

February 2018

STATE LEGISLATURES

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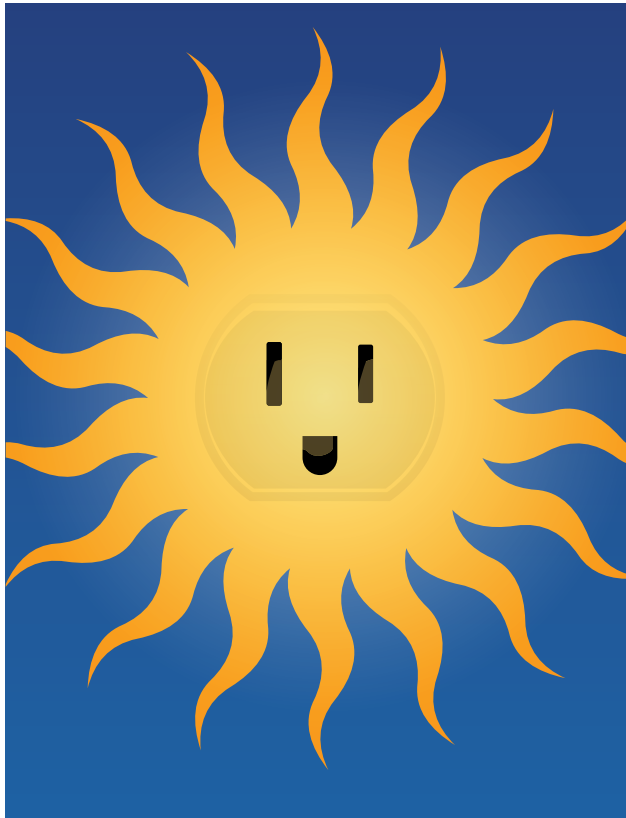
STATE LEGISLATURES

The magazine of state policy and politics from the National Conference of State Legislatures, the bipartisan organization that serves all lawmakers and staff.

FEATURES

Plugged Into Solar Page 12

BY MEGAN CLEVELAND and JOCELYN DURKAY
New solar energy developments are fueling local economies and providing jobs for thousands.



©2018 BRUCE HOLDEMAN

The Tipping Point Page 20

BY JACKSON BRAINERD
Millions work for less than the minimum wage, but tips make up the difference for many.

SL ONLINE

Find more information and links to resources on topics covered in these pages at SL Online.

➔ Go to ncsl.org/magazine

State Legislatures magazine is printed on recycled paper.

DEPARTMENTS

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States benefit from the VW emissions settlement, task forces get to work updating elections technology, legislatures strengthen sexual harassment training and U.S. teachers' pay comes up short.

STATELINE PAGE 16

News bites from across the country—from a friendly operating-room encounter in Arizona to a ban on drunken droning in New Jersey

OFF THE SHELF PAGE 24

Reviews of recent books by legislators: "Capitol Letters," by Mitch Greenlick; "The Freedom of the Ignored," by Bill O'Neill; and "Who Is Driving the Bus?" by Diana S. Urban

TOOLBOX PAGE 26

Albo's Rules

Former Virginia Delegate Dave Albo distills almost a quarter century of legislative life into 11 rules you can use to make your state the best place in America!

STATESTATS PAGE 29

Rural America Still Seeking Recovery

Economically, small-town America remains miles behind urban areas.

YES, NO, MAYBE SO PAGE 30

This month's ethics question: When should a legislator use a blind trust?

THE FINAL WORD PAGE 31

Meet Illinois Senate President John Cullerton

"I look upon my caucus as a family. I'm sort of like the oldest sibling."





SHORT TAKES

NEWS FROM NCSL

NCSL EXPERTISE



“More states are using some form of performance-based budgeting, or results-based budgeting.” Erica

MacKellar on how some states have opted out of zero-based budgeting after finding it requires too many resources, on NPR.



“This is the first serious table-setting election for 2021 redistricting.”

Tim Storey on the importance of the 2018 midterm elections to redistricting, in The Hill.



“What exactly will the cost be, and will this raise premiums generally?” Richard Cauchi on what states want to know

before requiring insurers to cover the Bridge, an electrical opioid withdrawal device, in Forbes.

Capitol Forum

NCSL’s annual Capitol Forum provides the opportunity for legislators, staff and others interested in public policy to learn from experts and each other. This year’s Forum, held in Coronado, California, in December, attracted more than 600 attendees. In addition to exploring tax reform, cybersecurity, immigration and other topics, attendees developed the agenda that guides NCSL’s advocacy work on Capitol Hill. Visit nctl.org to find resources from the Forum and learn more about the organization’s advocacy efforts on behalf of states.

CONNECTIONS



John Feland (above), CEO of Argus Insights, told attendees that 90 percent of the world’s data were created in the last two years, during a plenary breakfast on “The Next 10 Years: What You Need to Know.”



Utah Senator Howard Stephenson and Arkansas Senator Joyce Elliott (above right) discussed the integral role of science, technology, engineering and math during a session on “Aerospace & Education: The New Economy.”

The Young and the Professional



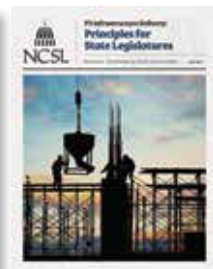
Did you know NCSL has a Young and New Professionals program? The YNP group supports newly elected and young legislators and staff by connecting them with peers from across the nation. The program also offers professional development programs on a variety of skills, including leadership, communication, navigating the legislature, managing your workload and more. Email ynp@nctl.org to join and receive the group’s newsletter.

Hawaii Senator Stanley Chang networks with a colleague during NCSL’s Legislative Summit in Boston.

IDEAS

New Reports

Each year, NCSL’s research experts publish numerous reports on a host of public policy topics. They provide the latest trends, research, best practices and examples for state legislators, legislative staff and others working to improve public policy. Here are some of our most recent titles:



- 12 Principles of Effective Juvenile Justice Policy
- The State of Occupational Licensing: Research, State Policies and Trends
- State Policy and Research in Early Education
- Here Comes the Sun: A State Policy Handbook for Distributed Solar Energy
- P3 Infrastructure Delivery: Principles for State Legislatures
- State Tax Actions
- Closure for the Seventh Generation: Stewardship of the U.S. Department of Energy Nuclear Weapons Complex and Legacy Waste Sites, 2017 Edition
- The Costs and Consequences of Disparities in Behavioral Health Care
- State Strategies for Preventing Child and Adolescent Injuries and Violence
- Prescribing Policies: States Confront Opioid Epidemic
- Improving Systems of Care for Children with Special Needs
- Improving Access to Care in Rural and Underserved Communities

Message From the Executive Director William T. Pound



Welcome to all who serve in our state legislatures. You are all members of NCSL. Given the uncertainty out of Washington, Americans are looking more and more to the states to solve problems and NCSL is here to help. We provide thorough, unbiased and comprehensive information to help you navigate complex policy issues. Contact NCSL issue specialists when you need information, attend one of our meetings to network with colleagues or invite us to your state. We're happy to testify before committees

and to share ideas that can help you craft solutions that work.

If you are not involved with NCSL, or are unfamiliar with the organization, I invite you to participate. Your engagement helps ensure that NCSL achieves its mission to strengthen state legislatures by providing support, ideas, connections and a strong voice on Capitol Hill.

We hope each issue of this magazine helps you in your challenging job. Behind the award-winning cover art you'll discover award-winning stories on ways to

improve your skills, solutions you can adapt to your state's needs, insight that challenges your assumptions, facts to bolster your positions and, we hope, a phrase or two to make you chuckle.

Remember, through NCSL, you are part of the community of all legislators—Republicans and Democrats—and staff across the country. We are committed to your success. Turn to us often.

Welcome to These Newly Elected or Appointed State Legislators

Cheryl Acton
Bilal Ali
Teri Anulewicz
John Armato
Gail Armstrong
Hala Ayala
Stephen Baldwin
Dan Barrett
John Barrett
Steve Bartels
Douglas Barthel
Colin Bell
Brian Benjamin
Eric Berthel
MaryAnn Black
Carlie Boland
Daniel Bonham
Dorinda Borer
Jeffrey Bourne
Ken Brass
Wendy Brawley
Emily Brewer
Michael Brooks
Richard Brown
Bruce Bryant
Jesse Burris
Deb Butler
Sara Cambensy
Jeff Campbell
Kasey Carpenter
Wendy Carrillo
Jonathan Carroll
Jennifer Carroll Foy
Lee Carter
Richard Cash
Marc Catlin
Kevin Cavanaugh
Prince Chestnut
Mike Cierpiot

Charles Clements
Robert Clements
Casey Conley
John Connor
Erika Connors
Kelly Convirs-Fowler
Don Coram
Kristin Corrado
Sandy Crawford
Raymond Crews
Joseph Cryan
John Curran
Karrie Delaney
Christopher DePhillips
Edith DesMarais
Manka Dhingra
Serena DiMaso
Mark Drennan
Carolyn Eslick
Dawn Euer
Paul Feeney
Kevin Ford
Ross Ford
Phil Fortunato
Roy Freiman
Cindy Friedman
Karen Gaddis
Tavia Galonski
Angela Gibson
Deborah Gonzalez
Deborah Gonzalez
Wendy Gooditis
Dianna Graves
Elizabeth Guzman
Joshua Hall
Stephanie Hansen
James Harrison
Jeff Helfrich
Richard Hilderbrand

N.D. Holcomb
Rolanda Hollis
Eileen Horn
Chris Hurst
Allison Ikley-Freeman
Morgan Irwin
Jon Jacobsen
D. Rolland Jennings
Jay Jones
Jen Jordan
Brian Kavanagh
Kay Kirkpatrick
Patty Kuderer
Monica Kurth
George Lang
Kari Lerner
Jazz Lewis
Rick Lewis
Robbyn Lewis
Shane Lindauer
Yvonne Lopez
Joe MacGuire
Richard Mason
Christopher Mattos
Jacquelin Maycumber
Jennifer McClellan
Rob McColley
Douglas McCrory
Missy McGee
John McGuire
Mark McLean
Jeanne McNeill
Vincent Migliore
Phil Miller
Marcia Morey
Marc Morris
Herman Morse
Nick Mosby
Bob Muller

Carol Murphy
Anne Neu
Bee Nguyen
Terry Norris
Nathaniel Oaks
Robert Olszewski
Chuck Payne
Mark Peake
Christine Pellegrino
Marvin Pendarvis
Daniel Perez
Geraldine Peten
Ryan Peters
Natalie Phelps Finnie
Joseph Polletta
Tony Potts
Edward Price
Jason Probst
Abraham Rafie
Ed Read
David Reid
John Resman
Dylan Roberts
Debra Rodman
Danica Roem
Jacob Rosecrants
Daniel Rosenthal
Paul Rosino
Rebecca Saldaña
Andrea Salinas
Janelle Sarauw
Kim Schofield
Kristina Schultz
Shelly Short
Evan Simpson
Vandana Slatter
Justin Slaughter
David Soucy
Victoria Spartz

Shanique Speight
Charlie St. Clair
Joseph Stagni
John Stefanski
Clark Stith
Brian Sullivan
Art Swann
Annette Taddeo
Alfred Taylor
Cheikh Taylor
Zack Taylor
Russel Tempel
Theresa Thibodeau
Edward Thomson
Chris Todd
Ben Toma
Dean Tran
Kathy Tran
Cheryl Turpin
Javier Valdez
Schuyler Van Valkenburg
Andres Vargas
Kevin Vaughan
Emilio Vazquez
Jarom Wagoner
Jonathan Wallace
Sara Walsh
Barbara Washington
Neil Whaley
Marli Wiese
Stacey Wilkes
Jheanelle Wilkins
Nikema Williams
Steve Wilson
Harold Wirths
Mark Wright
Tenisha Yancey
Ronald Young

NEWSMAKERS

“If you really want citizen legislators, after 20 years, you’re no longer a citizen, you’re a politician.”

Minnesota Senator Rich Draheim (R) on his bill to ban lawmakers from serving more than 20 consecutive years in the Legislature, in the Mankato Free Press.



INDIANA DEMOCRATS CHOSE REPRESENTATIVE TERRY GOODIN AS THEIR NEW MINORITY LEADER. He succeeds Representative Scott Pelath, who decided to step down and won't seek re-election in November.



OREGON SENATOR JACKIE WINTERS IS THE CHAMBER'S NEW GOP LEADER. She succeeds Senator Ted Ferrioli (R), who was named to an executive post by the governor. Winters, 80, is the longest serving African-American in the legislature and becomes the fourth woman currently serving in top leadership posts in the two chambers.



