THESE *ARE* THE GOOD OLD DAYS

THE STATE OF GOVERNANCE IN THE AMERICAN STATES

by Dag Ryen

By almost every measure, the state of the American states as we approach the new millennium is strong. Having weathered the fiscal woes of the late 1980s and early 1990s, with the welcome assistance of a general turnaround in the national economy, and having reached a new accommodation with the federal government on key domestic issues, the states face the turn of the century with growing resources, increased organizational sophistication, added responsibilities and considerable flexibility in making policy and program choices.

The favorable conditions have led to an air approaching jubilation in the corridors of many state capitols. As West Virginia Gov. Cecil Underwood said in his 1998 address to the legislature in Charleston, "I can't remember a time brimming so completely with optimism and opportunity."

The general euphoria may be a well deserved reward to those state officials who have labored many years to hold the line on state government expenditures and to implement results-oriented state programs. However, in public service there is seldom rest for the weary. There remain a number of daunting challenges to policy-makers and in our rapidly changing and highly interconnected world, new problems are sure to emerge.

A Quiet Evolution

Recent state government success builds on an unusual confluence of circumstances. Developments over the past decade had not only created an environment conducive to state activity, but in many ways forced state officials to look at their efforts in new ways. The last recession brought many states to their fiscal knees. As a result, executive and legislative decision-makers were forced to consider options that in better times would have been unthinkable. Faced with billion dollar budget shortfalls, state governments from coast to coast responded with massive layoffs and drastic program cuts. During these often gut-wrenching times, state officials also began to question many of their conventional solutions and methods. Borrowing heavily from management theories prevalent in the private sector, they sought to rethink their approach to public issues. The result was a spate of structural analyses and strategic planning processes, many linked to trends such as quality management, public/private partnerships, reengineering or privatization. Not all these initiatives were equally successful in streamlining government or its services, but they uniformly improved communication from top to bottom in various state government hierarchies and led to considerable consensus on the need for government programs to be more directly responsive to citizen needs.

During this time, the federal government underwent a painful metamorphosis of its own. Without a constitutional mandate for balanced budgets, the president and Congress were less inclined to take dramatic steps to resolve increasingly perilous fiscal problems. Moreover, while the budget deficit ballooned, the political debate in Washington, D.C., deteriorated into partisan bickering. States often found it necessary to fill the vacuum created by inaction or gridlock at the federal level. And state leaders began to take a more active role in lobbying the president or members of Congress to break through the gridlock when vital state interests were at stake. Following the failure of President Clinton's health initiative, for example, a bipartisan coalition of governors in 1995 hammered out a comprehensive Medicaid reform plan.[1] Although Congress failed to enact major portions of the plan, it did provide an impetus for several new initiatives, pilot programs and federal waivers that have helped ease the health care burden in certain states. Through this and similar discussions, state leaders became more adept at influencing decisions at the national level. Today, they are gradually being accorded a stronger voice in the national debate. In recent months, state leaders have been called in to help determine major changes in national education policy and welfare reform legislation.

Another element in recent state success is the so-called information revolution. On the one hand, the explosion in electronic technology made it easier for constituencies to communicate their wants and needs to representatives in state capitals. On the other hand, increased access to data of all kinds gave state officials what they needed to address citizen concerns better and faster. No longer is information held on a proprietary basis exclusively by national governments or independent interest groups. No longer do decision-makers have to go to Washington to get the briefings and statistics they need for effective program management. The data is available to state (and local) officials in their home offices through high-tech sources that place a premium on speed and ease of access. State officials can tap into these resources and craft specific proposals to meet local needs.

Finally, state officials are doing more and doing it better because they have enhanced their own skills when it comes to policy development and implementation. The growing complexity of the world in general has forced officials at all levels to new heights of sophistication. Today, state governments can tap into expertise and institutional resources that weren't available a decade ago. Drawing from research institutes, universities, government contractors and their own extensive staff, states can bring knowledge and skills to bear on a vast number of public policy issues. At the same time, with the general increase in mobility in our society, the job market for qualified researchers and managers in public policy has become national, if not international. And states have begun to realize that they must compete not only with each other but with the private sector to secure the human resources necessary for the business of governing.

