

Speaker 1 ([00:01](#)):

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Morgan Scarboro ([00:16](#)):

I should have just made some insane predictions, like I should have just been like, "25 states are going to have data excise collection taxes, and 15 states are going to, I don't know, do a fair tax, eliminate everything but the sales tax."

Nikki Dobay ([00:35](#)):

Hello, and welcome to GeTtin' SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. I am pleased, as always, to be talking to Morgan Scarboro. Morgan, your title, because I've completely forgotten, so I'm going to make it up, is a vice president of all things state and local at MultiState Associates. Morgan, thank you so much for being here this morning. It's very early when we're recording.

Morgan Scarboro ([01:08](#)):

My favorite part of this podcast is coming on and getting a new title every time.

Nikki Dobay ([01:12](#)):

I think that's going to be one of my new things, is if you come on the podcast, you're just going to have a new title. So it really saves me time in looking things up, so I appreciate people's willingness to roll with it. Morgan, I'm not sure... Well, I know you're aware, but there was a little election last week. We did a quick rundown of the state and local tax ballot initiatives with Jared from Tax Foundation last week. That's what most people were focused on that were tuning into the election last week.

([01:44](#)):

But the other thing I think that they were really focused on, because there was nothing else, so the other thing they were really focused on was state legislative races. And so we talked about this a few months ago. There were many state legislative seats, governors' races that were happening all across the country, and so you had been watching a handful of them, but we're here today to kind of catch up on that, and see where the politics shook out at the state level. So where do you want to begin with that, Morgan?

Morgan Scarboro ([02:17](#)):

I want to start by saying that I was right on the [inaudible 00:02:21].

Nikki Dobay ([02:23](#)):

I think the takeaway is Morgan is always right.

Morgan Scarboro ([02:26](#)):

I was correct. So on the last podcast, we talked a lot about how, yes, there were a number of seats open, there were a number of legislative races, obviously, but we didn't expect to see a ton of partisan

changes or shifts, at least on paper, just given sort of what we knew about the seats that were open, what we knew about polling that was going on, et cetera.

[\(02:47\)](#):

So although, yes, I would say the overall takeaway was that Republicans had a good night, it didn't really fundamentally shift their control over state politics. They picked up a couple chambers. We could talk about that, they held strong sort of where they had governors' races. But if you look at what the numbers look like, it wasn't a huge transformation for either party. Certainly, if you were watching the state election results, you would've preferred to be watching as a Republican voter or a member of the Republican Party. They had a better night than Democrats did, but it certainly wasn't like a big wave, like we've seen in other election cycles.

Nikki Dobay [\(03:30\)](#):

So is there one or two states where there was just a big surprise or a big shakeup?

Morgan Scarboro [\(03:36\)](#):

The one thing where I was most surprised isn't necessarily the most consequential result, but it was something I don't think anyone was expecting, or at least I hadn't seen forecasted anywhere, which is that, in Vermont, Republicans broke the Democratic supermajority in the Vermont legislature, which could have meaningful impacts in terms of they have a Republican governor, they don't have sort of an automatic veto override in Vermont anymore. And that was not necessarily a race that I had my eye on, that was one of the most surprising races for me.

Nikki Dobay [\(04:10\)](#):

Well, and that could have consequences, because Vermont has been looking at some rather controversial proposals over the last few years. So if we see a change up there, we could see something happen.

Morgan Scarboro [\(04:23\)](#):

Yep, absolutely. And Nikki, if you want, we can sort of break it down by office, if that makes sense to you?

Nikki Dobay [\(04:29\)](#):

Yeah, let's go for it.

Morgan Scarboro [\(04:31\)](#):

Okay. So when we start thinking about gubernatorial races, there were 11 open seats or 11 races. The interesting thing was that we only had three incumbents running for governor. So although we weren't predicting a huge change in party for any states, we did know going into this that we would have at least eight new faces that are governors, right?

[\(04:52\)](#):

And I think that is really meaningful when you start talking about tax, because if you think about the last couple of years, governors have been really leading the charge on a lot of tax reform in their states, particularly when it comes to property tax reform. I would be curious if a governor ever looked back when they were sort of encouraging their state to do property tax reform and felt happy about that decision, because when you get into property tax reform, everybody's mad and nobody really wins.

Nikki Dobay (05:23):

I think we should figure out a way to send this to all the incoming governors.