CALIFORNIA SENATE DEMOCRATS, WHO HOLD A SUPERMAJORITY, CHOSE SENATOR TONI ATKINS (D) TO BE THEIR NEXT LEADER. She replaces California Senate President Kevin de León (D), the first Latino to lead a legislative chamber in the state in more than 100 years. De León is term-limited and is challenging Dianne Feinstein for her U.S. Senate seat. Atkins, elected to the Senate in 2010, previously served in the Assembly and became speaker in 2014.

“We’ve seen masked, hooded people breaking windows, hitting people, fighting with police.”

Arizona Representative Jay Lawrence (R) on his proposal to make it a felony to wear a disguise to evade recognition or identification in the commission of a public offense, in the Arizona Capitol Times.



“This is going to be five to 10 years of work.”

Colorado Representative Brittany Pettersen (D) on the state’s aggressive approach to dealing with the opioid and heroin epidemic, in The Denver Post.



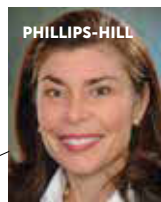
REPRESENTATIVE GENE CHANDLER (R) IS NEW HAMPSHIRE'S NEW HOUSE SPEAKER. He replaces Speaker Shawn Jasper (R), who stepped down halfway through his second term as leader to become the state's commissioner of agriculture. Chandler served as speaker from 2001 to 2004 and was deputy speaker before the leadership election. Six others had initially thrown in their hats for the speakership, which Chandler won on the second round of voting.



PENNSYLVANIA HOUSE SPEAKER MIKE TURZAI (R) IS CAMPAIGNING FOR THE GOP NOMINATION FOR GOVERNOR. If he beats the current three Republicans, including Senator Scott Wagner, in the primary, he will face off against first-term incumbent Governor Tom Wolf (D). The two were at odds during the state's budget impasse and subsequent credit rating downgrade. The primary is in May.



"There is no other use of those devices, other than to defraud you of your money."



Pennsylvania Representative Kristin Phillips-Hill (R) on her bill making it a felony to possess a skimming device, on pennlive.com.

"My job is to represent and speak out for the top concerns of the people in the district. Transgender people are just as qualified as anyone else to represent the communities where we live."



Virginia Representative Danica Roem (D), the first openly transgender person elected to a state legislature, in the Los Angeles Times.

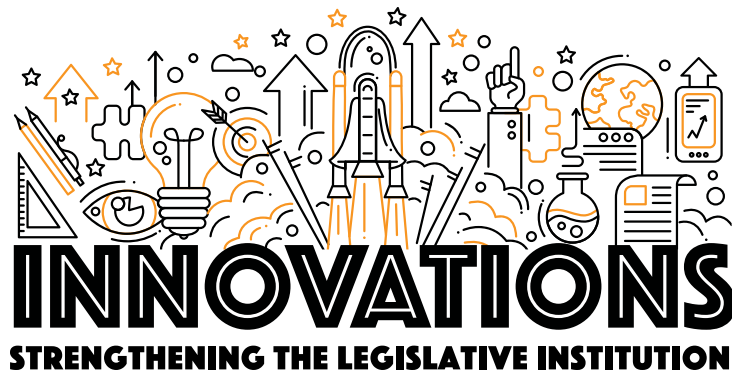


"I am really optimistic that the squeeze will be worth the juice."

Texas Representative Senfronia Thompson (D), the longest-serving female legislator, on continuing efforts to combat sexism, in Stateline.

VIRGINIA REPUBLICANS CHOSE MAJORITY LEADER KIRK COX TO SUCCEED BILL HOWELL (R), who did not run for re-election, as the new speaker even though four races in the 2017 Virginia election were headed for recounts at press time. The GOP currently controls the chamber 51-49, leaving the Democrats needing just one more seat to tie and two to take control of the House for the first time since 2000. The closest race was within 10 votes, and a Republican won Howell's vacated seat with 82 votes.





INNOVATIONS

STRENGTHENING THE LEGISLATIVE INSTITUTION

STEPPING UP

Discover what Maine did to keep great legislative staff excited about and highly engaged in their jobs.

BY JACKIE LITTLE

The Maine Legislature has found an effective way to prepare for a successful transition to the next generation of staff leaders. And it's easy enough to adopt almost anywhere.

We have a relatively flat legislative staff structure in Maine that limits opportunities for advancement. You could say our career ladder looked more like a step stool. With many of our office heads and senior staff nearing retirement age, our human resources department recognized we could lose vast institutional knowledge and talent



Jackie Little is the human resources director for the Maine Legislature. She has two decades of private- and public-sector HR experience and a master's degree in human resource leadership.



if we didn't do something soon to attract and keep great staff.

Our solution was to create an aspiring leaders program. In 2015, we invited interested legislative staff to apply with a brief written application, and 10 percent did. We accepted 14 participants based on their demonstrated leadership skills, their application responses, conversations with supervisors and their length of legislative service. Although half of them hoped to land in a traditional management role, we didn't promise them a future promotion; instead, we promised them effective training to help them become strong candidates for anticipated management vacancies. The other half of the participants were excelling in their current positions and wanted to build on those skills.

The group met six times over several months, heard presentations and participated in group discussions on topics tailored to help them achieve their professional goals. Participants were required to read various articles, watch online videos and make a presentation on a leadership book of their choice. Participants discussed topics like leading in a legislative setting, transitioning from peer to supervisor, gaining credibility, delegating effectively, motivating employees and more.

The program appears to be working. We have retained great staff who continue to be excited about and interested in their work. Out of our first cohort of aspiring leaders, all are still working for the Legislature. In addition, four have

received promotions. Several others have used their new skills to head up special projects, teach other employees or mentor new staff.

We were surprised by some unanticipated benefits as well. Supervisors gained a greater awareness of the importance of preparing and mentoring the next generation of leaders. The participants developed a greater understanding of the challenges involved in being a leader. And, from a human resources perspective, it further demonstrated our value to the organization.

I believe these five key ingredients played a big role in the success of this program.

- 1. Support.** Our legislative leaders supported the program from day one.
- 2. Communication.** Carefully crafted communications kept key stakeholders informed before, during and after the program.
- 3. Feedback.** We asked key questions after each session, shared the thoughtful answers and constructive comments with the entire

group of aspiring leaders and made immediate changes based on that feedback.

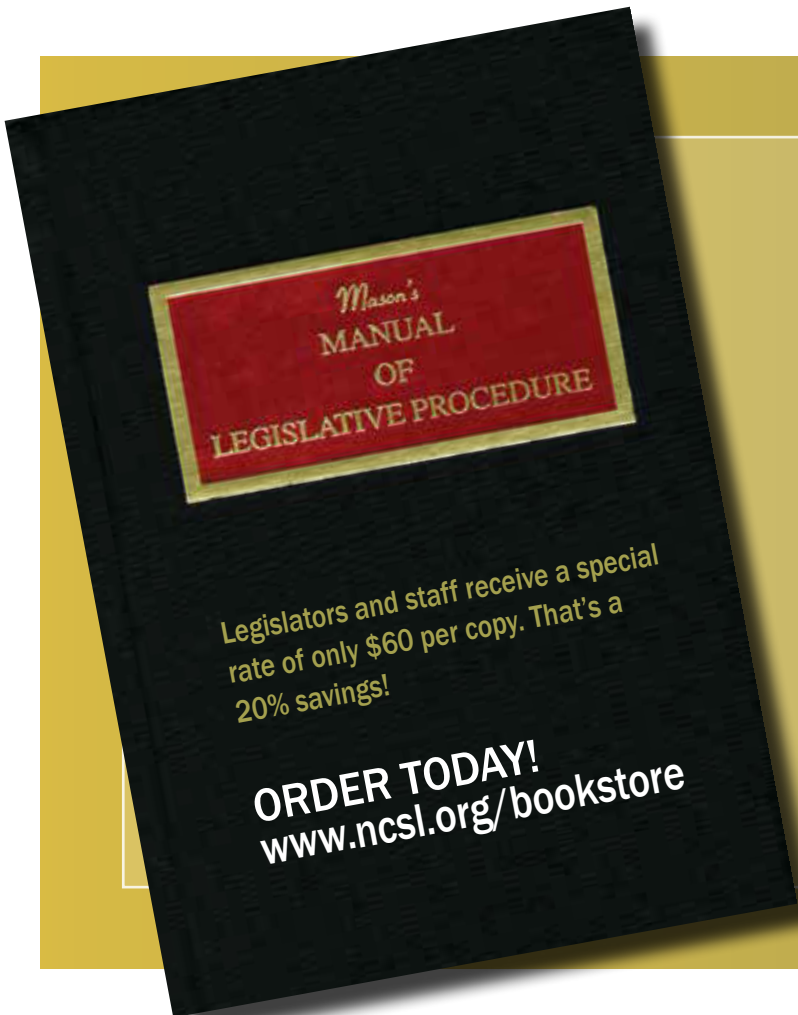
4. Recognition. We held a surprise “graduation” ceremony at which the House speaker, Senate president, executive director and many supervisors congratulated the aspiring leaders. Each received a group photo in an engraved frame, and the names of graduates were read aloud at a public meeting.

5. Preparation. Developing curriculum and designing a program to meet the specific needs of the participants was challenging. It took thoughtful preparation and strong organizational skills, along with the flexibility to be responsive to the group’s feedback.

I poured my energy into this program because the staff deserved it—and I had a blast doing it! If you are facing similar staff challenges, I encourage you to consider growing in-house talent through an aspiring leaders program. It is a worthwhile investment of time and energy.

Strengthening Legislatures: Have a Story to Share?

This is the first installment of a new column highlighting innovations and experiments designed to strengthen the legislative institution. Each column will be written by NCSL or legislative staff who have an interesting story to tell about something novel they have initiated or discovered. Often these ideas are quite successful and can be applied in other states but rarely receive notice beyond their own capitol steps. Do you have a success story to share? Contact Brian Weberg, director of NCSL’s Center on Legislative Strengthening, at brian.weberg@ncsl.org.



Mason's Manual of Legislative Procedure is the only parliamentary manual designed specifically for state legislatures.

Be the most effective legislator you can be—it's easy to understand and use.

It could be the most important book you buy during your legislative career.



States Score From VW Settlement



The historic \$14.7 billion settlement against Volkswagen for allegations of cheating on emission testing offers every state, tribe, Puerto Rico and the District of Columbia the opportunity to receive a portion of the funds—based on the number of affected vehicles each has—to support a variety of projects that reduce emissions in the transportation sector.

The settlement goes back to 2015, when the U.S. Environmental Protection Agency and the Federal Trade Commission charged Volkswagen with installing illegal software, known as “defeat devices,” in its diesel cars and violating the Clean Air Act as a result. The devices turn off a car’s emission controls after it has passed its emissions test. As a result of litigation culminating in 2016 and 2017, the German automaker agreed to spend \$14.7 billion in the United States to settle allegations.

The settlement is divided into three parts:

\$10 billion will be used to buy back or fix customers’ diesel vehicles, \$2 billion will go toward infrastructure for zero emission vehicles—like charging stations—and activities aimed at increasing public awareness of the vehicles, and the final \$2.7 billion will satisfy a requirement that VW invest in an independently administered environmental mitigation trust to fund projects that reduce diesel emissions. States had to file as “beneficiaries” by December 2017 to be eligible for a portion of the \$2.7 billion set aside under the trust.

The governor’s office in each state must appoint a lead agency that will work with other state offices, legislators and the public to develop a plan on how to use the money. There are many acceptable projects to choose from, including replacing or repowering medium and large freight trucks, school and transit buses, freight switching railroad locomotives, ferries and tugs, oceangoing vessels, airport ground

support equipment, and other vehicles with new diesel, alternative fuel or all-electric engines.

Each lead agency will select which actions are best for them based on existing infrastructure, state air and energy goals, and other variables. The mitigation trust’s main goal is to reduce nitrogen oxide emissions, but many states will also use this opportunity to build cutting-edge transportation infrastructure and invest in projects to improve air quality for years to come.

Lawmakers introduced at least 28 bills in 16 states in 2017 related to the settlement. They play an important role by giving authority to state agencies to administer funds and by appropriating any additional funding needed by projects related to the settlement.

—Emily Dowd

Elections Technology, Aging in Place

Many think task forces are places where good ideas go to die.

And yet, with states hard-pressed to determine how to continue to fund and maintain their elections equipment, task forces offer hope.

