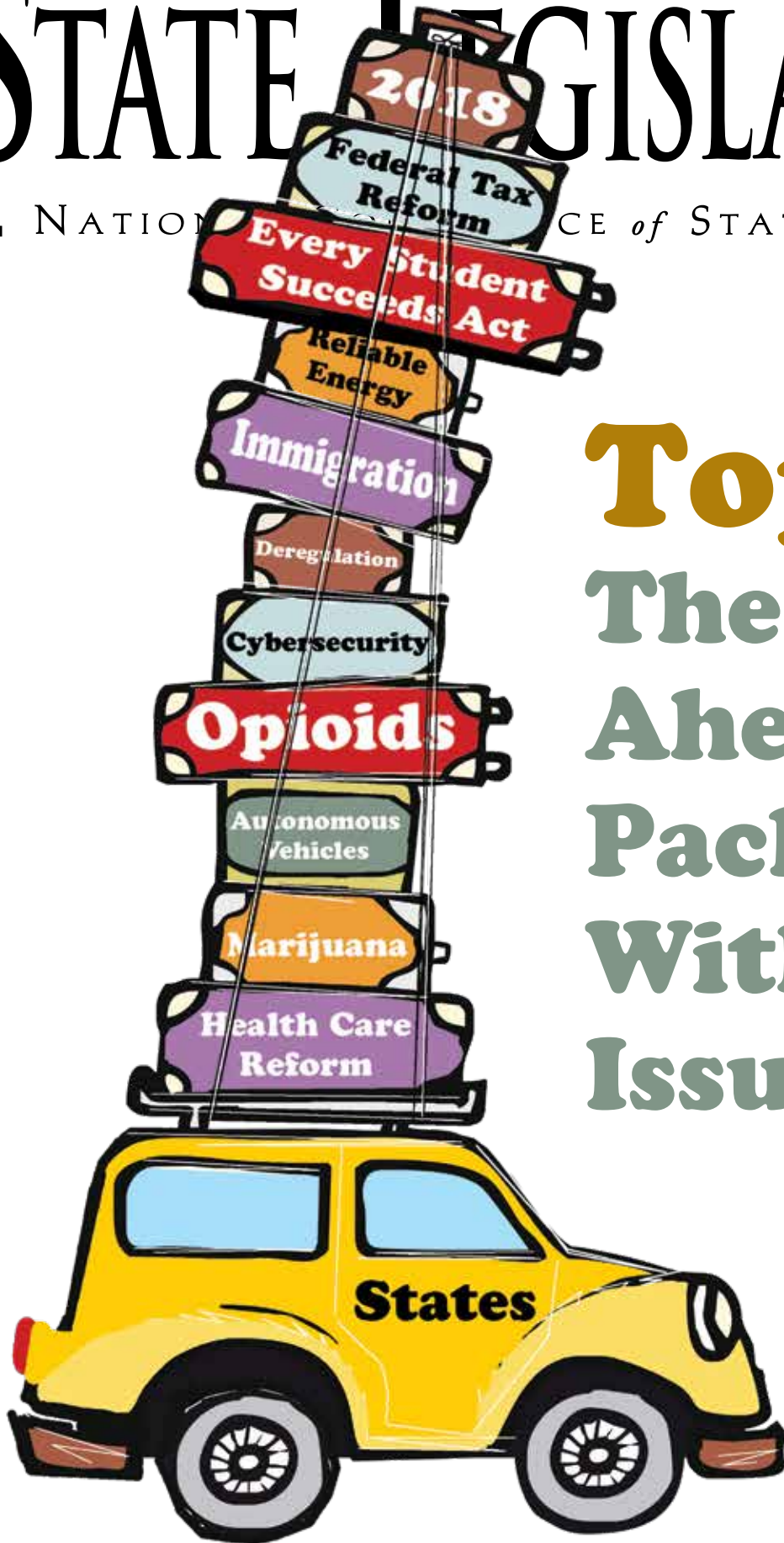


STATE LEGISLATURES

NATIONAL CONFERENCE of STATE LEGISLATURES



Top 10

The Road Ahead Is Packed With Big Issues

IS THERE REALLY A TEACHER SHORTAGE?

AN OLD HEALTH INSURANCE IDEA IS BACK

STATE REVENUES' "TRUDGE-COVERY"



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STATE LEGISLATURES

NCSL's national magazine of policy and politics

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BY JULIE LAYS

The road ahead for this year's legislative sessions is packed with big issues, and here are 10 of the biggest.



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BY ERICA MACKELLAR

The new year brings new budget challenges as state revenue growth trudges slowly along.

No Substitute for Trained Teachers Page 18

BY SUZANNE WEISS

If the teacher workforce has grown nearly 50 percent since the 1980s, why are states still reporting shortages?

Drip, Drip, Drip Page 20

BY SUZANNE WEISS

Hiring enough teachers to fill America's classrooms is like pouring water into a leaky bucket.

Health Idea Gets Second Chance Page 22

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Few agree on the best way to increase competition in the health insurance marketplace as an old idea gets a second look.

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"Rebuilding after Harvey will require a massive effort."

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Meet David Ralston, Speaker, Georgia House

"I'm a great believer that the states are truly the laboratories of democracy."

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.

CORRECTION: The story "The Politically Perilous Pay Problem," in the October/November 2017 issue, misstated the way legislator pay is adjusted in Ohio. The state stopped automatic adjustments to pay based on median household income or the consumer price index in January 2008. Lawmakers have not received a raise since then.



SHORT TAKES ON NCSL NEWS

CONNECTIONS

NCSL EXPERTISE



"The accelerating diffusion of licensing requirements around the country has created additional challenges for

certain populations to enter the job market." Albert Downs on how states are looking to reform licensing requirements as part of an NCSL project to improve occupational licensing, in the Washington Examiner.



"States have been widely different in their approach to how much employees pay." Richard Cauchi on the differences among

states in how much their employees pay for health insurance premiums, in Governing.



"It is exceptionally uncommon to change the retirement formula used to calculate pensions after a person has retired, and that's whether the retiree is a state employee, a teacher or a state legislator." Luke Martel on a Kentucky plan to change the public pension system, which would reduce some lawmakers' pensions after they've retired, in the Associated Press.

and that's whether the retiree is a state employee, a teacher or a state legislator."



"Efforts to share cybersecurity best practices of all kinds are absolutely lighting up the elections world right now." Wendy Underhill on state efforts to secure electronic voting systems, on PBS.

Underhill on state efforts to secure electronic voting systems, on PBS.



"Do you want consumers to have the right to drink raw milk? Or are you more worried about the public health

issue?" Doug Farquhar on debates in statehouses over whether to allow the sale of unpasteurized foods, in the Dallas Morning News.

Staff Smarts

Fall is learning season for legislative staff, many of whom attended professional development seminars conducted by NCSL's nine staff professional associations. They met in cities around the country to hone their skills and share ideas with their colleagues from other state capitals. Below are a few snapshots from the meetings.

Members of the Research, Editorial, Legal and Committee Staff enjoy seeing and learning about the Kentucky Capitol in Frankfort.

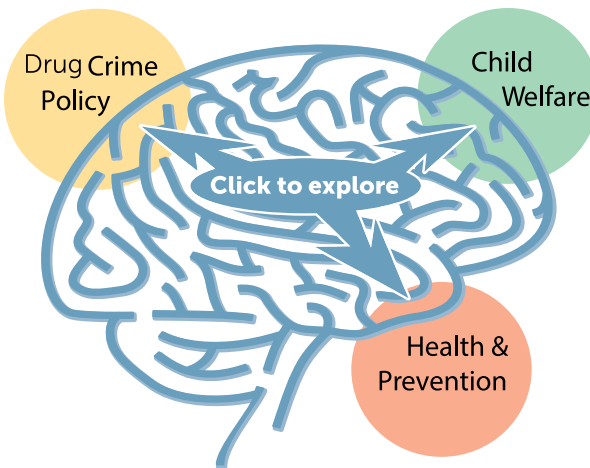


Bernard Dean, left, chief clerk of the Washington House, and Rob Hunt, clerk of the Maine House, received the Millicent (Millie) MacFarland Memorial Scholarship during the American Society of Legislative Clerks and Secretaries' meeting in Phoenix. The \$1,000 scholarship, named for longtime chief clerk and parliamentarian of the Maine House and former ASLCS president Millie MacFarland, is awarded to dedicated ASLCS members to help offset costs of attending the seminar.

MacFarland, is awarded to dedicated ASLCS members to help offset costs of attending the seminar.



After two days of learning, networking and touring C-SPAN at their seminar in Washington, D.C., members of the Legislative Information and Communications Staff association sported their commemorative t-shirts, designed by Immediate Past Chair Dennis Yoder of the Texas Senate (back row, center).



Check out the online magazine's new Opioid Deep Dive page for facts, statistics, state actions and resources to arm you for this critical battle. To see that and other NCSL Deep Dives, visit ncsl.org/magazine.

STRONG VOICE

A Force for Federalism

Legislative chairs and vice chairs of state intergovernmental affairs committees met with the Speaker's Task Force on Intergovernmental Affairs in the U.S. House in November to urge Congress to invite state lawmakers to testify at hearings on state-federal issues.

From left, NCSL Executive Director Bill Pound; Representatives Ken Ivory, Utah; Derek Skees, Montana; Russell Ober, New Hampshire; U.S. Representative Rob Bishop, Utah; South Dakota Senator and NCSL President Deb Peters; Representative Tyler Vorpapel, Wisconsin; Vice Speaker Mark Nakashima, Hawaii; and U.S. Representative Norma Torres, California.



SUPPORT



Real Men Wear Pink

NCSL Executive Committee members raised nearly \$2,000 for the American Cancer Society during a "Denim Days" promotion at their fall meeting in Sioux Falls, South Dakota. "Once again, the generous spirit of legislators, legislative staff and our partners has shown itself," said NCSL Staff Chair Chuck Truesdell. "Thanks to Jennifer Jones of the Texas Sunset Advisory Commission for her help on this!" The tradition of raising money for charity will continue at NCSL's next Executive Committee meeting, Jan. 25-27 in Charleston, South Carolina.

From left, Raul Burciaga, director of the New Mexico Legislative Council Service and immediate past staff chair of NCSL; NCSL Staff Chair Chuck Truesdell, fiscal analyst for the Kentucky Legislative Research Commission; and Michael Adams, director of strategic planning for the Virginia Senate, and a former NCSL staff chair.

