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NCCUSL Anticipates Broad Legislative Activity In 2004

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NCSL

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Now in its 112th year, the National Conference of Commissioners on Uniform State Laws (NCCUSL) continues to provide the states with non-partisan, well-conceived and well-drafted legislation that brings consistency and clarity to critical areas of the law. The Conference is comprised of Uniform Law Commissioners who are appointed by the states and the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

All commissioners must be lawyers, qualified to practice law. While some serve as state legislators, most commissioners are private practitioners, judges, law professors or lawyers engaged in other pursuits. Commissioners donate their time and expertise as a public service and receive no salaries or fees for their work with the Conference. In addition to the Commissioners, the principal legal officer of the bill drafting agency for each jurisdiction is an Associate Member of the Conference (see box).

The work of the Conference facilitates the mobility of individuals and the business of organizations by providing

rules and procedures that are consistent from state to state—a consideration that has become more critical as new technology obscures geographical borders and matters of law implicate more than one state. Associate Justice of the Supreme Court of the United States Ruth Bader Ginsburg addressed this issue in her keynote remarks to Commissioners at the Opening Session of the NCCUSL Annual Meeting in August, 2003. "The Conference's commitment to uniformity, where uniformity is appropriate, works to prevent a vibrant federal system from degenerating into a chaotic one," she said. "If the various laws of the states bearing on issues of multistate dimension were not constrained by rule of law values—in particular, consistency and stability—the diversity of our federal system would render it extremely difficult for individuals and businesses to order their lives."

Over the years the Conference has drafted more than 250 uniform laws focusing on such areas as commercial law; family or domestic relations law; estates, probate and trusts; real estate; implementation of full faith and credit; interstate enforcement of judgments; and alternate dispute resolution. Many have been uniformly or widely

adopted, but the Conference can only propose—no uniform law is effective until state legislatures adopt it.

Conference products were prominent in 2002/2003 state legislative sessions, with 78 enactments of uniform acts and 165 introductions. Numerous acts continued to perform well in the legislatures, with others gaining the momentum necessary for broader enactment in the period ahead.

Trust Code Being Studied Nationwide

The *Uniform Trust Code Project* (UTC), a multi-year effort begun in 2001 to enact the 2000 Uniform Trust Code nationwide, continues to provide legislators, trust and estate practitioners and the public with opportunities to learn about the Code, the first codification of the law of trusts. The UTC has now been enacted in five states (Arizona, Kansas, Nebraska, New Mexico and Wyoming), with more than 15 additional states likely to introduce the UTC in 2004. Numerous other states are studying the code with 2005 introductions in mind. The educational support includes a quarterly, highly informative electronic newsletter, *UTC Notes*; regional seminars; a video presentation, *Studying the UTC*, used by bar and other study

groups; and other helpful information and materials on the UTC Web site, www.utcproject.org.

Family Law Initiative Makes Progress

The *Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA), which replaces the 1968 Uniform Child Custody Jurisdiction Act (UCCJA) adopted in every state by 1981, has now been enacted in 34 states and Washington, D.C. The most recent enactments were in Illinois, Nebraska, Nevada and Rhode Island. Plans are under way to introduce the act in 2004 in every state with a legislative session that has not previously enacted it. The Polly Klaas Foundation has recently endorsed the national adoption of the UCCJEA, and will be actively working with NCCUSL to achieve that goal. The new Act clarifies rules for taking jurisdiction over child custody disputes and details methods for interstate enforcement of child custody and visitation orders. The home state of a child has preference over any other state in taking jurisdiction over a child custody dispute.

The 1996 amended version of the *Uniform Interstate Family Support Act* (UIFSA), promulgated to provide uniform rules for the enforcement of family support orders, has been enacted by every state and jurisdiction. We expect numerous introductions and passages of the *2001 UIFSA Amendments* in 2004 because of the support and guidance of the federal Office of Child Support Enforcement (OCSE) and state child sup-

port enforcement organizations.

The *Uniform Parentage Act* (UPA), approved by the American Bar Association in 2003, has been adopted in four states. Numerous others are studying the Act, and eight introductions are expected for 2004. The Act modernizes the law for determining the paternity of a child and facilitates current methods of testing to establish parentage.

The *Uniform Interstate Enforcement of Domestic Violence Protection Orders Act* (UIEDVPOA) continues to have broad support, with seven enactments in the past year. Eight jurisdictions are expected to seek legislative introductions of the Act in 2004. The Act establishes uniform procedures that will enable courts to recognize and enforce valid domestic protection orders issued in other jurisdictions.

The *Uniform Child Witness Testimony by Alternative Methods Act* (UCWTAMA), promulgated in 2002, has been adopted in Idaho, Nevada and Oklahoma and will be on the legislative agenda of five other jurisdictions this year. The Act provides judges, administrative officers, and other presiding officers with a clear and legally sound means of protecting child witnesses from the emotional trauma associated with giving testimony, while at the same time protecting the 6th Amendment rights of defendants and respondents. The Act permits a child, for good cause, to testify outside the courtroom and the immediate presence of a defendant.

Uniform Securities Act Receives Major Endorsements

The *Uniform Securities Act* (USA), finalized in 2002, has been enacted in Missouri and Oklahoma, is set for introductions in 12 legislatures this year, and is under study for possible future introductions in at least a dozen additional states. The Act give state regulators broad powers to investigate, prosecute, and sanction individuals and firms that engage in fraudulent securities transactions. The USA is consistent with current federal law, and now has major endorsements and active support from six important groups: American Bar Association, Investment Counsel Association of America, North American Securities Administrators Association, National Association of Securities Dealers, and New York Stock Exchange and Securities Industry Association.

Sports Business Focus

The *Uniform Athlete Agents Act* once again led the way with 10 enactments in 2003, which means that more than half of the states have now adopted this popular act, which governs relations among student athletes, athlete agents and colleges and universities—protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. More than 10 states have indicated plans to introduce this act in 2004.

Alternate Dispute Resolution Acts

Substantial legislative action is also anticipated for two uniform acts dealing with alternate dispute resolution. The

WHO ARE ASSOCIATE MEMBERS OF NCCUSL?

According to the NCCUSL Constitution, in addition to the Uniform Law Commissioners, appointed by every state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands:

- a) The principal administration officer of each state legislative reference bureau or other agency charged by law with the duty of drafting legislation at the request of the legislature or executive officers of the state, or an alternate named from within the bureau or agency by its principal administrative officer, is an Associate Member of the Conference.**
- b) An Associate Member has the privilege of the floor and is eligible to serve on and to chair any committee, including the Committee of the Whole, with right to vote in committee, but an Associate Member is not eligible to be an Officer or to participate in a vote by states or in other votes of the Conference.**

All states are entitled to have an Associate Member of the Conference, but over the history of the Conference not every state has identified the appropriate Associate Member. NCCUSL encourages states to identify their Associate Member and urges them to participate in the proceedings of the Conference. For additional information, call the NCCUSL National Office at (312) 915-0195.

