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# New Governor, New Directions

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**R**umor has it that some time ago a newly elected governor declared the three greatest problems he was about to face were “money, finances and revenues.” Such seems to be the case for Governor-elect Doug Ducey, who will come into office eager to cut both taxing and spending but likely forced to postpone his tax-cutting plans as he works through a growing budget deficit.

While the budget crisis is going to get the most attention in the upcoming legislative session, there will be room for a variety of other issues the Republican governor will weigh in on. Some groups and legislators will be attempting to reverse defeats they suffered last year because of gubernatorial vetoes. They are hoping for better luck with Governor Ducey than they had with Governor Jan Brewer. Others are proposing new policy directions they hope the new governor will support.

Governor Ducey will be working with a Republican-controlled Legislature with some new faces, but otherwise will look much like the last one – conservative leaning but with a lingering possibility of a coalition between moderate Republicans and Democrats on some issues.

Republicans picked up two or three seats in the House, giving that party as many as 39 of the 60 seats in that body. It will be led by a more conservative leadership team headed by Republican David Gowan of Sierra Vista as Speaker of the House. Gowan, though, is eager to keep both moderates and conservatives on board and end the strife between the two factions of the party. Andy Biggs, R-Gilbert, a staunch conservative, returns as President of the Senate.

Among the major players on hand will be lobbyists for the Arizona Chamber of Commerce and the Center for Arizona Policy, two organizations in the Ducey camp during the gubernatorial campaign that also have had close working relationships with members of the Republican majority, though they do not always see eye to eye. The Chamber of Commerce lobbies for business-friendly legislation regarding taxing and regulation and educational reforms to improve the skill level of the

Arizona workforce and against controversial measures that it believes deters out-of-state corporations from investing in the state.

The Center for Arizona Policy, the state's largest Christian Right lobbying group, is headed by Cathi Herrod, who served as an informal adviser to the Ducey camp during the campaign. The Center will likely have a significant impact on the course of social policies, including those involving gay rights. However, the businesses community may oppose some of the more controversial proposals coming from this group.

### **The Budget: Priority No. 1**

No doubt about it: The most challenging development is a \$520 million deficit awaiting the governor and legislators when they take office in January. The deficit is likely to soar to more than \$1 billion the following fiscal year and perhaps to \$1.5 billion the year after that, according to budget analysts.

The shortage is due largely to a sluggish economy and a slowdown in revenue growth over the last several months. Potentially adding to the problem is a court order that the Legislature increase K-12 educational spending by \$1.6 billion over a five- year period to make up for its failure since 2010 to fully honor a voter-approved measure that requires an annual increase in school aid to adjust for inflation.

Political observers expect legislators to quickly use up the \$452 million in the Budget Stabilization Fund (aka "Rainy Day Fund") in meeting expected revenue shortage. Beyond this temporary fix there are few good or easy choices. Budget makers can and may turn to time-honored practices in dealing with such dire situations like passing along costs now borne by the state to local governments or redirecting revenue streams now going into local budgets to instead go into the state budget, or doing both of these.

Another route is raiding "off-budget" funds set aside for particular purposes. These efforts, however, have encountered successful legal challenges, and, moreover, may not bring in much revenue even if tapped because many of the funds have not been fully restored since they were last raided. Finally, there are useful gimmicks such as postponing the payment of bills to the next fiscal year or counting revenues not yet received as current revenues.

During the campaign, Ducey pledged to save money by going through the budget line by line looking for inefficiencies, further privatizing the lottery, and eliminating or consolidating state agencies. He was vague about what specific programs he would cut. Democrats have suggested the state should back away from legislation phasing in a tax break for corporations projected to cost the state \$100 million when it goes into effect for the first year in 2015. Going the other direction, Ducey and many Republican legislators backed by the Chamber of Commerce and other business organizations would like to see cuts in income and corporate taxes. These efforts, however, are likely to be put on hold until the economy and the revenue picture improve.

