APRIL 2011

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INSIDE ALEC

A PUBLICATION OF THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL

SPECIAL ISSUE
TAX & FISCAL POLICY

GUIDELINES FOR SMART BUDGET REFORM

BY GOV. MITCH DANIELS

MANY REASONS. ONE SOLUTION.

ACROSS

1. America's home grown fuel.

2. Cleanest fuel the earth produces.

3. Blue flame = burns _______.

4. An important part of America's energy future.

5. Number of carbon atoms in the natural gas molecule.

6. The Natural Gas industry is responsible for nearly 3 million American _______.

DOWN

1. 86% of the natural gas we use is _______.

2. Natural fuel with double the use, but the same emissions since 1970.

3. The clean fuel for America's future.

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5. America depends on natural gas because it's _______.

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State Budget Reform Toolkit Bills in Oregon

An in-depth look at the state's budget reform

BY Representative Gene Whisnant

Oregon State Capitol

The Oregon 76th Legislative Session is a history of firsts. This is the first session with a third-term governor, the first session after the voters approved annual sessions, and also the first session with the House equally divided 30-30. As a result, this may be the session to pass model legislation from ALEC's *State Budget Reform Toolkit* to reform Oregon's budget.

To gain momentum on budget reform, I hosted a briefing on the *Toolkit*. Jonathan Williams, Tax and Fiscal Policy Task Force Director, and Bob Williams, Task Force Private Sector Chair, worked with 50 legislators, staff, and business leaders on priority-based budgeting. I received an overwhelming response from my colleagues in senior leadership positions. House Co-Speakers; Bruce Hanna (R-Roseburg) and Arnie Roblan (D-Coos Bay) participated in the session. Additionally, Joint Ways & Means House co-chairs Dennis Richardson (R-Central Point) and Peter Buckley (D-Ashland) also attended. This successful briefing equipped our legislators with ALEC resources on fiscal solutions.

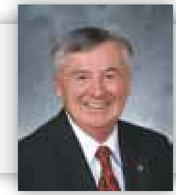
Additionally, I introduced *Toolkit* model legislation to reform Oregon's budget. I addressed agency performance (HB 3360), economic forecasting (HB 3486), revenue certification (HJR 41), and privatization (HB 3488). By addressing these four key areas, I am optimistic that these bills will promote a better budget process. Each of these bills will also improve Oregon government, which will result in less government costs and more funding for education, public safety, and other essential state services.

To improve agency performance, positions vacant for more then six months should be eliminated. Many agencies may have positions which they never fill. This does not indicate a true personnel requirement to perform their missions for the citizens. As a result, taxpayers suffer. Furthermore, some state agencies may use these vacant positions for operational costs and to satisfy reductions. HB 3360 eliminates positions vacant for more then six months, enabling Oregon to have an accurate budget.

A responsible budget should also have accurate forecasting and revenue certification. To provide more realistic expenditures for the budget, HJR 41 would require the State Treasurer to certify estimated revenues. Furthermore, HB 3486 promotes accurate economic forecasting by creating a committee to prepare the forecast. Oregon's track record with economic forecasting has room for improvement. For example, Rep. Dennis Richardson reported that the 2011-13 current budget forecast is $13.77 billion, but in May 2007, the revenue forecast for 2011-13 estimated $17.7 billion (a $4 billion revenue forecast decline). According to Rep. Richardson, every Quarterly Revenue Forecast for the past three years has predicted a rapid and substantial recovery; each forecast was consistently optimistic and each was consistently wrong. HJR 41 and HB 3486 will help lawmakers develop a realistic budget.

Lastly, private-public partnerships is a key component for smart budget reform in Oregon. Rep. Mark Johnson (R-Hood River) is leading our effort with Rep. Andy Olson (R-Albany) and Rep. Patrick Sheehan (R- Clackamas) on our public contracting bill (HB 3488) which has gained the interest of the education community and local governments because they also need to find efficiencies in this economic environment. Further, HB 3488 may offer the state, local governments, and school districts the possibly to be more efficient with less revenue.

It is proven that Oregon can pass responsible legislation based upon ALEC's Jeffersonian principles; therefore, this session may provide a real opportunity to pass some of the ALEC State Budget Reform "Toolkit" model legislation to help Oregonians.



Representative Gene Whisnant serves as ALEC's Public Sector Chair for Oregon.

The Power in State Budget Reform

U.S. Rep. Tom Graves was elected to Congress in June 2010 after serving seven and a half years in the Georgia General Assembly. He represents Georgia's 9th Congressional District which touches the northern suburbs of metro Atlanta to the northwest corner bordering Alabama and Tennessee. As a state legislator he served on ALEC's Tax & Fiscal Policy Task Force and was named 2009 Legislator of the Year.

BY U.S. Representative Tom Graves (GA-9)

When new federal funding enters a state, it oftentimes takes on the role of a narcotic. It creates an addiction and numbs the senses. States buried in debt take federal cash, hire more workers and take on projects they already cannot afford. Some public sector jobs are saved and more job openings are advertised, but it's all under a false premise. When it comes time to pass another budget, states face the same budget shortfall, only this time the deficit is worse and more jobs are on the line. States have to call on Congress for help, and in doing so, enter a cycle of dependency on their enablers in Washington.

Like a drug dealer keeping its customers on a leash, the federal government has seized the tough economic conditions as an opportunity to dole out even more addiction-feeding paydays to burned-out state budgets. By taking the cash, states actually sacrifice sovereignty and award more control to the federal government.

A small example of this process occurred last year when President Obama signed into law H.R. 1586, the State Bailout bill. Costing $26.1 billion, the bill was a lump sum reward for states that had lived well beyond their means for years. To be sure, the bailout was not a goodwill attempt to rehabilitate state budgets and get them out of the red—$10 billion of the law was marked for an "Education Jobs Fund" that forced takers of the federal cash to spend the money on current or new jobs, but barred them from devoting any funds to cost or debt reduction. That's the insanity of addiction: in order to get the education "bailout," a state was required to maintain or increase the very unsustainable spending levels that caused the need for a bailout in the first place.

Federal complicity in states' deficit spending reminds me of the old saying "misery loves company." Just this February, the federal government set some ugly new records when it posted the largest monthly deficit in history at $223 billion, and clocked in its 29th consecutive month with a deficit. So when Washington demands that states maintain deficits in order to get funding, it comes as no surprise.

There is, however, good news in between the dismal financial headlines these days. The tough economy, massive federal and state deficits, and $14 trillion national debt have spurred a real climate change on spending. One could call it the great rehabilitation of the states.