In Colorado, Delaware, Nebraska, Pennsylvania, Rhode Island, South Carolina, Utah and Wyoming, either the legislature or the executive branch has created a task force or special committee in the last three years to hash out what modern elections technology will best fit the state’s needs.

In addition to the task forces, more than a dozen other states have addressed the elections tech issue recently, mostly by allocating funds or rethinking their requirements.

Most voting equipment around the country was bought at about the same time with federal funds from the Help America Vote Act of 2002, and it is aging at the

same rate. With a life expectancy of around 10 to 15 years and a new emphasis on elections security, it’s time to upgrade.

These task forces are asking whether current policies in the state are the right ones for the future and, if not, how might policy changes affect tech needs?

Some states are moving toward more mail voting, others are adopting cost-saving vote centers and a few are considering ranked-choice voting, a potential option for the future. These choices all have tech implications.

Who will pay, the counties or the state? Or will Congress allocate funding again sometime soon? No federal funding has come since 2002, and that pot is all but empty now, as far as we know.

In most states, counties pay for voting equipment while states ensure well-run elections. Some states are leasing rather than buying new equipment to test it out, give themselves some flexibility and spread the



financial burden over time.

The 2016 election taught us about cyber vulnerabilities in our elections systems—even though no voter records were changed, nor any votes manipulated. To improve election security, several states have opted for technology upgrades that rely on paper ballots. It’s a low-tech response to a high-tech risk. Paper ballots can be easily counted and recounted and, even better, they make post-election audits possible. Audits may not be sexy, but they are trendy in our security-conscious era.

Eventually our cars and computers need to be replaced—the same is true for voting machines. But with no five-star consumer review ratings to read, states are relying on task forces to figure out which make and model is the best choice for their state.

—Bethany Hladick

Sexual Harassment Hits Close to Home

Who's next? It seems that someone new is accused of sexual harassment or misconduct almost daily, including state legislators. At least 40 state lawmakers in 20 states, from across the political and geographic spectrum, have recently been accused of sexual misconduct or harassment.

Almost half of state legislatures already conduct some version of harassment training for their staff or members or both, usually during orientation at the start of session. In response to the current level of accusations, however, many legislatures have strengthened their policies and training. A few examples:

- The Arizona House adopted a formal policy regarding sexual harassment.
- The California Assembly began formal hearings on sexual harassment.
- Illinois passed a bill that requires all lawmakers and legislative employees to attend annual anti-harassment training.
- Washington's House staff began offering training for representatives.
- Maryland's legislative leaders updated the guidelines for reporting and tracking complaints against lawmakers.
- The Texas House added specific examples of sexual harassment, guidelines for the complaint process and information about counseling services to its policy.

- And Alaska, Colorado, Louisiana, New Mexico, Oregon and other states are considering changes in training and policies.

Sexual harassment is recognized as a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to private employers with 15 or more employees, employment agencies, certain labor organizations, certain federal government employees, and state and local governments.

Harassing behavior can include telling off-color jokes, discussing sexual activities, touching, leering, posting sexually explicit pictures, or other unwelcome conduct based on sex.

—Jonathan Griffin

Teacher Pay, Here and There

It's pretty obvious teachers don't go into the profession because they hope to get rich. That's good news if you want to ensure that our classrooms are led by people who love kids and the art of teaching—but not if you want to attract the best and brightest candidates to careers in education.

Do other countries face this dilemma? "Education at a Glance," an annual report by the Paris-based Organisation for Economic Co-operation and Development, compares more than 45 countries across all kinds of educational indicators, including teacher pay.

As in the United States, teachers' salaries worldwide are low compared with those of other similarly educated full-time workers, according to the report, making it difficult to attract young people to the career. Teachers start with a higher average salary in the U.S., about \$42,500 at the primary level, compared with less than \$31,000 on average for new teachers in the other countries. But American teachers don't reach the high salaries enjoyed by some of their global peers after years of experience in the field.

The report is full of other international comparisons. For every dollar earned by similarly educated workers in other

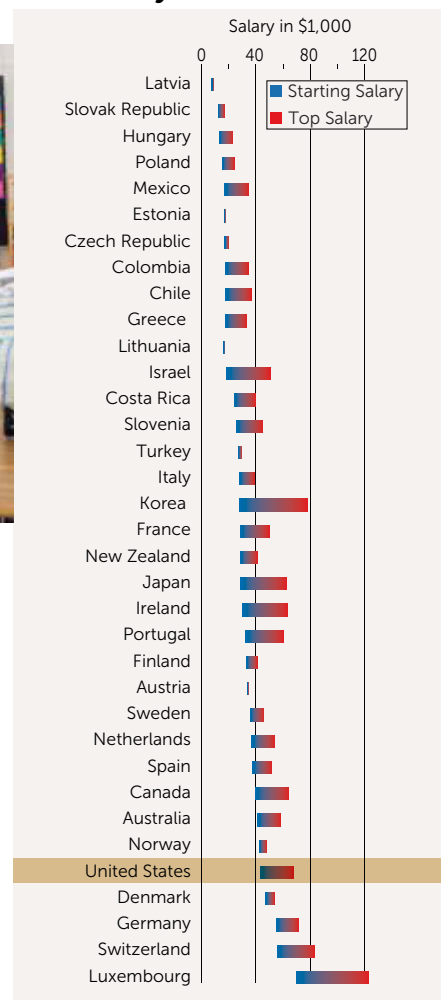


careers, for example, U.S. teachers make less than 60 cents, a bigger gap than in any other country in the report.

Also, at every grade level, U.S. teachers work longer hours than their international counterparts. And, depending on how you interpret it, our country is either losing wisdom or gaining new perspectives faster than other countries. The share of U.S. teachers over age 50 dropped in the last decade, from 33 percent in 2005 to 31 percent in 2015, while the over-50 share increased on average from 30 percent to 33 percent in the other countries studied.

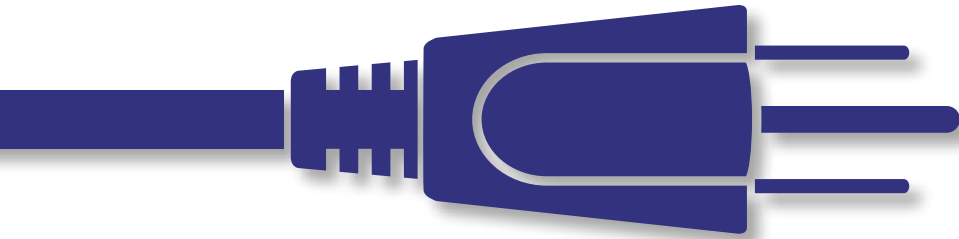
—Magazine staff

Salaries of New and Veteran Primary School Teachers



Source: "Education at a Glance," Organisation for Economic Co-operation and Development, 2017

PLUGGED INTO SOLAR



New solar energy developments are fueling local economies and providing jobs for thousands.

BY
MEGAN
CLEVELAND
AND
JOCELYN
DURKAY

Megan Cleveland is a policy associate and Jocelyn Durkay is a senior policy specialist in NCSL's energy department.

It's getting harder to ignore solar energy, whether it's the increasingly large installations and panels visible on rooftops or utilities' decisions to include more of it in their resource mixes. In 2016, solar represented the largest share of energy resources added to the power grid for the second consecutive year, according to GTM Research, which tracks the global electricity industry. It now represents 2 percent of the nation's total energy mix, according to the U.S. Energy Information Administration.

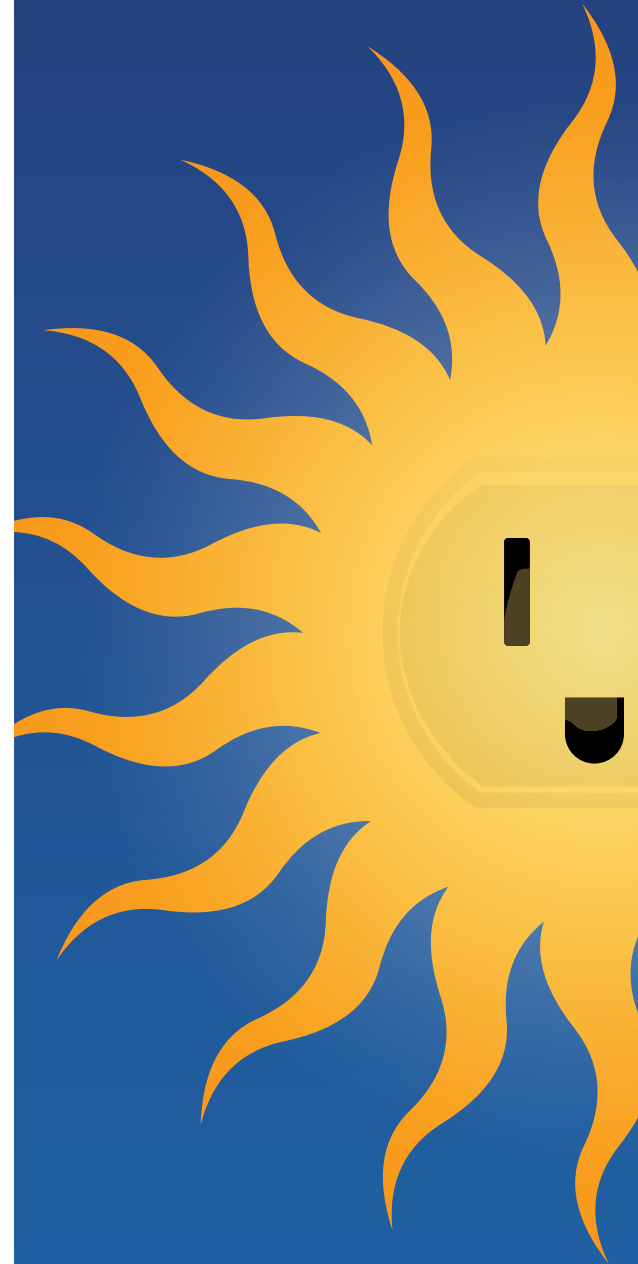
State legislators are noting this growth. Depending on the scale and forms of solar development in their states, legislators have different questions to consider. Where is solar generation best located? What economic development opportunities can solar energy bring to local communities? How can solar be accessible to all demographics? Is the current method of compensation for individual or rooftop solar the best approach?

How lawmakers ultimately answer these questions will have implications for state energy markets. "The policies we create in the legislature send the signals to the industry on whether to invest in our state or not," Nevada Assemblyman Chris Brooks (D) says.

Solar photovoltaic technologies—aka solar panels—comprise the majority of new installations. Any



Assemblyman
Chris Brooks
Nevada



Solar Energy

8,601

U.S. solar companies

250,077

U.S. solar jobs

2,094

Solar patents (2010 to 2015)

44

States with solar job growth,
2015 to 2016

1 in 50

The portion of all new jobs
that are in solar energy

Source: The Solar Foundation,
2016 data.

*"The biggest
opportunity that
solar brings to
Illinois is jobs."*

SENATOR DAVID KOEHLER, ILLINOIS

number of panels can be clustered together, allowing for a range of sizes. Utility-scale applications, for example, can generate several hundred megawatts of electricity, the equivalent of a power plant. An average residential rooftop installation is around 6 kilowatts (1,000 kW is equivalent to 1 MW), and many commercial installations have about 100 kW of capacity. In between are "community" or "shared" solar set-ups allowing a small group of customers to share the output from a medium-size installation that has several megawatts of capacity.

This scalability is what makes solar so appealing for utilities and customers.

Utility-Scale Solar

The majority of solar energy in the U.S. is commercial scale, owned by utilities or third parties, which provides electricity for thousands of customers.

Last year, a spike in solar development in North Carolina led legislators to address challenges to large-scale solar in the state. The state had the largest market for installations under the federal Public Utility Regulatory Policies Act, or PURPA, the 1978 law requiring energy companies to buy electricity from third-party-owned renewable facilities. But to accommodate all the new capacity, the state's largest utility had to upgrade numerous substations, with customers covering the costs. In addition, the state's military facilities were interested in increasing their energy security with on-site generation, such as rooftop solar on base housing. At the time, the state's electricity laws prevented third parties from owning or leasing these installations.

Recognizing that every major stakeholder group could gain from updating the state's renewable energy policies, North Carolina Representative John Szoka (R) introduced legislation to "look for market-based solutions to keep renewable energy—especially solar—alive and viable in our state." The legislation modified the terms of and added a competitive procurement process to the PURPA-standard contracts in the state. The bill also addressed third-



Representative
John Szoka
North Carolina

Solar Energy Additions

The amount of electricity added to the grid by different solar energy applications in 2016 (in megawatts and rounded to the nearest hundred).



