

MANAGING SCARCE PUBLIC RESOURCES IN TROUBLED TIMES

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I. Introduction

According to the National Bureau of Economic Research (NBER), the “Great Recession” officially ended in June 2009, marking the end of the longest and steepest downturn in the U.S. economy since the great depression.¹ The recovery is slow, however, and a forecast of top economists surveyed indicated that there was a 25% risk of a double-dip recession in the near future.² Analysis of recent economic figures for America’s major metropolitan areas indicates that our recovery is indeed “two-faced,” with optimism fueled by continuing output growth and widespread increases in housing prices, and pessimism led by a sharp reversal in job growth, high unemployment rates and an increase in foreclosures.³ Our economy appears to be stuck in neutral, and we are all waiting to see in which direction we will turn.

State budgets have been particularly hard hit, as noted by the following recessionary impacts reported by the Center on Budget and Policy Priorities:⁴

- State tax collections are 12% below pre-recession levels, while the need for state-funded services has not declined.
- 44 states and the District of Columbia are projecting budgeted shortfalls totaling \$125 billion for fiscal year 2012 (which begins July 1, 2011 in most states).⁵ This follows budget shortfalls of \$191 billion in fiscal year 2010 and anticipated shortfalls of \$130 billion in fiscal year 2011.
- Federal assistance for states will be largely gone by the end of fiscal year 2011, the current fiscal year.

According to the report, states are likely to respond with additional spending cuts and tax increases above those already enacted. Historically, state fiscal recovery has lagged national economic recovery, adding uncertainty to an already fragile environment.⁶

¹ See “Recession Officially Ended in June 2009,” (http://money.cnn.com/2010/09/20/news/economy/recession_over/index.htm (accessed 2/1/2011)).

² *Ibid.*

³ “Stuck in Neutral? Continued Employment and Foreclosure Challenges, Despite Improvements in House Prices and Output,” Brookings Institution Metropolitan Policy Program, Media Memo, (December 2010).

⁴ Elizabeth McNichol, Phil Oiff, and Nicholas Johnson, “States Continue to Feel Recession’s Impact,” Center on Budget and Policy Priorities, (January 21, 2011).

⁵ See Table 1 for state-by-state details.

This translates into a very challenging period for government officials with budget-making responsibilities. It is these individuals who must answer the question “How do we best allocate dwindling resources to meet the demands of a populace beleaguered by a sustained and deep recession?” A great deal of information and ideas (some good, some less so) will be gathered and shared as these decisions are made. The balance of this paper is dedicated to lending an economist’s perspective to this difficult budgeting problem, reviewing a recent economic impact study addressing funding cutbacks affecting the Los Angeles Superior Court system, and commenting on similar conditions facing court systems nationwide.

II. Economics and the Allocation of Scarce Resources

The fundamental challenge for policy makers, particularly in recessionary periods, is: “On what basis shall it be decided to allocate x dollars to activity A instead of activity B?”⁷ This question is at the forefront each time society has to choose between fewer courtrooms, fewer police and firemen, fewer elementary school classrooms, fewer state-supported universities, decaying roads and infrastructure, etc. These choices are difficult; it is not popular to have to decide where to reduce public services, particularly in a recession. Yet with state and local governments facing declining revenue, these difficult decisions must be made.

A. Scarcity and Resource Allocation

At its core, the study of economics is devoted to understanding the allocation of scarce resources.⁸ Virtually all resources (e.g., natural resources, skilled labor, machines, etc.) are limited or “scarce”; we are unable to produce all goods and services that we want and so we have to make choices between alternatives. Because of scarcity, the decision to use more resources to produce one good, say automobiles, inevitably means giving up the opportunity to use those resources to produce other goods, say a bridge or a skyscraper. Central to the work of economists in this area is the concept of opportunity cost. When deciding among options in a world of scarcity, opportunity cost represents the value of the

⁶ See National Association of State Budget Officers, Fact Sheet: “Quick Rebound? State Fiscal Recovery Could Be Gradual, Lag National Economy 12-18 months,” (March 12, 2002). See also National Governors Association, News Release: “Findings of Biannual Fiscal Survey Show States Lag Behind National Economic Recovery,” (June 3, 2010).

⁷ V.O. Key, Jr., “The Lack of a Budgetary Theory,” *The American Political Science Review*, Vol. 34, No. 6 (December 1940), pp. 1137-1144.

⁸ Paul A. Samuelson and William D. Nordhaus, *Economics*, Fourteenth Edition, (McGraw-Hill, Inc., 1992), p. 2.

good or service forgone.⁹ In the above example, the opportunity cost of using steel to construct a bridge could be measured by the benefits derived from producing automobiles that would have been built employing the same resources.¹⁰

In the private sector, competitive markets for goods and services provide the framework for maximizing the benefits of individual consumers, with the competitive forces of supply and demand working together to allocate scarce resources to their best and most efficient use.¹¹ In other words, purchasers decide how and when to use their resources (e.g., income and time) to obtain the things they want or need. A simple example illustrates this point. The opportunity cost of waiting in line for a sandwich is measured as the value of the customer's next best use of time, say earning wages. If the shop owner reduces his or her workforce to cut costs, and thereby adding to the time it takes to make sandwiches, the result is an increase in the customer's opportunity cost of time. At some point, this will be bad for business as the customers with a higher value of time will decide to go elsewhere. The loss of revenue experienced by the shop owner is the opportunity cost of saved labor expense. In efficient private markets, the shop owner and consumer are free to make and implement budgeting or purchasing decisions until the opportunity cost of labor cuts (i.e., lost sales) equals the benefits of cost reduction. Efficient allocation of goods and services is reached when one person cannot be made better off without someone else being worse off.¹²

When it comes to providing public goods and services, government and other agencies must intervene to provide for the needs of communities. Put differently, governments allocate scarce public resources where markets fail. In their purest sense, public or "collective consumption" goods are identified by two simple conditions: 1) Each person's use does not subtract from any other person's enjoyment; and 2) It is difficult or impossible to exclude consumption by non-paying individuals.¹³ Court systems and national defense are a couple of often-cited examples. Given the variation in scope and size of public agencies and the communities they serve, as well as the diversity of and often divergent demands facing these groups, it is understandable that no single theory or solution has been devised to solve the budget

⁹ *Ibid*, p. 27.