The nation has been transfixed for months by gutsy state government leaders who have cast aside traditional politics in favor of charting a path to financial solvency. A growing chorus of governors and state legislators from Wisconsin to Texas are pushing some tough-love spending policies and rejecting federal money for various projects. They've made a stand against the status quo knowing the alternative means a disastrous, California-style awakening, complete with diminished services, rain checks instead of paychecks, and the certainty of painful tax hikes. It seems that the politics of the next generation are finally starting to take precedence over the politics of the next election.

Look how Governor Rick Scott of Florida recently rejected federal money for high speed rail. He took harsh criticism from both sides of the aisle and his decision was even challenged in Florida's Supreme Court. Undeterred, Governor Scott won the case, and stood by his argument that Florida's taxpayers shouldn't be stuck with a massive tab for a risky program that was projected to require steep public subsidies.

In the same vein, numerous states have ended business as usual with efforts to control spending by cutting programs and remodeling state employee benefits packages. Sacred cows are becoming extinct as lawmakers discard conventional politics for the sake of long-term economic stability. Despite the short-term upheaval, both state and federal taxpayers will reap the benefits from these displays of honest governance.

So, whether its blocking federal projects from busting their budgets or tackling spending reform in lieu of a bailout, states are leading the way toward a new era of responsible financial management in America. It has become contagious, creating a nation-wide movement toward debt control. Federal spending will be reduced, and actually has a better chance of being reformed, because of the proactive leadership at the state level—a striking contrast to the absence of meaningful action in Washington.

In fact, after years of unprecedented government expansion, state power is making a comeback. We are seeing sovereignty in action as states say "no" to Washington and take the lead on spending reform. As state assemblies firm up their financial footing, they'll have an increasing amount of leverage over their counterparts in the Beltway. The state budget rehab program is working, and it's key to America's recovery from spending addiction.

Congress Needs to Provide States Medicaid Flexibility

BY Congresswoman Cathy McMorris Rodgers and Jason Mercier

When President Obama signed the unpopular *Patient Protection and Affordable Care Act* last year, he made many promises, including that the law would increase healthcare access and lower costs. As states begin the process of devising their annual budgets, it's more clear than ever that those promises aren't being kept - especially in our home state of Washington.

Washington state officials last year debated opting-out of the federal Medicaid program so they could preserve flexibility in providing healthcare services to needy families. Currently Washington faces a projected $5 billion state budget shortfall. The alternative to opting-out of Medicaid is the potential elimination of all state-only healthcare programs such as the Basic Health Plan, prescription drug coverage, and the Disability Lifeline program.

The new federal healthcare law imposes a Medicaid Maintenance of Eligibility restriction on the states that prohibits local elected officials from making reductions. This restriction, combined with looming state budget deficits, means legislators and governors are faced with the painful decision of funding state-only healthcare programs or providing matching funds for federal Medicaid dollars – they can't do both.

Already health officials in Nevada and Wyoming have drafted white papers discussing the possibility of opting-out of Medicaid to preserve more budget flexibility. Similar conversations are occurring across the country in blue states like Washington and red states like Texas. This problem transcends which party controls a state's budget and demands bi-partisan Congressional support for Medicaid reform.

Though a state actually opting-out of Medicaid remains unlikely, the fact that it is openly being discussed signifies the need for states to have more flexibility in the Medicaid program. Otherwise state healthcare spending will be limited to administering the federal Medicaid program at the expense of state-directed priorities.

While the new Republican majority in the House will not provide states another federal bailout, working with the Senate, Congress can reform the Medicaid program to provide states the discretion to make local healthcare decisions. We are working on a proposal to do just this.

Unless states are provided more flexibility over Medicaid spending they will be forced to either opt-out of the program or eliminate state-only healthcare priorities. A better strategy would be for Congress to transform the current categorically restricted Medicaid program, which is dictated by D.C. priorities, into an indexed block grant program that would allow each state to design a comprehensive state-based healthcare system that meets the unique needs and priorities of their citizens while protecting the most vulnerable.

Many states are already asking the federal government for this type of Medicaid flexibility, including legislators in Washington state. In January, State Senators Linda Evans Parlette, Joe Zarelli, Randi Becker and Minority Leader Mike Hewitt introduced SB 5596 to require the Department of Social and Health Services to request an indexed Medicaid block grant waiver to "allow the state to operate as a laboratory of innovation for bending the cost curve, preserving the safety net, and improving the management of care for low-income populations."

To help determine what indexed growth factor should be used for a Medicaid block grant program, governors and state Medicaid directors across the country should work with Congress to design a fiscal growth factor that would meet state needs. This type of reform would also help Congress with its deficit reduction efforts since Medicaid costs would be more predictable.

Congress should reform Medicaid to avoid radical disruptions to state healthcare networks. Failure to do so will result in states merely becoming passive administrators of the federal Medicaid program while state-only healthcare programs are eliminated to balance budgets. Reforming Medicaid into an indexed block grant that provides state spending flexibility will instead facilitate 50 laboratories of democracy working to identify innovative healthcare reforms to provide a meaningful safety net for the most vulnerable in our society.

Congresswoman Cathy McMorris Rodgers represents Washington's Fifth Congressional District and serves as Vice Chair of the House Republican Conference.

Jason Mercier is Director of the Center for Government Reform at the Washington Policy Center based in Seattle. He is a member of ALEC's Tax & Fiscal Policy Task Force.

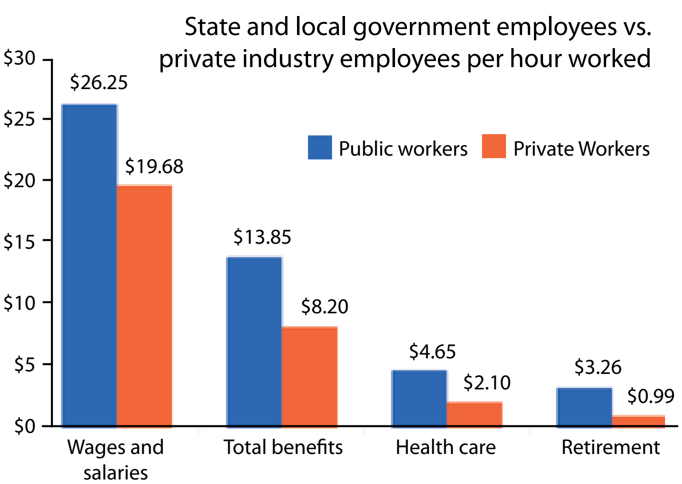
Wisconsin Exposes Deeper State Budget Crisis

BY Jonathan Williams

In the wake of the recent protests in Wisconsin and now several other states, Americans are taking a much closer look at the grim budget realities facing our states today.