Morgan Scarboro (05:27):

And it's not necessarily even that I think it doesn't need to happen. It's not a statement on what I think the importance of it is. It's just that it's a very difficult conversation to have, and it's an expensive tax to sort of replace the revenue for. So I would be curious if those governors were happy about that in hindsight. But we really have, I'm thinking about Nebraska, Colorado in particular the last year, for Governor Justice, now Senator Justice has been very influential in the tax conversation in West Virginia. We've really had governors lead on tax reform.

(06:01):

So we'll be watching closely to see these eight new governors, same party again, but different ideas, what they're thinking about there. There was only really one race that was competitive in any way, and that was New Hampshire. North Carolina, I would've said was competitive a couple of months ago. There was obviously a big scandal in the gubernatorial [inaudible 00:06:25]-

Nikki Dobay (06:25):

Okay, it's coming back to me.

Morgan Scarboro (06:28):

[inaudible 00:06:27]. I won't talk about it on your podcast. I won't get into trouble.

Nikki Dobay (06:29):

Right, right.

Morgan Scarboro (06:31):

But we saw polling certainly shift after that, so we weren't really considering that a toss-up anymore. And in New Hampshire, Republicans did win that race and retain that seat.

Nikki Dobay (06:39):

So what were the other states where we have new governors?

Morgan Scarboro (06:44):

Yes. So in terms of looking at Democrats, we have a new Democratic governor in North Carolina, Delaware, and Washington. And then, if you're looking at Republicans, new faces here, we have Indiana, Missouri, North Dakota, and West Virginia.

Nikki Dobay (07:00):

Okay, and Washington could be a state to watch, because the prior governor, I think he was there for at least three terms. He was a very influential governor on many things. So this will be kind of a change in era, because of his length in service. So that will be something I will definitely keep on my radar. The other one that I was seeing if we were going to hear was Nebraska, because the governor there has been so focused on property tax, and he has not made a lot of headway there. So I wonder if we'll see

another round of potential push for reform. So that's been a very active state on a lot of issues, due to his kind of really pushing and driving.

Morgan Scarboro ([07:47](#)):

Absolutely. I just saw a headline this morning saying that he is calling for them to address it in 2025. The headline I saw was talking about the school funding formula. So I don't know what sort of tax background there is there quite yet, or if he knows yet sort of what he's going to push for, but if I were a betting woman, I would say that you would see more [inaudible 00:08:07]-

Nikki Dobay ([08:07](#)):

There's going to see some things happening in Nebraska, okay.

Morgan Scarboro ([08:10](#)):

Yes.

Nikki Dobay ([08:11](#)):

Mentally putting Nebraska on the list of states to focus on.

Morgan Scarboro ([08:14](#)):

Yes.

Nikki Dobay ([08:15](#)):

All right, then coming to the houses. So again, it doesn't sound like any big shakeups. Did we lose trifectas? Did we gain trifectas? Did trifectas shift? So any news there?

Morgan Scarboro ([08:31](#)):

Yeah. One statistic that I saw that sort of sums this up really nicely was from NCSL, where they pointed out that if you're looking at legislative chambers, if you look at the last like 125 years, we typically saw 11 to 12 chambers flip each two year cycle. So previously, we were sort of in this reality where you would see a number of chambers flip, like I said, between 11 to 12.

([08:55](#)):

Now, so far this cycle, we've only had five chambers change. We say so far Arizona is pretty much wrapped up. They think Republicans will keep their control there, but I don't think the results are quite finalized yet, as we're recording this. But so we're now in this reality where we're really seeing between four to six chambers change every two-year cycle. So it really has decreased, and that probably began around 2012 that we started to see a fewer number of chambers flip every two year cycle. So what we're looking at, this year, Republicans broke up Democratic trifectas in Michigan and Minnesota. The Minnesota one, I saw your eyes light up is-

Nikki Dobay ([09:37](#)):

Yeah, yeah.

Morgan Scarboro ([09:39](#)):

... I think particularly influential when you talk about [inaudible 00:09:41]-

Nikki Dobay ([09:41](#)):

My Apple Watch was also buzzing, but...

Morgan Scarboro ([09:43](#)):

It was your heart rate, it was asking you if you're okay.

Nikki Dobay ([09:47](#)):

Yes.

Morgan Scarboro ([09:48](#)):

Minnesota, I'm sure everybody listening to this recalls, has really entertained some really progressive tax policy ideas over the last couple of years, mandatory worldwide combining, combined reporting, the inclusion of a significant amount of guilty [inaudible 00:10:03]-

Nikki Dobay ([10:03](#)):

With no factor relief.