Revised Uniform Arbitration Act (RUAA), a revision of an earlier uniform act adopted in 49 states, has been enacted in eight states, with some 12 additional introductions expected in 2004. Approximately 12 introductions are also anticipated for the *Uniform Mediation Act* (UMA), which establishes an evidentiary privilege for mediators and participants that prohibits what is said during mediation from being used in legal procedures. The Act was amended in 2003 to add a section on international conciliation.

Three New Uniform Acts Approved In 2003

The culmination of the work of the Conference takes place at its annual meeting each summer, when the Conference convenes as a Committee of the Whole. At its 112th Annual Meeting in Washington, D.C., in August, three new uniform acts and amendments to current uniform acts were approved by the Conference.

A uniform act must be considered at two annual meetings by all commissioners before it can be approved. After receiving the Conference's seal of approval, a uniform act is officially promulgated for consideration by the states, and legislatures are urged to adopt it.

The *Revision to Article 7 of the Uniform Commercial Code* (UCC) deals with documents of title, which are commonly used in the shipment and storage of goods. UCC7 was the only article of the UCC that had no extensive amendments or revisions since it was initially drafted more than 50 years ago. A revision was necessary in light of changes in federal law and the growing use of electronic transactions.

The purpose of the revision is twofold: to provide a framework for the further development of electronic documents of title and to update the article for current times. To the extent possible, the rules for electronic documents of title are the same or as similar as possible to the

rules for tangible documents of title. A second new act restricts the use of contaminated real estate—otherwise known as brownfields. The *Uniform Environmental Covenants Act* (UECA) provides clear rules for a valid real estate document, an “environmental covenant,” to regulate the use of brownfields when real estate is transferred from one owner to another.

An environmental covenant is typically used after an effort to clean up contaminated property. While the general goal of most cleanups is to return a site to a condition where it can be safely used for any purpose, this is not always techni-

erty, no matter how many times the affected real estate is transferred.

Although nearly half of the states have some sort of law providing for land use restrictions, UECA includes a number of provisions absent from most existing state statutes. UECA ensures that a covenant will survive despite tax lien foreclosure or adverse possession. The Act also provides detailed provisions regarding termination and amendment of older covenants, and includes important provisions on dealing with recorded interests that have priority over the new covenant.

The *Uniform Estate Tax Apportionment Act* (UETAA), which provides procedures for dividing the burden of estate taxes among beneficiaries, is a revision of earlier acts of the same name from 1958, 1964 and 1982. Amendments to the corresponding section of the Uniform Probate Code, Section 3-916, were approved at the same time.

The taxation of property held by an individual (“decedent”) at the time of death is one of the oldest and most common forms of taxation. An estate tax is a charge levied upon the decedent's *entire* estate, regardless of how it is disbursed and before any transfers take place.

The Act advances the principle that the decedent's intentions govern apportionment of an estate tax. Statutory apportionment applies only when there is no specific direction in the decedent's will, revocable trust or other title document to the contrary. Marital and charitable benefits are excluded from the apportionable estate. Estate taxes are apportioned among all persons receiving property from the estate in the proportion that the value of the property each person receives from the estate bears to the total value of the property of the estate.

Also approved in 2003 were amendments to the *Uniform Mediation Act*, the *Uniform Trust Code* and the *Uniform Apportionment of Tort Responsibility Act*.



NCCUSL CONFERENCE INFORMATION ON THE WEB

WWW.NCCUSL.ORG Features organizational information, current drafting committees, press releases and important legislative information about selected acts, including their enactment status, updated regularly. Electronic copies of all drafts of current drafting projects and most final approved acts can be downloaded from this site.

WWW.UTCPROJECT.ORG Contains useful information and materials on the Uniform Trust Code, including information for upcoming seminars and symposia, quarterly newsletters and a discussion forum.

WWW.UNIFORMSECURITIESACT.ORG Provides essential information on the Uniform Securities Act, including summaries, articles, press releases, a list of endorsements, and legislative information.

WWW.ENVIRONMENTALCOVENANTS.ORG Presents a central repository for drafts, commentary, meeting information and a discussion forum related to the Uniform Environmental Covenants Act, which focuses on environmental land use controls in the field of contaminated property.

cally possible or economically feasible. When a site has not been completely cleaned up, use restrictions may be applied to supplement cleanup measures by limiting use to *safe* use.

UECA applies traditional real estate law principles to these environmental covenants to ensure that valid land use restrictions will be perpetually enforced against subsequent owners of the prop-

Hong Kong Legislative Exchange Program

By Richard Merkel, Ohio

From October 21 to November 11, 2003, I was one of three people who took part in an intern exchange with the Hong Kong Legislative Council Secretariat. The other two interns were Hannah Shostack of New Jersey and Dave Henderson of Oregon. I represented the Legal Services Staff Section, Hannah the Research and Committee Staff Section, and Dave the National Legislative Security and Services Association. I accepted the internship out of a desire to see a new part of the world and to network with legislative employees in a different environment.

However, as the day to depart approached, I was nervous about the unknown aspects of the internship and about my ability to appropriately represent the staff section, the United States, Ohio and my office, the Legislative Service Commission. My concerns quickly dissolved after I met my fellow interns, the staff of the Secretariat (the Hong Kong equivalent of the nonpartisan agency that employs me) and other people I met in Hong Kong, all of whom made me feel welcome. The internship allowed me to learn about the Hong Kong government, the operations of the Secretariat, and the relationship between the People's Republic of China (PRC) and Hong Kong. Additionally, I was able to tour many areas of the Hong Kong Special Administrative Region, take a day trip to Macao and enjoy a weekend trip to Guangzhou in the PRC. Representatives of the U.S. State Department, which sponsored the internship, introduced me to Hong Kong with a briefing during which I first heard the phrase "one government; two systems." Hong Kong is a part of the PRC; how-

ever, it continues to operate under a system similar to the system that existed while it was a British colony. The old system under the Basic Law¹ is continuously changing based upon the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress. The Chief Executive exercises executive authority, and the Legislative Council is Hong Kong's legislature. The assumption of authority by either the Chief Executive or Legislative Council fills gaps in the Basic Law.