Utility-sited solar:
6,400 megawatts



Customer-sited solar:
3,000 megawatts



Community solar:
200 megawatts

Source: Smart Electric Power Alliance, 2017

party leasing, expanded access for small- and medium-scale solar and created a rebate program. The bill passed and, most important, Szoka says, gave stakeholders certainty, as "business certainty leads to business growth and business profits."

Solar's economic potential also motivated Illinois lawmakers to pass the Future Energy Jobs Act of 2016. "The biggest opportunity that solar brings to Illinois is jobs," Senator David Koehler (D) says. The legislation, notable for providing economic support for several nuclear plants in the state, included long-sought modifications

Rooftop Rate Debate

Utilities increasingly are paying customers who send electricity to the grid. The most common way to compensate consumer-producers is net metering, which credits customers at the retail rate for the energy they produce. The idea developed when solar was a small player in the energy market. But now, with the rapid increase in the use of rooftop solar panels, legislators are discussing net metering and compensation rates in nearly every state. Legislators are debating whether these policies compensate customer-producers at a fair rate or whether nonparticipating customers bear an unfair cost burden.

Critics argue that the compensation received by net metering customers allows them to avoid paying for the cost of maintaining the electric grid's infrastructure, shifting these costs to other customers. Supporters say rooftop solar benefits utilities by supplying energy at times when producing and acquiring it is most expensive and by reducing the need for new generation and infrastructure.

As lawmakers and regulators discuss compensation methodologies, whether to increase fixed bill costs or adjust broader business models, among other policy alternatives, they will also consider access, equity and stakeholder perspectives.



Senator David Koehler Illinois

to the state renewable portfolio standard, renewable energy job training investments and procurements for rooftop, community and brownfield-sited solar.

“Our biggest goal for the Future Energy Jobs Act is to create good-paying jobs in every corner of Illinois, which will allow us to continue to be the powerhouse of the nation,” Koehler says. “Under this legislation, Illinois will become the gold standard of renewable energy policy.”

Community-Scale Solar

A small, yet growing solar sector is community or shared solar, which allows several customers to invest in a medium-size

solar energy project and directly benefit from the energy produced. These programs make solar energy available to customers who are unable or unwilling to install solar panels on their homes because they lack capital or are renters, or because their homes have old or shaded roofs. Policy-makers in at least 17 states and Washington, D.C., have enacted legislation authorizing community solar.

Colorado boasts one of the country's most active markets, with more than a dozen projects in operation. The state enacted legislation in 2010 authorizing investor-owned utilities to create community solar gardens. Five years later, Senator Kevin Grantham (R) co-sponsored legislation that expanded the concept, allowing electric cooperatives that install community solar gardens to

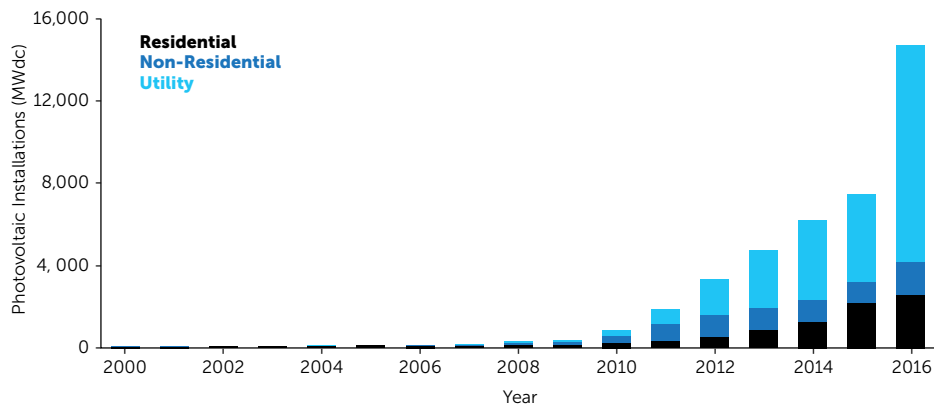
apply the gardens' output to new mandatory distributed generation obligations—allowing them to do so at a lower cost to cooperatives and customers than through other forms of distributed energy. “Although we support all forms of energy, including renewable energy, we don't support mandates that increase costs to rural consumers,” Grantham says.

As demonstrated in Colorado, community solar can be a compromise, harness-



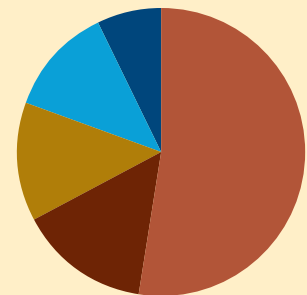
Senate President Kevin Grantham Colorado

The Rise of Solar



Source: SEIA/GTM Research, U.S. Solar Market Insight, 2016 data

Types of Solar Jobs 260,077 Solar Jobs Nationwide



137,133 Installation	52.7%
38,121 Manufacturing	14.7%
34,400 Project Development	13.2%
32,147 Sales and Distribution	12.4%
18,174 Other	7.0%

Source: The Solar Foundation, 2016 data.



Top 10

Where the Solar Jobs Shine Brightest

	NUMBER OF SOLAR JOBS
California	100,050
Massachusetts	14,582
Texas	9,396
Nevada	8,371
Florida	8,260
New York	8,135
Arizona	7,310
North Carolina	7,112
New Jersey	6,056
Colorado	6,004

Source: The Solar Foundation, 2016.

ing the economy of scale of utility solar but qualifying as a distributed energy resource. Community solar projects can be owned by a utility, a third party or even the participating customers. They are not confined to a specific location, so utilities and developers can build projects in areas where the grid is constrained, or where the land has limited uses, such as brownfields. In addition, since community solar connects to the distribution grid, utilities can avoid upgrades or infrastructure additions to the transmission grid.

Community solar presents policymakers with several challenges, including deter-

mining its rate structure and deciding whether utilities or customers receive the credits offered for generating solar energy. As a nascent market, community solar may not be well understood by consumers or policymakers, making it potentially difficult and costly to launch projects.

Customer-Sited Solar

Customer-sited solar installations are dispersed across the electric grid, often on rooftops, and allow home and business owners to generate their own energy. Although this broader distribution can reduce transmission constraints, it also occurs behind a building's meter, making it difficult for utilities and grid operators to manage.

Commonly debated customer-sited solar policies address interconnection—how systems are connected to the electric grid—and net energy metering, which is the most widespread form of economic compensation for customer-generators.

Many states are assessing their net metering policies and discussing alternative methods of compensating solar customers. The Nevada Legislature has debated this since a 2015 Public Utility Commission ruling ended net metering and brought Nevada's solar industry to a halt. "It is the reason I ran for office," says Assemblyman Chris Brooks, who made a career in the

energy and solar industries. To revive rooftop solar, Brooks introduced legislation that, among other provisions, defined how utilities will treat the energy consumers send back to the grid. The successful legislation also created a "bill of rights" for customer-generators that "establishes the ability for everyone in the state to self-generate, store their energy and interconnect those systems to the grid," Brooks says.

Lawmakers are also discussing strategies to decrease solar "soft costs," which include nonhardware expenses such as customer acquisition, permitting, inspection and installation. While hardware costs have decreased in recent years, soft costs remain stubbornly high and continue to affect system costs. States like California, Maryland and Vermont have enacted legislation in recent years in an attempt to lower soft costs and streamline interconnection processes.

Their priorities vary and they favor different policies, but legislators across the country are engaging in the solar energy debate. "I feel my role as a legislator is to look at what the people of Nevada want to see for the future of energy in our state and craft responsive policy," Brooks says. It does not end there, however.

"Passing a bill and getting it signed into law is never the end," says Szoka of North Carolina. "You have to stay with it and make sure it gets implemented the way it was intended."

Policy Potential Is Wide and Deep

State policy can address a range of solar energy topics. A new report by NCSL and the National Association of State Energy Officials, "Here Comes the Sun: A State Policy Handbook for Distributed Solar Energy," explores the many solar policy topics state legislatures are addressing: access and rights, building policies and codes, compensation for producers, consumer protection, financing, incentives and market-building policies, electric grid integration, ownership models, photovoltaic panel recycling and decommissioning, PV system soft costs, rate design, and training and certification.

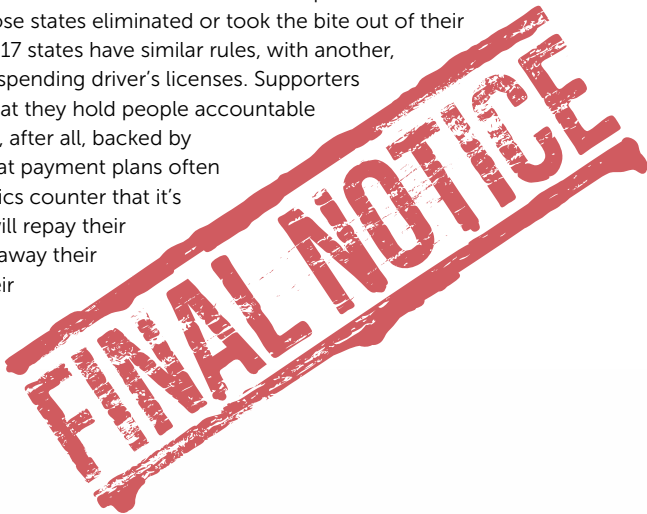
Visit our website, www.ncsl.org/research/energy to read the full report.



Assemblyman
Chris Brooks
Nevada

WHEN A LOAN DEFAULT MEANS NO WORK

Until recently, if you defaulted on your student loan in New Jersey or Oklahoma, your professional license could be suspended or revoked. Lawmakers in those states eliminated or took the bite out of their laws in 2016, but 17 states have similar rules, with another, South Dakota, suspending driver's licenses. Supporters of the laws say that they hold people accountable for debts that are, after all, backed by taxpayers, and that payment plans often are available. Critics counter that it's unlikely people will repay their debts if you take away their credentials or their means of getting to a job.



NO DRINKING AND DRONING, PLEASE

New Jersey lawmakers are considering a bill that would make it illegal to operate a drone while drunk. If enacted, it would be the first statewide drone law of its kind, The Associated Press reports. The Federal Aviation Administration, which regulates U.S. airspace, already bans the drunken operation of drones. Assemblyman Vincent Mazzeo (D) says the bill is needed because the federal law is rarely enforced. Flying a drone under the influence of alcohol in the Garden State could cost you up to six months in prison, a \$1,000 fine or both. At least 38 states considered drone legislation last year. None, however, addressed droning while drinking.



HOPING FOR A CLEAN SLATE

The long-term effects of a felony marijuana conviction—difficulty finding and keeping a job, getting a professional license or taking out a loan, to name a few—can seem especially cruel if your “crime” is no longer illegal. In the last three years, at least nine states have passed laws making it possible to clear certain pot offenses, the ABA Journal reports. But no state goes as far as California. Proposition 64, which legalized recreational marijuana use in 2016, lets people with pot-related convictions apply for a reduction to a lesser offense or an expungement. So far, at least 2,660 people have petitioned for reduced sentences, and another 1,500 have sought to have felony convictions reclassified as misdemeanors or dismissed.

WE'VE MET BEFORE, RIGHT?

Arizona Representative Lela Alston was visiting Tucson last fall when she came down with a sudden case of appendicitis. She got an even bigger surprise when fellow Democratic Representative Randy Fries stepped into her hospital room to prep her for emergency surgery. A trauma surgeon, Fries was just as surprised to see Alston, who lives in Phoenix. The “shock” therapy was a success, with Alston fully recovered by the start of the legislative session last month.





MAKING LIBRARIES SAFE FOR READING

The Denver Public Library is the city's default, though unofficial, safe-injection facility—a place where people can use illicit drugs intravenously. Colorado Representative Leslie Herod (D) wants to take pressure off the library, where drug use can be a nuisance to staff, who are trained to handle overdoses, and patrons alike. As part of a safe-injection pilot program, Herod is proposing that the city create a new facility nearby where users can also get clean needles and access to treatment. If the plan succeeds, Denver would be the first city in the nation with an official safe-injection facility.