IDEAS



California Strong

California Senator and NCSL Executive Committee member Holly Mitchell (far left) is pictured with the California Legislative Women's Caucus and Governor Jerry Brown, signing bills to improve services and support for women, children and families. NCSL's 2018 Legislative Summit will be held in Mitchell's Los Angeles district this summer.

IT Security Officers Brace for Threats

State legislatures generally don't collect as much sensitive personal information as government agencies and the private sector, but increasingly they are being targeted by hackers who want to express political views or damage the reputations of politicians. Hackers have taken over legislative websites, used ransomware to lock up systems while demanding payment, and sent phishing emails that spread malware.

In a July 2017 survey by the National Association of Legislative Information Technology, legislative chief information officers and information technology managers identified security threats as

one of their highest priorities and biggest challenges. Nearly all (94 percent) of the respondents said that battling security threats and taking additional security precautions would be either the "most important" or an "important" priority for the next one to three years. And 55 percent said the effort would be "very challenging"—a 10 percent increase over 2016.

In response, legislative IT managers are dedicating more attention and staff time to security. Some are adding chief information security officers or security specialists to their teams. Others are undergoing security assessments, bringing in outside organizations to review security practices. There's also a new focus

on training and awareness programs, like security contests for legislative staff or simulated phishing emails to test employees' security savvy.

Recruiting skilled IT staff will remain a problem, especially for managers with limited budgets. (The median annual wage for information security analysts was \$92,600 in May 2016, according to the Bureau of Labor Statistics.) Also costly are new security applications (and their future upgrades) and security assessments.

How can you help your IT manager? For starters, don't grumble when you're asked to change your password (again!), and attend trainings when they're offered.

—Pam Greenberg

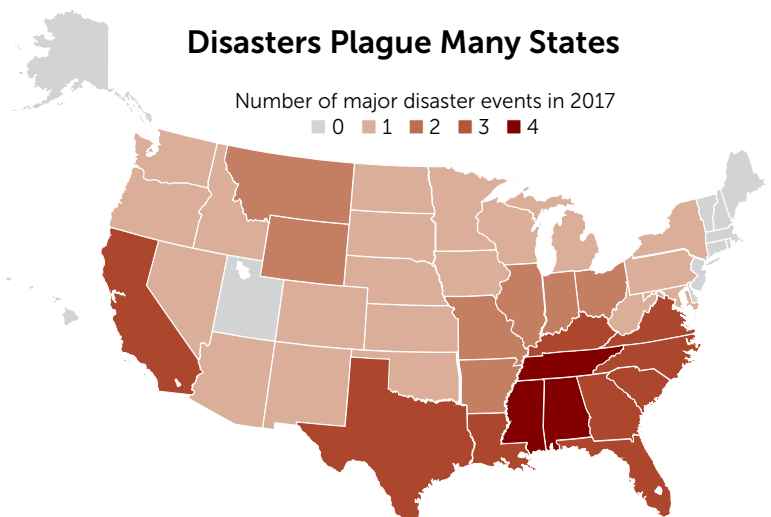
Weather and Climate Disasters Take Toll



Fifteen weather and climate disaster events, each causing losses of at least \$1 billion, hit the United States last year. That's according to data from the National Oceanic and Atmospheric Administration's National Centers for Environmental Information, which at press time had tracked such events through Oct. 7. The events, which resulted in 282 deaths, included a drought, affecting three states; a freeze, affecting nine states; and a wildfire affecting eight states; two floods, affecting 13 states; three tropical cyclones, affecting nine states, Puerto Rico and the U.S. Virgin Islands; and seven severe storms, affecting 31 states. Many states were affected by more than one of the disasters.

The costliest event so far appears to be Hurricane Harvey, with damages expected to top \$180 billion.

—Magazine staff



Source: NOAA National Centers for Environmental Information

Looking After the Little Ones



States With Active Kids' Caucuses

- Colorado's **Children's Caucus** presents four to five educational programs for lawmakers each session.
- Connecticut's **Early Childhood Caucus** meets weekly to discuss issues and pending legislation.
- Delaware's **Legislative Kids Caucus** presents an annual legislative platform.
- Hawaii's **Keiki Caucus** meets annually with nonprofits, educators and other stakeholders to develop a package of legislation to be introduced by caucus members.
- Maine's **Early Childhood Caucus** meets several times during session to hear from experts on child care and early childhood issues.
- New Hampshire's **Legislative Caucus for Young Children** proposes and monitors legislation, and gathers information from nonprofits and agencies serving children at an annual forum.
- Pennsylvania's **Early Care and Education Caucus** supports programs that promote health and educational development for at-risk children.
- Wisconsin's **Legislative Children's Caucus** offers programs on early childhood brain development and effective early learning.

States have majority and minority caucuses, of course, and plenty have caucuses working on women's, black or Latino issues. Some even have caucuses with a state-specific focus, like Illinois' White Sox Caucus, Louisiana's Acadiana Caucus or Pennsylvania's Karaoke Caucus.

Add to the list children's (or kids') caucuses, which several states are forming. These are bicameral, bipartisan groups of legislators and other stakeholders who work mainly to inform their colleagues about issues affecting children, though some also make policy recommendations. From the oldest, Hawaii's Keiki Caucus, formed in 1994, to the newest, formed recently in Maine, legislatures across the country are using these caucuses to educate their members and improve the lives of children.

Currently, eight states—Colorado,

Connecticut, Delaware, Hawaii, Maine, New Hampshire, Pennsylvania and Wisconsin—have kids' caucuses.

In Colorado, the caucus is led by four co-chairs, one member from each party in each chamber, with all legislators invited to attend. The caucus makes four to five presentations on child welfare for lawmakers every session. The presentations often include agency staff, advocates, foster youth and other stakeholders.

Wisconsin's caucus, like Colorado's, is chaired by four legislators, two from each chamber and each party, and it invites all legislators to participate. In its second year, the caucus arranged a series of statewide listening sessions to bring area legislators, local child welfare providers and the community together to learn about best practices in preventing child abuse and neglect.

Other states have groups similar to kids' caucuses, including children's cabinets, commissions or councils, that bring together state legislators, executive branch officials, advocacy organizations and other stakeholders. Indiana, for example, has a Commission to Improve the Status of Children, which was established by legislation and includes members from all three branches of government. The commission releases an annual report on the status of children and recommendations for legislation.

Does your state have a children's caucus that we didn't cover? If so, we'd love to hear about it. Send the details to magazine@ncsl.org.

—*Meghan McCann and Julie Poppe*

Broadband's Reach

Pacific Coast and Northeastern states—where incomes tend to be higher than the national average—outpace the rest of the country in percentage of households with broadband subscriptions, according to the new U.S. Census Bureau report “Computer and Internet Use in the United States: 2015.” Colorado and Utah also have higher than average percentages of broadband subscriptions.

Households with incomes greater than \$150,000 have the highest broadband connectivity, but income isn't the only factor in broadband use. “Some places don't fit the pattern because demographic and social differences also come into play,” Camille Ryan, a Census Bureau demographer, says. “The District of Columbia, for example, has high household income, while the household income in Idaho is below the national average. Yet for both places, the broadband subscription rate is not statistically different from the national average.”

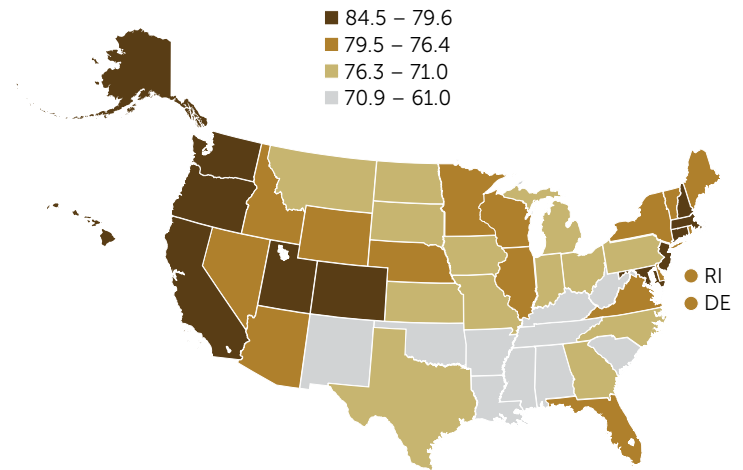
About 80 percent of Asians have a desktop or laptop computer, handheld device and broadband subscription compared with 65 percent of whites, 55 percent of Hispanics and 49 percent of blacks. Households that are younger or have lower income, or both, are more likely to use only a phone or other handheld device to connect to the internet.

Other findings include:

- 78 percent of all households own a desktop or laptop computer.

The Digital Divide

Percentage of households with broadband internet subscription by state



- 75 percent have a handheld computer such as a smartphone or other wireless device.
- 77 percent subscribe to a broadband internet service.
- Urban households are more likely to report owning or using a desktop or laptop or a handheld device and subscribing to broadband internet than their rural and small-town counterparts.

—Magazine staff

OUR AMERICAN STATES



Our American States is the podcast where you hear compelling conversations that tell the story of America's state legislatures, the people in them, the politics that drive them, and the important work of democracy.

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- Cybersecurity: It's More Than Elections
- Federalism: The "Hamilton" State Legislative Mix Tape
- Brain Science for Legislators and Staff

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Bicyclists Hope 'Idaho Stop' Catches On

It's no secret that bicyclists across the country often roll through intersections with stop signs, slowing down but never quite stopping unless they need to yield right of way. The maneuver got the name "Idaho stop," because since 1982 the Gem State was the only place where it was legal statewide.

That changed last fall when the Delaware General Assembly passed, and the governor later signed, legislation sponsored by Representative John Mitchell (D). Cyclists in the state may now yield, but not stop, at stop signs on roads with up to two traffic lanes.

Idaho stop laws have been slow to gain traction, with only a few Colorado municipalities and counties adopting ordinances. Debate picked up considerably last year, however, with Arkansas, California, Colorado and Oklahoma lawmakers all considering such measures.

California's bill, AB 1103, is still active. Colorado's bill, SB 93, passed the House but was stopped short by a 3-2 vote in the Senate's Transportation Committee.

Bicyclist advocates typically, but not universally, support Idaho stop laws because they legalize typical riding behavior. They tout Idaho's 35-year track record with no change in overall bike crash trends, and point out that the state's law was amended in 2005 to allow cyclists to fully stop, yield to oncoming traffic, then proceed through stoplights as well. Bicycling



injuries in the state actually declined 14.5 percent the year after the law was changed, and there have been no negative safety impacts documented since.