The Secretariat and Legislative Council (Legco) presented a work environment that was much different than that of the Legislative Service Commission and Ohio General Assembly. My internship consisted of in-depth conversations with Jimmy Ma (the legal counsel for the Legislative Council), regular briefings on laws and issues before the various committees and panels and attending committee and panel meetings. My discussions with Mr. Ma dealt with our respective agencies, personnel and management policies, procedures for giving legal advice to members and related issues. Despite superficial differences, Jimmy and I found that the manner in which we performed our jobs was similar. The members of the Legal Service Division briefed me on laws and issues that would be the subject of panel or committee meetings. I then prepared for and attended the meetings, after which the staff further explained the historical context for much that occurred at the meetings. The briefings and meetings enabled me to understand the structure and procedures of Legco, the Secretariat and the laws of Hong Kong.

I gave two presentations to Secretariat staff describing Ohio's government, including the General Assembly and the Legislative Service Commission. Although interested in my office and the General Assembly, the staff showed more interest in the selection process for the judiciary, the employment of retired judges and local government in Ohio. Generally, judges in Hong Kong serve until retirement and are not employed after retirement. They questioned the impartiality of elected judges because the Hong Kong judiciary is appointed. Hong Kong does not have any local legislative bodies such as Ohio's city councils, boards of township trustees and county commissioners. The only Hong Kong legislative body is the Legislative Council, and the only executive authority is the Chief Executive and his council.

Under the Basic Law, the Hong Kong Special Administrative Region (HKSAR) is an inalienable part of the People's Republic of China; however, the HKSAR is authorized to exercise a high degree of autonomy and enjoys executive, legislative and independent judicial power. The socialist system and practices are not to be practiced in the HKSAR, while the previous capitalist system and way of life is to be practiced for 50 years. The Basic Law specifies that the executive authorities of the HKSAR are the government and that the Chief Executive is the head of the government.² It sets forth the procedures for selection of government officials and governmental procedures. The Chief Executive is selected by election or consultations held locally and appointed by the Central People's Republic (the ultimate

¹ The Basic Law is Hong Kong's equivalent of a constitution. Article 8 provides that the laws previously in force in Hong Kong, the common law, rules of equity, ordinances, subordinate legislation, and customary law, are to be maintained, except for any that contravene the Basic Law and subject to amendment by the legislature. It recognizes that Hong Kong is a Special Administrative Region of the People's Republic of China, provides Hong Kong with a separate system of government and is the basis of the "one government; two systems"

principle for Hong Kong.

² Articles 59 and 60.

³ Article 45. Annex I allows the method of selection of the Chief Executive for the terms subsequent to 2007 to be amended with the endorsement of a two-thirds majority of the Legislative Council and consent of the Chief Executive.

aim is selection of the Chief Executive by universal suffrage).³ However, the government must abide by the law and is accountable to the Legislative Council.

The Basic Law provides for the election of the Legislative Council. It states that the method for forming Legco is to be specified in light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress and that the ultimate aim is the election of all of the members of Legco by universal suffrage. Beginning January 1, 2004, citizens in geographical areas will directly elect 30 members, and 28 functional constituencies will elect the other 30 members. The government of the HKSAR is in a state of flux, and the composition of Legco will be different after the next elections, which occur in 2007.⁴ Even with a possible increase to 120 members and possible direct election of all members of Legco, the government of the HKSAR is much different from that in Ohio and other states.

One major difference is that in the HKSAR, the executive branch drafts and proposes almost all of the bills that are introduced in the legislature. A member of Legco may introduce a bill only if the bill does not relate to public expenditure, political structure or the operation of the government. If a bill relates to government policy, the members must get the written consent of the Chief Executive before introducing the bill. The bills that members can introduce are often called "private bills," because they deal with private citizens and organizations and not the government. Although the members of Legco do not introduce bills, the other functions of Legco are similar to those of any other legislative body.

The full Legco meets every Wednesday afternoon. The meetings are open to the public and are conducted in Cantonese,

Mandarin and English. The proceedings are simultaneously translated into the above three languages and are recorded verbatim in the official record of proceedings of the Legislative Council. I was able to attend the meetings and understand the debates and questions because of the translations. There is an unwritten understanding that the members will not engage in trash talk (the use of sentences that contain more than one language). The Secretariat has separate divisions to provide the translations and the verbatim records.

Another difference between Legco and most United States legislatures is in the selection of the members and leadership of the Legco committees. Generally, the members of the Legislative Council or the members of a committee select the committee membership and leadership. The most important Legco committee is the House Committee, which is composed of all members of Legco other than the President of Legco. The committee determines whether a bill or subsidiary legislation will be sent to a bills committee. The members of the committee select the Chairman and Deputy Chairman of the committee. The other committees include the Finance Committee, Public Accounts Committee, Committee on Member's Interests, Committee on Rules of Procedure and bills committees. The standing committees have the power to summon witnesses.

The Finance Committee consists of all Legco members other than the President. It considers proposals to change the approved budget estimates or to note financial implications of new government policies. It also scrutinizes the budget proposed by the Chief Executive.⁵ The President of Legco refers the appropriation bill to the Finance Committee. Legco has one month to review the appropriation bill, which does not include revenue proposals. Only the government can amend the bill to in-

crease expenditures; Legco can amend the bill to decrease expenditures. After approval of the appropriations bill, the government presents its legislative proposals on revenue. The Finance Committee examines proposals to change approved expenditure estimates.

Most agencies have a two-line appropriation. One appropriation amount is for salaries and one appropriation amount is for operating expenditures. If the agency spends less than the appropriated amount for one type of expenditure, it cannot use the excess for the other type of expenditure. It must return that money, and the reduced amount spent will be the basis of the agency's next appropriation bill amount. Therefore, it is in the agencies' best interest to not return money. The legislative council appropriation is a one-line appropriation. It can spend the appropriated money in any manner it deems appropriate and can bank any unspent money in a rainy day fund. It is currently using some of that banked money to avoid laying off employees during the current budget crunch. All of the above is based upon the Chinese philosophy that you don't spend money that you do not have.

The Public Accounts Committee is comprised of seven members elected by the members of Legco and appointed by the President. It considers reports of the Auditor on accounts and the value-for-money audits of the Government. The Auditor is an independent officer who conducts regular audits of each agency every year. The Auditor also performs ten to 15 value audits to determine if an agency is being efficient and using the money in the most appropriate manner. The value audits are sent to the Public Appropriations Subcommittee, which submits a report on the audit. The Auditor reviews the report and publishes a response. There is no statutory authority for value audits, which occur by agreement among

⁴ Annex II provides that if there is a need to change the method of forming the Legislative Council or the procedures for voting on bills and motions after 2007, the amendments may be made with the endorsement of a two-thirds majority of the Council and the consent of the Chief Executive.

