



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy.

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Hot Issues for State Legislatures in 2019 | OAS Episode 53

Welcome to “Our American States,” a podcast of meaningful conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy. For the National Conference of State Legislatures, I’m your host, Gene Rose.

In this episode of “Our American States,” our first program of 2019, we take a look at the issues that state legislatures will be tackling this year. Returning to our program is Bill Pound, the executive director of the National Conference of State Legislatures. Bill has been executive director for 30 years and consequently has a catbird seat in viewing the activities of this country’s 99 legislative chambers. Here’s our conversation with Bill which took place at NCSL’s Denver office.

Let’s start off with a view of the political landscape of state legislatures this year. Can you give us a brief rundown in terms of what happened in the 2018 elections and how you think it’s going to impact policy discussions in state capitals?

Bill: Well, the impact of the elections will be that the Democrats control more houses than they did by six chambers that they did not have. They actually, I think, gained seven and one went the other way. There will be about 300 to 350 more Democrats serving in legislatures than Republicans, so the Republicans still hold a substantial majority of the legislatures with the Democratic control concentrated on both coasts, particularly New England and the Pacific Coast of the United States, and then some inland spots like Illinois and Colorado and New Mexico.

So obviously control dictates what issues may be preeminent in the legislature because of the difference in philosophies between the two parties. It wasn’t a Democratic wave so to speak, but it clearly was at least a tide of sorts going in their way in that they improved their relative position and the Republicans have receded slightly from the high watermark they had had in the 2017/18 biennium.

There are also more women in legislatures than we have ever had before including a body or two that are a majority or virtually majority female. The last two elections have seen the gradual growth of women, which had plateaued for a few years, in legislatures; have seen it grow again to about 28 percent of the members of state legislatures will be female in the coming years. And that has some impact on the issues you’ll see I think, more women in leadership as an example of that.

And we have fewer split governments this time, only one, that being Minnesota. You have to go back 100 years to find a situation where the states are divided. They're either all Democrat or all Republican, which is sort of an interesting phenomenon. It probably is another reflection of the way our politics have gone in recent years.

Gene: One of the things that state legislatures have to deal with is revenues. How will state revenues impact the decisions that legislatures make in 2019?

Bill: State revenues obviously, the budget and state revenues, are the most important things that a legislature has to deal with. State tax revenue grew by more than 6 percent in 2018 and that means that the pressure on budgeting will not be as great. I mean, it's not recessionary. It means there will certainly be pent-up demand coming forward.

A couple of interesting aspects of that are that when we surveyed the states on where they thought spending would go, for the first time lately higher education is growing at a greater rate than Medicaid is. Medicaid and health care have been the highest growth and the Medicaid growth rate ... You have to remember, Medicaid is growing off a bigger base, so the percentage in higher ed after all the cuts of the period of 2008 to 2015/16, which hit the higher education system pretty hard, but it is beginning to grow again.

And it's about 12 percent of all of state budgets. Education itself is close to 50 percent if we put in K-12 and now pre-K that so many states have moved toward. If you look at it, the total of Medicaid and education spending covers two-thirds of state spending, what the states spend with their own funds without considering the substantial federal contribution to Medicaid in this country.

What I think you'll see is pressure for education spending in particular. We saw that here in 2018 and I would guess it will continue and it becomes easier to raise those issues if you have revenue growth. Our problem in recent years is that while revenue has grown fairly strongly, expenditure has grown at least as strongly, if not slightly greater than that over the last two or three years, which is not sustainable over a long period of time.

One of the other areas where this will have an impact is probably infrastructure. Infrastructure has been talked about, President Trump has talked about an infrastructure program, but Congress has not in the last two years gone along on that. It may be something that a split Congress and the president can agree on. We'll see. But there is some evidence out there that the states have begun to spend more strongly on infrastructure.

I should note that with infrastructure spending, the state and local government spends about 75 percent for infrastructure. Of all infrastructure work we do, the federal government, which people look to to do things, is about 25 percent. And I would guess that what we're seeing right now is a growth in the state share over the next few years. There's some evidence of that in the last few months if you look at the bond market with the states going out and borrowing to meet the needs that are there, not only highways, but a lot of other things.