Opponents dispute the safety claims and say Idaho stops create dangerous situations and unfairly advantage bicyclists over other road users. Although many law enforcement agencies oppose Idaho stops, the Delaware State Police supported the state's bill with some revisions.

Fact is, many cyclists already roll through most intersections. A recent DePaul University study found that only 1 in 25 riders in the Chicago area came to a complete stop.

"It's best when traffic laws reflect how people actually behave on the road," Jeffrey Whitmarsh, a lieutenant in the Delaware State Police, says.

The growing awareness of the Idaho stop may lead to more research on the topic, which could help gauge potential safety and mobility effects.

—Douglas Shinkle

Another REAL ID Deadline Fast Approaching

Is your driver's license REAL?

The 2005 REAL ID Act set minimum standards for state-issued driver's licenses and identification cards. It requires that anyone trying to access certain federal facilities, board federally regulated commercial aircraft or enter a nuclear power plant present ID that meets the standards.

As of Nov. 10, 2017, 27 states and D.C. were in compliance with the federal act. Another 17 had received temporary extensions from the Department of Homeland Security. And six states and all the territories were under review for an extension.

Starting Jan. 22, only passengers from states in compliance with the federal law, or from states with an extension, will be able to use their existing driver's license or state ID to board a domestic flight. Air travelers from states that have not been granted an extension and are not yet compliant won't be able to board their flights unless they have an alternative form of acceptable ID.

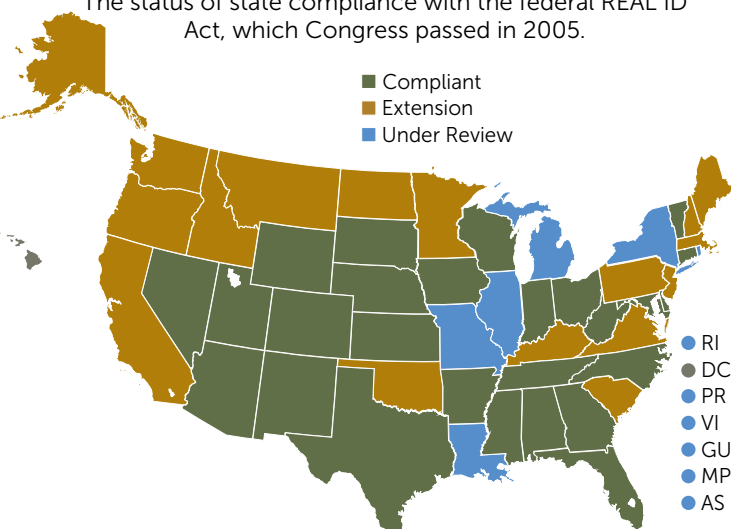
Other forms of identification accepted by Transportation Security Administration officials include a passport or passport card, Global Entry card, U.S. military ID, airline or airport-issued ID, and federally recognized tribal-issued photo ID.

By Oct. 1, 2020, every domestic air traveler will need a compliant license or another acceptable form of ID.

—Ben Husch

12 Years and Counting

The status of state compliance with the federal REAL ID Act, which Congress passed in 2005.



Source: U.S. Department of Homeland Security, November 2017

Top 10

The road ahead is packed with big issues, and here are 10 of the biggest.

BY JULIE LAYS

The chaos in Washington, D.C., has preoccupied the nation. Except for the distraction of far too many horrific man-made and natural disasters, all eyes have been fixed on the federal government for the past year. Meanwhile, state legislators have been tackling tough problems and making difficult decisions—with no certainty of what’s coming from our nation’s capital.

All 50 state legislatures held regular sessions in 2017 and, despite waiting for action and answers from Washington on key issues, managed to pass more than 21,000 new laws, some on the hottest topics of the year. This year looks to be similar.

All legislatures, but the four biennial ones, will be in session in 2018, addressing an abundance of issues, many unique to their states. Issues that have a wide impact and presence in almost every state made it onto our annual Top 10 list this year. All have questions about federalism at their core—What role will states play? How much flexibility will legislatures have? Will state laws be pre-empted? If states are given more responsibility, will funding accompany it?

Amidst the questions and uncertainties swirling around D.C., state lawmakers will find ways to address these important issues, as they always have.

I

OPIOID EPIDEMIC

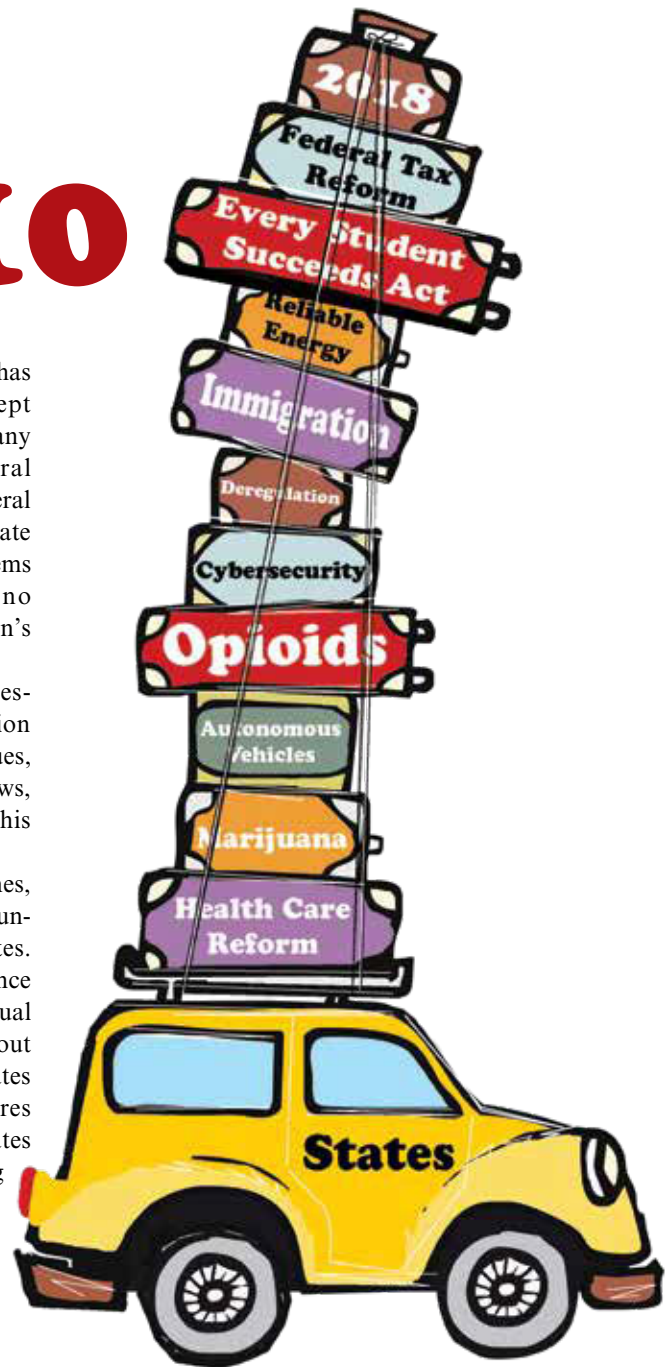
How do we stop opioid addiction and overdoses?

President Trump declared the opioid epidemic a public health emergency in October, but state legislatures have been fighting the crisis for years. Every state has enacted some type of measure addressing opioids in the past two years.

The number of victims is staggering. Opioids—which include prescription painkillers (oxycodone, hydrocodone, methadone), heroin and fentanyl—killed more than 33,000 people in 2015, more than any year on record.

Nearly half of those deaths involved a prescription opioid. In fact, more people were killed by opioid overdoses than by motor vehicle crashes in 2015.

The extent of the epidemic is astounding. Opioid addiction affects people of both sexes, all racial and socioeconomic groups, from rural areas to big cities and everywhere in between. State resources are strained by overwhelmed emergency rooms and first responders, crowded morgues, jam-packed jail cells and mounting foster care caseloads, which are now at their highest level since 2009. Babies under age 1, sometimes addicted at birth, comprise around 17 percent of children entering foster care.



Julie Lays is the editor of State Legislatures magazine. NCSL policy experts Jake Lestock, Kate Blackman, Amber Widgery, Martha King, Dick Cauchi, Jocelyn Durkay, Kristy Hartman, Sara Brown, Michelle Exstrom, Pam Greenberg, Karmen Hanson, Amanda Essex and Ann Morse contributed to this article.

As the secondary effects of this crisis grow, officials in health, criminal justice, human services and other policy areas are working together to fight the epidemic on all fronts while also ensuring that those who need effective pain management drugs can continue to get them.

Hundreds of bills were introduced in 2017 and you can expect to see more in 2018. Legislation will address:

- Guidelines for, or limits on, opioid prescriptions
- Access to naloxone, the overdose reversal drug
- Immunity for those who call 911 to seek medical assistance
- Sentencing for drug users and traffickers
- Training and education for providers
- Access to community-based treatment
- Treatment for those in or involved with the criminal justice system
- Registration and licensing of pain clinics
- Programs to collect unused pills

2

IMMIGRATION OVERHAUL

Will states continue to take on a greater role in immigration policy?

Immigration policy, in general, has evolved into a shared responsibility among the local, state and federal governments. The federal government decides who's allowed in, while states provide services for them once they are here. The Trump administration has cut the number of refugees to its lowest level, and has asked Congress to decide the future of the Deferred Action for Childhood Arrivals program for unauthorized immigrants. But state lawmakers continue to press for a total overhaul of what many consider to be antiquated immigration laws, mostly unchanged since Ronald Reagan signed the Immigration Reform and Control Act in 1986. That law tightened security measures at the Mexican border, set penalties for hiring unauthorized workers and allowed immigrants who'd entered the country before 1982 to apply for amnesty.

With limited federal action, states have been tackling local immigration concerns. Legislatures in all but three states enacted 90 percent more bills dealing with immigra-

tion in the first half of 2017 than they did in 2016. And that trend will likely continue into 2018. Legislation will address:

- In-state tuition and driver's licenses for unauthorized immigrants
- Sanctuary laws that limit cooperation with federal immigration authorities
- State law enforcement efforts to control unauthorized immigration
- Funding for immigrant services like English language and citizenship classes
- Use of the E-Verify database to confirm work authorization
- Immigrants' eligibility for higher education financial aid, health insurance or professional licenses

Ultimately, however, immigration is a national responsibility that state lawmakers say requires a national solution.

3

DEREGULATION OF FEDERAL RULES

How far will the administration go in overturning rules and regulations?