⁵ The Financial Secretary consults with Legco on his revenue proposals in November. The Chief Executive gives his policy address to Legco in January, which is similar to the "state of the union" in the United States. In March, the Financial Secretary presents the appropriation bill and announces his revenue proposals.

the Public Accounts Committee, the Chief Executive and Auditor.

All members of Legco other than the President may join a bills committee. The chairman of each bills committee is selected by and from its members. A bills committee considers the merits of a bill, may amend the bill and tables⁶ a report of the bill in Legco after it has reviewed a bill. It is dissolved on enactment of the bill with which it is concerned or as decided by the House Committee.

Legco creates panels to monitor and examine government policies, investigate issues of public concern and serve as a forum for an exchange of views on policy matters and issues of importance. There currently are 18 panels. Each panel must have at least six members and has a chair who is selected by the panel members. Panel members, other members of Legco, the government, and interested parties may bring issues before a panel. A panel cannot summon witnesses without approval of the full Legislative Council. During the debate and questioning in a panel, the members are free to ask government representatives any questions related to the issue being investigated. The government often brings its policy proposals before a panel for investigation and to determine whether Legco will support the proposal. They also serve as a sounding board for members.

The Secretariat is a young organization compared to the Ohio Legislative Service Commission. It began as a separate independent agency in 1994; whereas the Legislative Service Commission began in 1953. There are many similarities in how the Secretariat performs its functions and how the staff in my office perform their functions. As Legco becomes more active in monitoring the government and scrutinizing bills, the workload of the Secretariat staff increases and the deadlines shorten. They are presented with the

same issues I face regarding balancing quality, quantity and deadlines. Secretariat staff must put in a lot of overtime when Legco is in session.

The Secretariat has several divisions, including Legal Service, Public Information, Complaints, Administration, Translation and Interpretation, Research and Library Services, and Council. Each division has specified functions. There is not a lot of interplay between the divisions, because of their heavy workload and because their offices are located in three buildings, one of which is several blocks from the other two buildings. The staff provide services for the panels and committees and generally do not perform services directly for members.

The Legal Service Division's client is the commission that oversees the Secretariat. The division works for the committees, panels and members on behalf of the commission. The communications between division staff and members and related documents are confidential until the members make them public. If a member comes directly to Legal Service and asks a question, the division will give assistance, and the communications and related documents are confidential. Because assignments are confidential even within the division, there can be a problem with forum shopping by members and duplication of work. The division is not a training agency and only hires attorneys with at least six years of experience. Because the Secretariat does not draft bills, the division performs more traditional legal work, rather the broader legislative functions performed in my office.⁷

The Secretariat's role is becoming more proactive during the budget process. It conducts two briefings to help members understand the budget process. It also produces a brief for new members that explains what they need to look at when considering budget

proposals. During the ten-day period between the subcommittee meeting and the Finance Committee meeting, the members are allowed to ask questions with respect to the budget proposals. The Secretariat staff considers about 2,000 questions to determine the best ones to ask. They change the questions before they send them to the government to avoid duplicate questions. The government guarantees answers to 1,200 questions. The staff puts the most important questions first. The members go through the questions to determine follow-up questions. The Secretariat staff feeds questions to the members to get at gaps in the government's answers to the questions. After the relevant government bureau is done with the first group of questions, the members can ask supplementary questions.

A key difference between the legislative process in Hong Kong and that in Ohio is that the Hong Kong process is issue driven; whereas the Ohio legislative process is bill driven. In Hong Kong, the Legislative Council panels investigate issues and a bill is prepared after a thorough investigation. In Ohio, a bill is prepared to address a problem, and the investigation of the problem takes place in the context of the bill. In Hong Kong, the proposal to solve a problem is usually referred to as a "scheme," which does not have the negative connotations of a scheme in Ohio.

My experience in Hong Kong was much better than I expected. It was a learning experience that was enriched by the quality and friendliness of the people in the Secretariat and Hong Kong. To learn more about the Legislative Council and the Secretariat, you may go to their Web site at <http://www.legco.gov.hk>.



⁶ When a bill is tabled in Legco, it is reported to the full Council with a recommendation that it be passed.

⁷ The Department of Justice in the Executive Branch drafts all of the bills that are introduced in Legco. I visited the supervi-

sors of the Bill Drafting Division. They draft a much smaller number of bills than my office drafts, and they spend much more time preparing each bill than we do. After they prepare a draft, they send it to the involved bureau, which reviews it and proposes revisions. This process can last up to nine months.

STATE NEWS



COLORADO

Debbie Haskins

A Lobbying Practices Task Force, consisting only of lobbyists, submitted its report and recommendations to the Legislative Council. The task force held 11 meetings over a six-month period. The task force found that existing regulations of lobbyists were working but need to be enforced with constancy and fairness. The task force spent a great deal of time studying the issue of lobbying by organizations that do not have a registered professional lobbyist or volunteer lobbyist but are conducting activities that constitute lobbying. The task force ultimately voted against recommending any change in current laws. The task force also discussed how to address outside involvement in the internal organization or leadership races of the General Assembly by organizations not represented by lobbyists and voted unanimously against recommending further changes in the law. The task force did recommend a biannual orientation session for all professional and volunteer lobbyists, a formal affirmation by volunteer lobbyists of the receipt of designated materials regarding lobbying, and a bill that provides that persons who are not registered as lobbyists and who limit their appearances to give testimony to legislative committees are not considered to be lobbying. This proposal would replace a "three appearances" standard that included "experts" under the lobbying statutes.

The Colorado Supreme Court recently ruled on the consolidated redistricting cases (*Salazar v. Davidson*) involving the secretary of state and the attorney general over the constitutionality of a redistricting bill that was passed by the General Assembly in the last three days of the 2003 session. In the 2002 session, the General Assembly failed to agree on a redistricting plan for congressional districts, so the Denver District Court drew up a plan that was used for the 2002 election. This plan was affirmed by the Colorado Supreme Court in *Beauprez v. Avalos*. The attorney general filed an action in the Colorado Supreme Court seeking an injunction against the secretary of state preventing the secretary of state from implementing the General Assembly's 2003 redistricting plan and requesting a writ of mandamus requiring the secretary of state to follow the court-approved redistricting plan. The secretary of state filed her own original action asking the court to dismiss the attorney general's petition. The General Assembly intervened. The court held that the attorney general may bring an original proceeding to challenge the constitutionality of the redistricting bill. Second, the court held that the redistricting bill is unconstitutional because the Colorado constitution requires the

General Assembly to redistrict after each census and before the ensuing general election. Because the General Assembly failed to redistrict during this constitutional window, it relinquished its authority to redistrict again until after the 2010 census. In reaching this decision, the court found that the term "General Assembly", as used in the Colorado constitution in the phrase the "General Assembly shall draw congressional districts", encompasses the entire legislative process as well as voter initiatives and redistricting by court order, and that "General Assembly" encompassed the courts when the General Assembly fails to provide constitutional districts for an impending election. It also interpreted the reference in the state constitution as to "when" redistricting can take place as meaning it can occur only once per decade. The court ordered the secretary of state to conduct congressional elections according to the plan approved in *Beauprez v. Avalos*. The decision was 5-2, with the two Republican members of the court strongly dissenting. So as you can imagine, there has been a lot of comment about that. No decision has been made yet about an appeal.