¹⁰ See William J. Baumol and Alan S. Blinder, Economics: Principles and Policy, Sixth Edition, (Harcourt Brace, 1994), pp. 56-59 for a general discussion of scarcity, economics and opportunity cost.

¹¹ *Ibid*.

¹² Robert S. Pindyck and Daniel L. Rubinfeld, Microeconomics, Sixth Edition, (Pearson Prentice Hall, 2005), p. 584.

¹³ See, for example, Paul A. Samuelson, "The Pure Theory of Public Expenditure," Review of Economics and Statistics, Vol. 36, No. 4 (Nov. 1954), pp. 387-89.

allocation problem. However, decision-makers can look to the contributions of economists and economic principles to construct frameworks for analyzing budgeting decisions.

B. Benefit – Cost Analysis

Economists have studied the efficient allocation of public resources using the same notion of efficiency applied to private markets. For instance, a social program would be generally acceptable if a net social benefit was derived; that is, total societal gains exceeded total societal losses.¹⁴ Such definitions require that the measurement of societal benefits and costs be attainable, and that a common unit of measurement (e.g., common currency) be used for comparisons. One well-known framework for analyzing competing public programs is referred to as the Benefit – Cost Analysis, or BCA. BCA is widely applied in the analysis of public expenditure decisions. In fact, whenever people decide whether the advantages of a particular action are likely to outweigh its drawbacks, they engage in a form of benefit-cost analysis. This approach was first widely used to evaluate federal water projects in the 1930s. Since then, it has also been used to analyze policies affecting transportation, public health, criminal justice, defense, education, and the environment.¹⁵

In principle, the direct and indirect benefits and costs to all those affected by a social program should be identified and valued monetarily. For example, if a road construction project was being considered by a local government, labor employed to build the road would be a direct benefit of the project, while money spent by workers on food, lodging, and entertainment would create an indirect economic benefit.¹⁶ Other potential benefits could include reduced congestion and improved infrastructure. The opportunity cost would be measured as the benefits of the next best alternative. The BCA framework was designed to support a thorough and principled analysis of budgetary decisions, as evidenced by the following key attributes:

- **Foundation.** The BCA is founded in the fundamental economic theory that for every rational decision the quantifiable benefits should exceed the known costs.

¹⁴This is sometimes referred to as the Kaldor-Hicks criterion. See Adrian Fozzard, “The Basic Budgeting Problem: Approaches to Resource Allocation in the Public Sector and their Implications for Pro-Poor Budgeting,” Overseas Development Institute (July 2001), p. 13.

¹⁵ See Paul R. Portney, “Benefit-Cost Analysis”, *The Concise Encyclopedia of Economics*, Second Edition (Liberty Fund Incorporated, 2008), (<http://www.econlib.org/library/Enc/BenefitCostAnalysis.html>) (accessed 2/1/2011).

¹⁶ Adrian Fozzard, “The Basic Budgeting Problem: Approaches to Resource Allocation in the Public Sector and their Implications for Pro-Poor Budgeting,” Overseas Development Institute (July 2001), p. 13.

- Documentation. A well defined BCA sets out assumptions explicitly so that they can be compared and replicated by other researchers. For example, several assumptions must be made about market conditions, interest rates, and duration.¹⁷
- Alternatives. BCA should consider alternative means of achieving program objectives.
- Identification of benefits and costs. Both tangible and intangible benefits and costs should be recognized.
- Discounting. Discounting of future benefits and costs should be considered, as appropriate.¹⁸

A number of complaints have been levied against BCA. For example, critics argue that the net societal benefit does not consider the distribution of benefits and costs to different portions of the public. To illustrate, researching cures for rare and fatal diseases may provide net societal benefits enjoyed most directly by the afflicted, with no immediate benefit for the overwhelming majority of people.¹⁹

These criticisms should be viewed as constructive. There is no one-size-fits-all approach to determining the benefits of government programs. A number of additional considerations are revealed by applying economic thought and principles, as evidenced by the following (non-exhaustive) illustrative examples.

- Asymmetric benefits. In some cases, there may be private alternatives that could offset public expenditures, shifting a portion of societal costs to those that benefit most directly. For example, toll roads may be used to improve transportation infrastructure. Users who benefit most directly subsidize construction costs, even though commuters who do not use toll roads also benefit from reduced traffic on existing roadways. State-funded universities are another example, where the cost of tertiary education provided by state institutions is offset by tuition fees paid by students who benefit most directly from this resource. Private subsidies are not always feasible, and any additional cost born by individual consumers will affect other spending choices. For courts, even the perception of bias created by private solutions should be carefully considered so as not to undermine the fairness and functionality of the judicial system.
- Capacity constraints in the provision of public goods. The utilization of a particular program relative to the services it provides should be evaluated, and understanding current capacity and expected future needs are important considerations for decision-makers. For court systems, capacity is often measured by the ratio of case filings to dispositions.

¹⁷ Paul R. Portney, "Benefit-Cost Analysis," *The Concise Encyclopedia of Economics*, Second Edition (Liberty Fund Incorporated, 2008), (<http://www.econlib.org/library/Enc/BenefitCostAnalysis.html> (accessed 2/1/2011)).