Gene: So, in a related issue, do you expect to see any major tax reform issues this year? What about the Supreme Court decision on internet sales tax and sports betting, those types of things?

Bill: I believe we will see activity in that area. We saw again in the fall from some legislatures that were in, after the U.S. Supreme Court decision on sports betting, about five or six states moved to get into sports betting because the groundwork had been laid in previous legislation or they did not have constitutional prohibitions on the subject. There will be a good deal of consideration on that I think in states and pressure to do things. I don't expect it to move extremely fast by any means.

The impact on state tax policy I think will come as the federal tax reform plays out and its effect on state revenues, because initially it may have had a positive impact that will play itself out mostly in the fiscal year we're in now, and not in the future as it changes people's spending habits or saving habits, how they use or invest their money.

I would expect that you will see some movement toward conformity; there was some last year and you'll see more of it again, just looking at the system. And certainly, on the electronic sales, on the interstate commerce piece of it that the court allowed the states to get into, or struck down a previous decision which prohibited, I think you will see a good deal of movement.

Nineteen states acted in the fall, mostly again because they were prepared to do so in expectation that there was a possibility that the Supreme Court would decide the way it did. And a lot of those actions though only are coming into effect with the beginning of 2019 because states put them in place, but they didn't necessarily make them operational till past the Christmas shopping season. That was a concession to merchants actually, of avoiding confusion. And actually, I think we're up to the low 20s now of states that have taken some action which will take effect sometime in the next three or four months as we move into '19 to bring that revenue in line.

We'll see how much revenue there is with that. We estimated some years back that there was \$23 to \$25 billion dollars in revenue there, whether states realize that or even nearly half the states that are prepared to collect realize close to half that revenue. It will be interesting to see how it works out.

Gene: So let's turn to policy issues right now. The last couple of years of this podcast we've asked you about opioids and I guess that's still going to be a top health topic this year.

Bill: Yes, opioids will be. It remains a great problem. The federal government and state governments, with mostly the states leading the way, have tried to legislate both prohibitions and more treatment programs on it. And I would expect that to continue because it clearly is a major problem in our society.

Gene: And what about the reaction to Obamacare and insurance and exchange—what actions do you see states taking on that?

Bill: There has been movement. In three states the voters voted for expansion of Medicaid, which puts us near 35 of the states that have agreed to do that. Some of this depends on what the federal government does, what the Trump administration does, about the subsidy programs and incentives, where the states go. The state share of the expanded program of the Affordable Care Act does grow beginning after 2019; percentagewise it will increase somewhat. That will have an impact on state budgets.

Gene: Education is an issue that tends to get a lot of bills in legislatures. What top items do you see in the education category?

Bill: One of the things we have seen is interest in school safety, but I think perhaps as important as that, or corollary to that is planning, that there has been much more emphasis in many of the systems on planning, arming teachers and things like that. There is some of that going on, but I think there is more emphasis on the side of planning and prevention in other ways. We will see that.

We will see an emphasis on teacher salaries where several states, as I have previously noted, made fairly substantial increases in this in 2018, and I think that will go on partly because the impact of that and of teacher pay as an issue was certainly seen in the election in November.

Gene: You mentioned higher education before. There is also an emphasis to add different career pathways for people.

Bill: Yes. The career preparation beyond simply higher ed is getting more emphasis in legislatures and I think will continue to do so. States are putting more emphasis on both of those, as I had mentioned earlier, increasing again their support of higher education, but in many cases it's going into vocational, technical, other kinds of training that the society will always need.

Gene: We just had an election in 2018. A look at the election cycle in 2020—what do you see legislatures doing in preparation for the elections coming up?

Bill: This is an area that I think sometimes is a little bit under the radar except during the period right around elections, that you will see legislatures looking seriously at how they conduct elections: the use of electronics, the question of hacking and what can be done and what can be done to prevent things like that, the movement towards more mail ballots. There may even be greater movement back to paper ballots in voting which, of course, mail ballots facilitate.

I think yes, there will be a good deal of legislative activity in the election area in the 2019 year particularly.