Wisconsin Gov. Scott Walker correctly points out that his state's current budget trajectory is unsustainable. But he's not alone.

The financial state of the states is not encouraging. Driven by irresponsible state and local spending growth, which outpaced private-sector growth by nearly 90 percent over the past decade, current budget deficits are estimated to exceed $100 billion for the upcoming fiscal year.



Source: U.S. Bureau of Statistics, December 2010

Bad as they are, these budget gaps are overshadowed in size and scope by unfunded liabilities in state pension and health care systems for public employees, which are *trillions* of dollars in the red.

These are unsustainable cost drivers that threaten the financial solvency of the states. Without fundamental budget reform, expect the news stories discussing the possibility of state bankruptcy to continue. This is not an issue of Republican vs. Democrat or left vs. right; it is an issue of financial sustainability.

As liberal former California Speaker Willie Brown recently put it: "At some point, someone is going to have to get honest about the fact that 80 percent of the state, county and city budget deficits are due to employee costs. Either we do something about it at the ballot box, or a judge will do something about in bankruptcy court."

The problem is that most of the legislative "fixes" over the past few years for state budgets have merely kicked the can down the road—postponing or obscuring the problems, rather than solving them.

That has to end and, as Brown suggests, everything has be on the table, including a review of public employee pay and benefits.

Most importantly, states should consider replacing their defined-benefit plans pension plans with 401(k)-style defined-contribution plans for new employees.

According to the Bureau of Labor Statistics at the U.S. Department of Labor, state and local government employees not only earned more in wages than their private-sector counterparts, they received benefits that were 69 percent higher than those in the private sector. Of course, if states could grow money on trees, it would be grand for politicians to hand out "Cadillac" benefit plans to all workers. But in a world of limited resources, states must choose between needs and wants.

States need innovative budgeting strategies to address these new economic challenges -- without resorting to economically damaging tax increases. As ALEC's *Rich States, Poor States* study points out, tax increases come at a very high cost: the erosion of state economic competitiveness. In the words of President John F. Kennedy: "An economy constrained by high tax rates will never produce enough revenue to balance the budget, just as it will never create enough jobs."

States must move instead toward building priority-based budgets. In 2003, a bipartisan group of legislators in Washington state, along with Democratic Gov. Gary Locke, successfully implemented priority-based budgeting to eliminate a budget deficit of more than $2 billion.

To gain control of a state budget and develop priorities, the following questions should be answered:

- *What is the role of government?*
- *What are the essential services the government must provide to fulfill its purpose?*
- *How will we know if government is doing a good job?*
- *What should all of this cost?*
- *When cuts must be made, how will they be properly prioritized?*

ALEC recently released its *State Budget Reform Toolkit* to help in this effort, providing state legislators with more than 20 recommendations for modernizing state budgets, improving budget transparency, controlling costs and improving government efficiency.

By setting clear priorities and getting their public employee costs under control, states can show they are able to live within their means, just like taxpayers do.

Despite the economic difficulties facing the states, there is a pathway to budget reform and financial sustainability. **Visit www.alec.org/toolkit to view a copy of the State Budget Reform Toolkit.**

Jonathan Williams is the Director of ALEC's Tax and Fiscal Policy Task Force.

Reject State Bailouts to Foster Job Growth and Strong Economies

BY Bob Williams

Recently, President Obama in his budget proposed a job-killing plan that includes another round of bailouts for the states. Under the proposal, the administration would impose a moratorium in 2011 and 2012 on state unemployment insurance (UI) tax increases and on state interest payments to the federal government. States would be forced to borrow more from the federal government to pay for unemployment insurance. Furthermore, in 2014, the administration would more than double the taxable income for unemployment insurance from $7,000 to $15,000. This would be a devastating private sector job killer.

Currently, 30 of the 50 states have racked up a $42 billion unemployment insurance debt to the federal government. This debt has already triggered automatic tax increases for employers in Indiana; Michigan and South Carolina. More than 20 other states will likely have to raise their rates to cover their unemployment insurance loans from the federal government. Texas took a creative approach and borrowed $2 billion to pay off their loan at a lower interest rate. The interest on the bonds will be backed by a tax on employers and will cost less than the interest to the federal government. Clearly, federal bailouts do not promote fiscal health for the states.

STATE	OUTSTANDING ADVANCE BALANCE	INTEREST OWED SINCE JANUARY 1, 2011
California	$10,421,097,105.41	$89,205,208.98
Michigan	3,930,585,784.62	33,837,851.45
New York	3,645,300,904.93	30,149,642.40
Pennsylvania	3,526,944,382.11	29,255,067.85
Illinois	2,846,293,336.10	23,379,273.89
North Carolina	2,689,802,772.74	23,196,901.57
Ohio	2,513,467,131.00	21,268,268.53
Florida	2,183,400,000.00	18,552,807.79
Indiana	2,146,366,729.81	18,338,327.32
New Jersey	1,916,827,696.46	15,470,340.12
Wisconsin	1,631,126,830.15	13,435,211.86
South Carolina	964,142,797.49	8,311,289.00
Kentucky	916,700,000.00	7,696,866.91
Missouri	838,876,399.48	7,017,777.16
Minnesota	691,132,315.94	5,400,959.23

Source: U.S. Department of the Treasury, Bureau of the Public Debt, March 2011

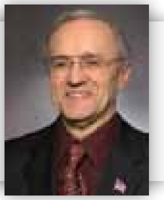
Past federal bailouts for the states have only worsened their economic woes. They are already suffering from the last round of federal bailouts which delayed the needed downsizing of state governments and left them with a higher spending level (due to the federal funds); less revenue (when the federal funds expired) and a requirement to not cut funds (federal maintenance of effort).

Bailouts have also sent a clear message that states don't have to be responsible for their-out-of-control spending. Why should the taxpayers be forced to rescue the states? In addition to encouraging fiscally irresponsible habits, the federal bailouts have decreased state sovereignty and rewarded the most fiscally irresponsible states with undeserved funds at the expense of fiscally responsible states. It is time for all states to consider new fiscal reforms.

Instead of a federal bailout, states need to create a business climate that encourages the development of private sector jobs. The best aid for an unemployed person is a "paycheck," not an unemployment check. States can create jobs by taking action now to reform state spending and discontinue low-priority programs. Legislators can also cut taxes to spur job growth.

Furthermore, Congress should replace the unemployment insurance system with personal employment accounts that are individually owned, totally portable and benefit workers even if they are never involuntarily unemployed. Under such a system (similar to Chile's) a portion of the payroll taxes paid would be put into investment accounts that workers own and control. Workers could withdraw funds from their accounts during periods of unemployment, and any unused funds would add to their retirement accounts. Such a system provides incentives to minimize unemployment unlike our current use-it-or-lose-it system. Any unused funds in the workers account becomes their own money.