Fiscal Strength

The most significant element in the current positive state of the American states and American island commonwealths is fiscal stability. For the most part, constitutional mandates have forced states to make the necessary adjustments to ride out the latest recession. Severe cuts left many government programs wounded in the late 1980s and early 1990s, but the enforced frugality served the states well in the subsequent economic spurt. Today, revenues are running higher than estimated and many states are enjoying a rare opportunity to accomplish all three things that voters constantly ask for: increased spending on programs, heftier budget surpluses and lower taxes.

The fiscal status of the states on the eve of the millennium is a marked contrast to the situation 8-10 years ago, when states were laying off tens of thousands of workers and struggling to meet budget shortfalls in the billions of dollars. In 1991, California alone faced a shortfall of $14 billion. That summer, New York Gov.

Mario Cuomo laid off 5,700 workers and launched a campaign to trim the state payroll by an additional 13,000 jobs. During these difficult times, state welfare rolls were increasing, revenues were lagging and federal mandates were placing additional burdens on state coffers.

The extent of the turnaround in the ensuing years is remarkable. State revenues ran 2.7 percent above estimates in fiscal 1997 and 3.9 percent above estimates in fiscal 1998. A majority of states have taken advantage of this windfall by rolling back taxes. In fiscal 1998, 31 states gave their citizens breaks on fees or taxes. The most common option was a reduction in automobile excise taxes or registration fees. At the same time, the 50 states and Puerto Rico combined to increase year-end balances to their highest level since 1980. In many states, surpluses exceed 10 percent of annual expenditures. Combined, states now have ending balances of about $12.5 billion, or nearly five percent of annual expenditures, creating a good cushion for the somewhat less vigorous economic growth expected around the turn of the century.[2]

Cautious budget and program management continues to be the trend. Despite the surpluses, states are reluctant to increase payrolls. In fact, total state employment remained relatively flat in fiscal 1997 and 1998, with 15 states actually reducing the number of employees. While total state spending continues to increase by about 5 percent annually, this represents actual annual growth adjusted for inflation of about 2 percent. Areas toward which states are applying additional revenues include aid to local governments, early education programs and increased compensation and benefits for employees. States are making adjustments to other mainstream programs, but the emphasis is generally on changes to increase efficiency rather than expansion of services.

Unfortunately, the dramatic improvements in the general economy and fiscal soundness of state governments are not universal. There are still jurisdictions struggling to shake off the effects of recession, military base closings or fluctuations in international markets. In Hawaii, unemployment has reached an all-time high. In Alaska, a glutted oil market has had a serious impact on the state economy. And in pockets of some Northeastern states, structural changes in manufacturing continue to create difficulties. But even these hard-hit areas are beginning to see light at the end of what once seemed a very dark fiscal tunnel.

The Age of Devolution

One of the most significant catchwords in government circles during the 1990s has been “devolution,” the practice of turning over the development, implementation and management of government programs to state and local governments. This is not just an American phenomenon, but a global one. Particularly in the developed and industrialized nations, subnational and constituent jurisdictions have developed their organizational infrastructure and expertise to the extent that they now can act as full partners with national governments. And throughout the world, there is a growing recognition of the varied needs of regions and localities as well as the advantages of having decisions made by officials who are closest to the problem. In the European Union, where the comparable term “subsidiarity” is more in vogue, greater autonomy is being granted regional and municipal governments. In Japan and Korea, where strong central control has been the hallmark, regional and local governments, through “decentralization” initiatives, have recently been given autonomous taxing authority. And in the federal republic of Germany, the constituent länder are given primary responsibility for most domestic issues.

Over the past decade in the United States, we have witnessed increased state-federal interaction. The relationship between federal officials and state leaders has been cordial at times, adversarial at others. But through the decade, both sides have come to a new understanding of how different levels of government can work together. The decade began with a hue and cry from state officials about the unfunded mandates that were being loaded onto already strained state budgets. At times, the states went to the courts to seek redress. Suits initiated by Florida, California and others in 1993 sought to recoup costs incurred by states in providing services, primarily health care and education for undocumented aliens. Similarly, a year earlier, several states went to court to prevent the federal government from forcing states to provide repositories for low-level radioactive waste. Supreme Court Justice Sandra Day O'Conner wrote the opinion for the majority in the radioactive waste case, New York v. U.S., asserting that "state governments are neither regional offices nor administrative agencies of the federal government." But a federal appeals court dismissed the Florida suit on the grounds that it involved a political dispute between the states and the federal government and was therefore not subject to judicial review.