Meanwhile, another case involving the same redistricting bill is pending in federal district court (*Keller v. Davidson*). Sen. Keller sued the secretary of state and the General Assembly in Denver district court seeking an injunction against the 2003 redistricting bill and asserting that the plan violated the order adopted in *Beauprez v. Avalos*, and several provisions of the state constitution and statutes. After the plaintiffs amended their complaint to add claims for relief based on the federal constitution, the defendants removed the case to federal district court. The three-judge panel stayed its action until the Colorado Supreme Court issued its opinion in the *Salazar v. Davidson* action (see above). The three-judge panel held oral arguments on December 18.

We've had so much litigation this year that we had to ask for a supplemental appropriation to pay for the outside counsel's fees in defending the lawsuits. The Denver District Court in *Colorado Congress of Parents, Teachers and Students et. al. v. Owens* ruled that H.B. 03-1160 creating a statewide school voucher program is unconstitutional. The court enjoined implementation of the program. The ruling was based on a local control issue; the court didn't even get to the religious questions. The decision was immediately appealed. The Colorado Supreme Court has agreed to take the appeal.

DELAWARE

Rich Dillard

The updated volumes of the Delaware Code

have always been distributed once per year (normally in December). Since the advent of an electronic version, available through the Delaware state Web site, www.delcode.state.de.us, there have been discussions about continuous code revision. This year an attempt to do so by the publishers ended in early June, except for the banking, commerce and trade and corporations titles, which the secretary of state's office requested be updated through the end of session. You may check the initial screen of the online Delaware Code to determine the timeliness of the 2004 version.

FLORIDA

Edith Elizabeth Pollitz

The Florida Legislature got together again in October as Governor Jeb Bush called the fifth special session (Session "E") of 2003. This one was needed by the opportunity to lure the Scripps Research Institute to build a research campus in the Sunshine State. The legislation providing financial incentives to the research giant creates a Scripps Florida Funding Corporation and sets requirements to ensure benefits to the state from Scripps' location here (their home base is California).

Meanwhile, the Terri Schiavo right-to-die case had reached a critical point—the court ordered Ms. Schiavo's feeding tube disconnected the week before special session, in the ongoing battle of whether Ms. Schiavo lives or dies. The Legislature hurriedly enacted House Bill 35-E, which the governor immediately signed into law (chapter 2003-418). The bill authorizes the governor to issue a one-time stay to prevent withholding of nutrition in a situation narrowly tailored to Ms. Schiavo's circumstances. How the interaction between the Legislature, the governor and the courts will play out remains to be seen.

INDIANA

George Angelone

The Indiana General Assembly recently concluded a "mini-session". Ordinarily, the part-time legislature meets for one day in November and then adjourns until the first or second week in January. This year, the legislature continued to meet for three weeks to discuss two bills dealing with property taxes. Indiana is in the middle of completing its reassessment of real property. This is the first reassessment since 1995 and the first reassessment done in compliance with a court order mandating that all property be assessed using "real world" standards (i.e., a euphemism for having some objective basis to justify the myriad assessment standards that have developed over the years). The process, which by law should have been completed on March 1, 2002, is only half

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completed. Several large urban areas (Fort Wayne and the "Region" near Chicago) as well as a number of rural areas may not be completed until the second quarter of 2004. However, a pattern is emerging in the counties where the assessment is complete. Farm land and older homes are bearing a larger share of the tax burden than they did in prior years. Although consistent with the court ruling, this result has alarmed many legislators. In response the leadership in both houses agreed to meet more quickly than normal to address the concerns of the members. Over eight session days, the legislators sifted through 75 proposals. They ranged from the elimination of property taxes as a source of revenue to the adoption of new appeal procedures. In the end, the legislature enacted a package of largely procedural measures. Substantive property tax relief was left on the table for consideration after the rest of the state completes its reassessment.

At the same time, Indiana hosted several legislative staff from South Africa. The Indiana Legislative Services Agency and South Africa are participating in an exchange program sponsored by Indiana University. The staff from South Africa come from both provincial legislatures as well as the national legislature. This time around our South African colleagues observed a little more of the American legislative rough and tumble than we possibly would have liked to show them. However, they took it in good humor and were kind enough not to criticize.

Our legislature will reconvene in January. A new person will wield the gavel in the Senate. By law, the lieutenant governor presides over the Senate. Indiana's first female lieutenant governor was appointed to fill the remainder of now Governor Kernan's term. The vacancy occurred when Governor O'Bannon died. Under the constitution, the lieutenant governor becomes the governor. Governor Kernan appointed Kathy Davis to fill the vacancy. "Madam President", as she will be called in the Senate, is not new to government. She served as the director of the department of transportation and as the budget director in the administration of former Governor Bayh. She is an engineer by training, having graduated from M.I.T. Her last public position was comptroller of the City of Indianapolis.

Members of Governor Kernan's party have already begun to distribute Kernan/Davis campaign posters for the 2004 election. 2004 is an election year in which all major executive branch offices, all state representatives and a third of the state senators will stand for election. It is unknown at this time how much effect an election year will have on the remainder of the legislative session. We will have a much clearer picture by the time the next newsletter is published.

IOWA

Richard Johnson

Constitutionality of Governor's Item Veto: *Rants et al v. Vilsack*, No. CV4838, Filed December 1, 2002, by the Iowa District Court for Polk County.

Background. At the start of the 2003 regular session, the governor called for the creation of an Iowa Values Fund designed to stimulate the state's economic development through a \$500 million appropriation. The General Assembly included in the legislation creating the fund changes to the tort liability system affecting punitive damages; remedies for worker's compensation; a reduction in income taxes; and the postponement of a phase-out of sales tax on residential utility billings. The governor opposed the inclusion of these measures in the legislation and the legislation failed to pass during the regular session. As a result, the governor called the General Assembly into special session.