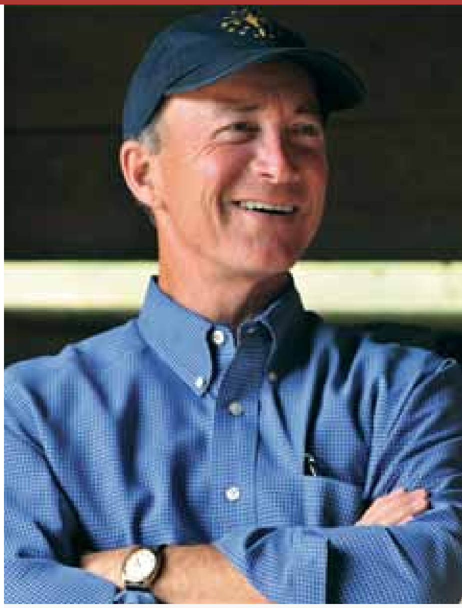
By rejecting state bailouts and creating an economic climate to foster job growth, states can strengthen their economies.



Bob Williams is founder and senior fellow of The Freedom Foundation, and also serves as Private Sector Chair of ALEC's Tax and Fiscal Policy Task Force.

Guidelines for Smart Budget Reform

BY Governor Mitch Daniels



Indiana Governor Mitch Daniels was elected to his second term in November 2008. He has also served as Senior Advisor to President Ronald Reagan and Director of the Office of Management and Budget under President George W. Bush.

Here in Indiana, like almost everywhere, it's budget season.

When this time of the year arrives, we have one priority: passing a genuinely balanced budget that tightly controls spending and protects taxpayers.

There is plenty of room for differing ideas about specifics, but I have laid down four simple standards that any final budget must meet:

- First, no tax increases.
- Second, we must stay in the black at all times, with positive reserves.
- Third, the budget must come into structural balance, meaning that annual revenues exceed annual spending needs.
- Forth, no gimmicks. When we arrived, we put an end to practices like raiding teacher pension funds and shifting state deficits to cities, schools and universities by delaying payments of funds appropriated to them, and we won't accept any return to them.

Using these as our operating assumptions since our arrival in 2005, we produced Indiana's tightest budget in 55 years, paid down our debt by 40 percent, earned the first AAA credit rating in our history, rebuilt our reserves, and put the state in far better shape to ride out the recent recession than most of our sister states, including the 40-plus who were forced to raise taxes. Along the way, we reduced business taxes and cut Indiana's property taxes to the lowest level in America in the biggest tax cut in state history.

This year we are working on a budget that will again meet these four tests. But while our neighbors remain on the defensive by raising taxes and slashing services, we are pressing forward with innovative improvements to Indiana's already thriving business climate, now consistently rated one of the top five or ten in the country.

One such enhancement will be an across the board reduction in our state's corporate tax rate, financed by closing a loophole that allows taxpayers to get a tax break on investments made in bonds issued by other states. According to our research, we are the only state in the U.S. (with an income tax) that allows this particular tax break. Having made the hard budget choices here, it's hardly fair that Hoosier taxpayers be asked to subsidize the profligacy of states like Illinois and California, but that's exactly what we do.

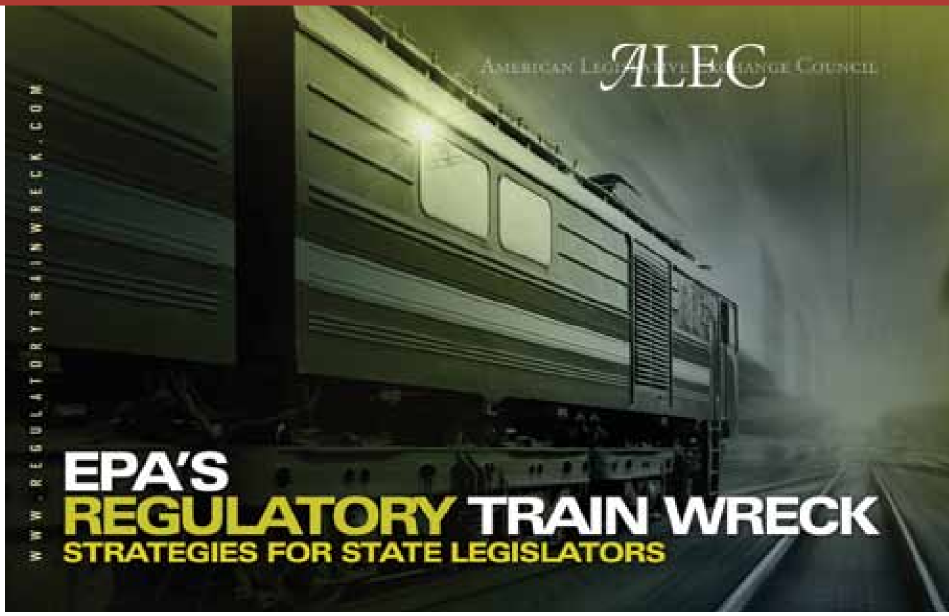
Better to repeal that loophole and use the savings to improve our business climate by lowering our corporate tax rate, which at 8.5 percent is a bit too high compared to other states. Our analysis shows that the savings generated by repealing the loophole would allow us to reduce the rate by more than 20 percent. Even better, we will redeploy taxpayer resources from subsidizing other states' borrowing to incentivizing job creation in Indiana. It's truly a win-win for Hoosier taxpayers.

Another is the institution of an automatic tax refund. After balancing the budget, repaying our debts, and building an adequate savings account, we believe there comes a point where government should stop collecting money from the taxpayers. It's far better to leave dollars in the pockets of those who earned them than to let them burn a hole, as they always do, in the pockets of politicians.

Our proposal is a simple one: government reserves should be capped at 10 percent of the upcoming year's spending, and anything in excess should automatically be refunded to taxpayers. This would honor the principle that it's the citizens' money, not the government's. And it would create a new incentive for the politicians to spend less. The less they spend, the higher the refunds.

We are open-minded about the amount of reserves needed to maintain sufficient safety and solvency. The experts we talked to suggested 10 percent, but others may say higher. The goal is to say that at some point, government has enough money to pay its bills, current and future, and the taxpayers deserve to keep their earnings beyond that level.

These innovations, coupled with our four basic budget criteria will guarantee that we keep taxes and spending low, keep our credit rating high, and protect our reserves. Maybe our example can be of some use to legislators across the country or will trigger some even better ideas.