The administration of President Clinton, a former Arkansas governor, and the Republican dominated Congress first elected in 1992 seem to have taken some of the criticism to heart. Under President Clinton's directive, federal officials eased the process through which states can get waivers to implement new ideas in health care and welfare programs. And under the leadership of Sen. Dirk Kempthorne of Idaho and Sen. John Glenn of Ohio, Congress in 1996 finally passed the Unfunded Mandates Bill that set new standards for dealing with the programmatic and fiscal transactions between the federal and state governments.

The combination of budget surpluses, added political influence and increased autonomy have left states in a rare and enviable position. As William Pound, executive director of the National Conference of State Legislatures recently remarked, "States generally have much greater flexibility in shaping economic and social policy than they've had for quite some time."[3]

Welfare Reform: Devolution in Practice. Perhaps no other issue typifies the new relationship between the federal and state governments as welfare reform. The reform act adopted by Congress in 1996 established a radically new approach to dealing with the nation's welfare recipients. Through the Temporary Aid to Needy Families (TANF) block grants, states have considerable leeway to devise programs that meet specific state needs.

In many ways, the changes were long in coming. Saddled with burgeoning welfare rolls and diminishing funds during the lean years of 1988-92, many states campaigned for fundamental changes in the welfare law. Early advocates of reform included Michigan's Gov. John Engler and the minority leader of the New Jersey house, Wayne Bryant. But state adjustments to the system remained piecemeal until the block grant measure was enacted by Congress.

Early results of the new system have been remarkable, thanks in part to a healthy national economy. Just 18 months after implementation of the TANF program, welfare caseloads have been reduced by 27 percent nationally. In Indiana, for instance, caseloads have fallen by half. Other states in the South, Midwest and West have experienced similar declines. The new federal law, however, requires that states continue to spend at a certain level compared with the baseline years 1992-95. With fewer people to take care of, there is more money to go around. In fact, in its initial year, TANF funding was seven percent higher than the federal programs it replaced. Consequently, states are able to increase benefits for recipient families, expand services and at the same time establish reserve accounts to meet future needs. States are also allowed to shift up to 10 percent of TANF funds to other social services, an option some have already implemented and many others are considering. If caseload levels remain at their current low levels, states may be able to bolster child care, job training, housing subsidies or substance abuse treatment programs without increasing state appropriations.[4]

The real test of the block grant system may come in the new century, if and when the national economy stumbles and welfare rolls increase once more. Having argued for greater autonomy, state leaders will find it difficult to extract increased support from the federal government once welfare budgets get tight again. Critics of the legislation argue that the accountability and documentation requirements place a tremendous burden on state officials even though there is considerable flexibility on the programmatic side. And some analysts are concerned that the new state-managed system is generating a class of working poor and shifting their problems to other program areas. They argue that making the poor work at low wage jobs will only lead to a need for increased spending on public housing, education (especially early education), health care and transportation.

The federal law also contains provisions limiting TANF benefits to non-citizens. To date, most states with large immigrant populations continue to maintain levels of support to these families. However, as the phase-in period comes to an end, states may be faced with the challenge of providing assistance to sizeable immigrant populations without federal support.

Another consequence of the welfare block grant reform is that states have begun to revamp their assistance delivery systems. One method being tested is additional "in-state devolution," as states establish partnerships with cities and counties and set up local offices to coordinate all public social services. In Minnesota, for instance, where block grants for social services have been provided to localities since the 1970s, additional measures are being considered to move greater responsibility for children's services to cities and counties.[5]

The Tobacco Trials. Another development that will have an enormous impact on the evolution of federal-state relations is the effort to reach agreement with American cigarette manufacturers on regulation of tobacco products. A consortium of 40 state attorneys-general made history when they reached agreement with tobacco companies in 1997 on a $368.5 billion proposed settlement. The deal was remarkable in a number of ways. It constituted the most restrictive set of regulations ever imposed on an industry and its total reimbursement value was greater than any settlement in American legal history.