During the campaign, Trump promised to roll back 80 percent of all federal rules, regulations and agreements that he said were stunting economic growth and hindering job expansion. He appears well on his way to fulfilling that pledge. In his first 100 days in office, he overturned 23 Obama-era environmental policies. Many of the administration's targets deal with climate change, the big ones being the Clean Power Plan and the Paris climate agreement.

Other regulations targeted apply to the coal, oil and gas industries, including a methane reporting requirement, the ban on off-shore drilling in the Atlantic and Arctic, and fracking regulations on public lands. Other rules targeted were meant to protect wetlands and tributaries, grizzly bears, whales and sea turtles, and our national parks.

The administration has focused on environmental regulations but several other areas, like labor and education, have seen cuts as well. Companies seeking federal contracts are no longer required to report labor standards violations, and employers do not have to maintain accurate records

of serious illnesses and job-related injuries for five years.

In education, schools are no longer required to weight student achievement more heavily on test scores and graduation rates than other factors. They also no longer must prepare a detailed annual report on student achievement for parents and the public. And that's just a few of the many that have been overturned.

4

CYBERSECURITY THREATS

How can we prevent hacking and cyber-breaches?

From the breach of millions of people's personal data at Equifax to Russian hackers trying to influence our presidential election, cyberattacks, in their many guises, continue to concern policymakers.

Hackers are breaking into systems full of personal, sensitive information to steal individuals' identities and financial information. They are disrupting campaigns by spreading "fake news" to discredit and embarrass candidates, or holding public entities hostage with threats of going public with the sensitive data they've stolen.

As attacks increase in frequency and sophistication, so does their threat to government security, economic prosperity and public safety. State legislators will be considering ways to beef up their security practices, and still make government open and accessible to the public. Legislation states are likely to debate would:

- Exempt a wider array of cybersecurity-related information from public records laws
- Expand laws that require businesses and governments to notify potential victims of a breach
- Offer economic incentives to companies to invest more money in cybersecurity

HOT ISSUES

- Pay for further education or provide student loan forgiveness for cybersecurity professionals
- Offer security awareness training to staff
- Ensure government and businesses follow security standards and best practices to manage cybersecurity risks
- Diversify energy production to make the electrical grid more resilient
- Create task forces or multi-agency teams to study effective responses

State legislatures can't fight this battle alone. They will be recruiting all levels of government and industry to work together in this battle against a growing army of cybercriminals.

5

HEALTH CARE REFORM

Where are we with health care reform?

Talk about uncertainty. No issue faced as dubious a future last year as the Affordable Care Act. Although three attempts failed to repeal and replace it, the Trump administration has shortened the enrollment period for the federally run exchanges, substantially cut enrollment assistance and advertising, discontinued payments to insurance companies to cover their losses for enrollees who qualify for cost-sharing subsidies, and issued rules to roll back a federal requirement that employers include birth control coverage in health insurance plans.

States, as the primary regulators of insurance, will continue to adjust to federal cost-sharing changes and work to balance affordability of the plans with the benefits they offer, while maintaining access to necessary services. Lawmakers will also:

- Evaluate how to respond to potential federal pre-emption of state regulations that protect insurance consumers
- Use Section 1332 innovation waivers to modify provisions in the current federal law
- Explore the potential for lowering the cost of prescription drugs through purchasing agreements and rebates
- Shift care toward prevention and wellness services
- Expand the scope of practice of some midlevel providers
- Increase the use of telehealth

Medicaid will also be high on legislative agendas, as further changes come from D.C. The Trump administration promised additional flexibility through Section 1115 waivers, which allow states to sidestep certain requirements to reform their Medicaid programs to better suit their unique needs. For example, waiver requests may be crafted to: expand or restrict eligibility criteria; improve how services are delivered; integrate behavioral health with primary care; charge copayments; use managed-care plans for long-term care; establish work requirements for certain enrollees; tie provider payments to the quality and results of the care given; and coordinate services for patients with complex needs.

6

STATE EDUCATION PLANS

How do we ensure our state education plan complies with the new federal law?

The most frequent topic of discussion, from faculty lunchrooms to education committee rooms is the new federal Every Student Succeeds Act. The law crosses nearly every education policy area and gives states more freedom and flexibility in how they go about achieving their goals than its prescriptive predecessors did. It requires state education agencies to develop and submit a state plan to the U.S. Department of Education for approval describing how their state would:

- Improve student academic achievement
- Increase graduation rates in failing schools
- Hold schools accountable
- Improve teaching and school leadership
- Address inequities in achievement among students or quality of education offered

The law requires states to consult with legislators in the development of the plans, which have now all been submitted for federal approval. Legislators will continue to be involved in passing any legislation required to implement their state's plan.

Many state lawmakers applaud the law for returning decision-making authority to states, but some fear it gives states the opportunity to skirt some federal protections and not address underperforming teachers and schools.

7

FEDERAL ROLE IN MARIJUANA

Will the federal government interfere in states with legalized marijuana?

Marijuana makes yet another appearance on our hot topics list. Eight states and the District of Columbia have legalized small amounts of marijuana for adult recreational use, and 29 states, D.C., Guam and Puerto Rico have legalized medical marijuana. Throw in medical access to low-THC cannabis products, and you get 46 states that allow some level of legal use of marijuana.

States with recent legalization initiatives have been looking to experienced states like Colorado and Washington to see what lessons can be learned and hurdles avoided. But the growing focus is on the federal role in marijuana policy. Several bills in Congress would improve tax policy for states that have legal marijuana businesses. Others would change the federal scheduling of marijuana, legalize adult use of marijuana and end federal prohibition. But, for now, federal law still classifies the plant as a Schedule I drug, defined as dangerous, with no accepted medical use and a high potential for abuse.

State legislation in 2018 addressing the federal role will likely reflect state actions from 2017. California and Washington each have legislation pending that would prohibit state or local agencies (or public resources) from assisting the federal government in any investigation that would interfere with the states' lawful regulation of marijuana businesses and products. This includes taxation, banking and other areas.

Other bills or resolutions pending in six states call on Congress to reschedule the drug or otherwise allow state authority over marijuana policy.



8

AUTONOMOUS VEHICLES

Will states retain authority over autonomous vehicles and other new technologies?

Artificial intelligence is changing our world in profound ways, with self-driving cars being one of the most visible and intriguing applications of the new technology. State legislators are working hard to stay ahead of developments and will continue to look for ways to reap the benefits AI offers while fending off the dangers it presents.

Since 2012, at least 41 states and D.C. have considered various policies on autonomous vehicles. In five states, governors have issued executive orders regarding the vehicles, and in 21 states, lawmakers have passed bills. The legislation covers issues regarding testing and operating the vehicles, as well as insurance, privacy and cybersecurity concerns.

The federal government has shown support for the vehicles' development but some state officials worry how far Congress may go (i.e., pre-emption of state laws) in support of making regulations uniform across the country. The federal government has issued a couple of voluntary guidances on self-driving cars, and last fall Congress began debate on legislation that would support and encourage the industry. The federal legislation would allow manufacturers to receive exemptions from certain safety rules and would give Congress and federal regulators the authority to set performance standards. But it would leave states with authority over issues such as licensing, liability, insurance and law enforcement—unless those rules are considered “an unreasonable restriction” on the vehicles' performance.

If Congress passes legislation on autonomous vehicles, that will only heat up the already very hot issue for state lawmakers.



9

THE CHANGING ENERGY INDUSTRY

What is the states' role in building, maintaining and paying for safe, reliable energy?

State legislatures are facing many decisions regarding the nation's energy supply. Traditional coal and nuclear power plants are fighting to stay competitive as natural gas drives down power prices and renewables become more cost-competitive. At the same time, the demand for electricity has slowed and the country's energy infrastructure has aged, with transmission lines and pipelines wracked by hurricanes, wildfires and other events.

New technologies and distributed energy resources are also changing the way energy is produced and used, allowing people to control their home thermostats from their phones, install new chargers for their electric vehicles or add solar panels to their roofs. While considering policies and regulations to support or deter these new technologies, lawmakers will also be discussing the possible cyberthreats these new technologies present. Policies high on legislatures' energy agendas include:

- Ensuring a modern, reliable grid
- Protecting the grid from cyberattacks and extreme weather
- Studying the impact of emerging technologies, like solar energy, on the electric grid
- Considering supports for struggling resources, such as nuclear plants
- Offering incentives to buy electric vehicles and install charging stations
- Promoting smart-grid technologies that deliver electricity efficiently

State legislators are also monitoring federal deregulatory action and what impact that could have on state energy policies. It's unclear at this point what actions will actually go into effect, but that won't deter state legislators from continuing to consider how best to address the rapidly changing energy sector.



10

FEDERAL TAX REFORM

What will federal tax reform do to state policies and budgets?

Republicans in the U.S. House and Senate introduced two different bills to reform taxes in November. At press time, neither of the bills had reached the floor of either chamber, but both proposed eliminating deductions that would affect state budgets—and perhaps make states rewrite some of their own tax laws.

The most notable change would be the elimination of the deduction for state and local taxes that has existed in the federal tax code since its inception. Eliminating it could lead to higher taxes for tens of millions of middle-class taxpayers and could create administrative challenges for state governments, as many couple their income tax systems with the federal government's. State legislatures would likely need to change their own tax laws if these changes survive in the final reform package.

Also potentially on the chopping block are private activity bonds, which allow tax-exempt municipal bonds to be issued on behalf of a government for a project built and paid for by a private developer. This type of debt typically is used to finance public-interest projects, such as low-income housing, hospitals or airports.

Other deductions suggested for elimination include:

- The sale of municipal bonds for professional sports stadiums and privately run infrastructure projects
- Federal subsidies for states' use in attracting businesses to locate within their borders
- The federal Work Opportunity Tax Credit, available to employers who hire and retain veterans and other people who experience barriers to finding work

State lawmakers will be active in areas beyond these Top 10, of course. Many will be responding to current events and looking at restrictions on public protests, mitigation and response to natural disasters (wildfires, hurricanes and floods), limits on automatic weapons and bump stocks, and protections against sexual harassment and violence.

That's plenty for one session.



Revenue Growth: More Tortoise Than Hare



The new year brings new budget challenges as state revenue growth trudges slowly along.

BY ERICA
MACKELLAR

In the last decade, while state programs continue to grow at a fast pace, state general fund revenues have grown only modestly, recovering far more slowly than in previous recessions. State general fund revenues increased only 1.9 percent in FY 2017, and are projected to grow 3.9 percent for FY 2018, according to an NCSL survey last October.

