

# THE NEW LEGISLATIVE REALITY



Edward Fouhy is executive director of the Pew Center on the States and executive editor of the daily news Web site, Stateline.org. He has been in the news business for 30 years.



Assemblyman Paul Tokasz is majority leader of the New York Assembly. He was first elected in 1988 and has been in leadership since 2001. He is a Democrat.



Senator Robert Garton has been the president pro tem of the Indiana Senate for 24 years. A Republican, he has been a legislator since 1970.



Senator Carolyn Allen is president pro tem of the Arizona Senate. She was first elected to the legislature in 1994. She is a Republican.



Representative Joe Hackney is the Democratic leader in the North Carolina House. He is serving in his 12th term. The North Carolina House is currently tied.



Senator Steve Rauschenberger is assistant minority leader in the Illinois House. A Republican, he was first elected in 1992. He serves as NCSL vice president.

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**T**HESE ARE DIFFICULT TIMES FOR LAWMAKERS. THE ECONOMY FOR THE PAST THREE YEARS HAS CAUSED SEVERE BUDGET SHORTFALLS. HEALTH CARE COSTS CONTINUE TO RISE; EDUCATION MONEY IS SCARCE AND IT'S EXACERBATED BY THE NO CHILD LEFT BEHIND ACT. PUBLIC COLLEGES AND UNIVERSITIES ARE STRUGGLING TO MAINTAIN AFFORDABILITY AS STATE AID IS CUT. MANUFACTURING JOBS ARE BEING LOST; OTHER JOBS ARE MOVING. LEGISLATORS ARE CRITICIZED BY A SKEPTICAL PRESS AND A DISENGAGED PUBLIC. FIVE LEGISLATIVE LEADERS MET IN WASHINGTON, D.C., RECENTLY WITH ED FOUHY, EXECUTIVE DIRECTOR OF THE PEW CENTER ON THE STATES, TO TALK ABOUT LIFE ON THE JOB AND THIS NEW LEGISLATIVE REALITY.

## Ed Fouhy

**Tax collections are up, but growing health care costs will make it tough for most states to balance their books. Thirty-two states expect to end FY 2004 with a modest surplus, but 33 states expect to have budget gaps for Fiscal 2005. You've all had tough budget choices to make over the last three years. Where do you go from here?**

## Senator Carolyn Allen

Voters have passed a large number of initiatives in our state that take an enormous amount of money right off the top of our budget. We need tax reform—we need tax reform desperately.

## Representative Joe Hackney

The fiscal situation in our state is similar to that of many. We have a three-legged stool in North Carolina with state and local taxation. We have sales taxes, income taxes and property taxes. Over the years, by virtue of effective political pressure, corporate income taxes have gone down as a proportion of the budget. And sales taxation has gone up because the public seems to have more tolerance for it. We have collected significant owed but unpaid taxes through aggressive collection, including out-of-state efforts. We've gone against corporate offshore or out-of-state loopholes. We have high hopes for the streamlined sales tax. We're trying to keep the state moving forward through the hard times.

## Assemblyman Paul Tokasz

We're going to have our first \$100 billion budget in New York this year. If you look back to the last three budget cycles, we were successful in sustaining the first difficult budget because we had tons of rainy day funds. This last budget cycle, we did broad-base taxes. Right now we have a huge issue, which is equitable funding for education.

## Senator Robert Garton

Sales tax is a big income producer for our state. I think one of the major problems is we cannot collect sales tax on Internet or catalog sales. It may be as high as a \$300 million loss in Indiana.

## Senator Steve Rauschenberger

A logical increase in our sales taxes is to tax services. Publicly that's unacceptable, however. It is simply not going to happen.

# LITY: HOW LEADERS SEE IT

**Fouhy**

**Any thought of cutting programs?**

**Senator Allen**

We're in budget negotiations now. The public does not want to be taxed, but they also continue to want certain programs that they believe are necessary.

**Senator Garton**

Indiana has a structural deficit of \$1 billion at the end of this biennium. If you take K-12, higher ed, property tax reductions and Medicaid, you're at 80 percent of our budget. You're not going to get a billion dollar reduction out of the remaining 20 percent. But I've been saying for two years the economy is going to improve, and now I may be right. Housing starts are up, the stock market is much better, employment is coming back, companies are hiring again, tourism is up. I think we may work our way out of it without having to increase taxes.

**Fouhy**

**But there's an 800-pound gorilla sitting in the corner, and that's Medicaid. It's consuming 20 percent of state spending and growing 8 percent a year. What do we do?**

**Senator Rauschenberger**

We're running Medicaid and Medicare programs that were designed in the late '60s. Their model of benefit delivery has very little to do with the structure of medical delivery today or the real needs of constituents. If the federal government wants to improve Medicaid and prevent the 800-pound gorilla from continuing to distort our medical delivery system, it has to grant states flexibility with block grants or give a lot more waivers. In Illinois, we pay for 70 percent of all long-term care beds with state Medicaid dollars. The federal government walks out the door in 61 days. Long-term care is the next gorilla. And the third piece of the puzzle is pharmaceuticals. This year, Medicaid expenditures for pharmaceuticals will exceed the budget of every single state university in Illinois.