¹⁸ "When the dollar value of benefits at some time in the future is multiplied by the discounted value of one dollar at that time in the future the result is discounted present value of that benefit of the project. The same thing applies to costs. The net benefit of the projects is just the sum of the present value of the benefits less the present value of the costs." Thayer Watkins, "Introduction to Cost Benefit Analysis," (<http://www.sjsu.edu/faculty/watkins/cba.htm> (accessed 2/1/2011)).

¹⁹ See <http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/default.htm> (accessed 1/31/2011). It should be noted that society as a whole would benefit indirectly from advancement in the treatment and cure of these diseases.

- Availability of complementary resources. For example, determining the level of fire protection should contemplate the potential impact of a major catastrophe. When deciding the extent to which requisitions need to be made to protect against these losses, the ability to “borrow” resources from neighboring communities should be considered, as has been done to combat wildfires in California.
- Related impacts. The opportunity cost of foregone expenditures may extend beyond the immediate impact to human and other capital employed to carry out programs. For example, educational cutbacks that reduce school quality may be shown to increase crime, which carries with it a cost to society.²⁰ These costs should also be considered when evaluating net societal benefits. Economic modeling and analysis can and should be used to determine whether foregone expenditures or some other factor (e.g., economic decline) explain these related impacts.
- Intangibles. Not all costs and benefits can be measured using corresponding market valuations. For example, it is difficult to measure the value of human life or the benefits derived from use of public. Economists have developed alternative valuation tools to estimate the monetary values of these types of benefits, sometimes referred to as shadow pricing.²¹ Lifetime earnings may serve as a proxy for the value of a lost human life. In addition, contingent valuation models that estimate a user’s “willingness to pay” have also been used by economists in the absence of comparative pricing.²²
- Non-monetary measures. When assessing societal benefits or costs, physical measures such as number of jobs created or lost can be useful supplements to inform decision-makers.

It is important for legislators and regulators to engage in a thorough evaluation of the consequences of choices made to promote social welfare, and to the full effect of these choices. Failure to do so may produce unintended consequences. Following are a few examples that illustrate this point.

- Rent control in NYC. NYC has had rent control laws in place since 1947 on the grounds that they were necessary to protect its citizens from rising rents. Today, NYC has over one million units subject to rent control or rent stabilization, or approximately 70% of all rental apartments. Depressed rents are cited as removing economic incentives for landlords to maintain existing buildings, and incentivizing tenants to “stay put” once a rent-stabilized apartment has been obtained.²³ The New York City Housing Court, which employs fifty judges and handles over

²⁰ Lance Lochner, Non-Production Benefits of Education: Crime, Health and Good Citizenship, University of Western Ontario, (December 15, 2010), p. 2.

²¹ Adrian Fozzard, “The Basic Budgeting Problem: Approaches to Resource Allocation in the Public Sector and their Implications for Pro-Poor Budgeting,” Overseas Development Institute, (July 2001), p. 13.

²² See G.M. Becker, M.H. Degroth, J. Marashak, “Measuring Utility by a Single-Response Sequential Method,” Behavioral Science, Vol. 9, No. 2 (1964) for more information on the development of this method. A good example of the method can be found in Gunatilake Herath, Jui-Chen Yang, Subhrendu Pattanayak, and Kyeong Ae Choe “Good Practices for Estimating Reliable Willingness-to-Pay Values in the Water Supply and Sanitation Sector,” Asian Development Bank (2007), (http://www.adb.org/Documents/ERD/Technical_Notes/TN023.pdf (accessed 1/31/2011)).

²³ Eileen Norcross, “Rent Control Is the Real New York Scandal,” The Wall Street Journal, September 13, 2008.

300,000 cases annually,²⁴ is charged with remedying tenant-landlord disputes. This public service requirement is compounded by rent restrictions.

- Three strikes rules in the US. In response to increasing rates of violent crime in the late 1980's and 1990's, 25 states passed "three strikes and you're out" laws targeting repeat offenders convicted of serious offenses. Ironically, a study of homicide rates for large cities in states that passed these laws showed short-term increases in homicide rates of 13% - 14% and long-term increases of 16% - 24% compared to cities in states without these laws.²⁵ Is it possible that the increase in homicides was attributable to third-time offenders who felt compelled to kill their victim rather than run the risk of being identified and face a life prison sentence?
- Unightly billboards. Legislators in Vermont outlawed roadside billboards and large signs in order to protect the state's pastoral vistas. One unintended consequence of this legislation was the appearance of large, bizarre "sculptures" adjacent to businesses. An auto dealer commissioned a twelve-foot, sixteen-ton gorilla clutching a real Volkswagen Beetle. A carpet store is marked by a nineteen-foot genie holding aloft a rolled carpet as he emerges from a smoking teapot. Other sculptures include a horse, a rooster, and a squirrel in red suspenders.²⁶

While unintended consequences are unlikely to be eliminated, trustees of public welfare should make every effort to identify and remedy these effects.

C. Economic Impact Analysis

Economic impact analysis makes use of the BCA framework discussed above with a conditional predictive modeling of "if – then" statements, such as "If we reduce spending by x on the courts, then the economic impact on the community would equal y".²⁷ The overall effect to the economy is greater than the amount spent (or not spent) because of the circular nature of economic activity.²⁸ This economic multiplier or "ripple effect" occurs because economies are interconnected networks of interdependent activity; when a change takes place in one part of the network, its effects are felt

²⁴ Art Carden, "The Unintended Consequences of Rent Control," *Mises Daily*, August 5, 2009 (<http://www.mises.org/daily/3483> (accessed 2/1/2011)).

²⁵ Tomislav V. Kovandzic, John J. Sloan, III, and Lynne M. Vieraitis, "Unintended Consequences of Politically Popular Sentencing Policy: The Homicide Promoting Effects of "Three Strikes" in U.S. Cities *1980 – 1999," *Criminology & Public Policy*, Vol. I, No. 3 (July 2002), pp. 399 – 424.