Morgan Scarboro ([10:05](#)):

Yes, there have been some pretty aggressive proposals there. And so now that they do not have this trifecta status, that could change. They lost the trifecta status, they now have a tie.

Nikki Dobay ([10:16](#)):

Perfect.

Morgan Scarboro ([10:18](#)):

[inaudible 00:10:17] interesting.

Nikki Dobay ([10:18](#)):

It'll just, we'll all be on the edge of our seats.

Morgan Scarboro ([10:21](#)):

Yes, so we'll see what happens there, but I think that one is really pretty significant. And then, again, watching Republicans break that Democratic supermajority in Vermont was surprising. Another one that I think could be significant in tax is in Kansas, and Kansas Democrats were trying to break up the Republican supermajority. Obviously, they have Democratic Governor Kelly there in Kansas. Democrats were not successful. And in fact, Republicans gained ground in terms of their supermajority status in Kansas.

([10:53](#)):

And Kansas, bless their hearts, feels like Groundhog Day every year. They have a pretty similar tax package that they're trying to advance. There have been a number of times the governor has vetoed that package, and they have not had the ability to override that veto. So maybe with an expanded supermajority, they take another crack at some tax issues in Kansas.

Nikki Dobay ([11:15](#)):

California, I mean, some of the states where we saw supermajorities on the blue side, are we seeing any weakening of those? I have to say, I haven't even checked the numbers in California or Oregon, but I'm thinking of those states, Washington, New York, just places where there really was kind of... I don't want to use a term that was used in other ways last week, but there was a really blue stronghold, and just based on how we saw many other races go, are we seeing weakening in those spaces?

Morgan Scarborough ([11:50](#)):

Yeah, I don't know specifically on numbers in those states, but my guess would be yes. My guess is that there is some sort of weakening in terms of the Democratic control, and that it might not even translate to fewer seats, right? It could just be closer races, which is important for other people to talk about, when we talk about election forecasting in the future. Not you and I necessarily here, but yes, the story seems to be that even in... So for example, I live in Virginia, Virginia voted, our votes went to Kamala Harris, but it was sort of the blue areas that you typically see in Virginia were a little bit less blue than they were last [inaudible 00:12:31]-

Nikki Dobay ([12:31](#)):

Mm-hmm, yeah.

Morgan Scarborough ([12:32](#)):

And that seems to be sort of the national narrative about what happened.

Nikki Dobay ([12:35](#)):

Okay, all right. So we do see that kind of also happening at the state level. And then, well, thank you, Morgan, for catching us up there. And as always, you were spot on when we didn't see anything crazy or too surprising happen, as you mentioned. But the other thing we have, because it's now mid-November, I can't believe it, we're going to start seeing pre-filed bills soon, and before we know it, we're going to be into the 2025 legislative season. And the big question for what you and I do is what's going to happen within the states on tax issues?

([13:14](#)):

So one thing I've been noticing we were talking about is it seemed like revenues were really holding strong for a good part of the year, but I've noticed recently in news articles that those seem to be softening, and more states maybe aren't hitting their revenue forecast, or revenues are down from their forecasted numbers. I know you all have a report that will be out early next month, so we will wait for that. But these are the things that start making me a little bit nervous about how bad our lives are going to be next year, when we're trying to deal with some really crazy [inaudible 00:13:56] raising proposals. So, or maybe you're not as nervous, and we'll get to that later in the show, but so what are you seeing or thinking about on that front?

Morgan Scarborough ([14:07](#)):

Yeah, I think that's right, but I am not... Okay, so there's sort of an interesting dynamic here, which is I can tell you that the majority of states are going to be fine, and then I have to follow that up with an asterisk that says, "Except if you're interested in states like California, New York, Illinois, maybe Massachusetts, et cetera," and that's when people are like, "Oh, well, I actually do care a lot about those states," [inaudible 00:14:30]-

Nikki Dobay ([14:29](#)):

Yeah, yeah, yeah.

Morgan Scarboro ([14:31](#)):

So yes, we have seen revenue softening. I don't think it's in a more dramatic way than we've expected to see. The difference is, again, in some of those states that have been forecasting deficits in the out years, I would say none of them are particularly newly forecasting deficits. We knew this was happening in California, we knew there were questions in New York about what was going to happen. The one that surprised me a little bit was I recently saw a report on Illinois forecasting some bigger deficits in the out year that I had not seen recently.