Combating the EPA Regulatory Train Wreck

BY Clint Woods

In response to the growing morass of regulations proposed by the Environmental Protection Agency (EPA), the American Legislative Exchange Council (ALEC) released *EPA's Regulatory Train Wreck: Strategies for State Legislators*. The report serves as a toolkit for states to use in understanding and combating these regulations, which both burdens finite state resources and impedes on the states' role in our system of government.

Following the defeat of federal cap-and-trade legislation in Congress last year, EPA is attempting to implement an unwise anti-energy agenda through regulatory means. This is an unprecedented regulatory approach, with EPA proposing and finalizing nearly 200 major policy rules in areas ranging from chemicals in plastic bottles to greenhouse gas emissions. The report highlights one small subsection of this emerging regime – the Agency's attack on the use of fossil fuels, and particularly coal, for electric generation and other commercial and manufacturing processes – to illustrate the broader issues resulting from this agenda.

Despite widespread opposition from states, citizens, and businesses, EPA is pursuing the first ever requirements to reduce greenhouse gas emissions under the *Clean Air Act,* a statute never intended for that purpose. Estimates indicate that this approach will depress investment by $300 billion by 2014, reduce Gross Domestic Product by up to $500 billion, and eliminate 2.5 million jobs.

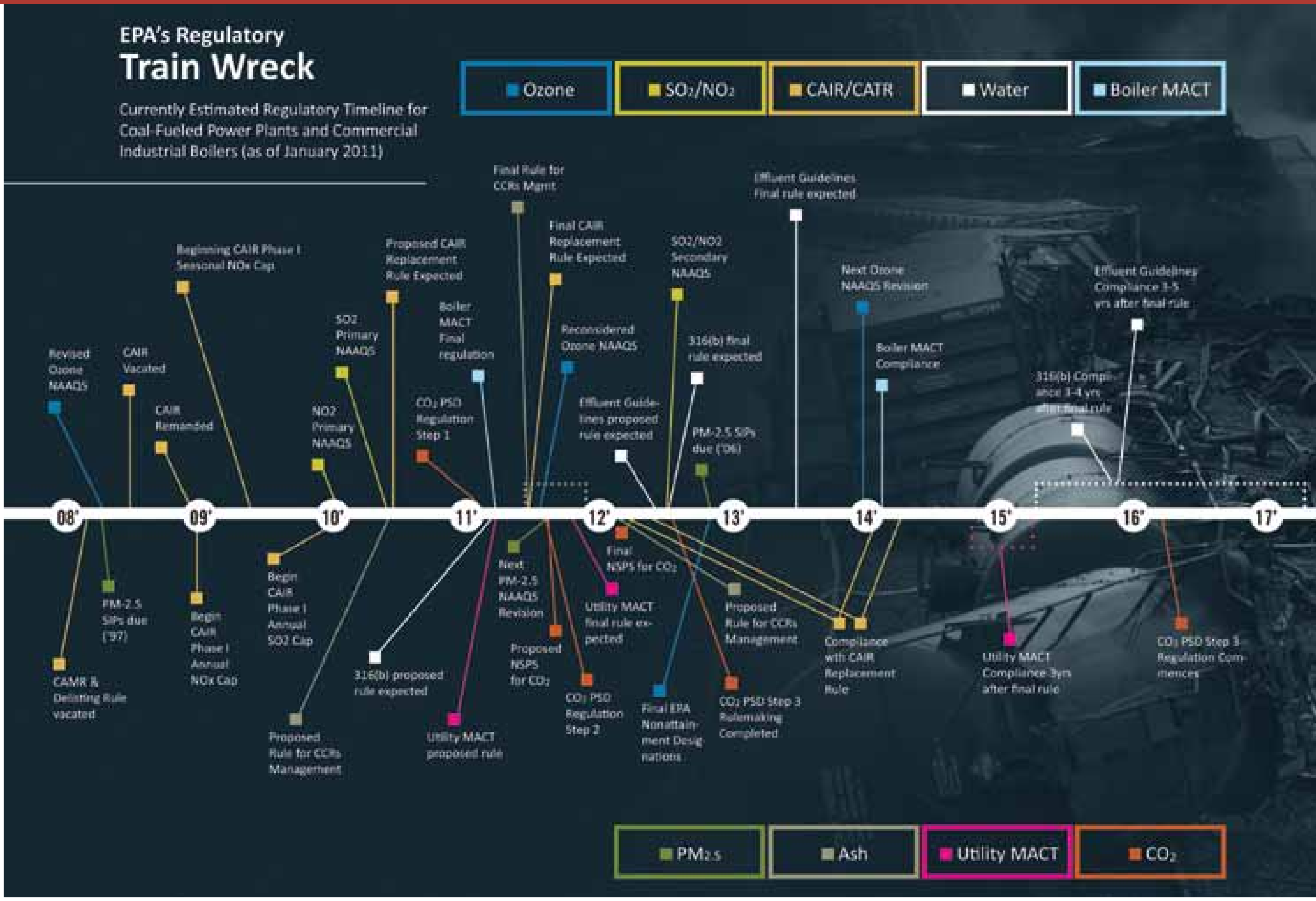
The decision by EPA to proceed with these regulations represents a brazen ignorance of democratic accountability. Prior to the failure of Congress to create a cap-and-trade program, both President Obama and EPA Administrator Lisa Jackson admitted that the *Clean Air Act* was not a proper vehicle for greenhouse gas regulation. Subsequently left with no choice and an end-justifies-the-means mentality, they have reneged on their previous interpretation to justify regulations for which they lack true legislative authority.

In addition to greenhouse gas regulation of both existing and new sources, EPA is also poised to finalize a slew of other anti-energy regulations in the near-future, including:

- Regulation of cooling water intake structures at fossil fuel and nuclear power plants under the *Clean Water Act*, which could cost each plant several hundred million dollars and threaten electric reliability.
- Recently proposed regulation of mercury and other pollutants from power plants and commercial/industrial boilers using extremely mechanisms in the *Clean Air Act.* In addition to evidence that EPA pre-ordained this expedited rule while still collecting data, even EPA admits that it will cost roughly $11 billion a year with very minimal gains on mercury exposure for the vast majority of the population.
- Regulation of sulfur dioxide and nitrogen oxides under the Clean Air Transport Rule (with compliance for utilities beginning at the start of 2012, even though EPA's rule is still being formulated). EPA is demanding an unreasonable deadline in 2012, and estimates indicate that compliance could cost over $100 billion by 2015 for the fossil fuel-fired plants that power roughly 55 million homes.
- Regulation of coal combustion residuals under the *Resource Conservation and Recovery Act*, with compliance costs of $20 billion annually.
- Tightening of all National Ambient Air Quality Standards (including those for ozone and particulate matter) under the *Clean Air Act,* which could cost over a trillion dollars and more than 7 million jobs.
- Restrictions on mining permits in Appalachia, including the first-ever revocation of a *Clean Water Act* permit in West Virginia. This move raises serious concerns for the $220 billion per year of economic activity generated by existing *Clean Water Act* permits.