Of equal importance is the fact that the deal emanated from suits brought by state officials to recoup health care costs caused by smoking. It represents one of the most significant steps ever taken by states to deal with a major national public policy issue. And it marks one of the first instances in the modern era in which officials from the American states were placed in a position to negotiate matters that will have broad-ranging consequences for federal regulatory agencies. The accord would give tobacco companies some protection from future civil lawsuits, including a cap on legal payouts, a ban on class-action suits and immunity from punitive damages in future suits. In exchange, the pact would require the industry to restrict advertising and make a series of substantial payments to government entities.

As of this writing, several aspects of the tobacco negotiations remain uncertain. Through the winter of 1997-98, Congress continued to debate whether the deal punishes tobacco companies enough for knowingly damaging public health, whether restrictions on future suits against the tobacco companies is unfair to individuals who have suffered from smoking-related illnesses and whether the proposed agreement sufficiently addresses the impact on tobacco farmers. Also subject to controversy is how the monies that tobacco companies have promised to pay will be distributed. In testimony before Congress, state officials have argued adamantly that the bulk of compensation should go directly to the states, which initiated the suit.

Problems and Priorities: A Children's Crusade

A notable portion of current activity at the state level is directed at preserving viable opportunities for future generations. As a follow-up to changes in the welfare system and in response to new research on the importance of early child development, states are going through an intensive review of programs for children during the first few years of life.

Particular attention is being paid to the needs of two-income families. With both parents in the work force, often at low paying jobs, many families find it difficult, if not impossible, to find affordable child care. States are trying to address this need in a variety of ways. To begin with, a dozen or more states are extending child care support to low income families beyond current federal requirements. Utah has established "crisis nurseries" that provide around the clock service to families undergoing difficult transitions or hit by a health crisis. Other states are putting the squeeze on private corporations to establish child care centers for their employees or to help finance public child care centers within the community.

The quality of child care is also a major concern. Most states monitor facilities for threats to health and safety, but there are few regulations on skills or educational background for the employees. Care providers earn an average of only $11,000 per year and turnover in the industry runs 41 percent annually.[6] Some states are offering special training in children's needs at various age levels. Others are earmarking funds specifically for the expansion of care for infants and toddlers. Still others are expanding their Early Start programs to include extended training to first-time mothers. While states are reluctant to establish stricter criteria for child care operations for fear of driving costs out of the reach of low income families, quality improvement remains a priority. In New Mexico, officials are trying an innovative program that will increase reimbursement to child care facilities that achieve higher levels of quality and performance.

Another approach being tested by some states is the establishment of comprehensive support programs for parents. By linking health, day care, pre-school and parental education initiatives, states such as Delaware and Vermont hope to get the most out of their programs and achieve the highest possible levels of pre-school child development.

Finally, states are bolstering children's health programs. Recent amendments to Title XXI of the Social Security Act has freed up considerable federal funding for expanded health insurance for children and the Americans with Disabilities Act has allowed states to significantly increase services for disabled youngsters. These programs, combined with state initiatives merging home health services and parental education, greatly improve the states' ability to ensure that younger citizens are receiving appropriate medical attention.

Back to Education Basics. As part of the general effort to improve the lives of the nation's children, states continue to invest in education. Across the country, states are expanding pre-school options, after school programs, career planning services and college scholarship programs. Also, a number of states have initiated "back to basics" campaigns to enhance the quality of K-12 education. A major component of these efforts is statewide testing of students at the elementary, junior high and high school levels. And state education officials are seeking to eliminate the practice of "social promotion," advancing students who are not ready academically so as not to stunt their social development. In recent addresses to legislatures, several governors took direct aim at this practice, arguing that it sends an extremely harmful message to our youngest citizens.[7]

Figure 1
OTHER STATE POLICY PRIORITIES:

Health Care — Refinement of state regulations on managed care providers to ensure client options and enhance quality. Increased privatization of mental health services.