In special session, the General Assembly drafted and passed two bills, House File 683 (2003 Iowa Acts, First Extraordinary Session, chapter 2) and House File 692 (2003 Iowa Acts, First Extraordinary Session, chapter 1). House File 683 contained a \$45 million appropriation of state funds for the Grow Iowa Values Fund. House File 692 created the Grow Iowa Values Fund and created administrative apparatus for the Fund, as well as the regulatory and tax policy favored by the leadership of the General Assembly and strongly opposed by the governor. A number of the regulatory and tax policy provisions in House File 692 were item vetoed by the governor. In June 2003 the Legislative Council authorized the retention of independent legal counsel to challenge the validity of the item vetoes.

District Court Proceedings and Decision. Plaintiffs filed a motion for summary judgment seeking a declaration that the governor's item vetoes of provisions of House File 692 were unconstitutional in that House File 692 was not an appropriations bill. Defendant filed a cross-motion for summary judgment seeking a declaration that House File 692 was an appropriations bill subject to the governor's item veto authority. The district court held that House File 692 was an appropriation bill, denied plaintiffs' motion for summary judgment and granted defendant's motion for summary judgment.

Analysis. The district court utilized the reasoning set out by the Iowa Supreme Court in *Junkins v. Branstad*, 448 N.W. 2d 480 (Iowa 1989). The district court stated that an appropriation occurs if there is an allocation of funds, whether from the general fund or a revenue producing bill, into a separate and distinct fund that can only be utilized for other purposes upon subsequent legislation, and

identified the following provisions of House File 692 as being appropriations:

- Allocation of interest, loan repayments, failed loans and grants, and fund balances as these relate to the Grow Iowa Values Fund.
- Authorization to pay actual and per diem expenses of certain boards and commissions.
- Increased assessment for failure of employers to provide certain information with such assessment allocated to the Second Injury Fund.
- Extension of a surcharge to be deposited into an Administration Contribution Surcharge Fund.
- The personal income tax provisions. These provisions call for the imposition of income taxes, although at a lower rate than in previous years. The income taxes withheld from employees' salaries are collected from employers and allocated into the Appropriate Receipts Account.

The district court noted that the appropriations at issue in *Junkins* totaled less than \$750,000, while the amount in House File 692 was far in excess of that. This answers the question of whether the appropriations significantly affect the governor's budgeting responsibility, a requirement set out in *Junkins*. In addition, the district court disagreed with the plaintiffs' contention that the definition of "appropriation" includes the additional requirement for authorization to expend the funds without further action.

In addition, the district court, while noting that such a conclusion was not necessary to reach its decision, nevertheless concluded that the two bills, House File 683 and House File 692, were indivisible in the sense that the appropriation of \$45 million in House File 683 was made contingent upon unrelated policy provisions in House File 692. The district court reasoned that the practice of attaching unrelated riders to appropriation bills has been condemned by the Iowa Supreme Court in a 1985 item veto case, *Colton v. Branstad*, which approved the item veto of such unrelated provisions. An appeal by the plaintiffs is likely with resolution of the case expected in the spring of 2004.

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LOUISIANA

Clifford Williams

On November 15, 2003, the people of Louisiana elected the state's first female governor. This milestone will have a drastic effect upon

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the leadership of the Louisiana Legislature. Historically, the governor has had a hand in determining who will hold the leadership positions on both sides of the capitol. The jockeying has already begun for those positions, including the 34 chairmanships (the House and Senate each have 17 standing committees). The new Legislature was sworn in on January 12, 2004, during the organizational session, at which time the House speaker, speaker pro tem, Senate president and president pro tem were elected by the respective membership of each chamber.

The governor-elect has indicated that a special session will be called sometime in March to consider various tax issues that cannot be considered in the regular session. The regular session begins on the last Monday in March. One of the more pressing issues that the new legislature and the governor will be facing is the delivery of health care services—so important that the governor-elect will call a summit soon after she is sworn in to address that particular problem.

The fall report mentioned that many legislators who were re-elected this fall would be serving their last terms, by virtue of term limits. Fifty-seven of the 105 House members and 20 of the 39 Senate members will not be able to seek re-election four years from now.

MAINE

Margaret Reinsch

Citizen-initiated referenda in Maine. The November election included three citizen-initiated referenda questions for Maine voters to decide. The results? One passed, one failed, and one returns to the voters at the next statewide election. In all three cases, however, the subject isn't finished.

The citizen-initiated question that passed introduced the concept of a "racino"—a harness racing track as the base for gambling as may be found in a casino. In this case, the casino-type gambling is limited to slot machines. Maine voters passed the racino question by a vote of 272,394 to 242,490. The text of the question was: "Do you want to allow slot machines at certain commercial horse racing tracks if part of the proceeds are used to lower prescription drug costs for the elderly and disabled, and for scholarships to the state universities and technical colleges?" There are currently two existing commercial horse racing tracks in Maine: one in Bangor and one in Scarborough. The initiated law requires the community in which the track is located to approve the operation of slot machines there by December 31, 2003. Bangor voters did just that in June, but Scarborough voters, in a ballot question, refused to allow Scarborough Downs to install slot machines. The initiated law authorizes licensure for slots of a track up to five miles away from an existing commer-

cial horse-racing track; the owners of the Scarborough track are working with neighboring communities to find approval for the relocation of the track to support the racino. The municipalities of Saco and Westbrook both have local racino referenda scheduled for December 30. Governor Baldacci, who opposed the racino referendum question, has asked the Maine Harness Racing Commission to delay action on related licenses until the Legislature can strengthen restrictions. The governor's proposed legislative package will apparently contain the following:

- A five-member Gambling Control Board to license and regulate slot machines;
- Reinstatement on restrictions on transfers of harness racing tracks;
- Recovery by the state of all costs of regulating slot machine gambling (a new report by the Legislature's Office of Fiscal and Program Review forecasts that slot revenues designated for the general fund would not cover new administrative costs and a reduction in revenue from other sources, primarily the state lottery);
- Increased oversight of employees, concessionaires and vendors at facilities;
- Requirement that harness racing must continue for the duration of the slot machine license; and
- Slot machines would not be eligible for the business equipment tax reimbursement program.

The Legislature will take up the governor's proposal in the Second Regular Session of the 121st Legislature, scheduled to convene on January 7.