([15:03](#)):

I would add Louisiana to my list of states to watch, if they do not figure out what they're going to do in this special session. They have part of their sales taxes expiring in 2025, leading to a fairly significant fiscal cliff, if they don't do something on the revenue or spending side. So I would add Louisiana, I always keep an eye on Massachusetts, because that one can sort of fluctuate, and I always am keeping an eye on New Jersey as well. So that's my list of states [inaudible 00:15:30]-

Nikki Dobay ([15:30](#)):

Those are the list, okay.

Morgan Scarboro ([15:32](#)):

But I think even in states that are going to be financially okay, they're stable, right? They might not be growing at a huge clip, but they're stable. We have sort of seen a removal of this super excess amount of revenue. It's going to continue to be more difficult. If you want to do a big reform package and you want to, in a lot of those red states, eliminate or really draw down the personal income tax or the corporate income tax. If those are priorities to you, there's no longer just money sort of circulating, [inaudible 00:16:03]-

Nikki Dobay ([16:03](#)):

Yeah.

Morgan Scarboro ([16:03](#)):

... available to fill those revenues for a couple of years. You're going to be back in a place where you're looking at hard conversations about how you're going to replace that revenue.

Nikki Dobay ([16:12](#)):

Yeah, I've been thinking about we will see over the next few years what happens in those states where they've dramatically lowered rates on the personal income tax side, or they're really trying to shift to more of revenues coming in on the sales tax or that side. Because I think, when we're talking then layering in national politics to that, we may have tax reform again in 2025 or 2026, and we're hearing things about perhaps inflation is going to go back up, and there's not going to be any lever, I don't think the federal government's going to infuse state money, money back into the states as they did, as we saw in the past.

([16:57](#)):

So I do get a little worried that we're in for a bit of a perfect storm, with the states really being in bad shape, and not just kind of those big ones that you were talking about, but some of the ones that have really lowered those rates. So we'll see if the economics on that plays out the way they want it to, which is people have more money, and they'll spend more, and that will drive their economies, but I think that's still a TBD.

Morgan Scarboro ([17:22](#)):

Yeah. Well, if we listen to our economist friends, one thing that states could maybe be happy about is if we have tariffs, their sales tax revenue will be really well off. In terms of what the long impacts of that are, I can't speak to that, right, in terms of other economic indicators, but that's a place to watch in terms of sales taxes and sales tax revenue. But I agree with you, it'll be interesting. I think a lot of the states that have done the reductions in prior years, we've heard a lot about a lot of reductions, and I'm going to primarily talk about corporate income tax reductions [inaudible 00:17:57]-

Nikki Dobay ([17:57](#)):

Right, right.

Morgan Scarboro ([17:58](#)):

... mostly. You know, I keep an eye on the personal stuff, but just sort of out of personal curiosity, not for work necessarily. So the corporate reductions have been pretty modest or funded in some way, right? In a lot of states, we're talking about a 0.1 or 0.2 percentage point decrease in the rate. So we've been sort of inundated with news about states reducing their rate, and that could be a good swap for states. But I think maybe the magnitude of that is exaggerated in the news, based on how those states are actually changing their rates. And it's been pretty... I would say states have been fairly cautious and careful when they have been making those reductions over the last couple of years.

Nikki Dobay ([18:41](#)):

I'm with you. My focus is on the corporate side, but I do watch the personal tax rates cuts, because those funds have to be made up somewhere else. And so it has been interesting to watch those conversations, because there's been a lot of fanfare about we're cutting rates, personal and corporate, and then you look at the differential in the rate cuts of the corporate side. They've been very low. I think my favorite was like 0.05% was what [inaudible 00:19:09]. And I was like, "Really? Really?"

Morgan Scarboro ([19:11](#)):

The personal side is definitely where you start getting into those conversations often about taxes on services become a big part of the conversation there. Some misguided attempts to tax professional services, because that's where a lot of the money is, but it's pretty problematic for states. So I agree, when you start talking about bigger reductions and bigger cuts, that's when you get into conversations that can be more concerning for corporate or business taxpayers, because of the way that they have to sort of backfill that revenue.

Nikki Dobay ([19:40](#)):

Yeah. All right, Morgan, I'm not sure we're going to talk before the end of the year. So anything that the listeners have to be... I mean, you and I are going to talk, but we're probably not going to broadcast it on a podcast. So anything that the listeners should have on their radar going into 2025 or into the end of this year that you just have to get off your chest?