LEARNING SKILLS THAT PAY BILLS

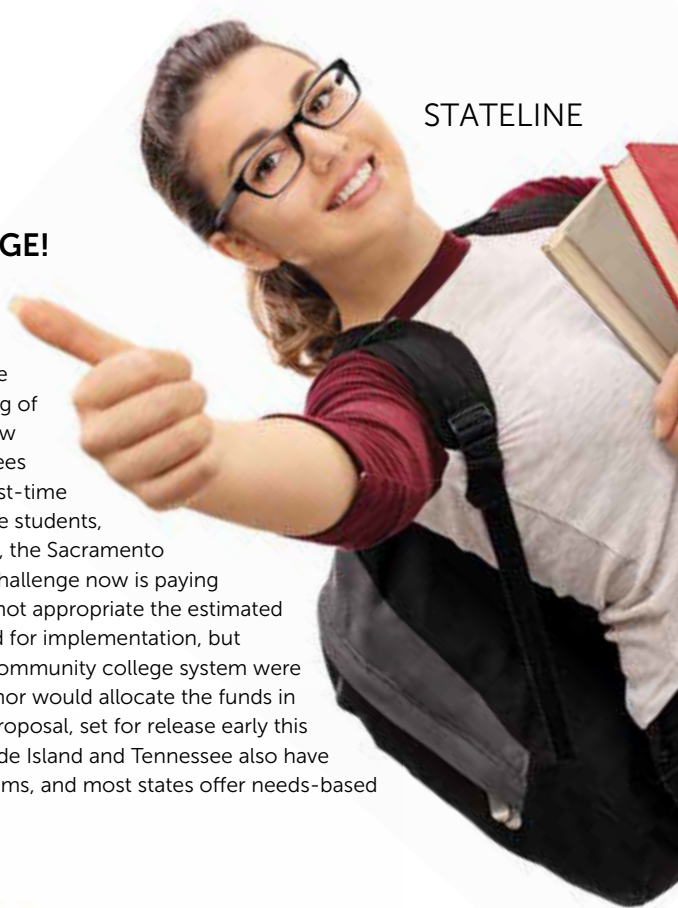
Virginia proved last year that achieving the nation's lowest re-incarceration rate in 2016 was no fluke. At 22.4 percent, the 2017 rate was down a full percentage point from the year before, The News Virginian reports. Of 11,576 offenders released in fiscal year 2013, 2,588 were re-incarcerated within three years. The national rate is about 68 percent. Virginia officials credit their success to career and technical education classes inmates may take to ensure they have skills to get work once they're released. And, once out, those with a history of mental illness are monitored by health professionals in the state's probation and parole districts.

SEXUAL ASSAULT AND PARENTAL RIGHTS

Alabama may soon join the states that sever the parental rights of rapists. Lawmakers are considering a bill that would allow for the termination of parental rights of someone convicted of first-degree rape that results in the birth of a child, TimesDaily.com reports. Forty-five states have laws addressing the parental rights of perpetrators of sexual assault: 30 terminate their parental rights if a child is conceived from the crime; the rest place some form of restriction on their rights. Studies estimate there are between 17,000 and 32,000 pregnancies resulting from rape in the United States annually.

FREE COLLEGE! (ONCE WE PAY FOR IT)

Supporters of tuition-free college cheered the signing of a new California law that waives class fees for a year for all first-time community college students, regardless of need, the Sacramento Bee reports. The challenge now is paying for it. The law did not appropriate the estimated \$31 million needed for implementation, but officials with the community college system were hopeful the governor would allocate the funds in his initial budget proposal, set for release early this year. Oregon, Rhode Island and Tennessee also have free-tuition programs, and most states offer needs-based reductions.





Thank You for Supporting America's Greatest Support System: Family Caregivers

To recognize their work to support family caregivers, AARP honors 91 state legislators by naming them to the 2017 class of Capitol Caregivers—a bipartisan group from 33 states and territories. Specifically, these elected officials advanced policies to support the adult children, spouses, friends and others who make it possible for older Americans to live independently in their homes and communities—where they want to be.

Congratulations and thank you to the State Legislators in AARP's 2017 class of Capitol Caregivers:

Arkansas

- Senator Cecile Bledsoe

Connecticut

- Senator Paul Doyle
- Senator John A. Kissel
- Senator Michael McLachlan
- Representative Bob Godfrey
- Representative Rosa C. Rebimbas
- Representative William Tong

Delaware

- Senator Jack Walsh
- Majority Leader Valerie Longhurst
- Representative Paul Baumbach

District of Columbia

- Councilmember David Grosso
- Councilmember Kenyan R. McDuffie
- Councilmember Brianne K. Nadeau

Florida

- Senator Kathleen Passidomo
- Representative Ben Diamond

Georgia

- Representative Brian Strickland

Hawaii

- Senator Roz Baker
- Senator Jill Tokuda
- Representative Sylvia Luke

Illinois

- Senator Daniel Biss
- Representative Greg Harris
- Representative Anna Moeller

Indiana

- Senator Randy Head
- Senator Ryan Mishler
- Representative Tim Brown
- Representative Cindy Kirchofer
- Representative Robin Shackelford

Kansas

- Senator Vicki Schmidt
- Representative Daniel Hawkins

Kentucky

- Senator Paul Hornback

Maryland

- Senator James N. Mathias, Jr.

Michigan

- Senator Jim Marleau
- Representative Ed Canfield

Minnesota

- Senator Karin Housley

Montana

- Senator Mary Caferro
- Representative Geraldine Custer

Nevada

- Senator Becky Harris
- Assemblyman Michael C. Sprinkle

New Hampshire

- Senator Sharon Carson
- Senator Janet Wall

New Jersey

- Senator James Beach
- Senator Jeff Van Drew
- Assemblyman Craig J. Coughlin
- Assemblywoman Pamela R. Lampitt

New Mexico

- Representative Rudy Martinez

North Carolina

- Senator Warren Daniel
- Senator Paul Newton
- Representative Gale Adcock
- Representative Beverly G. Boswell
- Representative John Szoka
- Representative Donna McDowell White

North Dakota

- Senator Judy Lee
- Representative Kathy Hogan
- Representative Jay Seibel

Ohio

- Senator Peggy Lehner
- Senator Charleta B. Tavares
- Representative Sarah LaTourette
- Representative Dorothy Pelanda

Oklahoma

- Senator AJ Griffin
- Representative Regina Goodwin

Oregon

- Senator Richard Devlin
- Senator Tim Knopp
- Senator Elizabeth Steiner Hayward
- Senator Jackie Winters
- Representative Nancy Nathanson
- Representative Dan Rayfield
- Representative Greg Smith

Pennsylvania

- Senator Michele Brooks
- Senator Art Haywood
- Representative Tim Hennessey
- Representative Steve Samuelson

Rhode Island

- Senator Maryellen Goodwin
- Representative J. Aaron Regunberg

South Carolina

- Representative Shannon S. Erickson

Tennessee

- Senator Ferrell Haile
- Senator Bo Watson
- Representative Matthew Hill

Texas

- Senator Van Taylor
- Senator Charles Schwertner
- Senator Judith Zaffirini
- Representative Yvonne Davis
- Representative Four Price

Utah

- Senator Evan Vickers
- Representative Raymond P. Ward

Washington

- Senator Joe Fain
- Senator Karen Keiser
- Representative Laurie Jenkins
- Representative June Robinson

West Virginia

- Senator Ron Stollings
- Senator Tom Takubo

Wyoming

- Senator Charles K. Scott



At AARP, we believe supporting family caregivers is a top priority for all of us. In 2018, across the states, we will continue to fight for more support, help at home, workplace flexibility, training, financial protection and more. Learn more at aarp.org/SupportCaregivers.



The Tipping Point

Millions work for less than the minimum wage, but tips make up the difference for many.

BY JACKSON BRAINERD

There's nothing minimum about the efforts to increase workers' wages over the last couple of years. There were 30 minimum wage increases through either legislation or ballot measures between 2013 and 2016. And last year, four state legislatures passed bills, although only Rhode Island's was signed by the governor.

Illinois Representative Will Guzzardi (D) supported the minimum wage increase "to get Illinois' economy moving again and that begins by putting money in workers' pockets," he said.



Representative Will Guzzardi Illinois

But the governor saw things differently, and vetoed the measure, as did the governors in Nevada and New Mexico to similar bills.

Opponents of wage hikes argue they kill jobs and force merchants to slash workers' hours, raise consumers' prices or both.

Thirty states now have higher hourly minimum wages than the federal government's, which remains at \$7.25.

Not as Low as Others

The notion of a minimum wage can be misleading, however, because it is by no means the lowest a wage can go. Millions of workers in jobs not covered by federal and state wage and hour laws receive wages below the minimum.

Several state legislatures are turning their attention to three groups of these subminimum wage workers: those who also make tips, young people (including students and apprentices) and individuals whose earnings or productive capacity are impaired by a

physical or mental disability.

The federal Fair Labor Standards Act of 1938 regulates employment wages. It sets the national minimum wage along with exemptions that allow certain groups to be paid less than the minimum. States may establish more protective standards than those set by the FLSA, and they can regulate the wages and hours of employees not subject to the federal act. Most states adopt the exemptions in the federal law; therefore, most recent state legislative action on this front has sought to limit exemptions.

Tipped Minimum Wages

The act was amended in 1966 to allow employers to use tip credits, meaning they can pay less than the minimum wage if the employee earns enough in tips to average at least the federal wage of \$7.25. This isn't easy to enforce, however.

Workers in occupations that receive tips are largely in the service industry. They include waiters, bartenders, maître d's, taxi drivers, hotel managers and maids, banquet workers, tattoo artists, casino managers and dealers, beauticians and manicurists, tour guides, sommeliers and more. There are roughly 3.3 million of these workers, and 60 percent of them are waiters and waitresses, according to the National Economic Council.

At least eight states have enacted legislation raising tipped wages in the last few years, but fewer have moved to eliminate the use of the credits. Maine residents tried to.

Voters approved a 2016 referendum raising servers' hourly wages from \$3.75 to \$12 by 2024 and eliminating the tip credit. But waiters didn't want it. They responded by campaigning

Jackson Brainerd is a policy associate with NCSL's Fiscal Affairs Program.



Sub and Minimum Wages

By the Numbers

\$7.25

The federal minimum hourly wage

1996

Year the federal minimum cash wage of \$2.13 was last set

3.3 million

U.S. workers who make tips

60%

Portion of tip workers who are waiters and waitresses

40%

The portion of tips the IRS estimates goes unreported

\$4.25

The federal youth minimum wage

424,000

Workers with disabilities who are paid subminimum wages

Sources: *The National Council on Disability and the National Economic Council*

to overturn the results. They said a higher wage would cause customers to tip less and would actually reduce their take-home pay. The Legislature responded during the 2017 session by reversing the tipped wage hike and keeping the tip credit.



Representative
Joel Stetkis
Maine

Maine Representative Joel Stetkis (R) supported the move to repeal the citizen initiative. He says that, although some argued the waiters were exaggerating the impact of eliminating the tip, “I choose to believe those who are telling us that this new law, as

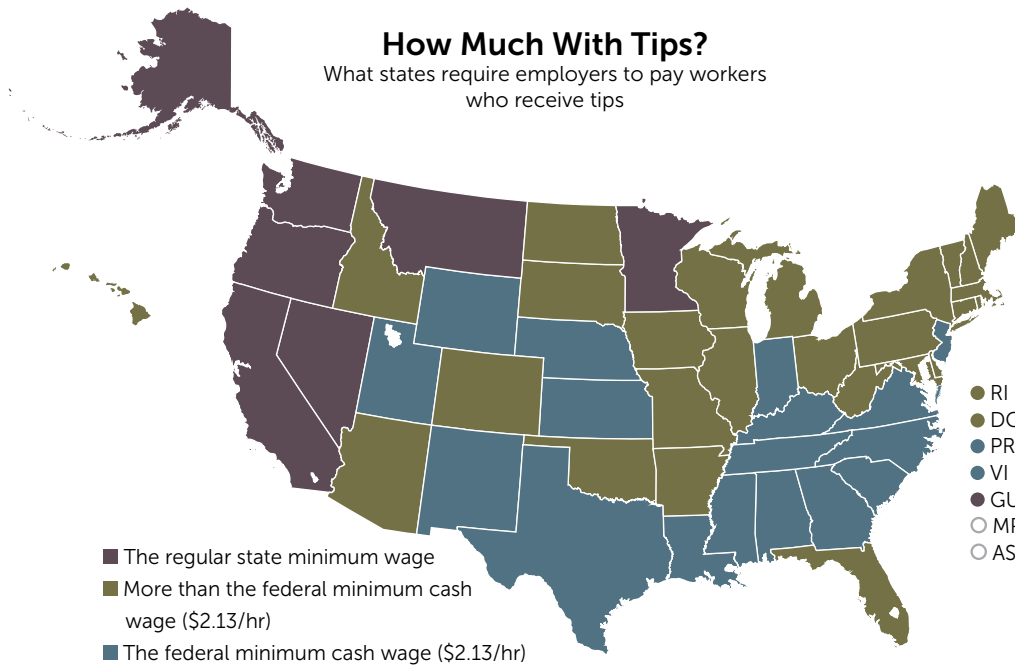
we speak, is hurting their families.”