#### **Budget woes**

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On revenue raising one idea that has surfaced has been taxing e-cigarettes like regular cigarettes are taxed. Some legislators have also proposed legalizing marijuana for recreational use in an effort to head off a measure planned for the ballot in 2016 that appears to have a good chance of success and to allow the Legislature to impose a tax system that could prove to be very productive.

Ducey campaigned on the pledge that he would not raise taxes so it would be difficult for him to go back on his word. Even if he did, there is little political will in the Legislature to raise taxes and those who support such a move face the legal difficulty of securing the required vote of two-thirds of the members of both houses.

Legislators could, however, once again do what Governor Brewer urged them to do in 2010 and, by a majority vote, turn to the voters for a three-year temporary one-cent increase in the state sale tax to finance education. Many conservative lawmakers opposed taking this route in 2010, only to discover that a vast majority of the voters, often including those in their own districts, saw it as necessary. Ducey was against the temporary sales tax supported by Governor Brewer and as state treasurer took a leading role in opposing a later proposition to make the tax a permanent one.

Legal constraints limit what the state can do when it comes to cutting spending. Close to two-thirds of the \$9.2 billion budget qualifies as mandatory spending beyond the legislature's immediate control. Spending is often formula driven such as spending per student or per person eligible for health care. State spending on universities is likely to get special attention, being one of the largest areas where the Legislature has discretion in making cuts.

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Much of the mandatory spending comes from voter-approved ballot propositions that are legally difficult to change. The Legislature violated the law when it came to the 2000 proposition requiring an inflation adjustment for school spending. Getting some attention in the Legislature is an above-board approach of simply asking the voters via the referendum process to repeal the proposition and perhaps other spending mandates.

Last session, nothing was more objectionable to conservative Republicans than Brewer's successful push to expand the Arizona Health Care Cost Containment System (AHCCCS, Arizona's version of Medicaid) to include Arizonans making up to 133

percent of the federal poverty level. Medicaid expansion draws on funds made available from the federal Affordable Care Act.

Ducey had opposed expansion of the Medicaid program, but during the campaign said he would veto any legislative measure to roll back the expansion, noting that the federal government under Obamacare had guaranteed to fund it for at least three years. Even though the Legislature may be slightly more conservative there does not appear to be enough votes there to repeal what was done last session. The primary election indicated that incumbents are not likely to suffer with the electorate from either their support or opposition to expansion.

## **Education, Guns and ‘Dreamers’**

Along with funding issues, legislative proposals involving education are likely to include disputes over the expansion of the Empowerment Scholarship Accounts (ESA) program to more students, if not all students in the state. School choice people had some success in 2014 but had hoped to accomplish more with the ESA program.

One may also see continued controversy over Arizona’s participation in the national Common Core Standards program – renamed “Arizona’s College and Career Ready Standards for English and Math” by Governor Brewer. An attempt to ban the Common Core Standards failed in the Arizona Legislature last year. During his campaign, Ducey supported school choice and opposed Common Core Standards.

Also in the area of education, several Republican legislators are proposing that some of the additional money the courts have ordered be spent on education be used to give kindergartners more classroom time. Sponsors see this as directly in line with Governor-Elect Ducey’s frequently stated goal that more of the money spent on education be spent in the classroom.

The gun lobby, historically very successful in the Arizona Legislature, had considerable difficulty with Governor Brewer. She vetoed four gun-related measures last year that may be resurrected in whole or in part this time around. These would put further curbs on the ability of local governments to regulate firearms, expand rights to carry firearms in public buildings, punish those who took away someone else’s guns, and exclude air-power weapons from regulations as firearms.

### **Gun rights**

The National Rifle Association endorsed Ducey in 2014, giving him the highest possible rating as a pro-gun candidate based on his responses to its candidate questionnaire.

On the other side, groups such as Arizonans for Gun Safety see the need for greater regulations on children handling guns, citing a tragic accidental shooting death of an Arizona firing-range instructor in 2014. The National Rifle Association endorsed Ducey in 2014, giving him the highest possible rating as a pro-gun candidate based on his responses to its candidate questionnaire.