²⁶ Rob Norton, "Unintended Consequences", *The Concise Encyclopedia of Economics*, First Edition (Liberty Fund Incorporated, 1993), (<http://www.econlib.org/library/Enc1/UnintendedConsequences.html> (accessed 2/1/2011)).

²⁷ H. Craig Davis, *Regional Economic Impact Analysis and Project Evaluation* (UBC Press 2001), p. 5.

²⁸ William J. Baumol and Alan S. Blinder, *Economics: Principles and Policy*, Sixth Edition, (Harcourt Brace, 1994), pp. 648-60.

throughout the system.²⁹ This is a key consideration for decision-makers because, everything else being equal, each dollar of lost spending results in more than a dollar lost to the regional economy.³⁰

Different budgetary decisions have varying ripple effects in the economy based on the nature of businesses impacted and the magnitude of business revenues and employee wages affected.³¹ Economic multiplier models that draw upon economic data gathered across diverse geographic areas and sectors of the economy are publicly available, and can be used to help quantify output losses, employment losses, and tax revenue losses stemming from funding cutbacks.³²

III. Proposed Budget Cuts for the Los Angeles Superior Court System

In the face of mounting state budget deficits, the State of California found itself in the difficult position of choosing where and how to implement budget cuts. One target of State budget reduction proposals was the Los Angeles Superior Court (“LASC”) system, the nation’s largest trial court system. Under the State’s plan, funding cuts would have produced annual budget deficits for the LASC of between \$79 million and \$140 million per year through 2012 – 2013. Micronomics, Inc. was asked to ascertain the economic impact of LASC budget cuts to the County of Los Angeles and the State of California.

On the basis of our analysis, we concluded that the reduction in State funds previously made available to LASC would result in lost court days, courtroom closures, and reductions in LASC operating capacity. Translated into economic losses, these reductions would have resulted in approximately \$30 billion in lost economic output, 155,000 employment losses and \$1.6 billion in lost state and local tax revenue. These losses are summarized by category in Figure 1 below.

²⁹ Llyd J. Dumas, *Economic Multipliers and the Economic Impact of DOE Spending in New Mexico*, (University of Texas at Dallas, March 2003).

³⁰ William J. Baumol and Alan S. Blinder, *Economics: Principles and Policy*, Sixth Edition, (Harcourt Brace, 1994), p. 657.

³¹ Economic multipliers vary by industry.

³² One such source is the Minnesota IMPLAN Group, Inc., whose data is often used in the context of economic impact studies.

Figure 1: Summary of Quantified Economic Losses

	Economic Output Losses (\$ Millions)	Employment Losses (Jobs)	State and Local Tax Losses (\$ Millions)
Immediate Losses	\$1,086.6	5,103	\$44.3
Legal Services Losses	12,978.1	69,052	696.7
Litigation Duration Impact	14,922.6	81,268	872.6
TOTAL	\$28,987.3	155,423	\$1,613.6

“Immediate Losses” identified above reflect the economic losses directly associated with LASC funding reductions and layoffs. These estimates were developed using economic multipliers, which account for the impact of increases or decreases in one sector of the economy (in this case, LASC employment and spending) on economic activity in the economy as a whole.

“Legal Services Losses” and “Litigation Duration Impact” stem from the lost operating capacity of LASC. Unabated, the proposed budget cuts would serve to decrease the caseload clearing rates, or the ratio of case dispositions to filings, depicted in Figure 2 below. In other words, new case filings would outpace disposition, resulting in a mounting “backlog” of pending cases. The increase in pending cases would cause the average amount of time between filing and disposition to increase, as shown in Figure 3.

Figure 2: LASC Caseload Clearance Rates, 2009-2013

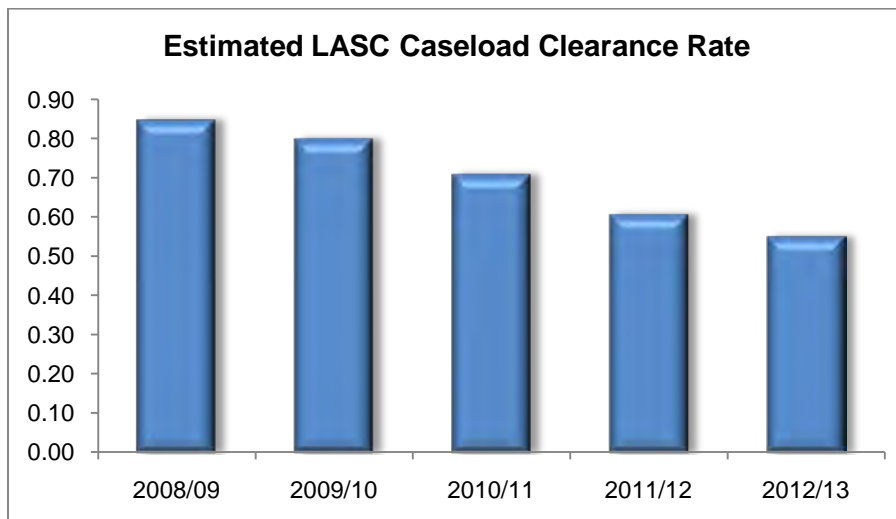
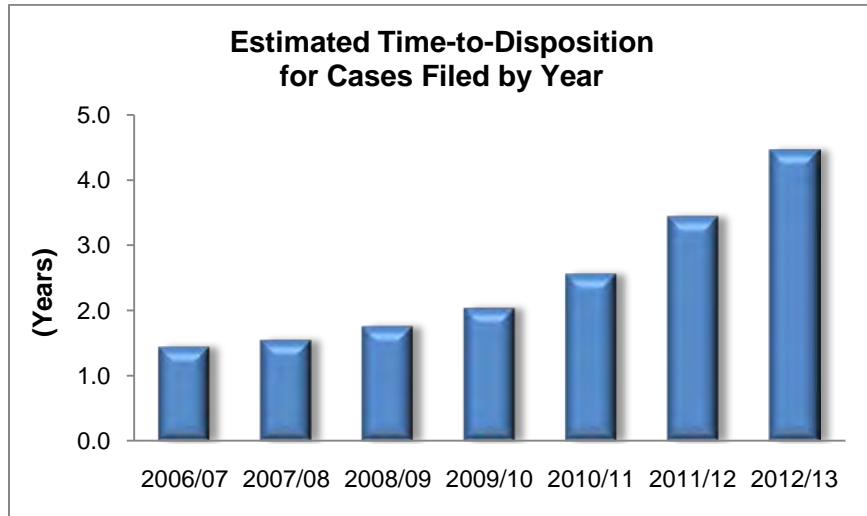