Currently, seven states and Guam require employers to pay the full federal minimum wage of \$7.25 before tips. Twenty-five states and Washington, D.C., require employers to pay tipped workers somewhere between the federal minimum cash wage, which has remained at \$2.13 since 1996 and the state minimum wage. And, finally, 17 states, Puerto Rico and the Virgin Islands require only the federal minimum cash wage.

Proponents of keeping the tip credit claim that it, along with lower wagers, helps keep mom-and-pop stores and restaurants

How Much With Tips?

What states require employers to pay workers who receive tips



Source: *U.S. Department of Labor, Jan. 1, 2017*

in business and keeps total wages strong for servers who make more than the minimum wage when tips are factored in.

Others who support increasing subminimum wages or eliminating tip credits note that the federal tipped or cash wage of \$2.13 has eroded over time, even more than the regular minimum wage, which has been raised several times.

They also point out that tips are an easy target for tax evaders. The IRS estimates that 40 percent of all tips go unreported. This alone has spurred some states to consider eliminating or reducing the tip credit.

Unfortunately, while research into the employment effects of minimum wage increases is voluminous, there is a dearth of insight into the impacts of changing tipped wages. And much of what exists is contradictory.

CASE STUDIES

Tips Don't Cut It

Many of New Jersey's low-wage workers cheered when the state raised its minimum wage at the beginning of last year. But not Rebecca Fox. For 18 years, the 31-year-old waitress has earned \$2.13 per hour, more than \$6 an hour less than the state's minimum wage of \$8.44 an hour.

Like millions of waiters, bartenders and other workers nationwide, Fox isn't paid the minimum wage because she also earns tips. Federal labor law allows employers to pay such workers a lower wage as long as their total earnings, including tips, add up to at least the minimum wage. If they don't, employers must make up the difference.

Sounds good in theory. But it doesn't always work in practice.

"Let's say your whole night is one big party and that party forgets to tip you for some reason," Fox says. "You're going home with nothing."

Fox waits tables five nights a week. During the day, she assists adults with disabilities at an occupational therapy center, a job that pays just a bit more than the minimum wage. Her husband is a carpenter. But despite working three jobs between them, Fox says the couple, who have one daughter, barely get by.

If she earned a higher tipped minimum wage, Fox says, she could work fewer nights at the diner and spend more time with her family. She would also have a more predictable flow of income. Right now, she can make about \$100 a night. "But that's on average," she said. "Some nights I do well, and there are some nights I don't make the minimum wage even with my tips."

—*FiveThirtyEight.com*

Tips Make All the Difference

Michael Hanson, an accountant and experienced part-time waiter in South Portland, Maine, isn't against raising the minimum wage. But when Mainers voted in 2016 to raise the state's minimum from \$7.50 to \$12 by 2020, they also eliminated the tip credit.

That's when it got personal.

Hanson says he has averaged about \$44,000 a year over the last six years in wages from waiting alone, working roughly 30 hours a week (and provided the tax forms to prove it). If paid \$12 an hour with no tips, Hanson would make just \$18,720 a year from his second job.

"It's less than half of what I normally make," Hanson said. "Some people may still tip, but even if I made another \$18,720 in tips, I still wouldn't reach what I was making before."

Hanson and others in the restaurant industry fault the highly politicized lobbying that surrounded the referendum. They also say more lawmakers need to reach out to Maine's food service workers.

"It's bizarre. If you were making a law to help bus drivers, wouldn't you ask bus drivers what they think about it?" Hanson says.

—*Bangor Daily News, WCSH-TV*

Youth Wages

The FLSA was amended in 1996 to include workers under age 20. It set the subminimum wage for them at \$4.25 for the first 90 days of employment. The goal of these lower wages is similar to that of subminimum wages for people with disabilities and is frequently stated in statute: to prevent the curtailment of employment opportunities.

Some economic studies have shown a correlation between higher wages and lower hiring rates for young people. Opponents of minimum wage hikes argue that allowing subminimum wages during summer break creates more jobs for kids, not fewer.

Critics of keeping youth wages so low contend that the practice benefits only large companies with high turnover rates, not small, local businesses. They say such low pay could prevent teens living in low-income communities from earning a sufficient living.

According to the Manhattan Institute, 15 states have adopted the federal youth minimum wage; another 18 states have youth minimums above the federal level or with other restrictions, such as lower age limits for shorter time periods. Nationwide,

however, it doesn't appear that employers use the youth minimum wage very often.

The institute's review of Census Bureau data found that, among teenagers between 16 and 19, only "5.2 percent earn between the rate of \$4.25 and the federal standard minimum wage of \$7.25." And this number is likely inflated as it does not differentiate between workers who earn a youth wage and those earning a subminimum wage for other reasons (tipped employment, for example).

Around the country, in 2017, lawmakers in Maine, Massachusetts, New Hampshire, New York, Oregon and Rhode Island proposed legislation to create a youth minimum wage. In Idaho, they considered increasing the state's current wage, while in Connecticut, legislators debated eliminating the youth wage. None of these proposals passed.

In 2016, voters in South Dakota overturned the creation of a state subminimum wage for workers under age 18, allowing the \$4.25 federal youth wage to remain the standard.

Wages for People With Disabilities

Unlike tipped and youth wages, a sub-

minimum wage for people with disabilities was built into the original Fair Labor Standards Act. Section 14(c) permits an employer to pay a worker with a disability less than the minimum wage after receiving a certificate from the U.S. Department of Labor's Wage and Hour Division stating the disability impairs the worker's productivity.

The department determines the employee's wage, which is reviewed and re-determined at least every six months.

The 14(c) program is primarily used by nonprofit or state-operated social service providers, such as sheltered workshops where employees with disabilities (74 percent have an intellectual disability) work separate from the rest of the workforce. Roughly 5,600 employers pay subminimum wages to 424,000 of these workers nationwide, according to the National Council on Disability. This accounts for about 3 percent of the all employed people with disabilities.

Like tipped and youth wages, the subminimum wage for people with disabilities used to have a statutory floor of 50 percent

of the minimum rate, but this was repealed by Congress in 1986. Now, the law requires people with disabilities to be paid simply at a rate “commensurate with those paid to non-handicapped workers” and be “related to the individual’s productivity,” measured by employers.

Although most states mirror the federal act and leave the determination of the subminimum rate and renewal period to a regulatory authority, a few states set specific subminimum wage floors. Alaska and Delaware, for instance, set it at 50 percent of the state minimum rate, while Colorado requires certified employees to receive at least 85 percent of the state minimum rate.

Funding for Sheltered Workshops

By closing its last sheltered workshop in 2002, Vermont became the first to eliminate the subminimum wage for disabled people. As requested by the U.S. Department of Labor, the state has since ensured that no one with a disability is being paid a subminimum wage.

How has the employment situation fared for people with disabilities since the subminimum wage was eliminated? That depends on how you interpret the available data.

The number of employed Vermonters with disabilities has gradually increased over time. The State Data Report, published in 2014 by the Institute for Community Inclusion (which opposes sheltered employment), found that 61 percent of people with intellectual disabilities found jobs within a year of applying. (The national average is 29 percent.)

In addition, 38 percent of people with disabilities in Vermont worked in jobs alongside people without disabilities in FY 2013, more than twice the national average of 18.6 percent.

According to a 2016 Harvard Civil Rights-Civil Liberties Law Review report, however, “because Vermont no longer has any sheltered employment settings ... the remaining 63 percent of people with disabilities in Vermont were not employed in any capacity, and those who had employ-

ment were working well under half time.”

In other words, the elimination of sheltered employment could result in some people with significant intellectual disabilities no longer working, at least in the short term.

Other State Actions

In 2015, the New Hampshire General Court was the first to explicitly prohibit employing people with disabilities at a lower hourly rate than the federal minimum wage, except for training programs or family businesses.

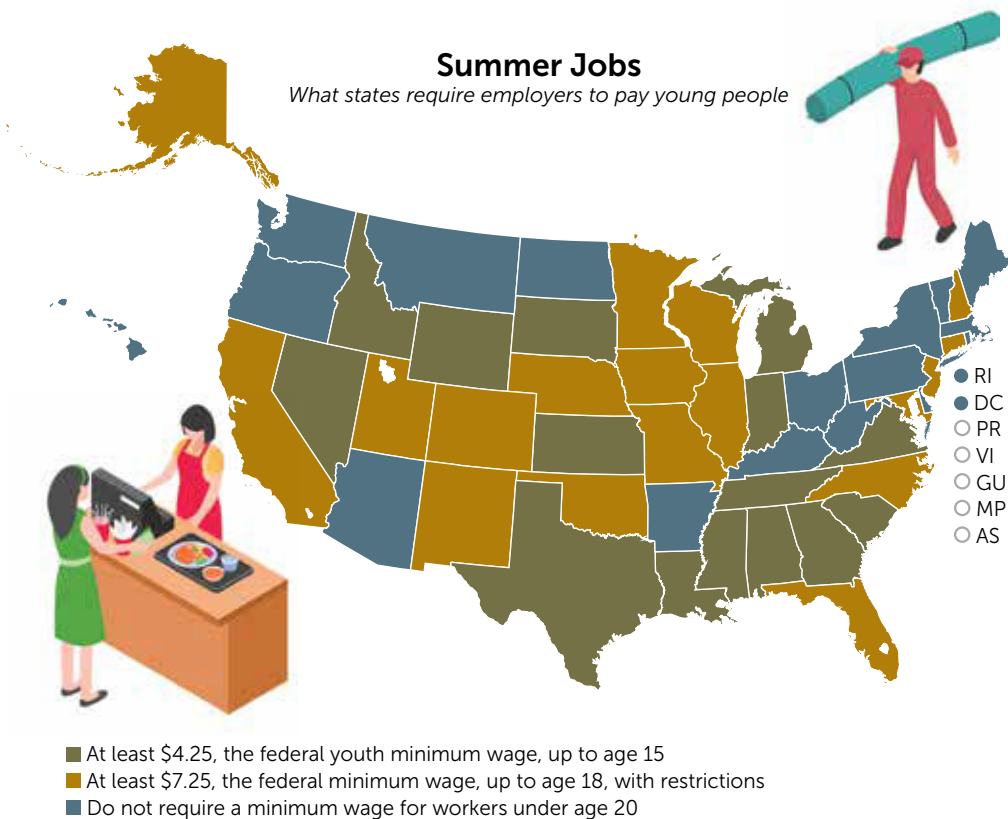
In 2016, the Maryland General Assembly banned the state commissioner of labor and industry from allowing sheltered workshops to pay subminimum wages to employees with disabilities and set up a phaseout of existing authorizations by October 2019. As part of the phaseout, the legislation required the state Department of Labor, Licensing and Regulation to track wages, unemployment rates and employment status of people with disabilities moving out of sheltered employment settings.

In 2017, legislators introduced proposals to eliminate funding for sheltered workshops or to repeal subminimum wages for workers with disabilities in New Mexico, Oregon and Texas. None passed, but a bill is still pending in California that would require the state to subsidize the difference between the subminimum wage and the minimum wage for certain employers of workers with disabilities.

Subminimum in Sum

States weighing changes to subminimum wage policies are doing so within the context of a national discussion on the role and benefits of the minimum wage generally. The same policy questions apply: Is the goal to provide a living wage? Are enforcement mechanisms strong enough? How will required wage increases affect employment opportunities?

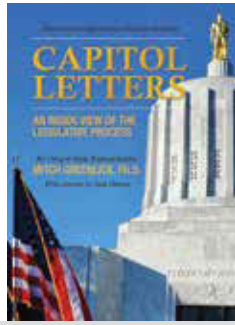
Although there are financial concerns for employers who take advantage of subminimum wage programs, the rights and financial well-being of individuals who are paid less than the minimum wage can’t be overlooked. It’s a balancing act, with conflicting evidence that state legislatures will continue to grapple with in the coming years.



Source: U.S. Department of Labor, Jan. 1, 2017

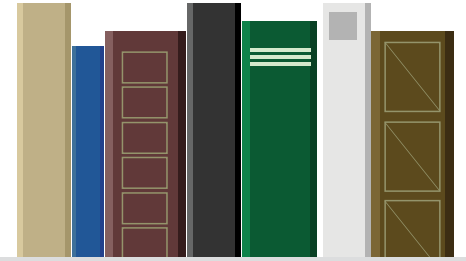
OFF THE SHELF

On top of making laws, some legislators find time to write books. Here are a few. Have you written a book we should review? Email magazine@ncsl.org.