Environment — Intensified consideration of new EPA air standards for ozone and particulate matter, including extension of California standards to other areas. Likely to include discussions of market systems for pollution quotas.[8] Establishing ecoshed management techniques.

Transportation — States continue to rebuild aging transportation infrastructure. Emphasis on regional planning, connector highways and transportation corridor refinements as envisaged in federal ISTEA legislation. Public transit improvements in major metropolitan areas.

Workers Compensation — Restructured workers compensation systems, setting payout limits and streamlining claims and reimbursement procedures.

Corrections — From 1990-95, states spent $15 billion to add 400,000 beds to state prisons, greatly alleviating overcrowding. Now, states face the problem of crowded city and county jails. A priority in coming years will be to help local communities renew their corrections facilities.[9]

Public Safety — Continued interest in community policing and drug interdiction techniques.

The Productivity Agenda

Throughout the history of our country, states have actively dealt with matters of commerce and employment within their jurisdictions. However, as the new millennium approaches, demands on the states to ensure economic prosperity are escalating. Partly by design and partly by default, the federal government has ceded a central role in the economic development arena to states and localities. While officials in Washington, D.C., continue to manage the macroeconomic affairs of the nation, more and more it is state and local officials who deal with the nuts and bolts of job creation and plant siting.

Today, states have a multitude of tools at their disposal to bolster local economies. Using incentive packages, economic empowerment zones, job training programs and infrastructure enhancements, states can attract prospective employers and employees. But subtle changes are taking place. The vigorous smokestack chasing of the 1970s and 80s, marked by intense competition between states and extravagant tax incentives, seems to have lost a great deal of its appeal. States have begun to look more closely at the social, environmental and infrastructure costs involved with major industrial expansion. And they have become aware of the extensive role small and medium-sized businesses play in sustaining economic health.

As a result, states are refining their economic development strategies, reducing the tax and regulatory burden on all businesses, and looking to build a more diversified economic base. At the same time, they are becoming more sensitive to the types of employment opportunities available to workers. The fastest growing sectors in the national economy include both low paying service industries and high paying technology industries. In an attempt to tap into the higher end of this development, states are establishing corporate office and research parks aimed at luring rapidly growing high-tech companies. Competition for this "silicone sector" is becoming as intense as the battle for automobile manufacturing factories once was.

State leaders have also recognized that the availability of a well educated work force is critical to getting and keeping high-tech jobs. Consequently, improvements to the education system have become an important element in the long-term economic development strategy of many states. In Kentucky, for instance, a higher education reform package enacted in 1998 will lead to greater coordination between the traditional college and university system and technical education institutions across the state. These reforms are expected to enhance the state's ability to provide job training opportunities geared to specific industrial needs in the future.

Another area in which states are taking an increasingly active role is international trade. The importance of global ties can scarcely be overestimated. Sales abroad of American goods and services account for more than 10 percent of our gross domestic product. Imports and exports combined total almost one-third of our domestic product, and more than 12 million American jobs are directly dependent on international trade.

Today, 38 states operate some form of overseas office, including posts in such exotic venues as Kuala Lumpur and Harare. On average, each American state spends almost $1.5 million on trade promotion efforts, including trade missions, product fairs, export loan services, port tax credit programs, tax exempt export companies, shared foreign sales corporations, translation services, trade newsletters and export procedures training.[10]

A recent trend in this field has been the establishment of public/private non-profit corporations to coordinate international trade activities. The Empire State Development Corporation and Enterprise Florida are examples of such initiatives. However, most states continue to fund specific agencies, usually within the economic development cabinet, whose role is to promote international trade and assist companies entering the global market.

An important challenge facing the states with respect to international trade is educating the public about the need for direct contact with businesses and investors abroad. Governors and other state officials are often reluctant to embark on trade missions or other visits to foreign capitals for fear that the trips be portrayed by local media as wasteful junkets. Yet support and involvement from leadership at the highest levels is critical to a successful international trade and investment promotion effort. In the coming years, state officials must find ways to revitalize communication links with the media and the general public and to lay out the benefits of active involvement in the global economy.