K-12 education and Medicaid together account for about two-thirds of state budgets annually, and both are consistently the fastest growing program areas. In FY 2018, total state funding for Medicaid is expected to increase 7.2 percent.

These, and other rising health care costs, and the unknown future of the Affordable Care Act, the Children's Health Insurance Plan and federal tax reform made budgeting especially tough for states.

Uncertainty over federal policies will continue to be a concern in state legislatures this year, particularly in Maryland and Virginia and other states with economic ties to Washington, D.C. States are waiting to see how federal tax policies will change, and the potential effects on state budgets. Currently, 15 states allow taxpayers to deduct state and local income taxes when calculating federal taxable income, which is a key target in the congressional tax reform plan.

Although some state budgets would not

be drastically affected in the short term by a change in federal policy, ambiguity and a lack of direction could be challenging in the long term, because slow revenue growth leaves little margin for budgeting error.

Estimating Revenues, No Easy Task

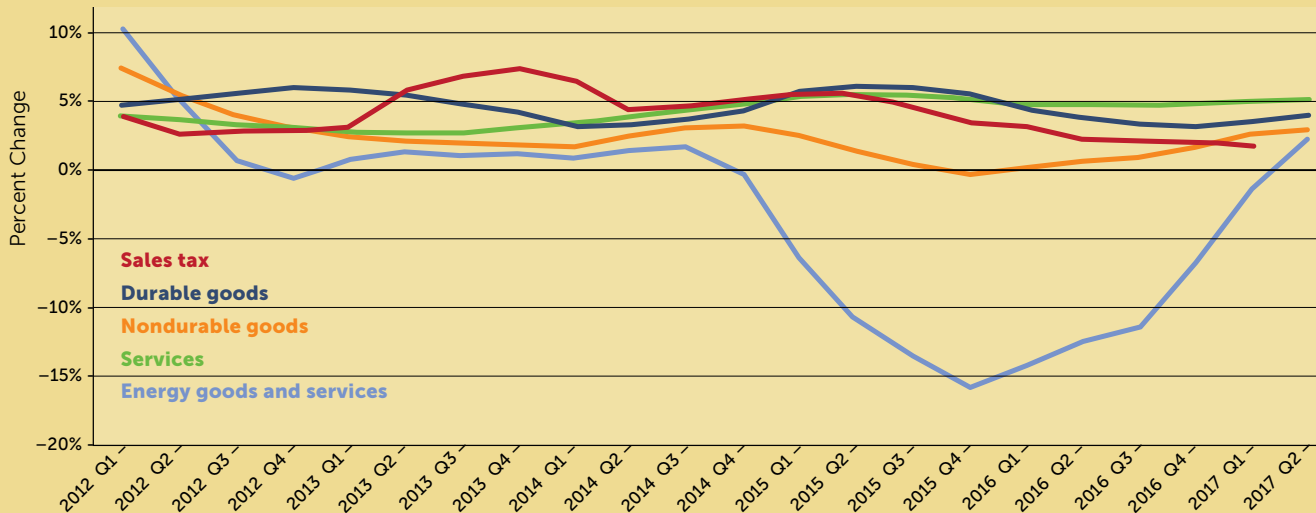
All these challenges are compounded by the difficulty of estimating revenue, which may have contributed to the large number of legislatures—10—that had to go into overtime to adopt state budgets last year. In many states, both personal income tax and general sales tax collections have become more difficult to predict. Typically, as income grows, people purchase more and this drives sales tax growth. But that trend may be shifting—and it could be a long-term problem. The population of the United States is aging rapidly, and as people grow older, their consumption patterns change. Add to that the different preferences of millennials who have put off buying houses (and all the goods that go inside of them) in favor of spending money on travel and other non-physical goods, and revenue estimating in the states is no easy task.

Severance tax collections are notoriously volatile, and with the current weak markets for oil and gas, energy-producing states are concerned. Alaska, which has no statewide personal income or sales tax, has been particularly

Erica MacKellar, a senior policy specialist, tracks state budgets for NCSL.

Growth of Energy Goods and Services Hop Ahead of Slow-Paced Sales Tax Growth

Year-over-year percent change in sales taxes and average percent change of personal consumption of various goods and services, per quarter, 2012-17.



Sources: U.S. Census Bureau (tax revenue) and Bureau of Economic Analysis, National Income and Products Accounts

hard hit. The state has drastically depleted its rainy-day funds to shore up budget shortfalls over the past few years. Some other energy-dependent states, however, such as North Dakota, New Mexico and Wyoming, are seeing some stabilization in state revenues from the energy sector.

Slow and Steady Wins the Race

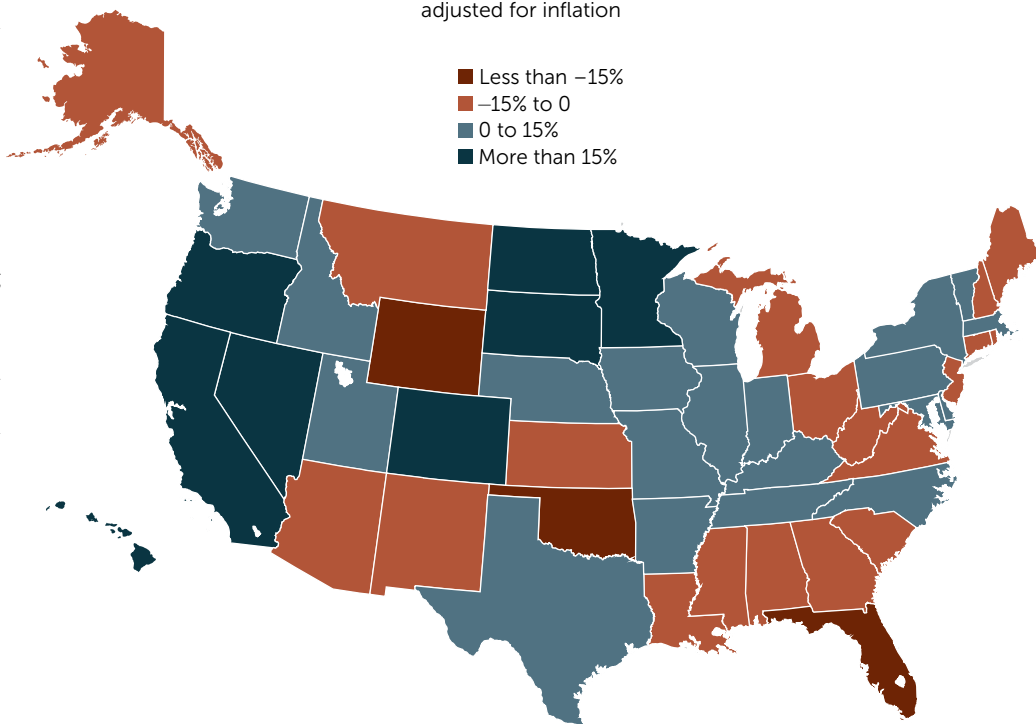
Despite these challenges, state budgets overall remain stable. With a few exceptions, states have largely replenished budget stabilization, or rainy-day, accounts, after drawing them down heavily during the Great Recession. Rainy-day funds in the states, plus states' year-end balances, are projected to be a healthy 7.2 percent of FY 2018 general fund expenditures, which may help some states weather any future economic slowdowns. And some states continue to see higher-than-average revenue growth. Idaho, for example, finished FY 2017 with 8.8 percent revenue growth.

There is a lot of uncertainty for state budgets in the coming year, and states have relatively modest state revenue growth to manage any surprises. But state budgets over the last few years have largely remained stable, meeting challenges as they come.

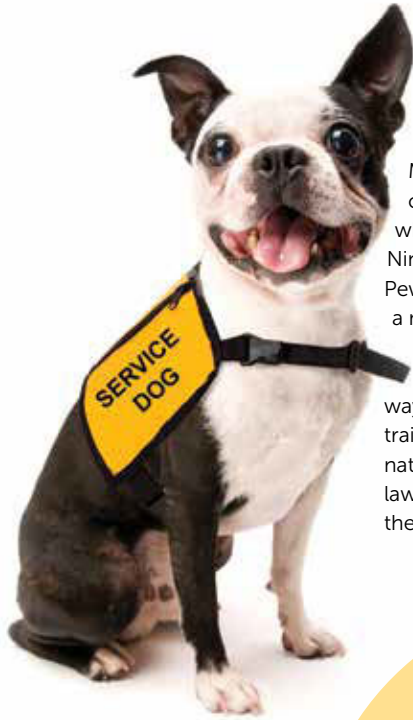
This year will likely be no exception. 🏠

Real Tax Revenue in 28 States Has Recovered From Recession

Tax collections in Q1 2017 compared with each state's peak, adjusted for inflation



Source: Pew analysis of data licensed by the Nelson A. Rockefeller Institute of Government, which adjusts U.S. Census Bureau's quarterly summary of tax revenue.



1

Sniffing Out Im-paws-ters

Massachusetts lawmakers are the latest to consider a bill cracking down on pet owners who pass their dogs off as service animals. Nineteen states have enacted similar measures, Pew's Stateline reports. Generally, the laws make it a misdemeanor to represent an untrained dog as a service animal, and come with fines of \$500 or less per incident. But, because there's no way to verify whether a dog has had service-animal training, the laws have little bite. Until there's a national service-dog registry, advocates hope the laws teach people not to put animals in situations they aren't trained to handle.



2

Election Audit Passes Muster

Colorado election officials announced in July that the state would become the first to regularly do a type of post-election audit that cybersecurity experts have long called for to ensure that hackers aren't meddling with vote counts, Politico reports. Using what's known as a "risk-limiting" audit, officials double-check a sample of paper ballots against digital tallies to determine whether results were tabulated correctly. November's election was the system's trial run. "We had a little over 30 counties that were implementing this for the first time in this election and it went very well," Secretary of State Wayne Williams says. Colorado is making the technology available to other states.

3

A Lawmaker's Historic Win

Former journalist Danica Roem is the first known transgender person to win a seat in a state legislature in the United States. Roem, a Democrat, unseated Virginia Delegate Bob Marshall (R), a social conservative. Roem campaigned on jobs, schools and transportation, especially easing congestion on northern Virginia's Route 28. "No matter what you look like, where you come from, how you worship or who you love, if you have good public policy ideas, if you're qualified for office, you have every right to bring your ideas to the table," she told The Associated Press.