Figure 3: LASC Time-to-Disposition, 2007-2013



Legal work is often clustered around the settlement or adjudication of pending cases, and delays in the processing and disposition of cases will result in less legal work. In addition, these delays will tie up funds and resources employed by litigants for longer periods, limiting their ability to invest and expand or to bring additional litigation. The impact to the legal community is clear: less litigation activity and fewer resources available to bring litigation means less demand for lawyers, consultants and legal services providers. Based on our study, this translated into approximately \$6.3 billion in lost legal services compensation in Los Angeles, and \$13 billion in lost economic output, over the period 2010 – 2013.

The increased duration of civil litigation also constrains the litigants’ ability to invest resources, including potential damage awards, in their highest and best use during the period of delay. For example, defendants will limit investment of their estimated financial exposure to risk-free liquid instruments such as government-backed securities to ensure that funds are available to satisfy potential future damage awards. We estimated the damages associated with delays in LASC civil dispute resolution as the difference between a normal return on these assets (i.e. which allows for risk and illiquidity) and relatively low risk-free returns. This reduction in return exceeded \$7.1 billion through 2013, producing lost economic output of approximately \$15 billion.

Status of LASC Judicial Budget

In the face of mounting budget pressure, the LASC laid off 329 employees in March 2010.³³ However, a full-funding proposal for California's courts sponsored by Governor Schwarzenegger allowed the LASC to indefinitely suspend a one day per month staff furlough program, and to restore a previous 4.7% reduction in salaries for judges and commissioners voluntarily donated in response to the staff furloughs.³⁴ However, the Governor's proposal, funded through a series of hikes in fees and fines plus almost \$100 million allocated from a court construction fund, does not eliminate the LASC's budget deficit, and the court will face almost 500 layoffs and 40 courtroom closures in the 2013 - 2014 fiscal year.^{35, 36}

LASC is not alone; courts systems around the country have faced, and continue to face, similar budget constraints. Table 2 provides examples of recent budget shortfalls in 32 states identified through a brief review of the popular press. These states represent 78% of the US population, and 80% of attorneys employed in the United States, as detailed in Table 3. Undoubtedly, some or all of the remaining 18 states face similar conditions.

IV. Conclusion

The country is in the middle of a slow and uncertain economic recovery. States are struggling to manage constrained budgets with little relief in sight, and public officials face mounting pressure to make difficult funding decisions that will leave few, if any, feeling satisfied. At the end of the day, these issues will be decided through a melding of political, financial and economic considerations. Employing economic thought and principles is critical to identifying and avoiding the unintended consequences of certain budget choices. In this regard, economic impact studies and benefit-cost analyses are valuable tools that budget-makers must employ as they work their way through the decision-making process.

³³ "McCoy Unveils Details of Plan to Address Court Funding" Metropolitan News Enterprise, May 28, 2010 (<http://www.metnews.com/articles/2010/budg052810.htm> (accessed 2/1/2011)).

³⁴ "McCoy: No More Staff Furloughs After Next Week's" Metropolitan News Enterprise, July 14, 2010 (<http://www.metnews.com/articles/2010/furl071410.htm> (accessed 2/1/2011)).

³⁵ "CA Court Budget Proposal Gains Key Support" Courthouse News Service, June 1, 2010 (<http://www.courthousenews.com/2010/06/01/27719.htm> (accessed 2/1/2011)).

³⁶ "McCoy Unveils Details of Plan to Address Court Funding" Metropolitan News Enterprise, May 28, 2010 (<http://www.metnews.com/articles/2010/budg052810.htm> (accessed 2/1/2011)).

TABLE 1: FY 2012 PROJECTED BUDGET SHORTFALL

<u>State</u>	FY 2012 Projected Shortfall
	(Millions of \$)
1. Arizona	\$974
2. California	25,400
3. Colorado	988
4. Connecticut	3,700
5. District of Columbia	NA
6. Florida	3,600
7. Georgia	1,700
8. Hawaii	410
9. Idaho	300
10. Illinois	15,000
11. Indiana	270
12. Iowa	294
13. Kansas	492
14. Kentucky	780
15. Louisiana	1,700
16. Maine	436
17. Maryland	1,600
18. Massachusetts	1,800
19. Michigan	1,800
20. Minnesota	3,900
21. Mississippi	634
22. Missouri	1,100
23. Montana	80
24. Nebraska	314
25. Nevada	1,500
26. New Hampshire	NA
27. New Jersey	10,500
28. New Mexico	410
29. New York	9,000
30. North Carolina	3,800
31. Ohio	3,000
32. Oklahoma	600
33. Oregon	1,800
34. Pennsylvania	4,500
35. Rhode Island	290

TABLE 1: FY 2012 PROJECTED BUDGET SHORTFALL

<u>State</u>	FY 2012 Projected Shortfall
	(Millions of \$)
36. South Carolina	877
37. South Dakota	127
38. Tennessee	NA
39. Texas	13,400
40. Utah	437
41. Vermont	150
42. Virginia	2,300
43. Washington	2,900
44. West Virginia	155
45. Wisconsin	1,800
46. Total of Above States	\$124,700
47. Number of States	44

NA = Not Available

Source: Center on Budget and Policy Priorities (CBPP), "States Continue to Feel Recession's Impact," January 21, 2011.