Morgan Scarboro ([20:05](#)):

I think, in terms of trends for next year, what we sort of saw between 2016 and 2020 was a backlash to President Trump, and so I think I can very easily see that happening again. I don't know that tax is necessarily on the top of that priority list. When I think about this, I think about legislators and legislatures focusing on social issues, really trying to be progressive on that front. I mean, I'm sure everybody has seen the news, Governor Newsom sort of asking the legislature to appropriate funds for any-

Nikki Dobay ([20:40](#)):

Things that might happen that are bad.

Morgan Scarboro ([20:42](#)):

Pretty much, right? Governor Newsom trying to appropriate funds for any litigation attempts against the President Trump-led federal government. So tax is not always on the top of the priority list, but something that's important to remember is the tax is the quickest, bluntest hammer that a legislator has. They can pull that lever really easily, and the impact is very quickly felt by the business community. So in places where we are sort of seeing a progressive backlash to the federal election results, I would expect to see tax swept up in that.

([21:17](#)):

If they reopen any conversation about federal tax reform, I would expect to see at least some states revisit their conversation about how they're taxing international income, how they're conforming to the federal code. So watching out for the federal dynamics at play there is important. And then, I think there's going to be a renewed interest in taxes on data collection, or digital advertising, or whatever that looks like by states. And I have been saying this, as soon as one state figures out how to do it in a way that is legal and actually able to be administrated, it will spread very quickly, so watching out to that effort as well.

Nikki Dobay ([21:57](#)):

Yeah, and I think we kind of expected to see the decision out of the Maryland Tax Court. We haven't. So again, still waiting there, but I'm with you. And I think if we see states move in 2025, it's probably going to be on the data collection side, because again, we just haven't had one pass, and so we haven't had a challenge. I think there will be a challenge, but we will have to see what happens with those, because I'm with you, I don't think the states are just going to give up on this issue. They just think there's too big of a pot of money, and they want to figure out a way to tax it. All right, so things still are keeping you up at night, glad to hear it.

([22:37](#)):

All right, well, thank you so much for catching us up on all the election things at the state level, and we made it almost the entire podcast without talking too much national politics. It's crept in there a little, but we did a good job. But before I let you go, surprise non-tax question. And so, Morgan, I've been curating this question especially for you. Okay, so if you were pregnant and you had a baby, what would be the cocktail that you had, or would you want a cocktail, and if so, what would it be right after you had the baby? I'm not pregnant, so I do not have to really get into this question too much, because I get to have whatever cocktails I'd like. But I don't know, is this a relevant question for you?

Morgan Scarboro ([23:23](#)):

What the listeners don't know is that Nikki's just rubbing it in right now. I would say this is an audio medium, so people do not see that I'm eight months' pregnant right now, but you can probably hear it based on how out of breath I am. I'm not just super pumped up about these election results, I just can't breathe very well. Yes, this is a relevant question for me, Nikki, and I-

Nikki Dobay ([23:45](#)):

Well, congratulations.

Morgan Scarboro ([23:46](#)):

Thank you so much. I am dreaming of a month from now, when I can have a little old fashioned. I cannot wait.

Nikki Dobay ([23:55](#)):

You cannot wait.

Morgan Scarboro ([23:58](#)):

I cannot wait.

Nikki Dobay ([23:58](#)):

Well, congratulations again, Morgan. So you will be out, that's why I was saying maybe you're not really too worried about the legislative session next year, because, well, I mean, you'll be focused on some other things, so I'm not saying you're vacationing or anything, but you'll be busy doing other things.

Morgan Scarboro ([24:17](#)):

I should have just made some insane predictions. I should have just been like, "25 states are going to have data excise collection taxes, and 15 states are going to, I don't know, do a fair tax, eliminate everything but the sales tax." And then, there'd be no one to hold me accountable next session, when those things [inaudible 00:24:34]-

Nikki Dobay ([24:35](#)):

Oh, but you'd come back, and then you'd be on the podcast, and then you'd have to account for all of these crazy predictions. So, well, Morgan, thank you so much and again, congratulations. Super excited for you. Although, I will miss you dearly in 2025, as we go through whatever craziness happens. Thank you for the listeners for joining us, and we will be back in a few weeks on the next GeTtin' SALTy.