Some groups and legislators would like to see a change in policies of concern to Latinos, especially immigration, but there is not much reason to believe that Ducey will soften Governor Brewer’s tough stands – especially when it comes to lifting her driver’s license ban on thousands of young undocumented immigrants brought to the United States by their parents as children (“dreamers”). On the campaign trail, Ducey said he supported Governor Brewer’s decision to deny driver’s licenses to those who have work permits under the Obama administration’s Deferred Action for Childhood Arrivals (DACA) program. Defying a district court ruling against the ban, Arizona has joined Nebraska to be the only two states with the driver’s license ban against DACA individuals.

## **Religion, Gay Rights, Dark Money**

Cathi Herrod, president of the Center for Arizona Policy, came out of the last session victorious with a measure that allowed state health inspectors to conduct unannounced inspections of abortion

clinics but lost two highly prized measures because of Governor Brewer vetoes. One of these was a tax measure benefiting religious organizations leasing property.

The other was SB1062, a highly controversial measure giving individuals and businesses a legal defense in discrimination lawsuits if they acted on a “sincerely held religious belief.” SB1062, widely thought to be aimed at the LGBT (lesbian, gay, bisexual, and transgender) community, set off a firestorm of protest on a national basis that ended with Governor Brewer’s veto.

Herrod’s group is expected to attempt to rebound from these in the next Legislature. The group has also been prompted into action because of a decision by a federal appellate court judge eliminating a state ban on same-sex marriages that voters approved in 2008. Herrod’s organization led the drive for the ban. Legislators working with Herrod have talked about resurrecting something like SB1062 in the next session. Some legislators worry about religious organizations and businesses being forced against their religious beliefs into participating in one way or another in gay marriages. Many legislators, on the other hand, are not anxious to revisit the issue and risk all the negative national attention. Ducey’s supporters are divided on this legislation, putting him in a tough spot.

Related issues that may surface to some extent or another involve the rights of same-sex couples to adopt children (existing law gives adoption preference to straight couples) and whether the state should give the LGBT community protected class status against discrimination as several Arizona localities do.

During the campaign, Ducey announced his support of additional restrictions on abortions. He is also opposed to gay marriages and while he supported Brewer’s veto of SB1062, said he was sympathetic to protecting the religious beliefs of business people and could not say how he would handle revised legislation of that nature should it pass the legislature. Ducey further opposed extending health insurance and other benefits to domestic partners of gays working for the state and the idea of expanding Arizona protected class law to include gays.

**Against abortion, gay marriage**

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Matters touching upon campaign finance surfacing in the last election are also likely to receive some consideration in the next Legislature. The Dark Money problem – the ability of a group, usually a nonprofit “social welfare” organization, to hide the identity of those who have contributed money to them for various political activities – was given considerable attention by the news media and candidates in the last election.

Nearly everyone seems to agree that there is need for greater disclosure of the donors to such organizations but, as illustrated last session, while many legislators may speak in favor of reform, it will likely be difficult to get an actual vote on a reform measure. Ducey, a beneficiary of millions in dark money spending during his campaign, says he is for more disclosure but is vague about what he would do.

## **The Bottom Line**

Perhaps the greatest hope for the legislative session is that lawmakers do as little damage as possible in making painful adjustments in the budget and avoid passing measures that once again will bring negative national attention to the state. The budget is likely to be a major test of Governor-elect Ducey's leadership but how he handles other issues will also be of importance.

There have been many battles within the Republican Party over gay rights, educational standards, expansion of Medicaid, as well as budgeting issues, and it is too much to expect these to vanish during the next session. Arizona's next governor seems predisposed to be more conservative than the outgoing governor on several issues, but once in office and viewing problems from a broader perspective, he might see the need to occasionally counter the hard-line social conservatives and tea-party legislators. If so, on specific legislation he may be able to mobilize a coalition of moderate Republicans and Democrats when needed.

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