**Assemblyman Tokasz**

When you look at the money we spend on health care from all sources—state programs, federal programs, insurance carriers—it's just astounding. Yet we have 44 million people with no health insurance. That's an indictment of the process. The solutions have to be borne in Washington, D.C., by people who have the political will to take on the special interests in a way that produces a better system. But I'm very pessimistic.

**Senator Rauschenberger**

There's a tremendous opportunity out there to experiment with improving the system without putting it all at risk. The biggest problem with wanting D.C. to do it is, if they get it wrong, we lose the best medical system in the world. That's why I would much rather see Illinois and Arizona try and learn from it.

**Senator Garton**

We're similar to Illinois. We have only seven public institutions of higher education. But the state appropriation for them is very close to the state's appropriation for Medicaid. Both are slightly over \$1 billion. Where's the future of your state if you want to talk about setting priorities? But we're compassionate people. We are going to take care of those who qualify for Medicaid. You cannot cut a service once it's established. It





seems to me if you're really dedicated to providing the service for those who need it the most, you could do it by keeping the poverty line where it was originally intended.

**Fouhy**

**Let's talk about No Child Left Behind and its unintended consequences.**

**Senator Allen**

In Arizona, we have precious little time to teach because we're always testing. It's putting enormous pressure on our children. There is a great deal of hostility because of the "no child with no money." Frankly, as a Republican, the idea that this administration is mandating how we will run our education system is well-meaning, but not well received in Arizona.

**Senator Rauschenberger**

I think No Child Left Behind is symptomatic of the public distrust and dissatisfaction with public education. We're doing an abysmal job in the K-12 system for our kids across the country. We continue to fall behind competitively with other countries. States have been custodians of Harry Truman's educational system for almost 50 years. We're running Harry Truman's calendar, Harry Truman's school day. We're teaching in a Socratic method more than 2,000 years old. No Child Left Behind is absolutely one of the worst things that Congress has done in the last two decades. Some well-intended, 27-year-old education staffer on the Hill wrote a 1,200-page bill that attacks the very core and fiber of American public education.

**Representative Hackney**

No Child Left Behind represents a failure of federalism. The problems it's created are far more severe than any benefit we are going to see. The federal government is too far from the schoolroom to be making the kinds of rules it's made in No Child Left Behind. Those should be left to the state or local school boards. I do think financial participation by Congress is in the national interest. We have a global marketplace, and we have to train people to work in it. But micro-management is the problem.

**Assemblyman Tokasz**

No Child Left Behind is an attempt to system manage from Washington, D.C. The people who brought us the Pentagon are now trying to write a one-size-fits-all regulatory statute that works on 50 state systems that have different local origins, different political cultures, different funding bases. I agree it's a failure of federalism.

**Representative Hackney**

There's no single, best answer. What works on an Indian reservation in Arizona probably isn't what works in Chapel Hill. You have to have experimentation, and you have to have the flexibility to allow successful experiments to work. By all accounts the two states that have done a good job with student test improvement are Texas and North Carolina. But now we have to retrofit our program to No Child Left Behind. I don't see the wisdom in that.

**Fouhy**

**Do you hear from your constituents when a school is labeled as a failing school?**

**Senator Rauschenberger**

Every place I go in Illinois, there's frustration with the schools. Property taxpayers are frustrated with the state. Parents are frustrated with their school boards and superintendents. With all due respect, I think we're rearranging the deck chairs on the Titanic. We know a lot about how kids learn, but I don't see any innovations. When John F. Kennedy was president, 85 out of 100 school kids had a parent at home to serve them lunch. Today we have single-parent families and two-income families, but our schools have not adapted their hours or their calendars.

**Representative Hackney**

I agree there are some serious problems in public education. But I disagree that there isn't innovative thinking. Former Governor Jim Hunt spent a career in North Carolina directing funds to early childhood education based on the latest research out of the Frank Porter Graham Child Development Center, which is in my district. We have allocated money to put technology into schools, which we didn't used to do. So there are some positive changes. Teacher pay remains

a serious problem in all of our states. In my state, we can't recruit enough teachers because of the salaries we pay.

#### Senator Garton

I'm not sure we've determined if education is a process or a product. Is it the process of conveying, receiving and understanding or is it a product that measures our schools—testing. We really ought to get more into the process and how you teach individual kids and how they learn.

#### Fouhy

**What about the university system? In some states they're saying we're cutting back on our support of the university. It's burning up too many dollars. We're going to give the citizens who need it state scholarships, and let them go wherever they want.**

#### Senator Allen

The universities have been one of the favorites to attack in Arizona because we don't have a lot of other areas where we can cut. We have people in our legislature who don't like large universities. This year one of the bigger fights is do we give another \$25 million to the universities for higher enrollment or do we go to all-day kindergarten?