Conclusion: Trends for the Future

The relatively strong health of the American states at the close of the 20th Century can be attributed in part to sound decision-making, in part to good fortune. A strong national economy coming on the heels of substantial belt-tightening at the state level has created agencies and programs that are efficient and for the most part adequate to their mission. In almost every policy area, states have greater flexibility and greater incentive to test innovative ideas than at any time in the post-World War II era.

The state officials who are faced with this enviable situation represent in some ways a new generation. The term limits enacted in a majority of states have led to the retirement of many experienced legislators and executive officials. At the same time, the rigors of campaigning and political fund-raising have led others to retire from public life. As a result, state capitols and many state agencies are filled with a younger set of officials. Some analysts argue that the current focus on family and children's issues is a direct result of this generational shift.

There are indications that the new generation of leaders is more representative of the population as a whole. After a period of stagnation, the number of women legislators is once again rising, comprising 27 percent of the total membership in state legislative chambers.[11] Minority representation is also on the upswing.

In terms of organizational structure, the picture is fairly constant. Given the fiscal constraints imposed during the past decade, there is little room for experimentation. To the contrary, states continue to eliminate some agencies or departments and to merge others as cost-saving or downsizing initiatives. The mergers most often involve agencies in health and human services or in labor and job training. There is also a trend toward a more comprehensive approach to juvenile justice.

Perhaps the most prevalent development in the structure of state governments is toward performance-based or outcome-based budgeting. A number of states are moving in this direction, either through statewide implementation of a performance budgeting system or through a specific emphasis on outcomes during budget deliberations.[12]

All of these factors should ultimately increase the ability of states to deal with future problems and emerging issues. The combination of broadened institutional experience and relative fiscal prosperity places the states as a strong partner in the American governance system. But the good times can evaporate as rapidly as they appeared. Unless the states move in partnership with the federal government now when the resources are available to address some of the endemic and structural problems that exist in our society, such as the growing disparity between the poor and wealthy, the shrinking middle class, the disconnect between education, skills and job opportunities, the overdependence on fossil fuels or the specter of a bankrupt social security system, all may have been for naught. The newly discovered vitality at the state level could deteriorate rapidly in the face of even a minimal economic downturn. And the prospect of significant action at the federal level remains as dim as ever.

State leaders have worked hard to get their governments where they are. But the eve of the new millennium is no time to lose vigilance. There will be golden opportunities ahead to further improve conditions in the American states. State leaders should remain prepared to take advantage of them.

Endnotes

[1]. For a discussion of the governor's plan and the negotiations that led to it, see *State Government News*, March 1996, pp. 6-7 and 30-31.

[2]. See *The Fiscal Survey of States*, National Governors Association and National Association of State Budget Officers, December 1997.

[3]. "*NCSL Inside*," March 1998, p. 1.

[4]. Tweedle, Jack, "Welfare Spending: More for Less," *State Legislatures*, March 1998, pp. 12-18. See also State Reports issued by the Urban Institute as part of its *Assessing the New Federalism* initiative. And Mennin, Gorden and C. Eugene Stuerle, "The Impact of TANF on State Budgets," No. 18 in the series *New Federalism: Issues and Options for States*, The Urban Institute, 1997.

[5]. Burt, Martha R., et. al., "Income Support and Social Services for Low-Income People in Minnesota, " The Urban Institute, 1997.

[6]. Statistics provided by Sharon Lynn Kagan, senior associate at the Yale University Bush Center in Child Development and Social Policy, in a presentation to the National Governor's Association annual winter meeting, Washington, D.C., Feb. 23, 1998.

[7]. See Moyes, Howard, "Let the Good Times Roll," *State Government News*, March 1998, pp. 13-14, 35-36.

[8]. Dale, Jeff, "New National Air Standards for Particulate Matter and Ozone, *NCSL State Legislative Report*, March 1998, Vol. 23, No. 6.

[9]. Freyman, Russ, "Jails in a Jam," *Governing*, March 1998, pp. 30-31.

[10]. Ryen, Dag and Susan W. Zelle, *The ABCs of World Trade*, The Council of State Governments, 1997.

[11]. Center for the American Woman and Politics, Rutgers University.

[12]. See *The Fiscal Survey of States*, op.cit., p. 17.