TABLE 2: REPORTED IMPACTS OF RECENT BUDGET CUTS ON STATE AND LOCAL COURTS*For illustrative purposes only - not intended to be exhaustive*

Description of Impact (1)	Source (2)
<u>Alabama</u>	
1. The Autauga County District Court in Alabama, which handled more than 16,000 civil, criminal, and other cases in 2009, decided to keep its judgeship vacant "indefinitely" due to budget constraints.	<i>Montgomery Advertiser (Alabama)</i> , April 6, 2010.
<u>Arizona</u>	
2. The state judicial branch proposed shifting more than \$12 million in costs to the county level, meaning that counties would be responsible for paying for all or a portion of the state's share of Superior Court judges' salaries.	<i>Arizona Republic</i> , November 3, 2009.
3. Maricopa County, Arizona, enacted layoffs and elimination of vacant positions in nine departments, including the Superior Court, as part of an attempt to balance a projected \$138.2 million shortfall in the 2009-10 budget.	<i>Arizona Republic</i> , April 1, 2009.
4. Arizona court system had its budget reduced by 13 percent from 2000 to 2009, despite other state agency budgets growing; shortening probation time for criminals was a proposed solution.	<i>Tucson Citizen</i> , March 25, 2009.
<u>California</u>	
5. San Francisco Superior Court planned to close its clerk's offices to the public every Friday afternoon for 5 1/2 months to deal with a \$1.23 million deficit.	<i>San Francisco Chronicle</i> , December 8, 2010.
6. California Supreme Court upheld the dismissals of 70 felony and 250 misdemeanor cases in Riverside County due to delays in prosecution caused by a shortage of judges.	<i>Los Angeles Times</i> , October 26, 2010.
7. Marin County Superior Court laid off six employees to help close a budget gap of approximately \$2 million.	<i>Marin Independent Journal</i> , February 22, 2010.
8. Contra Costa County Superior Court laid off 16 court workers and dropped 20 other positions left vacant through attrition to attempt to manage a \$7.4 million budget deficit.	<i>Contra Costa Times</i> , February 11, 2010.
9. In 2010, the Los Angeles County Superior Court anticipated closing 180 out of 600 courtrooms and eliminating 1,800 jobs over the next four years; this was in addition to courts statewide already shutting down one day a month.	<i>Los Angeles Times</i> , January 6, 2010.
<u>Connecticut</u>	
10. Members of state legislature recommended the blocking of new judicial nominees until its court system budget issues were resolved; the budget of the state Judicial Branch was cut \$30 million in 2009.	<i>TheDay.com</i> , April 21, 2010.
11. Judicial Branch of Connecticut was facing a \$7.8 million budget cut in addition to a previous \$5 million cut; at risk were three courthouses and six law libraries.	<i>Connecticut Law Tribune</i> , March 8, 2010.
<u>Florida</u>	
12. The Florida court system lost around 300 jobs and had its funding cut by ten percent from 2007 to 2009. The court system budget in 2010 was \$450 million.	<i>Orlando Sentinel</i> , February 1, 2010.
<u>Georgia</u>	
13. The Georgia court system, which handles more than 150,000 cases a year, had to cut its budget almost 15 percent in 2009 to \$149 million.	<i>Wall Street Journal</i> , September 8, 2009.
<u>Hawai'i</u>	
14. In 2009, the Judiciary in Hawai'i cut 79 vacant positions, reduced operating expenses, and issued a pay cut to judges to save \$11.5 million. In November 2009, it started furloughs that should save another \$12.4 million if continued into fiscal 2011.	<i>Pacific Business News</i> , January 28, 2010.

TABLE 2: REPORTED IMPACTS OF RECENT BUDGET CUTS ON STATE AND LOCAL COURTS*For illustrative purposes only - not intended to be exhaustive*