Despite the fact that EPA's regulations will have a massive effect on American industry, EPA has done no credible analysis on the economic consequences of its regulations. Furthermore, state agencies, which are responsible for implementing these unwieldy EPA edicts, have rightfully complained over the massive strain on resources and timing involved in incorporating EPA mandates into state law, expressing concerns that many valued projects and permits will be disrupted.

America's clean air and water successes over the last several decades offer additional reasons to be skeptical of these costly proposals. These improving conditions are the result of technological innovation,



economic growth, and picking the low-hanging environmental fruit under the *Clean Air Act* and *Clean Water Act*. Nearly the entire U.S. has achieved clean air standards for carbon monoxide, sulfur dioxide, nitrogen oxide, and lead. According to the EPA, aggregate emissions of the six most common pollutants have fallen 41 percent over the last two decades (despite GDP, population, and energy consumption increasing significantly over the same period). While greenhouse gas emissions may have risen globally, per capital carbon dioxide emissions in the U.S. have dropped 1.8 percent from 1990 to 2007.

State legislators have a unique role in influencing this train wreck and should reassert that the model of cooperative federalism upon which the *Clean Air Act* is based is superior to the Agency's current approach. *EPA's Regulatory Train Wreck* encourages states to consider resolutions calling on the U.S. Congress to: prohibit EPA from regulating greenhouse gas emissions; impose a moratorium on costly new air quality rules for at least two years; and require the Administration to conduct a multiagency study on the cumulative economic impacts of these regulations.

Thus far in 2011, similar resolutions have been introduced by ALEC members in Alaska, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, Texas, Utah, Virginia, West Virginia, and Wyoming. These resolutions represent a declaration of support from a state legislature for federal efforts to restrain EPA's agenda.

In the wake of the failure of Congress to pass federal cap-and-trade legislation there has been a monumental shift in the public conscience and in the political sphere away from inflicting such drastic economic harm for such negligible environmental gain. State legislators from a strong coalition of states have responded to industry concerns over enacting job-killing measures during a recession, and they join bipartisan efforts at the federal level. These Congressional vehicles propose stripping EPA of its power to regulate greenhouse gas emissions, overturning EPA's endangerment finding on the dangers of carbon dioxide, requiring comprehensive economic analysis of these EPA rules, pre-empting alternate strategies to regulate these emissions, and defunding portions of the Agency's budget.

In the report, legislators will also find discussions of more than fifteen pieces of model legislation related to regulatory reform and state environmental sovereignty. *EPA's Regulatory Train Wreck* also outlines the costs associated with proposed regulations that are often ignored by EPA, trumpets the real clean air and water successes over several decades, and corrects false environmentalist claims about state agency willingness to go along with the heavy-handed approach of EPA.

To view the full report along with additional materials and updates, please visit **www.regulatorytrainwreck.com** or **www.alec.org/EPATrainWreck**, or contact ALEC's Energy, Environment and Agriculture Task Force Director, Clint Woods, at **cwoods@alec.org** or **202.742.8542.**

Clint Woods is the Energy, Environment & Agriculture Task Force Director for ALEC.

Work Together to Restore the Balance of Power

The Repeal Amendment restores the balance of power between the states and federal government as the founding fathers intended.

BY Marianne Moran

James Madison and George Mason, while initially differing on the wisdom of adding a *Bill of Rights* to the United States Constitution, ended up working together to craft the first 10 Amendments.

The movement to amend the Constitution to better protect rights prevailed because they compromised and worked across the aisle. They didn't blame Republicans or Democrats -- then Federalists and Anti-Federalists -- or issue nasty press releases and hold political rallies. They overcame the Federalist resistance in Congress to a *Bill of Rights* by joining together to send a message to the federal government that there are limits to expanding its power.

The state legislatures need to do the same today by leading the charge to amend the U.S. Constitution to give two-thirds of states the power to repeal any law or regulation of Congress. It is called the Repeal Amendment and its text is simple:

"Any provision of law or regulation of the United States may be repealed by the several states, and such repeal shall be effective when the legislatures of two-thirds of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation to be repealed."

The men who created our Constitution and Bill of Rights crafted the documents to give much more power to the states than the states currently have. Yet rather than blame the other party, our founder's would tell us that the problem that needs to be addressed is power -- no matter which party may happen to wield it. More accurately, the problem is an imbalance of power, with power held by and concentrated in a distant and unaccountable federal bureaucracy.

A healthy government can only remain healthy when the people have more power and control over their lives and money, as they do in state government.

Our founders anticipated a time in our nation where the federal government's power would become out of balance -- that time is now. However, the founders, in their wisdom, did not leave the states powerless. They did provide a proper check and balance.

The founders paved a road for the states to cross when Congress fails to represent the people. That road was paved in Article V of the U.S. Constitution, which expressly empowers states to call for a convention to propose a specific amendment.

This road is not to be taken lightly, nor should an amendment be proposed for light and transient causes. However, at such a time as this in our nation's history, it has become apparent that the future of our republic is at risk.

When unfunded mandates, insurmountable debt, and unconscionable spending have mortgaged our children's and grandchildren's futures, it is not only the right, but the duty of the states to use every tool at their disposal to restore the republic.

This powerful Article V mechanism has caused Congress to act many times to propose amendments to avoid a convention including the Bill of Rights, the 17th, 21st, 22nd, and 25th Amendment, and most recently the Balanced Budget Act in 1985. Again, the goal is to force Congress to act in lieu of an amendment convention, as has happened every time the states have used the Article V mechanism.

A majority of states have introduced some version of a state sovereignty resolution based on the 10th Amendment, grasping at symbolic straws telling the federal government to stop usurping their authority. These resolutions are currently being used as mere doorstops in Congress.

State legislatures should do something with teeth: file an Article V application for the limited purpose of the Repeal Amendment such as the Repeal Amendment ALEC Model Resolution.

It is time for the United States to cross the aisle again and work together. The federal government has long encroached upon the powers that the Founding Fathers reserved for the states. By working together like our founders, we can restore the proper balance of power with the federal government.