CAPITOL LETTERS

An Inside View of the Legislative Process
By Mitch Greenlick, Ph.D.
Arnica Creative Services, \$22.05



Mitch Greenlick entered the Oregon House of Representatives in 2003 with a passion for politics and public service. And after six terms in the chamber—despite frustrations along the way—he has lost neither his enthusiasm for the work, nor his respect for the body in which he serves.

Hoping he'd one day write a book about his life as a legislator, he kept a detailed record of his experiences, which he shared as "MitchMessages" to his constituents. His new book, "Capitol Letters," compiles those messages, covering the leadup to his freshman year through the end of his sixth term.

Each session gets its own chapter and is accompanied by an introduction in which Greenlick revisits his words through the lens of experience. The letters are detailed personal accounts that reflect the issues he cares about, his insights into the sometimes mysterious workings of government and his hopes and expectations for each session. Together they present an honest account of Greenlick's work

as he chronicles not just his achievements but also his mistakes (misplaced anger and errant votes, for example) and comes to some important conclusions (as a member of the minority party, he recognizes early on the necessity of bipartisanship to pass legislation in Oregon, and resolves to include members of both parties in his efforts).

The book is a particularly worthwhile study of a legislator's freshman year, as Greenlick admits the challenges he faces figuring out how to navigate the legislature. And as he gains savvy and experience, he's able to educate his constituents in the legislative process, from introducing bills, to committee functions, to caucus dynamics, to dealings with lobbyists. Through it all, he never loses sight of his goal as a public servant: "While I work on immediate and pressing things each day, I always try to imagine a better future. And I ask myself what steps need to be taken today to move a little step toward that better future."

—Holly South

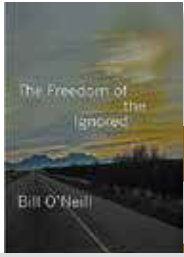
Holly South is a policy associate in NCSS's Legislative Staff Services Program. Kevin Frazzini is the assistant editor of *State Legislatures* magazine.



THE FREEDOM OF THE IGNORED

By Bill O'Neill

Red Mountain Press, \$18.95



The topics of Bill O'Neill's poems—love and politics—are irresistible. He is as much a storyteller as he is a poet.

O'Neill is a state senator in New Mexico, and his experiences in "the Roundhouse," as the state Capitol is known, have provided him with a treasure trove of material for his work. In more than a dozen brief vignettes about statehouse life he shines a light on the people, the process, the pickup basketball games and the behind-the-scenes machinations. O'Neill's poems are filled with humor, pain and self-awareness. He examines his relationships and how they reflect his place in the world, and contemplates the difficulties of an outsider trying to connect with people and places—and touches on how

many ways there are to be an outsider. Many of the poems are dedicated to his colleagues, but the most moving are reserved for closer relationships: the college friend who inspired him to write and who died in the Sept. 11 attack on the World Trade Center, and O'Neill's partner and her struggles with multiple sclerosis and their self-imposed (but not altogether unhappy) seclusion.

One line, from "Remembering Montana: the Lovelace Building (Bozeman)," keeps returning to me: "Everyone is a transient in a town like this." It is a common thread running through these poems: colleagues who come and go, relationships on the wane, the author's journeyman impulses (the "Freedom of the Ignored"), his search for meaning. The observations apply equally to life inside and outside the statehouse.

It's a wonderful book whether you typically appreciate poetry or not. O'Neill's insightful portraits will draw you in and keep you reading—and perhaps hoping, as he clearly does, that bipartisanship will make a comeback at the statehouse.

—Holly South

BOOK REVIEWS



WHO IS DRIVING THE BUS?

One Legislator's Road to Accountability

By Diana S. Urban

Fourth Quadrant Publishing, \$14.95

Just as every bus needs a driver, every bill needs a sponsor.

Or, as Connecticut Representative Diana S. Urban puts it, someone "crazy enough and tenacious enough to not let go" of a good idea.

"Who Is Driving the Bus?" is her story of shepherding into law in 2011 a requirement that state agencies responsible for programs affecting children produce an annual "report card" showing how well they delivered on stated goals. By leading the way—or "driving the bus"—she harnessed "results-based accountability" to ensure that money would be allocated to kids' programs that really work.

Results-based accountability (aka performance-, outcome- or data-based budgeting) isn't new. Most states incorporate the strategy in at least part of their budgeting process, and some have used it for decades. In fact, when Urban introduced her first attempt at a results-based bill in 2005, she was reintroducing a bill the legislature had passed in 1992. "We had a law on the books mandating that Connecticut incorporate performance budgeting into the budget process, and for years the legislature just ignored it."

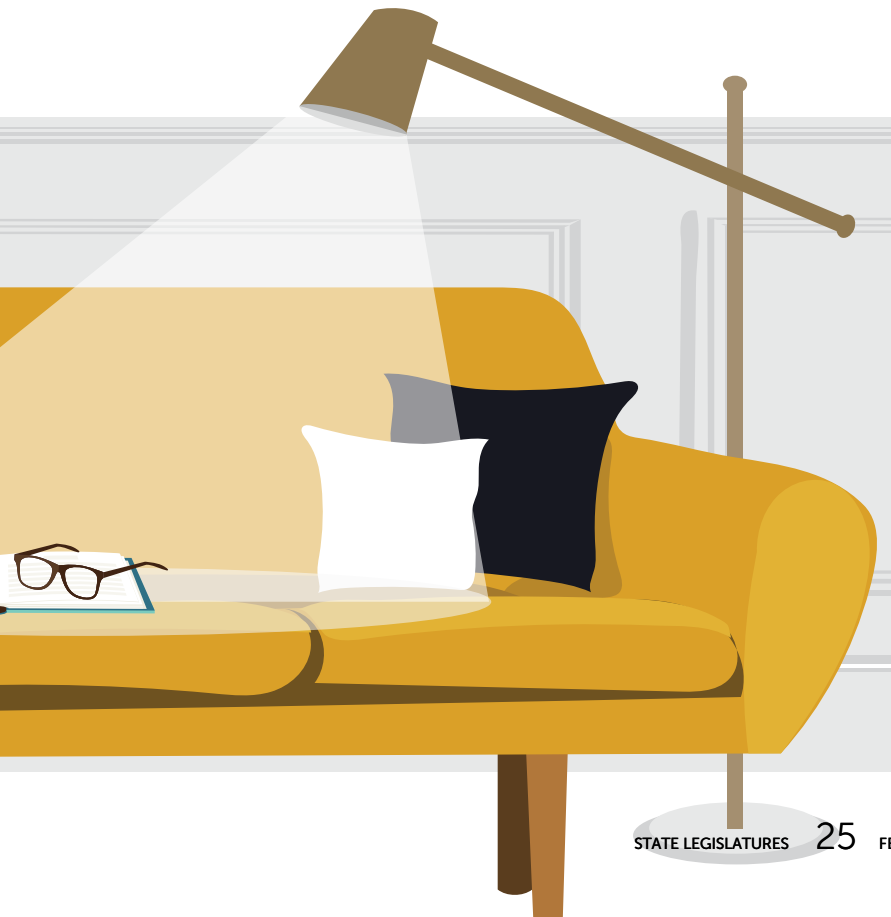
Not that she entirely blamed her colleagues. "In most iterations, this type of budgeting is not a walk in the park," she writes. Most states have found that the strategy works better for some programs and departments than for others. Road maintenance metrics are easier to track than certain human services outcomes, for example.

Although Urban's 2005 attempt failed, she eventually saw that applying accountability theory to all of Connecticut government was too much, so she got specific. She focused her bill on children and introduced it through the Committee on Children, which she chairs. That let her keep attention on the bill even as the session gathered speed and lawmakers turned toward their own priorities.

Urban lays out the strategies that yielded her success: assembling the right team of experts and, no less significant, securing buy-in from the agency staffers directly affected by the law. Along with legislative tips, she offers resources on results-based budgeting and describes several pitfalls she encountered in getting her bill passed.

If accountability legislation is on your to-do list, Urban's story is one you can learn from.

—Kevin Frazzini



Albo's Rules

Former Virginia Delegate Dave Albo distills almost a quarter century of legislative life into 11 rules you can use to make your state the best place in America!

After 24 years of service as a member of the Virginia House of Delegates, I decided it was time to retire. During the comments about my retirement on the House floor, I heard people refer again and again to “Albo’s Rules.” I didn’t realize I had more rules than Major League Baseball. But I guess I did!

After serving on the House Courts of Justice Committee (the judiciary committee in most other legislatures) for two decades, and serving as its chairman for the past 12 years, perhaps it was inevitable that I developed these “rules,” though I like the term “best practices” more.

⇒1⇐

There are no special people.

Never start down the path of passing laws that treat one group of people better (or worse) than others. If the law is a good law, then it should apply equally to everyone or apply to no one. Every time you pass a law making a classification of people special, you are demeaning everyone else in the state who is not in that group. Also, as soon as you make one class of people special, then everyone else wants the special status. Over and over you will hear, “Why does group X get it and we don’t? Are we second-class citizens?” One of the best examples is enhanced penalties for assault and battery. We, the Virginia Legislature, mandated extra punishments for the crime of assault and battery when the victim is a police officer. First, the judges wanted this special status, then the correctional officers wanted it, then the firefighters,

then the volunteer firefighters. (“We are volunteers, why is it a more serious crime to assault a paid firefighter than a volunteer firefighter? We do exactly the same thing—but for free!”) Every year there was a new group feeling snubbed by their exclusion from the law: The EMTs were next, then the teachers wanted it, then the bus drivers, then the referees ... you get my point. If the penalty for assault and battery is too weak for police, it is too weak for everyone.

⇒2⇐

If you don’t understand it, it’s likely some other legislator doesn’t either.

I have always been willing to raise my hand and admit that I don’t understand what people are talking about. It is not embarrassing when you realize that if you don’t get it, there’s probably another legislator who doesn’t get it either but is afraid to admit it! Citizens and lobbyists making presentations to legislators assume we know everything. We don’t! They are experts on their one issue. We deal with thousands of issues and need to be educated. I have often stopped a committee meeting, raised my hand and admitted, “I have no idea what you are talking about.” In my “real” life, I am a criminal and traffic defense attorney. I know all there is to know about DUI, larceny, illegal drug law, etc. But I don’t know anything about specialized issues that haven’t been applicable in my life, such as nonpoint source pollution, or dog hunting rules, or car title lending rules. The list goes on and on ...

⇒3⇐

When describing something, use language an eighth-grader would understand.

The purpose of communicating is not to impress the listener that you are a walking thesaurus. The purpose of communicating is to convey an idea to another person so he or she can understand it. If the legislator gets it and wants more, he or she will speak up, and then you can get out your thesaurus and wow us.

⇒4⇐

Talk like real people first.

Once we understand what we want, we can turn it into legal language for the code. Too many times, we lawyers in the legislature get caught up in the wherefores and the notwithstanding. Blah, blah, blah. It is much better just to talk like a regular person first, hash out what you are looking to do, and then write the law. A good example was when we drafted internet-oriented criminal laws. Instead of starting with the legal mumbo jumbo, where we would get all lost in the terms describing the technology and the legalese, we stepped back and just talked like regular people sitting around drinking a beer. Once we all understood what we were looking for, then we started drafting the law.

⇒5⇐

Words matter when writing laws.

Remember, a court will interpret a law assuming legislators deliberately chose



DAVE ALBO

every word in it. “Which” was changed to “that” in a bill I worked on years ago. Someone thought the words were interchangeable. But “which” is used with nonessential (or nonrestrictive) clauses that can be deleted without altering the meaning of the sentence. “That” is used for essential clauses that, if eliminated, could radically change the meaning. The differences are nuanced, but important.

⇒6⇐

If you make a list, you better include everything you want.

More intellectually stated that’s, *Inclusio unius est exclusio alterius*. In eighth-grade language it means, “In a list, anything that is excluded is deemed intentionally excluded.”

⇒7⇐

It is easy to stomp something out; the hard part is making sure you don’t catch other unobjectionable behavior.