#### Representative Hackney

In North Carolina, we have continued to fund universities through the hard times. We value our universities as one of the primary engines of our economic growth. Looking to the future with biotechnology and genetics initiatives and all kinds of new knowledge-based initiatives, we think the universities are very important.

#### Fouhy

**Outsourcing jobs overseas is an issue facing many of your states. What do you think the implications of job creation are in the current economy?**

#### Senator Rauschenberger

Outsourcing is an emotional issue. It's made legislators very aware of policies that affect corporate decisions on where they locate. Probably two-thirds of the outsourcing that has been talked about in Illinois is actually not outsourced overseas. It's outsourced to states that have more attractive business climates, have better work rules, tort reform and have done more proactive things. I think American higher education is not meeting the challenge or the expectation of future job markets. If you're going to win in a skills-based economic race, you're going to have to keep notching up the credibility and the skill level of our workforce.

#### Assemblyman Tokasz

Much of the discussion about outsourcing is political, and we are all guilty of that. What legislators can do is look at the tax breaks we give businesses, but ensure that the total job creation goal is met by the company. Enforcement of environmental standards internationally in places that are producing our steel and enforcement of human rights issues in countries that are taking a lot of our manufacturing jobs—that's where the trade policy nationally has to be looked at, and

## WHAT IS THE NEW LEGISLATIVE REALITY?

**"It's a cynical press, cynical public—we can do nothing right. However, as long as you try to create a perception, particularly among the members, of fairness and civility, you're going to work through it."**

**—Senator Robert Garton**

**"Constituents want quick solutions to very difficult problems and that's driven by the media demanding those solutions. I'm a believer that legislative bodies should move slowly. You need to build consensus. Consensus is not easy. Consensus takes time. We have to resist that impulse to try to do a quick fix and understand the broader ramifications of what we're trying to do."**

**—Assemblyman Paul Tokasz**

**"With term limits in my state, there's less stability. There is no respect for institutional memory. There's very little respect for the institution itself. People come in and immediately run for leadership, but they have virtually no real understanding of the process or how you build coalitions. They tend to be very party faithful, which isn't helpful in trying to break gridlocks."**

**—Senator Carolyn Allen**

**"Partisan divisions are going up, money in politics is going up, party discipline is going down. And our tax structures are really not designed for today's economy. In my caucus and in my chamber, the people who are successful are respectful of other members. They're the people who listen, as well as talk. They have trust across party lines. They're the people who have a strong local base and a good, sound footing in their districts as opposed to a single-issue candidate. Those are the kinds of legislators that make the place work. I think in this new climate, those factors become increasingly important."**

**—Representative Joe Hackney**



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### NCSL Contacts (303) 364-7700

Amy Barse, ext. 1648, [amy.barse@ncsl.org](mailto:amy.barse@ncsl.org)  
Joyce Johnson, ext. 1450, [joyce.johnson@ncsl.org](mailto:joyce.johnson@ncsl.org)  
Jan Goehring, ext. 1408, [jan.goehring@ncsl.org](mailto:jan.goehring@ncsl.org)

that's where the pressure must be brought to bear.

### Senator Garton

We just made Indiana's research development tax credit permanent. It gives certainty to business. We need to look at preferences for in-state companies for in-state government work. Why are we contracting for state government work overseas? The business community is constantly on us to invest more in education, to improve the quality of life. I don't think businesses take quality of life and education into consideration when they move to Mexico or India or wherever.

### Representative Hackney

We're a high growth state, so we need more teachers than we can train, more medical personnel. Biotech same thing. We're trying to train people through our community college and university systems. We've seen the exacerbation of the difference between high-income and low-income work populations. Somebody calculated that it takes \$13 an hour for a single parent and child to live in an urban area in North Carolina, and people in tourism jobs aren't making \$13 an hour. So training is very important.

We have done three things in terms of public works that have helped our economy. We passed a massive capital bond issue for our 16 public universities. We adopted a clean smokestacks environmental initiative to retrofit coal-fired plants with scrubbers. That's being paid for by the utilities and rate payers. Huge numbers of people are employed in that project. We also have a big transportation public works initiative under way.

### Fouhy

**What do you see as the biggest change in the legislature, whether it's the institution or the public policy? Change that has happened or is happening?**

### Senator Allen

Lack of civility.

### Assemblyman Tokasz

The public demanding an immediate solution.

### Senator Allen

Term limits.

### Representative Hackney

The impact of big money in politics.


### Senator Rauschenberger

The explosion of information in communication.

### Senator Garton

The status and the significance of state government. Within the last 30 years, legislatures have become important. We have been ahead of the federal government on welfare reform, school reform, environmental reform. We have been the where the action is.

### Senator Rauschenberger

That's why we have the stablest democracy in the world, because we have a shared dispersal of power. 

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