Description of Impact (1)	Source (2)
<u>Idaho</u>	
15. The court system in Idaho considered a \$25 fee for each person found guilty of a crime or infraction to help offset the loss of \$5.7 million in state funding; the courts also had enacted a hiring freeze and were facing an additional seven percent state funding cut in the coming fiscal year.	<i>The Spokesman-Review</i> , February 10, 2010.
<u>Illinois</u>	
16. Illinois state courts faced a \$21 million budget cut for the fiscal year beginning July 1, 2010, due to a projected state budget deficit of at least \$11 billion.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>Iowa</u>	
17. To absorb a \$11.4 million reduction in operating expenses, the Iowa judicial branch decided to enact 10 furlough days, over 100 layoffs, the elimination of 73 vacant positions, and the cutting of \$700,000 in non-personnel expenditures. Its workforce was reduced by 9.3 percent.	<i>Spencer Daily Reporter</i> , December 10, 2009.
<u>Kansas</u>	
18. Kansas state courts had four furlough days planned in 2010; six weeks of furloughs were originally planned, but the legislature put \$5 million back in the court system's budget to help make up for a shortfall of \$8 million in operating funds.	<i>The Newton Kansan</i> , April 7, 2010.
<u>Kentucky</u>	
19. In 2009, the Kentucky Administrative Office of the Courts announced the abolishment of 47 positions as part of an effort to deal with a Judicial Branch deficit of \$35 million in fiscal year 2010.	Kentucky Court of Justice Press Release, September 15, 2009.
<u>Maine</u>	
20. The Maine court system planned not to schedule any jury trials for the last two weeks of December 2010; the judicial branch was facing a \$2.1 million cut to its \$49 million annual budget.	<i>The Portland Press Herald</i> , August 10, 2010.
<u>Massachusetts</u>	
21. Massachusetts considered closing six courthouses to address a \$21 million cut that reduced the state court system's budget by 4 percent from the \$559.5 million for fiscal year 2010.	<i>The MetroWest Daily News</i> , July 15, 2010.
<u>Michigan</u>	
22. Michigan's judicial branch lost 28 percent of its funding and 18 percent of its staff from 2000 to 2010; court officials asked for \$1.3 million in additional funding for the 2011 budget year to maintain crucial programs such as foster care, trial court oversight, and drug courts.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>Minnesota</u>	
23. The Minnesota court system cut its workforce by 250 positions, or 7 percent, since 2008 in response to budget decreases; the state was considering closing two courthouses in 2010.	Minnesota Public Radio report, November 29, 2010.
<u>Mississippi</u>	
24. In 2009, Mississippi courts were faced with the prospect of shutting down two months before the end of the fiscal year unless the legislature appropriated an additional \$1.7 million to the system.	<i>Commercial Appeal</i> , September 22, 2009.
<u>Missouri</u>	
25. The Missouri judiciary had to return \$3 million in appropriations to the state due to budget cuts in fiscal year 2009 and anticipated returning another \$3 million in fiscal year 2010.	<i>Kansas City Business Journal</i> , September 25, 2009.
<u>Nebraska</u>	
26. The state court system had its budget reduced three percent in December 2009 and another two percent for the fiscal year beginning July 1, 2010; the state was considering another ten percent reduction for the 2011-2013 biennium, which could have meant the closing of county courts in 30 counties and staff cuts in 32 other counties.	<i>Seward County Independent</i> , November 17, 2010.
<u>Nevada</u>	
27. The Nevada court system took a 4.6 percent reduction in its budget in 2010, and if anticipated cuts continued, the court's 100 staff members would take mandatory furloughs one day a month.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>New Hampshire</u>	
28. Merrimack County Superior Court in Concord, New Hampshire, was scheduled to be closed for three hours each day beginning August, 2010; the state court system had been ordered to cut \$3.1 million from its budget in the next two years, and the superior courts were planning to hold one-third fewer jury trials through June 2011.	<i>Nashua Telegraph</i> , July 23, 2010.

TABLE 2: REPORTED IMPACTS OF RECENT BUDGET CUTS ON STATE AND LOCAL COURTS*For illustrative purposes only - not intended to be exhaustive*

Description of Impact (1)	Source (2)
<u>New York</u>	
29. The New York Governor recommended \$130 million in cuts for the state's judiciary in the 2010-11 year; the courts would have had to lay off 2,000 employees to meet this number.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>North Carolina</u>	
30. Due to continued budget cuts, Guilford County's District Court planned not to hold civil sessions for one week in September and November 2010.	<i>News & Record</i> , August 27, 2010.
31. Of the state's 396 trial and appeals judges, 368 agreed to a voluntary 0.5 percent salary cut, which was equal to the unpaid furloughs imposed on other state employees.	<i>Winston-Salem Journal</i> , May 13, 2009.
<u>Ohio</u>	
32. The Cleveland Municipal Court notified 310 employees that they would take 3 1/2 unpaid furlough days in 2010, equal to a 1.46 percent pay cut; this was to be done as part of offsetting a \$23 million city budget deficit.	<i>Plain Dealer</i> , January 7, 2010.
<u>Oklahoma</u>	
33. The Oklahoma court system faced a shortfall of between \$7 million and \$9 million for the 2012 fiscal year, which would result in "substantial" layoffs.	<i>The Edmond Sun</i> , January 21, 2011.
<u>Oregon</u>	
34. In 2009, to address a shortfall in the state budget, the courts examined options for cutting spending by five to ten percent; state courts would close one or two days per week and reduce workforce, although court employees were already taking unpaid days off.	<i>The World</i> , December 3, 2009.
<u>Pennsylvania</u>	
35. The Pennsylvania Supreme Court Chief Justice wanted to leave two judgeships vacant as part of dealing with a projected \$17 million shortfall in the state's judiciary budget for the 2010-2011 fiscal year; there were 16 county court judge and 15 district judge vacancies in the state in October 2010.	<i>The Patriot-News</i> , October 10, 2010.
<u>Rhode Island</u>	
36. Despite operating at 46 employees short of a full staff and enacting the state's furlough plan to save \$1.6 million, the Rhode Island court system was asked to reduce its budget another \$850,000 to \$79.4 million in 2009.	<i>The Providence Journal</i> , December 22, 2009.
<u>Tennessee</u>	
37. In 2010, the budget of the state judicial system had been cut 21 percent over the past two fiscal years, and an additional three percent reduction was expected in the next budget.	<i>The Tennessean</i> , September 26, 2010.
<u>Texas</u>	
38. In January 2010, state officials including the governor asked each state agency and appellate court to submit a plan for saving 5 percent on their 2010-2011 appropriations.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>Utah</u>	
39. In 2010, steep budget cuts had eliminated six percent of the state court system's workforce.	KCPW Report, January 26, 2010.
<u>Vermont</u>	
40. To cut court costs and county spending by nearly \$2.5 million, a special committee gave the Vermont court system 12 recommendations, which included merging district and superior court services and staff, reducing probate courts, eliminating several middle management positions, reducing services in two courthouses, and eliminating the judicial authority of the state's side judges.	WCAX Report, November 6, 2009.
<u>Virginia</u>	
41. In 2010, the governor proposed a court system budget for 2010-2011 that cut \$11 million from the current \$441 million budget; this was in addition to \$5 million in court system cuts in fiscal year 2009 and \$3 million in fiscal year 2008.	<i>Legal Intelligencer</i> , March 12, 2010.
<u>Washington</u>	
42. In 2010, Yakima County Superior Court was putting in place a plan to allow local attorneys to serve as volunteer judges to help alleviate a backlog of over 500 civil cases.	<i>Yakima Herald-Republic</i> , February 8, 2010.