Marianne Moran is a Florida attorney and the Executive Director of the Repeal Amendment, a non-profit oganization advocating nationwide for the Repeal Amendment. Moran was the legislative analyst for Florida's Article V application for an amendment convention, which successfully passed the state legislature in the spring of 2010. More information can be found at www.RepealAmendment.org. Contact her at **marianne@repealamendment.org**

ALEC Budget Reform Briefings in the States

Throughout the country, state legislators are using ALEC resources as their blueprint for sensible budgets.

BY Kati Siconolfi

After the successful release of the *State Budget Reform Toolkit* at ALEC's December States & Nation Policy Summit, legislators from across the country have requested a State Budget Reform Toolkit briefing in their home state. From Oregon to Maine, Tax and Fiscal Policy Task Force Director Jonathan Williams has helped educate legislators, business leaders, and policy experts on solutions to state budget problems. Here are some highlights of the *State Budget Reform Toolkit* Tour:

SAINT PAUL, MINN.

ALEC led a five-hour intensive training session on budget reform for Minnesota state legislators. Jonathan Williams and Bob Williams, Private Sector Chair of the Tax & Fiscal Policy Task Force, both spoke and educated legislators on ALEC's budget reform ideas. Approximately 75 legislators and staff—including committee chairs and senior legislators—participated in this valuable training.

SALEM, ORE.

More than 50 legislators, both Democrat and Republican, took part in ALEC's State Budget Reform briefing. Using the *State Budget Reform Toolkit* as a guide, ALEC shared valuable insights on budget reform in Oregon. Legislators left the briefing equipped with fiscal solutions. Currently, there are five bills from the *State Budget Reform Toolkit* in the Oregon legislature. Please see Rep. Gene Whisnant's article on page 4 for an in-depth look at budget reform in Oregon.

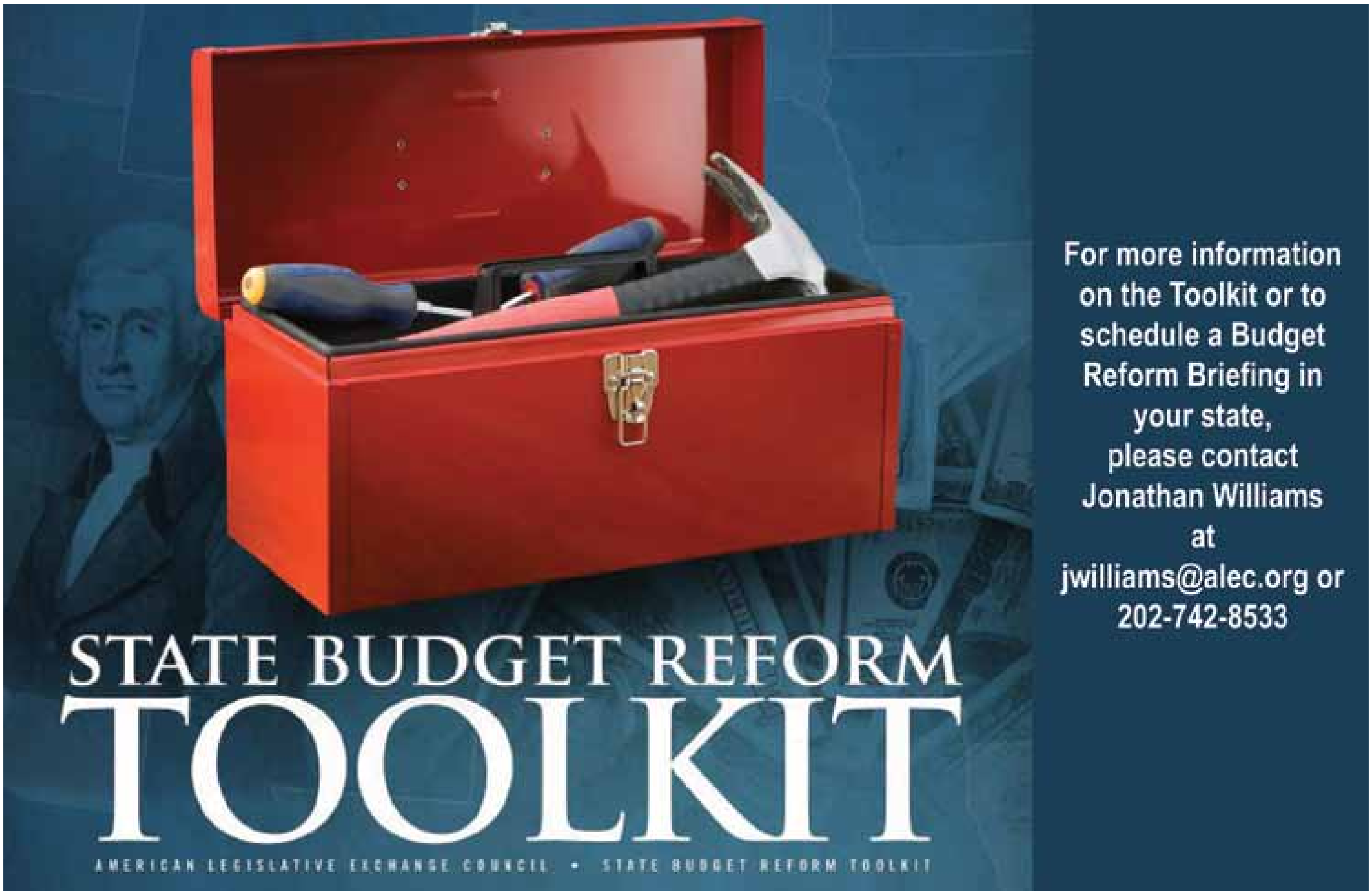
LANSING, MICH.

Senator Mark Jansen, chair of the Senate Reforms, Restructuring and Reinventing Committee, invited Jonathan to testify on budget reform in Michigan. ALEC also hosted additional events in Michigan where legislators gained critical information on reforming the budget process in Michigan.

ALEC also hosted briefings on the *State Budget Reform Toolkit* in Ohio, Kansas, Maryland, Washington, Indiana, New Hampshire, Maine and Massachusetts.

ALEC Budget Reform briefings continue to be a success in educating legislators on fiscal accountability, budget reform, and transparency. To host a Budget Reform Toolkit Briefing in your state, please contact Jonathan Williams, Tax and Fiscal Policy Task Force Director at **jwilliams@alec.org** or **202-742-8533. To view a copy of the State Budget Reform Toolkit, please visit www.alec.org/toolkit.**

Kati Siconolfi is the Legislative Assistant for the Tax & Fiscal Policy Task Force.



