green Mountain State art lovers when he ordered the replica, which was in the form of a lamp, off of his desk, citing a concern that the statue could easily be broken. But what really got the art supporters' kiln burning was Douglas' other reason for wanting the statue gone — the woman depicted is nude, something he did not want to explain to visiting school children. Statue supporters howled, calling the removal "an affront" to the art community and to Powers' descendants. But Douglas spokesperson Jason Gibbs said the brouhaha is much ado about nothing, and that the governor was only joking when he made the reference to not wanting kids to see the nude sculp-



ture. “This wonderful piece of art will continue to enjoy public prominence on display in the Statehouse,” Gibbs said. “Our concern is that it not be left on [Douglas’] desk where it could be damaged.” (BURLINGTON FREE PRESS)

GOVERNORS IN BRIEF: Four **NEW JERSEY** lawmakers — one Democrat and three Republicans — filed suit to block an executive order that permits three Garden State cities to provide drug addicts with syringes. The suit claims that former Gov. James E. McGreevey (D) exceeded his authority when he issued the order last October (STAR-LEDGER [NEWARK]). • **GEORGIA** Gov. Sonny Perdue (R) announced plans to cut the Peach State automotive fleet by 10 percent. Perdue says the changes will net the state \$30 million in savings in the next three years. Perdue also issued an executive order for the inventory of all state-owned land, with the goal of selling properties that are not being used. Perdue said the sell-offs could bring in as much a \$60 million over the next five years (ATLANTA JOURNAL CONSTITUTION). • **FLORIDA** Gov. Jeb Bush (R) filed an appeal with the Sunshine State Supreme Court seeking to overturn a lower court’s ruling that the state’s school voucher system is unconstitutional. That decision was the third against the 1999 law, which allows certain public school students to attend private religious schools on state vouchers (MIAMI HERALD).

— *Compiled by RICH EHISEN*

Hot issues

B **USINESS:** The **MONTANA** Supreme Court rules that state officials have an obligation to gather and share information about workplace health problems with the public. The decision came in a suit brought by miners who claim the state did not disclose decades of dangerous health conditions at a Libby vermiculite mine. The high court said a lower court will actually determine if the state, which claims it could not have foreseen the mine operator’s failure to protect its workers, must pay any damages (LOS ANGELES TIMES). • A **MARYLAND** court rules that the state’s anti-spam law is unconstitutional because it tries to regulate commerce outside of state borders. The decision stems from a civil suit filed by a company that claimed it was sent numerous junk e-mails despite asking the sender to stop. The case is expected to be appealed to the state Supreme Court (WASHINGTON POST).



SOCIAL POLICY: The **ALASKA** Supreme Court upholds for the second time a law banning landlords from discriminating against unmarried couples. The Court first decided the case in 1994 when an Anchorage landlord argued that he had the right to inquire about the marital status of his prospective tenants and to refuse to rent to them on religious grounds (*ANCHORAGE DALY NEWS*). • The **MICHIGAN** Senate and House both unanimously endorse SB 727, a measure that restores the opportunity for Wolverine State grandparents to seek child visitation orders under certain circumstances. The state Supreme Court ruled in 2003 that the state’s grandparent visitation law was unconstitutional. It heads now to Gov. Jennifer Granholm (D) (*MICHIGAN SENATE*).

POTPOURRI: The **CALIFORNIA** Energy Commission adopts the world’s first regulations on “energy vampire” appliances, those that use as much as 10 watts of electricity even when turned off. The new regulations, which will be phased in starting in 2006, require that new appliances use no more than three watts while not in use. Televisions, video cassette recorders, phone chargers and DVD players are among the common electronic devices cited as prime energy wasters, but ceiling fans, refrigerators and pool pumps are also in this group (*SAN JOSE MERCURY NEWS*).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

H **AWKISH ATTITUDE.** Residents of a tony Manhattan co-op evicted two of their own not long ago, and the resultant flap caused a stir all the way to Albany. **NEW YORK** Gov. George Pataki was one of those who weighed in on the subject, the *Albany Times Union* notes, joining activists and protesters who gathered outside the offending apartment complex to register their complaints. Chastened by the outcry, the co-op board negotiated a compromise with one of the evicted tenants’ most ardent champions — the president of the National Audubon Society. A compromise apparently was reached, and the homeless pair will be allowed to return to the building. It is not certain, however, that Pale Male and Lola will come back. After all, red-tail hawks are a sensitive breed, and these two may take up residence elsewhere.

SWING AWAY. When a politician suffers a narrow defeat, as Democratic state Sen. Mike Ross did last November, a number of factors contribute to the downfall. But the former WEST VIRGINIA lawmaker blames one factor in particular — a charge that he benefitted from a golf tournament. According to *The Charleston Gazette*, Ross once voted to give \$750,000 in state money to help fund the Pete Dye West Virginia Classic at a Bridgeport golf club. Three years before, Ross loaned money to the folks who bought the golf club, where he enjoys lifetime privileges — including free merchandise at the club store and meals and drinks at the restaurant. He also owns 160 acres of land next to the golf course. A group of concerned citizens brought an ethics complaint against Ross that he says led to his defeat.

DOWN WE GO. Lt. Gov. Cruz Bustamante of CALIFORNIA, a Democrat, took some unhealthy swipes at Republican Gov. Arnold Schwarzenegger during a speech last week, slamming the gov for his “girlie men” comments, charges of groping and other well-reported infractions of civil behavior. Bustamante’s comments were gutter level, but the governor’s office didn’t help matters when it wrapped its response in a brick and hurled it down at the Democratic officeholder. Schwarzenegger’s press secretary, Margita Thompson told the *San Jose Mercury News* that Bustamante’s remarks were typical of someone who would be a “casino greeter” once his term ends in 2006. Instead of claiming the high road, Thompson chose to wallow alongside Bustamante.

NOT NICE. Responses to a MINNESOTA survey on immigration revealed that some residents of the Land of 10,000 Lakes have developed a fairly harsh attitude toward immigrants. The results, reports Minnesota Public Radio, were surprising and go against the state’s traditional tolerance and acceptance of newcomers. The survey, conducted among more than 1,200 Minnesotans by The Minnesota Community Project, found that the most critical comments came from white suburbanites. “Immigrants are only up here to have their babies to get the money” was typical of the broadsides hurled at migrants during focus groups.

In the Hopper

State Net’s database tracks tens of thousands of bills in all 50 states at any given time. Here’s a snapshot of what’s in the legislative works:

- **Number of 2005 prefiles this week:** 3,667
- **Number of 2004 Intros this week:** 358
- **Number of bills enacted/adopted this week:** 57
- **Number of 2005 prefiles to date:** 11,200
- **Number of 2004 Intros to date:** 93,398
- **Number of enacted/adopted overall in 2004:** 26,597
- **Total number of measures in State Net database:** 97,355

— Compiled By GINA HUMMELL
(2003-04 data current as of 12/10/04
Source: State Net