We also should note that legislatures will be coming up on redistricting after 2020, after the census of '20, so in '21, '22. But in many places they are preparing for it. We had a movement after the election of moving to commissions in three or four states and there clearly is interest in other places, whether it's the fact that the voters have indicated support for that, frequently the initiative and referendum is a motivating force even in states that don't have it. I expect there will be some effect from that.

Gene: And a kind of related issue, cybersecurity is still an important issue, whether it's elections or personal privacy.

Bill: You can't pick up the paper on almost any day without seeing some cybersecurity issue or question prominently featured of all the ways we communicate with each other with social media and that, and particularly its impact on campaigns and elections.

Gene: Let's talk about a couple of other issues: Criminal justice—what do you see happening there?

Bill: Well, the Congress just here in December passed and the president signed a federal reform bill which actually contains many things that a lot of states have previously done: looking at sentencing, looking at mandatory minimums, looking at the impact of incarceration on society and populations. It doesn't matter which party is in control, there is a general widespread interest in looking at the criminal justice system.

Gene: We talked about infrastructure a little bit already. Do you see any movement in gas taxes?

Bill: Nearly 20 states since about 2014 have raised their gas tax or pegged it to inflation or done something like that. We probably will see some on that. There is also a good deal of questioning about electric vehicles and their not paying their share as their numbers grow, albeit slowly. There's an equity issue between internal combustion and other vehicle propulsion sources.

Gene: Let's talk about human services a little bit: housing, homelessness.

Bill: Well, housing has traditionally been mostly a local issue, but the states are getting more involved in it, usually by encouraging their local governments to do certain things: either creating some kind of an assistance program or sometimes a revenue source for things like that. It clearly is a greater issue for the states than it was, let's say, five or 10 years ago. I don't see that changing.

Gene: I was curious about occupational licensing. You see some movement in that area.

Bill: Well, NCSL has done a fair amount of work there and this is consistent with actually some things going on at the federal level that we have overregulated or over-licensed. Some of that is protective regulation at the state level and there clearly is a movement to try to alleviate some problems, make it easier to enter certain professions or occupations.

Some of that is driven by the mobility of the population. Some of it is driven by trying to help veterans. I think that will continue. We're in a deregulation cycle right now.

Gene: One of the great things about NCSL is that you work with the federal government and try to make sure there aren't burdens placed on the states. You've got a divided Congress. So what's your approach, I guess, is my basic question as you enter this term. What kinds of strategies do you have to deal with the changes in Washington?

Bill: Well, they're pretty much the traditional ones. I mean, we remain concerned about unfunded mandates particularly, when the federal government forces state and local spending in a certain way, and that will continue, and on preemption.

The preemption area tends to come about in some of the newer technology and things like that, for example, autonomous vehicles or drones or unmanned aerial vehicles, in things like that where the states have moved in where they see a need for regulation where the federal government has been unable to act. We are constantly concerned about both preemption, particularly in that area, that we get a federal floor maybe, but not a ceiling. That will remain the case.

One issue will be adequate funding of many of the federal/state programs. So far there has not been a significant amount of change in that area, but in things like the environment and maybe some of the energy programs, and obviously healthcare.

Gene: One of the things I didn't ask about in education is the reaction to the federal education bill that states will probably be reacting to, still trying to conform to some of that.

Bill: They pretty well have—the Every Student Succeeds Act. By the end of '18 nearly every state had submitted a plan which had been approved by the federal Department of Education, which it requires, and the states are actively moving forward with that. It is I think a more cooperative approach to things than we have had in probably the previous decade or so. We'll see how successful it is at improving the graduation rates and learning rates and test scores and the things we measure, K-12 education on.

Gene: Anything we haven't talked about that you think is going to be a key thing for state legislatures in 2019?

Bill: Well, one issue that will remain with legislatures, both internally and externally, is the issue of sexual harassment, because they've had to deal with that in legislative bodies and they do it prominently because when something happens, it tends to make headlines. But they also are dealing with it on a societal basis more broadly. And I think that will continue. That will partly be a factor of a greater female presence in legislatures.

Music and Gene VO:

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Until our next episode, this is Gene Rose for the National Conference of State Legislatures.
Thanks for listening.