5

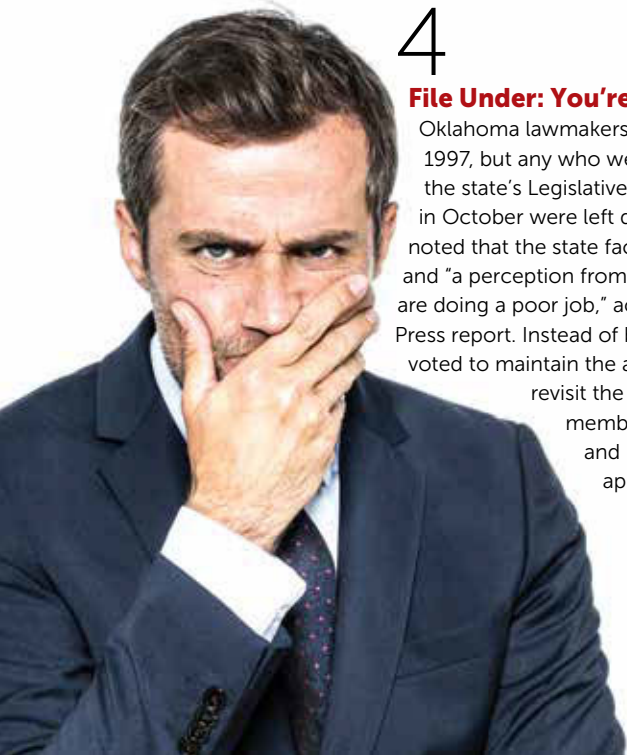
Carrot First, Then the Stick

Wisconsin lawmakers are trying a new recipe to encourage food-stamp recipients to make healthy food choices. The Assembly overwhelmingly approved a bill that would give 2,000 families who receive FoodShare benefits a discount on healthy foods for 10 months, the Milwaukee Journal Sentinel reports. The state would then review the program's cost and effectiveness. "It's literally a carrot approach rather than a stick," said one of the bill's sponsors. But if it doesn't work, the Assembly will consider the stick: a bill that would ban using FoodShare to buy junk food and require FoodShare cards to display photos of recipients.

4

File Under: You're on Notice

Oklahoma lawmakers haven't had a raise since 1997, but any who were hoping for a hike when the state's Legislative Compensation Board met in October were left disappointed. The board noted that the state faces a \$215 million budget gap and "a perception from the public that lawmakers are doing a poor job," according to an Associated Press report. Instead of backing a bump, the board voted to maintain the annual salary at \$38,400 and revisit the issue in March, with several members suggesting a cut in pay and benefits would be more appropriate.





6

Walking Down, and Across, the Aisle

When Connecticut reached a final budget agreement for fiscal year 2018 in late October, it was the last state to do so—but it was hardly the only one to struggle. At the start of FY 2018, on July 1, 10 states still lacked a budget. But Connecticut came to what might be the happiest bipartisan resolution. In early October, in the heat of partisan negotiations, Representative Caroline Simmons (D) and Senator Art Linares (R) were married. With the state’s financial house finally in order, the couple took off for a delayed honeymoon.

8

Views on Equality Vary

How one views the state of gender equality in America has a lot to do with one’s politics, according to a new survey by the Pew Research Center. Democrats generally are unhappy with the nation’s progress on this issue, with 69 percent of them saying the country hasn’t done enough to give women equal rights with men. More than half of Republicans (54 percent), however, say we’re doing just fine, with 26 percent saying more work is needed. Also, far more Democrats (49 percent) than Republicans (19 percent) say that men have easier lives than women.

9

Gimme Shelter Pets

A new California law requires pet stores in the state to sell animals from shelters and rescue centers only. Individuals can still buy animals from private breeders, The New York Times reports, but pet stores will face a \$500 fine if they do. Supporters, including several animal welfare groups, say the first-in-the-nation law is a blow to puppy mills and other operations that breed animals in often inhumane conditions. Some pet store owners and other critics say the “well-intentioned, but misguided” bill will cost them jobs and could force consumers to find sneakier ways to get the breeds they want.



7

Maybe the Dog Ate the Data

A computer server crucial to the case of plaintiffs in a lawsuit against Georgia election officials was wiped clean on July 7, four days after the suit was filed. Who wiped the server—and destroyed the backups on Aug. 9—is a mystery. The plaintiffs question the results of last November’s election and a later runoff because the server, which stored key elections data, had a widely reported security weakness. The voting system is secure, insists the secretary of state, the main defendant in the suit. The data was erased exactly because it’s not secure, plaintiffs say. Attention has turned to the FBI, which investigated the security issue, and might have copied the data.

10

Objections in the High Court

The fate of the latest religious-objections law could be decided by the U.S. Supreme Court. Advocates of same-sex marriage are asking the high court to strike down a new Mississippi law that lets government workers and business people cite their own religious objections in refusing services to LGBT people, the Clarion Ledger reports. Supporters say the law protects people who act on beliefs that marriage is only between a man and a woman, that sex should take place only in such a marriage and that gender is determined at birth and cannot be altered. Opponents say it’s “a transparent attempt to undermine the equal dignity of LGBT citizens established in” earlier Supreme Court decisions.



No Substitute for Trained Teachers

If the teacher workforce has grown nearly 50 percent since the 1980s, why are states still reporting shortages?

BY SUZANNE WEISS

In mid-2017, with the start of the new school year just weeks away, Coloradans might have thought the sky was falling. Over a three-month period, a steady drumbeat of news stories warned of an impending catastrophe for Colorado’s K-12 schools.

The first alarm bell was a brief news article on declines in the number of graduates from the state’s 50 teacher-preparation programs—a trend that was exacerbating teacher shortages in rural areas.

Next came a story on a handful of particularly hard-hit school districts in remote areas where shortages are nothing new and are primarily attributable to low pay (as little as \$24,000 a year) and high turnover. Drawing on a quote from the article, the headline declared the problem a “crisis that would only get worse.”

That’s when the story went viral.

In the cascade of news coverage that ensued, the words “teacher shortage” and “crisis” became joined at the hip, and the predictions grew more and more dire. By late July, major news outlets were running stories describing a “massive K-12 teacher shortage” that could result in thousands of teaching positions across the state going unfilled in the fall.

But as Colorado schools began opening their doors, the furor subsided more rapidly than it had arisen. Looking back, it’s easy to see what happened. The media had garbled the state’s data on the annual num-

ber of teaching jobs that typically come open and are easily filled (about 3,500 statewide) versus the number of positions that are hard to fill or are staffed by long-term substitutes (about 100 statewide).

Teacher Supply and Demand

As mistaken as the Colorado news coverage was, it touched on a critical and increasingly urgent issue, one affecting nearly every state: teacher supply and demand.

In October 2015, the president of the Nevada Board of Education described that state’s teacher shortages as “horrific” and warned that, absent improvement, “We’re all going to sink.” Around the same time, the Tulsa World declared “Crisis Hits Oklahoma Classrooms,” and the Texas education commissioner labeled shortages “the biggest threat to our schools.”

Over the past two years, nearly a dozen states have established task forces, ordered up white papers and action plans, or passed legislation designed to ease shortages.

Strategies vary widely. Eight states—Arizona, California, Illinois, Kansas, Minnesota, Oklahoma, Utah and Wisconsin—have revamped their teacher-licensing processes and, in some cases, loosened requirements for credentials. Several states are considering loan-forgiveness programs and other incentives for teachers who agree to work in hard-to-staff schools. Still others are pushing postsecondary institutions, which for years have overproduced elementary school teachers, to step up their training of special education, English-language-learning, and



“Let’s face it, we’re short of people in a lot of professions, aren’t we? I don’t think we need to be lowering standards to get more people into teaching.”

Wisconsin Senator Luther Olsen

secondary math, science and technology teachers.

In the view of Wisconsin Senator Luther Olsen (R), chair of the Senate Education Committee, targeted reforms and investments can go a long way to easing teacher shortages.

Wisconsin legislators recently approved bills making it easier for out-of-state teachers to transfer their credentials, for skilled tradesmen to become career-technical educators and for Montessori-trained teachers to get certified. Another bill eliminated traditional continuing-education requirements in favor of a new “lifetime license” system for high-performing teachers.

The Wisconsin Legislature also allocated \$500,000 for a pilot program that will help place prospective teachers in rural classrooms for the final stage of their training. The program will provide stipends and, in some cases, free or reduced-rate housing.

For Wisconsin, the next—and much harder—steps will be to tackle the root causes of teacher shortages: low salaries, high turnover rates and substandard prepa-

Suzanne Weiss is freelance writer and frequent contributor to State Legislatures.



"There are all kinds of policies and practices that support a professional model of teaching. That's the direction we need to be heading."

Indiana Representative Bob Behning

ration programs, Olsen says.

"We've been looking around at the top-performing school systems in the world, like Finland, and it's clear that their teacher education programs are a key to their success," he says. "But you also can't help noticing that so much of what they do—in terms of selecting and training teachers, how much teachers are paid, the quality of professional development—is just the opposite of how we do things here."

Fundamental Changes Needed

Indiana Representative Bob Behning (R), who chairs the House Education Committee, has a similar view. "You know, in these high-performing countries, teachers are viewed as nation builders," he says, "and there are all kinds of policies and practices that support a professional model of teaching. That's the direction we need to be heading."

The question, Behning says, is "how to make the fundamental changes that can really have an impact. You need a long-term strategic plan and a lot of commitment, and I think that has to start at the governor's level. It can't start at the legislative level."

Both Olsen and Behning see a danger in hyping and potentially overreacting to teacher shortages.

"It's not so much a crisis as it is a cyclical thing where we are going to see a rebound," Olsen says. "I mean, let's face it, we're short of people in a lot of professions, aren't we? I don't think we need to be lowering standards to get more people into teaching."

Some of the policies being discussed and adopted across the country, Behning says, are motivated by the misconception "that we need to increase the overall supply of teachers, when the real problem is a misalignment of supply and demand," coupled with high attrition.

"Our turnover rate for teachers is 8 percent a year compared with the international rate of 3 percent," he says. "Just think, if we could manage to cut that 8 percent by half, we wouldn't have any shortages at all."

Finding the Latest, Greatest Ideas

As for Colorado, a bipartisan coalition of legislators successfully pushed forward a measure requiring preparation of an action plan for improving teacher recruitment and retention.