Maine voters failed to approve a referendum authorizing a tribal casino to be located in southern Maine. The question asked: "Do you want to allow a casino to be run by the Passamaquoddy Tribe and Penobscot Nation if part of the revenue is used for state education and municipal revenue sharing?" With 170,500 voting yes, and 346,583 voting no, the electorate chose not to amend the Maine law that implements the Maine Indian Claims Settlement Act, enacted by Congress in 1980. The proposal would have authorized the construction and operation of a resort casino, run by a tribal gaming operator consisting of the Penobscot Nation and the Passamaquoddy Tribe. Both are federally recognized tribes with reservations and non-reservation territory within Maine and are parties to the 1980 treaty. The question engendered an interesting debate as to whether the Implementing Act can be amended through the citizen-initiated referendum process because of its status as the

state-tribal portion of the treaty entered into by the federal government, the tribes and the state of Maine in 1980. If the measure had passed, it would not have taken effect until each tribe had approved it, the usual required practice for amendments to the Implementing Act. That same requirement was interpreted as limiting amendments to the measure in the future; should the state determine that changes were necessary in the regulation or oversight of the casino operations; no changes could be made without the consent of the tribes. The proposal provided a 20-year term of approval, a period the proponents considered necessary to make the investment in the facility worthwhile economically. The fallout from the results has been considerable, with relations between the state (the governor opposed the measure) and the two tribes severely strained.

The third citizen-initiated question focused on education funding and tax reform. The Citizens to Reduce Local Property Taxes Statewide, a coalition made up of the Maine Municipal Association, the Maine Education Association, the Maine School Management Association and several other groups, successfully collected signatures to put their proposal before the Legislature. "Do you want the State to pay 55% of the cost of public education, which includes all special education costs, for the purpose of shifting costs from the property tax to state resources?" The proposal would require the Legislature to raise the state's share of local education costs to 55 percent. The legislation urges lawmakers to accomplish that goal without raising new taxes. The state currently funds education costs at about 41.4 percent. The additional revenue to fund the proposal is estimated to be more than \$250 million and would be distributed to Maine communities in fiscal year 2005, which begins July 1, 2004. The governor opposed the Maine Municipal initiative (referred to as "1A") and submitted his own proposal. In a special session in August, the Legislature passed a revision of the governor's proposal, which became the "competing measure" ("1B") on the November ballot. 1B, supported by the Mainers for Responsible Property Tax Relief, would have phased in additional education funds over a five-year period until the 55 percent goal was reached. The plan also provided an additional \$40 million through June 30, 2005, to enhance property tax relief currently available under Maine's "circuit breaker" and homestead exemption programs. The Common Sense for Maine Taxpayers political action committee opposed both 1A and 1B and campaigned for "1C", which allowed voters to reject both the citizen initiative and the competing measure. The vote totals gave 1A a slight edge over 1B (185,392 to 171,762), enough to send it to the voters again in the next "statewide election." The Maine constitution provides that if neither the initiated ques-

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tion nor the competing measure garners more than 50 percent of the vote, the question with more votes (if it received at least 33 percent of the votes) is returned to the voters as a yes or no question at the next statewide election. The voters will probably see the issue on the June 2004 ballot, although the governor has expressed his preference for a November vote.

To add to the potential confusion, the Maine Taxpayers Action Network (MTAN) has submitted a petition to the secretary of state for another citizen-initiated proposal on tax reform which, unless the Legislature enacts it as submitted, will appear on the November 2004 ballot (if the secretary of state certifies the required number of signatures). The question asks, "Do you want to limit property taxes to 1% of the assessed value of the property?" There are four parts to the proposal. First, the property-tax burden would be 1 percent of the assessed value of a home plus every taxpayer's share of their respective town's and school's existing debt. Second, it would allow for a small increase in the assessed value per year based upon the consumer price index, not to exceed two percent of the assessed value. Third, a taxpayer would be allowed to transfer his or her property to a spouse, child or grandchild, with the assessed value remaining the same. Fourth, a property that is sold to an independent person who is not a relative would pay one percent on the assessed value and the debt service on the new purchase price. The secretary of state has not yet certified the signatures, and has until March 2004 to do so. The legislative session in January will be interesting; adding the MTAN proposal to the mix may make it extraordinary.

NEBRASKA

Scott Harrison

The 2004 session will last 60 legislative days and began on January 7. The Legislature is facing a budget deficit of \$211 million. Much of the session will be spent eliminating this deficit. The impeachment of the state treasurer looked to be another major issue that the Legislature would deal with in 2004, but that has been averted by her resignation. During the interim, it came to light that the state treasurer had written checks without bills and other necessary documentation and later cancelled those checks. It was alleged that she did so to protect her office appropriation from reduction by the Legislature during the last round of budget cuts. In November, she pleaded guilty to one misdemeanor charge relating to the checks and resigned from office effective at the beginning of the legislative session.

The Nebraska Supreme Court has rendered a decision relating to the initiative petitions and the constitution's one-subject requirement; however, the decision was based upon grounds other than the constitutional issue. The bill drafting office is responsible for re-

viewing initiatives and referendums and the case could have better defined the one-subject rule for future reviews. While several judges commented on one subject, no clear rule emerged for guidance in completing future reviews. The case is *Loontjer v. Robinson*, 266 Neb. 902 (2003).

OHIO

Richard L. Merkel

Both houses agreed to the conference committee report on Am. Sub. H.B. 12, which establishes a procedure for county sheriffs to issue licenses for carrying concealed handguns. The House passed Sub. H.B. 292, which establishes minimum medical requirements for filing certain asbestos claims and establishes limitations on successor asbestos-based liabilities relating to corporations.

OREGON

Virginia R. Vanderbilt

In 2003, the Oregon Legislative Assembly amended Oregon's antidiscrimination laws to protect the rights of individuals with disabilities to participate in and receive the benefits of the services, programs and activities of state government. SB 17; Chapter 254, Oregon Laws 2003. Advocates for disabled individuals urged the legislation because of recent U. S. Supreme Court decisions under the Eleventh Amendment that limit Congress's ability to enact laws affecting state governments. Following *Board of Trustees v. Garrett*, 531 U.S. 356 (2001) (state employees are barred by the 11th Amendment from suing their state employers under Title I of the Americans with Disabilities Act), the advocates feared a similar challenge to Title II of the ADA, which prohibits discrimination against disabled persons with respect to "services, programs, or activities of a public entity."

PENNSYLVANIA

Stacey Connors Mosca

Pennsylvania's 2003-04 budget is still not resolved. As was reported in the last issue, although the legislature passed the budget in March, Governor Rendell exercised his line-item veto authority to eliminate or reduce certain appropriations in the bill. These issues still have not been resolved. However, it is possible that this issue may be resolved before the end of the year, as the legislature has one more week of session scheduled for this 2003.