This might be the most important rule. When you are trying to stop something, make sure you don’t go overbroad and include innocent behavior. A good example is passing a law to stop sexting. You want to stop an adult male from taking naked pictures of his minor girlfriend and then sending the pictures to all of his buddies. So, you pass a law

that basically says, “It shall be production of child pornography (subject to years of mandatory prison time) to knowingly transfer on the internet a naked picture of a child.” It sounds great, and you can put it on your brochure! But while you just put the creepy 50-year-old guy in prison for a decade and put him on the sex offender registry for his entire life, you also cast the net too wide. How? You just also sent to prison and put on the sex offender registry the 16-year-old girl who took a picture of her own breast and texted it to her boyfriend. Yes, in Virginia prosecutors have charged kids with production of child pornography for taking photos of their own bodies and texting them out.

⇒8⇐

Never trust the “Even if the law technically says that, we would never do it” argument.

As stated above, words matter. If a law cannot be written to stop the net from being cast too wide, don’t pass it under the promise that no one would pursue an absurd result. I remember back in the ’90s, we passed a law making it a felony for a person to commit a battery on a police officer. We all thought about the guy walking up to an officer and attacking him, causing bodily injury. At the time we were writing the law, one delegate asked, “What about when a person is being arrested? That is an uncomfortable thing, and he may wave his arm around to avoid being cuffed and touch the arresting officer. Remember, in a battery, no injury

is required.” The prosecutors and police lobbying for the bill all said, “We would never charge that!” Well, 20 years later, it happens all the time. Police get angry at a defendant who does not comply nicely, and they charge him or her with the felony. The prosecutors then bring the charges in court—even when the police officer was not physically injured in the least bit.

⇒9⇐

If it is already illegal, it is already illegal.

Often legislators want to have their own name on a bill to stomp out some vile behavior. And public interest groups want to pass laws they generated so they can tell their members they accomplished a great thing. But often what they want to do is already the law! The only fault is that the legislator or the public interest group can’t say that they did it. Whatever you do, don’t write another law. The courts will think that there was some fault with the original law, and you will end up creating more problems.

⇒10⇐

Not every law needs to be passed this year.

Wait until it’s right. As my friend and colleague Delegate Terry Kilgore often tells fellow Virginia delegates and senators, “The Virginia legislature has been around for 398 years without your law—I bet it can survive another year.” He says this because words matter and laws sometimes have unintended consequences. There should never be a rush to pass a bill just to pass something.

⇒11⇐

When you retire, don’t make stupid lists to tell other legislators how to do their jobs.

Many reading this will say, “Ah, this has-been just wrote a 1,600-word essay giving us his jewels of wisdom.”

Yes, I am that guy.





**Thank you
for helping**
private sector
workers take
charge of their
financial future

In New Mexico and Vermont, state leaders helped thousands of employees look forward to a more secure and independent retirement. They enacted historic laws to improve access to retirement savings for working residents who don't have an employer retirement plan. Across the country, 55 million workers don't have access to a workplace retirement plan, and people are 15 times more likely to save for retirement if they can do so at work. These laws also save taxpayers money by helping fewer people rely on government safety net services. That's why more than two dozen states are considering similar laws and AARP urges them to give small businesses a competitive edge—just like New Mexico and Vermont did in 2017.

AARP applauds the following people for bold and visionary leadership to ensure retirement security for all New Mexicans and Vermonters. We thank you for being a “Super Saver” whose support ensured passage of New Mexico's retirement savings study and Vermont's new retirement savings program.

New Mexico

- State Treasurer Tim Eichenberg
- Rep. Tomás Salazar
- Sen. Bill Tallman
- Sen. Michael Padilla

Vermont

- State Treasurer Beth Pearce
- The Hon. Kevin Mullin
- Rep. Ann Pugh
- Rep. John Gannon

To learn more

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Rural America Still Seeking Recovery

Rural America encompasses 72 percent of the country’s land and is home to 46 million residents. But the quality of life in rural areas is not keeping pace with that in urban communities. While most urban areas, with highly educated workforces, have recovered from the Great Recession, rural, small-town America has not.

Rural America has been in recession since a period of growth in the 1990s—far longer than the nation as a whole, according to a report on rural poverty released in December by the Carsey School of Public Policy at the University of New Hampshire.

Since 2000, the economies of rural regions with less than 50,000 workers have grown by an average of 1.6 percent, compared with 9.1 percent in cities with workforces larger than 1 million. As jobs have dried up, especially in manufacturing (down 20 percent since 2000) and mining, rural residents have migrated to cities. Since 2010, the rural population has decreased by more than 462,000 people.

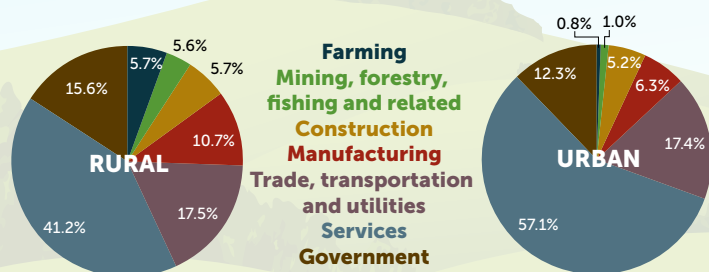
Reasons for the job losses include automation of blue collar jobs, giant online retailers undercutting mom-and-pop businesses and an over-reliance on a single industry or business. With the loss of jobs comes a spike in poverty. The portion of rural counties with a poverty rate greater than 20 percent jumped from one-fifth in 2000 to one-third in 2015. Since 2007, however, the median income of rural Americans has remained around 25 percent less than the urban median—\$45,295 compared with \$60,542 in 2016.

—Magazine staff

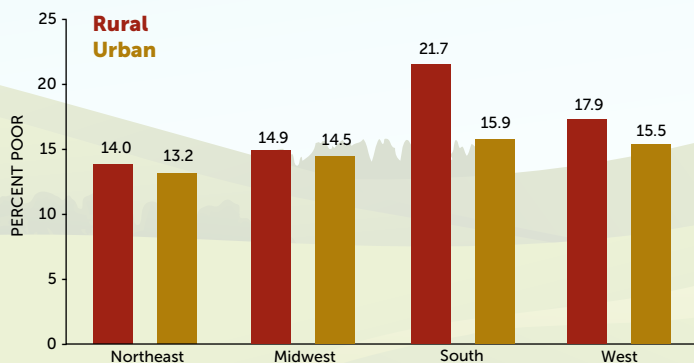
How Is Poverty Defined?

People are officially in poverty when their annual income is below a federally determined amount based on family size. In 2016, for example, the poverty line was \$12,486 for an adult under age 65; \$19,318 for a couple with one child; and \$28,643 for a couple with three children.

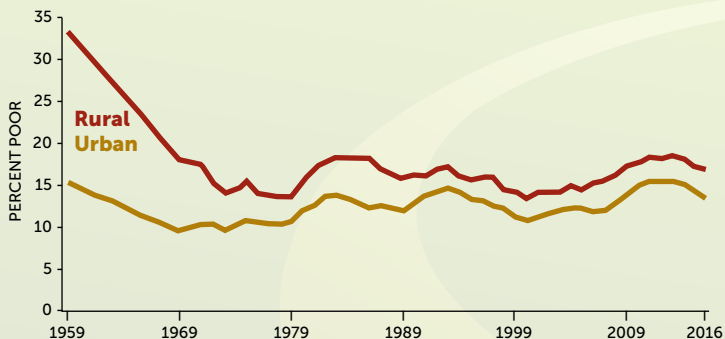
America’s Employers, 2015



Average Poverty Rates by Region, 2011-15

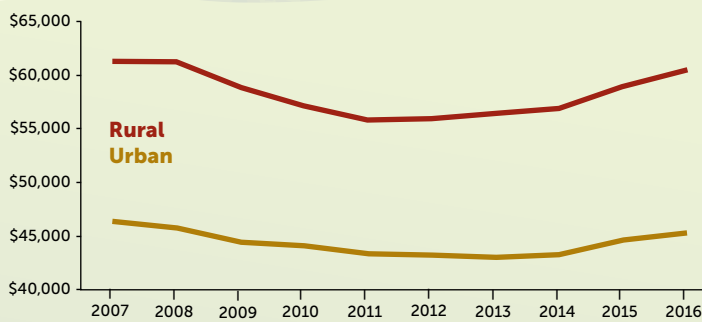


Poverty Rates Since 1959



Note: Some counties changed from rural to urban in 1984, 1994, 2004 and 2014.

Mean Household Incomes, 2007-16



Note: The definition of metropolitan areas changed in 2013, reducing the number of rural households by 1.7 million.

Sources: U.S. Department of Agriculture, Economic Research Service; Bureau of Economic Analysis; Governing; U.S. Bureau of Labor Statistics; U.S. Census Bureau, U.S. Department of Commerce

John J. Cullerton

President, Illinois Senate

Attorney John Cullerton began his career in the Cook County public defender's office. He was elected to the House in 1978 and appointed to the Senate in 1991, becoming president in 2009. One of his first duties was overseeing the impeachment trial of then-Governor Rod Blagojevich.

What is your top legislative priority this session? We have had a rocky three years. Last year was actually pretty positive because we finally passed a balanced budget and major school reform. But we still owe close to \$16 billion, so we have to figure out a way to pay down our bills because we're paying interest on them. That's got to be the top priority.

With Illinois' budget problems and high legislative turnover, how do you lead your members forward?

Though it appears that individual members and the parties are moving further apart, our experience in Illinois proved to be the opposite. After two years of gridlock, my former counterpart, Republican Senator Christine Radogno, said, 'Why don't you and I work together and try to pass legislation out of the Senate?' We put together a package of bills including a tax increase supported by Republicans and business reforms supported by Democrats. That's what people want—bipartisanship.

Will bipartisan efforts continue? Here's the problem: It's an election year. The governor is up for re-election. He did not sign the budget or the tax increase, and he rejected many of the reforms we passed. Senator Radogno resigned in frustration, and we have a new Republican leader. As a result, we may be back to our contentious fighting.

How would you describe your leadership philosophy? I like to be liked rather than feared. We have a supermajority. In Illinois, that is 36 votes; we have 37. My goal is to bring everybody together. We need 36 votes to override the governor, so we don't have a lot of votes to spare.

The Illinois General Assembly has produced two of the nation's presidents: Abraham Lincoln and Barack Obama. How was it serving with one? You know some of your colleagues are more ambitious than others, some have a brighter future. But the notion that somebody you sat next to for eight years would become the president is so cool. I spoke with President Obama about a month ago because he's raising money for his presidential center in Illinois, so we need to help him in the legislature. He's still a resident of Illinois and is still active here. It's a source of great pride.

Jane Carroll Andrade, a contributing editor to the magazine, conducted this interview, which has been edited for length.

What can and should be done to change the culture of sexual harassment? We passed a law making it clear that if someone wants to file a complaint about sexual harassment, they go to the Legislative Ethics Commission. Each chamber also created a task force to come up with ideas to make the process work better. It's obviously very unfortunate that this has happened, but it's good that we are responding to the challenge. If the reason it's so prevalent is because women in the past felt like they couldn't file legitimate complaints, then it's a good thing that people now feel they can. Hopefully there will be less of this happening as a result.

How did being the eldest in a large family prepare you for leading the Senate? I have five sisters and three brothers and so does my wife. I look upon my caucus as a family. I'm sort of like the oldest sibling. You learn how to negotiate.

When you were a kid, what did you want to be when you grew up? My grandfather was a lawyer. By the time I was 11, I decided I wanted to be a lawyer. I wasn't sure why. I knew that every year he had a new Buick, so maybe I figured I'd get a new car every year. On my father's side were the Cullerton politicians. My great-grandfather's brother was a state representative in 1873.

What would surprise people most to learn about you? The one thing I really like to do is be a stand-up comedian, and there's so much material on the floor of the Illinois Senate that it's very tempting. Telling jokes is a whole other skill. It's much more difficult than giving a speech because you can't read your joke, you have to deliver it perfectly. If you hit a home run, it's phenomenally fulfilling, and if you bomb, it's really depressing.

Can you share a joke? Just about everywhere I go politically, I go with my wife, so I love to introduce her as the speaker of my house, Pam Cullerton. We've been married 38 years and somebody asked her, 'What's the secret to a successful marriage?' And my wife said, 'We're both in love with the same man.'

What final words would you like to leave with our readers? Folks really prefer us not to be in conflict, but to get stuff done, work it out. When we get interviewed by competing media outlets that are trying to stay alive, they've got to have a big conflict story. So things get distorted because people think everybody is fighting. What the public really wants, what they are hungry for, is for legislators to sit down and compromise.



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– SENATOR DEB PETERS, SOUTH DAKOTA (R)



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