The legislation is significant for several reasons, says Kim Hunter Reed, executive director of the Colorado Department of Higher Education, which is charged with drafting the plan. Foremost, it presents an opportunity to do something that Colorado, like most states, has barely taken a stab at in the past: developing a clearer picture of the complexity, nuances and dynamics of teacher supply and demand. "This will move us from anecdotal information to the kind of deep analysis that informs good policymaking," she says.

The plan will draw on a variety of sources and perspectives—via surveys, town halls, environmental scans and conversations with policymakers in other states—to pinpoint weak spots in the educator pipeline. It will identify the latest and best ideas for addressing a range of inter-related issues, "from interest in the teaching profession all the way to preparation,

The Teacher Labor Market

Supply exceeds demand. Annual demand averages 200,000 teachers, which can easily be met through three supply sources: newly minted teachers (who, on average, account for no more than half the teachers hired every year), people who prepared for teaching but never entered the profession and those with teaching experience who are re-entering the profession. All told, for every active member of the U.S. teaching workforce, there are roughly two more who are prepared to teach but are not doing so.

Retaining existing teachers is a greater problem than training new ones. Annually since the early 1990s, the outflow of teachers has surpassed influx by increasingly larger margins. Retirees account for only about 15 percent of those who leave the profession—either temporarily or permanently—each year. The attrition rate of beginning teachers is troublingly high, with roughly 1 in 3 quitting within five years.

The distribution of teachers continues to be a problem. Although the overall supply of teachers is sufficient to meet demand, shortages remain in:

- Mathematics, science, bilingual education and special education
- Urban, low-income, minority schools
- Remote, rural schools
- States grappling with rapidly growing populations or class-size reduction initiatives, or both

Also in high demand—in all subjects, grades and geographic areas—are male teachers and teachers from diverse ethnic backgrounds.

induction and retention," Reed says.

The legislation "sends a strong signal that we take this issue seriously," says one of its sponsors, Colorado Senator Don Coram (R), whose district includes several of the state's most sparsely populated counties.

"I think it's a good start," he says. And that's as good a place to begin as any. 🏠



Senator
Don Coram
Colorado

Drip, Drip, Drip

Hiring enough teachers to fill America's classrooms is like pouring water into a leaky bucket.

BY SUZANNE WEISS

For many years, it was widely assumed that two converging trends—the aging of the nation's teacher workforce and rising K-12 enrollments—would inevitably lead to severe, widespread and sustained teacher shortages.

But that assumption was called into question by the National Commission on Teaching and America's Future back in 1996. The problem wasn't the overall supply of teachers, said the authors of "What Matters Most: Teaching for America's Future." There was, and would continue to be, a more than adequate number to meet demand. Rather, they said, it was the mismatch between supply and demand in certain subjects and certain school districts that left positions unfilled. And that mismatch was attributable mostly to the large number of teachers leaving their jobs for reasons other than retirement.

Policymakers needed to change the question, the report said, from "How do we find and prepare more teachers?" to "How do we get the good teachers we have recruited, trained and hired to stay in their jobs?"

Today, the commission's report is recognized as having had a profound and lasting impact on the landscape of public education, spawning an array of policy changes, reforms and innovations focused on teaching quality. It also spurred wider, deeper research into teacher supply and demand.

Tackling Teacher Turnover

Among the most influential analyses has been a series of reports, beginning in the early 2000s, by Richard M. Ingersoll of

the University of Pennsylvania's Graduate School of Education.

Recruiting new teachers—the dominant policy strategy in many states—isn't enough, Ingersoll said.

"Current policies not only will not solve school staffing problems, but they also

Already a profession with relatively high turnover rates, teaching has seen a 41 percent increase in the rate of attrition over the past two decades.

divert attention from the primary underlying problem—the manner in which schools are managed and teachers are treated," Ingersoll said in his 2001 report "Teacher Turnover, Teacher Shortages and the Organization of Schools."

School staffing problems are neither synonymous with nor primarily due to an insufficient supply of teachers, Ingersoll said. Rather, they result from "excess demand" created by large numbers of teachers leaving their jobs.

Ingersoll described teacher turnover as a multidimensional—and widely misunderstood—phenomenon that takes a variety of

forms: transferring within a district, taking jobs in other districts or states or leaving the profession altogether. Contributing to high turnover are low salaries, student discipline problems, inadequate support from administrators and limited faculty input into school decision making.

Ingersoll's research has also shed light on the changing demographics of America's teaching workforce. While the retirement of baby boomers has had some impact on teacher supply over the past decade, "the graying process has nearly run its course," he wrote in a 2014 analysis. Overtaking it is "an opposite and previously unrecognized trend—'greening,' a vast increase in the proportion of teachers who are beginners."

In the late 1980s, the average teacher was a 15-year veteran—"but flash forward two decades, and the most common teacher is someone in their first year," he said.

Today's teacher workforce is also considerably larger than two decades ago.

In a phenomenon he calls "ballooning," the pre-K-12 teaching workforce has grown an astonishing 48 percent since 1987, far outpacing a 19 percent increase in student enrollment—"an increase that has yet to be explained despite numerous theories," Ingersoll said. Reduced class sizes account for a piece of the growth, he said, as does increased hiring in certain content areas, including elementary enrichment, special education, and middle and secondary math and science.

But these two trends are on a collision course, of sorts, with what Ingersoll and other experts see as growing instability in the workforce.

Already a profession with relatively high turnover rates, teaching has seen a 41 percent increase in the rate of attrition, or departures from the field, over the past two decades. That number is even more troublesome when greening and ballooning are factored in. Beginners have the highest attrition rate, and there are more beginners today than ever.

A study released last year by the Learning Policy Institute found that about 200,000 educators, or 8 percent of the national teacher workforce, move out of the profession each year.

Suzanne Weiss is freelance writer and frequent contributor to State Legislatures.

"There's so much paperwork that it takes the joy out of teaching. It's all blame and shame."

New Mexico Senator Mimi Stewart

Underpaid and Unhappy

According to the study, two-thirds of teachers who quit cite unhappiness over low salaries, poor working conditions, lack of access to mentoring and professional development, and the pressures of test-based accountability.

Rates of teacher "churn," or overall turnover, vary widely—from Rhode Island's 7.4 percent to Arizona's 23 percent.

Most states report having difficulty hiring qualified teachers in several fields. Those include math (47 states and the District of Columbia), special education (46 states and D.C.), science (43 states), world languages (40 states and D.C.), career and technical education (32 states), English-language learning (32 states) and art/music/dance (28 states), according to the U.S. Department of Education.

Teacher shortages vary by state, the policy institute's report found. Those with lower salaries and poorer conditions have larger shortages. And the shortages affect children unequally. U.S. Office of Civil Rights data show that children of color are about four times more likely to be assigned uncertified teachers. Low-income students, English learners and students with disabilities are also more likely to be taught by underqualified teachers than other students.

In New Mexico, which has the nation's second-highest teacher turnover rate, legislators have struggled to stem the tide, says Senator Mimi Stewart (D), a retired teacher and vice chair of the Senate Education Committee.

A major problem, Stewart says, is the state's teacher evaluation system, which she describes as "harsh," inflexible and involving "so much paperwork that it takes the joy out of teach-



Senator
Mimi Stewart
New Mexico

The Best in the World

Troubled that most state education systems are falling dangerously behind their global counterparts, a group of 28 legislators, staff and NCSL education policy experts studied the 10 countries with world-class education systems and released a report, "No Time to Lose: How to Build a World-Class Education System State by State."

The group found that teachers in the 10 nations with the best-performing students are in a class by themselves. Their students regularly score at the very top of an international survey of 15-year-olds' knowledge of math, science and reading. Young people in the United States, by contrast, score somewhere in the middle of the 65 countries participating.

At the core of these countries' education systems is the conviction that world-class teachers are essential to a world-class instructional system. They share the following characteristics that are seldom found in the U.S.

Rigorous Preparation. Teachers are considered nation builders, so acceptance into teacher preparation programs in prestigious research universities is very competitive. Candidates are often recruited from the top one-fourth of high school graduates and must pass a rigorous entrance exam. These countries require mastery of the subjects to be taught and often include clinical practice. They offer no alternate route to licensure except through the preparation program.

Thorough Induction. New teachers in high-performing countries serve apprenticeships with officially designated master teachers.

Career Ladders. Teachers in high-performing countries play a variety of roles in schools, including leadership. And they are rewarded for their unique skills.

Professional Work Environment. In some countries teachers spend only 35 percent of their time teaching; the rest of their time is spent working in teams developing or improving lessons, observing and critiquing classes, and working with struggling students.

High-Quality School Leaders. School principals are carefully selected and receive similar training in curriculum, instruction and school administration. They interact regularly with their teachers.

Good Compensation. In these countries, teachers are expected to be the best in the world and typically earn pay similar to that of engineers and accountants. Some countries have pay scales tied to career ladders that recognize various teaching roles, leadership responsibilities and subject mastery.

World-Class Instruction. All top-performing countries have developed internationally benchmarked standards that specify what students should know and be able to do in language arts, math and science. The benchmarks include high-level cognitive skills, ethical behavior, framing and completing tasks, teamwork, and leadership. The curriculum is based on these standards and specifies the order in which concepts should be taught. Assessments to determine whether students have mastered material are typically essay-based and scored by humans, so they cost more than assessments used in the U.S.

The report, which discusses more than teacher policy, can be found at ncsl.org.


ing. It's all blame and shame."

But the Democratic-controlled Legislature has been at odds for the past six years with Governor Susana Martinez (R), who "vetoes pretty much every bill we pass," Stewart says. Even minor modifications to the system have been rejected by the Martinez administration, she says.

Recently, Martinez vetoed a bill, passed with overwhelming support in both houses last year, that would have allowed teachers to take more than three days of annual sick leave without being penalized on performance evaluations. An attempt to override the veto fell just short of the required votes.

Another problem for New Mexico teachers, Stewart says, is low starting salaries—\$31,960, well under the \$36,141 national average.

"You hear these stories about teachers leaving and going into Texas and other places," she says. "We're running them right out of the state."

Not only are teachers moving across state lines for greener pastures, but dissatisfaction is driving an exodus of teachers out of the profession itself. Until we can find a way to increase the support and compensation teachers need and, most agree, deserve, the bucket will just keep leaking. 

Health Idea Gets Second Chance



Few agree on the best way to increase competition in the health insurance marketplace as an old idea gets a second look.

BY DICK CAUCHI

Dick Cauchi is NCSL's expert on health insurance.

If I live in Oklahoma and my health insurance policy costs \$597 but a similar policy in Arkansas costs only \$379, why can't I buy the out-of-state plan?