House Bill 888, a sound measure that substantially expands prescription drug assistance to the elderly through PACE/PACENET, was recently signed into law by Governor Rendell. Specifically, this legislation will expand enrollment in the PACE program by increasing the income limits by \$500. The new limits will be \$14,500 for singles and \$17,700 for married couples. In addition, the first \$10,000 of any death benefit a widow received would be exempt from the income calculation. In

addition, enrollment in the PACENET program is expanded by increasing the annual income limits. The new income guidelines would be raised to \$23,500 for an individual and \$31,500 for a married couple. Co-payments for generic drugs will be less than the co-payment for brand name drugs and must be adjusted annually. The deductible for PACENET will be changed from \$500 per year to \$40 per month. A clearinghouse will be created to assist individuals to access public or private programs, which will help make prescription drugs more affordable. The passage of House Bill 888 expands prescription drug benefits to an additional 125,000 senior citizens.

TEXAS

Mark Brown

Legislative staff devoted most of their time in July through October to three special sessions. A primary issue was the Legislature's attempt to redraw the boundaries for congressional districts in the state. That attempt eventually culminated in the enactment of a new congressional redistricting map. The map was submitted to the federal Department of Justice for preclearance. The department's decision is pending at the time of this writing. Furthermore, at least three lawsuits were initiated to challenge the new map. Those suits were combined into one and the trial was scheduled to begin in Austin in December 2003.

A fourth special session in the spring of 2004 is a definite possibility. The Legislature created the Joint Select Committee on Public School Finance to examine new ways to fund Texas schools. The committee's findings will be crucial in determining whether another special session is necessary. Also, litigation has been filed attacking the current school finance system, and additional school districts continue to join as parties to the litigation. Whether litigation or legislation eventually resolves the issue is yet to be determined.

Other legislative committees also are active during the interim as they look into major issues confronting the state. For example, the Joint Interim Committee on Higher Education is studying financial aid for university students, tuition deregulation, admissions criteria and funding formulas for higher education. The Senate Select Committee on Water Policy is reviewing the management of ground and surface water resources, an issue having far-reaching consequences for urban and rural areas of the state.

The staff of the Texas Legislative Council continues to work on two more codification projects. The codification of the insurance laws is in its final stages. The project to codify the local laws creating special districts, which is a long-term project, is making substantial

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progress.

UTAH

Gay Taylor

A state employee sued two legislators when he lost his job due to budget cutbacks. The employee claimed the cut to his department was personal. He was a health inspector who reviewed condominium and planned unit development swimming pools in a retirement community. He insisted state administrative rules required these pools to pass the same standards as public pools. Local pool owners appealed to legislators in the area, who had conversations with this state employee.

During the legislative session, a motion was made in Executive Appropriations Committee (which creates the main Appropriations Act) to reduce the Department of Health's budget by \$115,700 and make that amount available for Medicaid breast and cervical cancer treatment. The motion passed, and the Appropriations Act was prepared accordingly. The Legislature passed the bill and the governor signed it into law. The executive director of the department of health notified this employee that his position was being terminated due to nonappropriation of funds from the Legislature. After the termination was final, the state employee sued his department and the two legislators who had questioned him in his job performance. The Office of Legislative Research and General Counsel acted to defend the two legislators named in the suit. That

defense included: The defendant legislators are protected from liability by speech or debate clause immunity, by the concept of non-judiciability, and common law legislative immunity; and under the state whistleblower statute, legislative defendants are not the plaintiff's "employer" under the meaning of that act. The Third District court ruled that legislative defendants are absolutely immune from suit for the claims asserted by the plaintiff and granted the legislative defendants' motion to dismiss. There was a stipulated motion to dismiss filed as to the department of health. It is anticipated this dismissal as to the legislative defendants will be appealed.

WEST VIRGINIA

Mark McOwen

The Legislature's monthly interim meetings on various study topics have continued through the fall and will conclude in January. A primary concern for members during the upcoming session will be the fashioning the state budget for the fiscal year beginning July 1, 2005. The state now anticipates a revenue shortfall for the current fiscal year and on December 5, the governor ordered a 2.9 percent reduction in spending for most state agencies. FY 2005 revenues will most likely experience no growth. As a result of estimated built in growth in expenses, the Legislature will be faced with an initial budget shortfall of at least \$120 million for FY 2005. The governor is expected to present a plan to meet this shortfall on the opening day of the upcoming regu-

lar session.

Among additional issues expected to be considered are health care and insurance costs, all-terrain vehicle regulation, reduction to a .08 blood alcohol content threshold for operators of motor vehicles, and economic development.

The West Virginia Supreme Court of Appeals, court of last resort here, recently affirmed the constitutionality of statutes authorizing video lottery activities in the state and authorized the issuance of bonds secured by those revenues in the amount of \$225 million for distribution of economic development grants for various projects throughout the state. A legal action filed by the state treasurer and auditor is pending in a state trial court. It challenged the 2003 statutes providing for the issuance of \$3.9 billion in general revenue bonds for the purpose of reducing an existing unfunded liability in state pensions funds as prohibited by the state constitution without the ratification of the voters of the state.

The second Regular Session of the 76th Legislature convened January 14, 2004. To monitor legislative activity, you may visit the West Virginia Legislature's Web site at <http://www.legis.state.wv.us/>. For toll-free access, dial 1-877-56LEGIS.



NCSL Website Redesign

In February, NCSL launches a redesign of its Web site, www.ncsl.org. The site brings significant improvements that will help state legislative staff quickly get the information they need.

A task force made up of members of NCSL Legislative Staff Coordinating Committee, working with a workgroup of the NCSL Executive Committee, set four goals for the new site. The following explains the goals and how they were implemented.

Simplified navigation and improved organization is achieved through a streamlined navigation bar available on every page and home page tabs that take you directly to issues or key NCSL pages. The search box is more convenient and accessible on every page. A new feature, Grasscatcher—a collection of news clippings on key policy issues—is updated daily, ensuring fresh content on the home page every day.

Greater emphasis on public policy issues comes through a more focused "Content" section on each main level menu page. NCSL staff worked over the last few months to streamline their content to make links more intuitive. In addition, each issue area now has an "Issue Overview" that provides context and focus on material available on NCSL's substantive site.

A clean design actually provides more direct links from the home page to the information you need. The site allows for a bet-

ter use of photos and graphics, and menu pages show the dates of news items, demonstrating that the information on the page is fresh.

More personalized services are available to state legislative staff through a new MyNCSL design. The service allows members to sign up to receive an email every time a key item in areas they've selected is updated on the web site.

State legislative staff will notice several new features designed specifically for them. They include:

- The navigation bar has a separate dropdown menu for "Legislative Staff" to highlight NCSL services and programs for staff.
- Staff section menu pages were modified to allow for better use of logos and more flexibility in listing items of interest.
- An improved search function and page design that provides direct access to several searchable databases, including state documents, directories, legislative audits, state statutes and constitutions.

For comments or questions about the web site, contact the project's team leaders, Doug Sacarto (doug.sacarto@ncsl.org) or Gene Rose (gene.rose@ncsl.org).

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