Streamlining Government in Kansas

Implementing ALEC's State Budget Reform Toolkit government reforms in the Sunflower State

BY Rep. Mike Burgess

It's interesting being the chairman of a committee that many may view as an oxymoron – the Kansas House Government Efficiency Committee. Kansas citizens have not been short on comments about the committee's title either. Our committee is very unique: we do not have the normal constituency groups bringing forth legislation for consideration. Instead, my colleagues and I are entrusted with the great responsibility to develop our own ideas for government reform. After due diligence, we have submitted many of these ideas in bill form and have successfully passed them through the House.

Throughout this process, ALEC has been a wonderful resource. We have read the *State Budget Reform Toolkit* and taken its suggestions to heart. Tax and Fiscal Policy Task Force members testifiy before our committee quite frequently. During this year's legislative session, my committee has utilized ALEC's guides and suggestions to help streamline government in Kansas. Here are some brief highlights of my committee's efforts to reform government efficiency.

To spark the conservation on reform, we invited Tax and Fiscal Policy Task Force members to testify on some of the committee's government reform ideas. For example, Bob Williams, Private Sector Chair of the Tax and Fiscal Policy Task Force, testified before our committee in February. While he couldn't attend in person, the committee went high-tech and used Skype for Bob to testify. Bob shared his expertise and shared numerous case studies about reform in other states. His insight enabled our committee's ideas to successfully move forward in the legislative process.

The committee also relied on the *State Budget Reform Toolkit*. In a matter of minutes after the publication's release, I received three emails encouraging me to review the publication. Our committee has actually used several of the legislative concepts outlined in the Toolkit. We are working to pass legislation on performance measures (HB 2158), a Streamlining Government Commission (2120), and an Advisory Council on Privatization and Public-Private Partnerships (2198).

Kansas currently has performance measures for programs in place. However, HB 2158 establishes new standardized performance measures for all state agencies to follow. This bill also modifies the current performance measures to make them more effective. By implementing targeted performance measures, Kansans can expect to receive better, more efficient results from their government.

Our committee believes we should develop methods to deliver services more efficiently and at lower cost to our taxpayers; government best practices if you will. To achieve this objective, HB 2120 establishes the Kansas Streamlining Government Commission. Our bill creates a seven-member commission that would develop government streamlining recommendations to the Kansas Legislature. HB 2120 also sets up a BRAC-style process where the legislature would have an up or down vote on the report but not subject to amendment. If these recommendations pass both chambers, they will be implemented by Executive Reorganization Order.

Kansas can also develop innovative solutions for government reform by establishing a State Privatization and Efficiency Council. For example, HB 2198 establishes the Advisory Council on Privatization and Public-Private Partnerships. The Advisory Council will research the best opportunities for partnering with private sector businesses for government services. Private companies can often deliver excellent government services to citizens while minimizing taxpayer cost. According to the *State Budget Reform Toolkit*, New Jersey enacted similar legislation. Their Privatization Task Force released a July 2010 report which identified an annual estimated savings of $200 million through public-private partnerships. We hope to achieve similar results in Kansas.

Lastly, our committee is also starting to work on an employee innovation award program. The best ideas for making government better come from our workers in the public sector. Our award program would provide incentives for agency workers that can deliver superior results, reduce cost, and create new solutions. This would enable our agencies to boost morale, increase performance, and save taxpayer dollars.

ALEC's *State Budget Reform Toolkit* contains best practices from other states, suggestions on where an how to find government efficiencies and has been an invaluable resource for the Kansas House Government Efficiency Committee. If any state has not read through this material, I highly recommend it to bring better government services to your citizens. Kansas will have a streamlined government and is on a track to greater economic and financial stability by utilizing this vital resource.

Rep. Mike Burgess chairs the Kansas House Government Efficiency Committee.

The Resurrection of the Federal Death Tax Hurts States

Recent federal estate tax legislation slows state economic recovery.

BY Kati Siconolfi

States must confront a new economic challenge as they struggle to strengthen their own economies. Congress has now resurrected the federal estate tax, or commonly known as the "death tax." For the next two years, families inheriting more than $5 million must pay a 35 percent federal tax on their total wealth in addition to any state level inheritance and estate taxes. These combined taxes impose a heavy economic burden on both taxpayers and states.

Hefty combined taxes create a financial headache for taxpayers. A study by the American Family Business Institute states that taxpayers could pay more then 40 percent if they live in a state that levies its own estate tax. Many find it to be an overwhelming challenge to pay. Capital that could be used to create jobs is being eaten away by taxes. As a result, family-owned businesses and farms feel the most financial pain. According to the Joint Economic Committee's 2006 study, the federal estate tax decreased capital in the economy by $847 billion over a decade.

As a result, states suffer when taxpayers flee to lower tax states. A recent study by the Ocean State Policy Research Institute discovered that Rhode Island's estate tax is a major factor for out-migration. Over a twelve year period, the state gathered $341.3 million from the estate tax, but lost $540 million in other taxes because of out-migration. Furthermore, the Rhode Island study found that most of these citizens moved to Florida, which does not impose an estate tax. Additionally, a 2008 Connecticut Department of Revenue study shared similar conclusions. According to the study, states that do not impose an estate tax had a 50 percent faster growth rate then states with estate taxes. A February 2011 article from *The Wall Street Journal* best describes these consequences by stating, "estate taxes don't redistribute income among taxpayers, they redistribute income among states."

> *"...estate taxes don't redistribute income among taxpayers, they redistribute income among states."*
>
> *-The Wall Street Journal*

States can address the economic challenges posed by the combined estate taxes by keeping spending, taxes, and regulatory burdens low. As ALEC's *Rich States, Poor States* publication so aptly points out, tax increases do not occur in a vacuum. Every time tax rates are adjusted, it impacts that state's competitive position, relative to states in the region and throughout America. Eliminating state level estate taxes would provide real fiscal stimulus for states looking to create jobs. To read more on economic competitiveness, please visit **www.alec.org/RSPS and download your free copy of Rich States, Poor States.**

States of Confiscation

Combined federal and state death tax rates, including inheritance and estate taxes

	Rate		Rate
Connecticut	42.8%	Nebraska	46.74%
Delaware	45.4	New Jersey	45.4
District of Columbia	45.4	New York	45.4
Hawaii	45.4	North Carolina	45.4
Illinois	45.4	Ohio	38.9
Indiana	48	Oregon	45.4
Iowa	44.75	Pennsylvania	44.75
Kentucky	45.4	Rhode Island	45.4
Maine	45.4	Tennessee	39.875
Maryland	45.4	Vermont	45.4
Massachusetts	45.4	Washington	47.35
Minnesota	45.4		

Source: American Family Business Foundation, 2011

Kati Siconolfi is the Legislative Assistant for the Tax & Fiscal Policy Task Force.

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