TABLE 2: REPORTED IMPACTS OF RECENT BUDGET CUTS ON STATE AND LOCAL COURTS

For illustrative purposes only - not intended to be exhaustive

Description of Impact (1)	Source (2)
43. As one of many counties statewide facing budget shortfalls, King County cut \$3.6 million from its Superior Court's budget and nearly \$3 million from its prosecuting attorney's budget according to a council member in 2009; the county also enacted furloughs one day a month, resulting in the shutdown of the government on those days.	<i>Washington State Bar News</i> , February 2, 2009.

TABLE 3: RESIDENTS AND LAWYERS IN STATES REPORTEDLY FACING COURT BUDGET CUTS

<u>State</u>	<u>Residents¹</u>	<u>Lawyers²</u>
1. Arizona	6,595,778	13,028
2. California	36,961,664	149,982
3. Connecticut	3,518,288	19,427
4. Florida	18,537,969	61,426
5. Georgia	9,829,211	27,457
6. Hawai'i	1,295,178	4,100
7. Idaho	1,545,801	3,221
8. Illinois	12,910,409	58,457
9. Iowa	3,007,856	7,036
10. Kansas	2,818,747	7,951
11. Kentucky	4,314,113	12,088
12. Maine	1,318,301	3,647
13. Massachusetts	6,593,587	43,198
14. Michigan	9,969,727	32,321
15. Minnesota	5,266,214	22,448
16. Mississippi	2,951,996	6,748
17. Missouri	5,987,580	23,362
18. Nebraska	1,796,619	5,215
19. Nevada	2,643,085	6,395
20. New Hampshire	1,324,575	3,397
21. New York	19,541,453	153,552
22. North Carolina	9,380,884	19,637
23. Oklahoma	3,687,050	11,511
24. Oregon	3,825,657	11,532
25. Pennsylvania	12,604,767	46,276
26. Rhode Island	1,053,209	4,044
27. Tennessee	6,296,254	15,855
28. Texas	24,782,302	75,087
29. Utah	2,784,572	6,568
30. Vermont	621,760	2,185
31. Virginia	7,882,590	21,682
32. Washington	6,664,195	22,973
33. Total of Above States	238,311,391	901,806
34. Total of 50 US States	306,406,893	1,117,743
35. Percent of Population Impacted	77.78%	80.68%

¹ Population as of July 1, 2009.

² Number of lawyers reported by individual state bar associations or licensing agencies as of December 31, 2008.

Source:

Column 2: US Census Bureau.

Column 3: American Bar Association.

About the Authors

Bo Shippen is a Principal in ERS Group's Tallahassee office. His practice specializes in analyses of employment discrimination and wage and hour issues for government and private sector clients. He has prepared expert reports of economic and statistical analyses in both single plaintiff and class action cases, and directed expert consulting efforts in large Federal class actions involving analyses of hiring, promotion, compensation, and calculations of economic damages. Prior to joining ERS Group in 2000, Dr. Shippen was an assistant professor of Economics at Mercer University in Macon, Georgia. He has published articles in the *Journal of Labor Research* and the *Atlantic Economic Journal*. Dr. Shippen received his Ph.D. degree in Economics from Florida State University.

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Roy Weinstein is an economist and Director at Micronomics. Mr. Weinstein has been engaged in economic research and consulting since 1969. Areas of expertise include industrial organization, antitrust economics, the valuation of intellectual property, wage and hour litigation, statistics, econometrics and the calculation of economic damages. He has testified as an economic expert in numerous jurisdictions and has spoken before the American Bar Association, the National Association of Attorneys General, the National Association of Business Economists and the Los Angeles County Bar Association. Mr. Weinstein's articles have been published in the *Journal of the Patent and Trademark Office Society*, the *Journal of Law and Technology* and the *Antitrust Bulletin*. He received his Bachelor of Business Administration degree cum laude with honors in economics from City College New York and his Master of Arts degree in economics from the University of Chicago. He is a recent recipient of the Career Achievement Award from the Business and Economics Alumni Society of the Baruch School at City College.

About ERS Group

ERS Group is the preeminent economic and statistical consulting firm for analyses related to employment matters. Founded in 1981, with offices in Tallahassee, Washington, D.C., San Francisco, and Los Angeles, its statistically sound studies provide clients with a better understanding of their organizations and decision-making processes. Its research has been used by clients in high stakes employment litigation and regulatory matters involving allegations of discrimination in hiring, promotion and compensation. ERS Group's national reputation is founded on the unparalleled experience of its economists and testifying experts. Its reach extends to more than 3,000 clients, including Fortune 500 companies, prominent law firms, universities, government agencies, and industry trade associations. Its experts also have been asked to share their experience and knowledge with regulatory agencies such as the Office of Federal Contract Compliance and the Equal Employment Opportunity Commission.

About Micronomics

Micronomics is an economic research and consulting firm located in Los Angeles, California. Founded in 1988, it is engaged in the application of price theory, analysis of issues relating to resource allocation, and assessment of real-world problems requiring practical and sound solutions. Micronomics focuses on industrial organization, antitrust, intellectual property, the calculation of economic damages, employment issues, and the collection, tabulation and analysis of economic, financial and statistical data. Clients include law firms, publicly and privately held businesses, and government agencies. In January 2011, Micronomics joined ERS Group.