That consumer lament is at the core of a health policy idea being batted around today—once again.

President Donald Trump signed an executive order in October resurrecting “Association Health Plans” to promote competition in health care markets and to limit what he calls “excessive consolidation throughout the health care system.” The aim of these plans is to make it easier for trade groups and small businesses to band together—especially across state lines—to negotiate better and less expensive health plans from insurance companies. By increasing competition, supporters say, these plans will help push costs down, give consumers more choice and improve access to care.

The executive order states these plans will help small businesses overcome the competitive disadvantage they have with large employers who can spread risk and administrative costs across more employees. Association health plans will also allow more small businesses to avoid “many of the PPACA’s costly requirements,” it says.

The idea isn't new, however. It originated at least 30 years ago. And some argue the plans

are no solution. “They failed in droves because many were undercapitalized,” says Mark Hall, a professor of law and public health at Wake Forest University. “These earlier association plans had a history of becoming what the U.S. Labor Department termed ‘scam artists.’ The Government Accountability Office reported that they were ‘bogus entities that have exploited employers and individuals seeking’ more affordable insurance policies,” Hall says.

States Regulate Insurance

States have a precedent as the primary regulators of insurance and guardians of consumers' rights. The first self-insured association health plans marketed in the 1980s, however, sometimes evaded states' consumer regulations. In 1992, at least two dozen states reported association plans had committed “fraud, embezzlement or other criminal law violations,” Hall says.

By 2000, association plans had become much less significant, an experiment gone wrong, many said.

More than 40 states had enacted new “patient protection” statutes and mandated coverage for individuals and small employers, but these efforts had limited effect on keeping down costs and equalizing insurance rates. In fact, the patient protection requirements

differed from state to state, which, along with other factors, added to the differences in the price of health insurance policies from state to state. In 2013, for example, monthly premiums for individuals averaged \$473 a month in New Jersey, but only \$157 a month in Utah. The U.S. average was \$235.

Talk of making the rules more flexible to allow purchasing health insurance across state lines reappeared again in the 2000s. The Affordable Care Act, passed in 2010, included a provision allowing states to legally permit insurers to sell plans outside their borders and to create their own regulations, starting Jan. 1, 2016. But the federal government has never completed the rulemaking process on how the law works.

Legislators in Rhode Island and Wyoming passed the first two laws authorizing the concept in 2008. By 2012, lawmakers in Kentucky, Maine and Georgia had also passed legislation, and Oklahoma did so in 2017. In the past decade, more than 20 state legislatures have debated the practice.

Where Are the Plans?

The results in the six states are not what supporters anticipated, however. As of mid-2017, not a single state regulator or insurer had reported a public offering or a consumer purchase of a cross-state individual or family health plan, the National Association of Insurance Commissioners, which collects state data on insurance sales, reported.

Why? Insurers are skeptical. Despite the idea’s enduring popularity, association plans have a poor track record—for both insurers and consumers. Insurers say it can be difficult attracting enough providers and complying with the complexity of multi-state regulations. Consumer advocates are concerned that these plans will sidestep states’ consumer protections and skimp on benefits.

Writing for a Commonwealth Fund report, research professor Kevin Lucia points out that: “Proponents suggest that association health plans will be able to offer lower premiums to members through increased bargaining power and fewer regulatory requirements. However, while some members of association health plans may benefit, this approach would under-

What’s in the Executive Order?

Among other things, the executive order states: Large employers often are able to obtain better terms on health insurance for their employees than small employers because of their larger pools of insurable individuals across which they can spread risk and administrative costs. Expanding access to AHPs can help small businesses overcome this competitive disadvantage by allowing them to group together to self-insure or purchase large group health insurance. Expanding access to AHPs will also allow more small businesses to avoid many of the PPACA’s costly requirements. Expanding access to AHPs would provide more affordable health insurance options to many Americans, including hourly wage earners, farmers, and the employees of small businesses and entrepreneurs that fuel economic growth.

“My administration will also continue to focus on promoting competition in healthcare markets and limiting excessive consolidation throughout the healthcare system. ...to re-inject competition into healthcare markets by lowering barriers to entry, limiting excessive consolidation, and preventing abuses of market power; and improve access to and the quality of information that Americans need to make informed healthcare decisions, including data about healthcare prices and outcomes, while minimizing reporting burdens on affected plans, providers, or payers.”

mine many of the ACA’s protections for people with preexisting conditions and stymie states’ ability to regulate health coverage sold to their residents.”

Some lawmakers also fear that instead of states negotiating with each other on which of their insurance department’s laws will apply to a multistate company, federal regulators will simply pre-empt state regulations, starting a new state-federal tug-of-war.

North Dakota Representative George

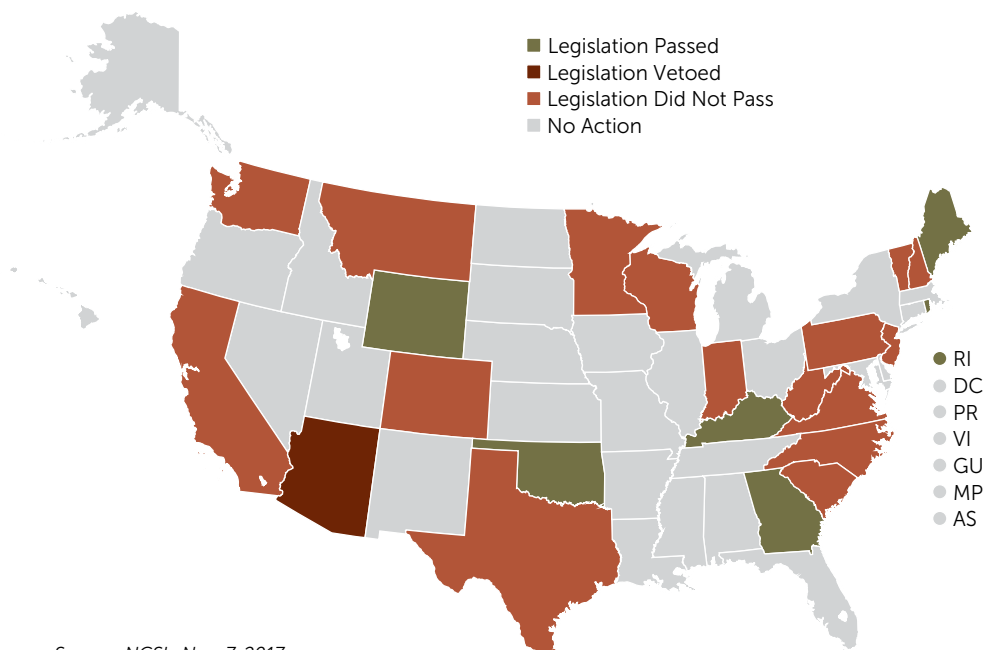
Keiser (R) co-chair of NCSL’s Insurance Task Force, wants to be sure states play a role in any change in federal policy. “States have a firm tradition and precedent of guiding the kind of insurance we sell in each state,” he says.

“We hope states are at least at the table when the details of this plan are worked out.”



Representative George J. Keiser North Dakota

Where Out-of-State Health Insurance Sales Are Allowed



Source: NCSL, Nov. 7, 2017.

Dan Patrick, Texas lieutenant governor, author

“Rebuilding after Harvey will require a massive effort.”

Senator Dan Patrick (R) is the lieutenant governor of Texas. Patrick has been a successful small-businessman, a conservative talk radio host, a television anchor, a Christian author and a Christian movie producer. A Houston resident, he was stuck in his neighborhood for a couple of days after Hurricane Harvey slammed into Texas last August.



STATE LEGISLATURES: Hurricane Harvey hit Texas hard, particularly Houston. How does it compare to other storms?

PATRICK: More than a third of our population were impacted, and hundreds of thousands have lost their homes. They’re living with family, friends, in apartments that they found or a hotel somewhere. FEMA is bringing in some trailers in the rural areas where they don’t have extra hotels or extra apartments. And we have a million cars—if you can get your arms around that number—a million cars under water that have been totaled.

What advice do you have for state legislatures facing severe disasters like this?

First, you have to have a savings account. In Texas, we have what’s called the “rainy day” fund—the proper name is the Economic Stabilization Fund—that was designed for when there’s an economic downturn, so the state can pay its bills if revenues don’t come in as expected. Another reason we keep that fund is for disasters. We’ll probably take more money out of the



rainy day fund now than ever before because we’ve never had a storm of this size.

We have \$10 billion in that fund. That’s more money in savings than most of the states have combined. We use that money only when we can’t pay our bills.

The second thing states can do is prepare and train your staff. If it weren’t for the director of a state-of-the-art emergency center in Austin, we would not have been prepared in the way we were. We’ve drilled and drilled and drilled.

And at the local level it’s the same thing. Our county judges, our local sher-

iffs, they had a plan, they were prepared, they had been trained, they were ready.

That’s what I recommend. You have to have money. You have to have training. Then you can execute the plan. And our people really executed it well.

How are recovery efforts going?

There are three phases to this kind of disaster: rescue, recovery and rebuilding. In the rescue phase, the miracle is less than 100 people died because of the great work of our first responders and the volunteers. For a storm that impacted such a great

Gene Rose, founder and chief strategist with the Sinergie Project and former NCSL co-director of communications, conducted this interview for NCSL’s podcast, “Our American States,” available on iTunes and Google Play.

area with millions of people, it was unbelievable.

The recovery was the second step, [locating] the bodies and getting people out of their homes who could not survive for a long time without water and power.

Now it's rebuilding time and that will take a long time. Hundreds of thousands of homes have to be remodeled or in some



Hurricane Harvey hit the Texas coast on Aug. 25. At the peak of flooding, on Sept. 1, it had swamped an area equivalent in size to the state of New Jersey.

cases rebuilt, businesses the same. But Texas is strong, Texas is united, and we will get back on our feet. We've already started.

Did you feel the government response was adequate?

The county judges, the mayors, the first responders all did a terrific job with a lot of volunteers in the dozens of counties under federal disaster declaration. After the state stepped in, Governor [Greg] Abbott has done an amazing job of being the commander overseeing this.

To give you an example, the city of Victoria was without water for weeks. We had to ship in water every day for about 80,000 people. Beaumont, too, was without water for several weeks; that's 140,000 people. We had to evacuate people in serious medical crisis using the National Guard to get them to a hospital elsewhere in the state. Just the logistics of getting aircraft in to deliver water and trucks in with supplies—when there was only one lane of one road open—was challenging. And there were the logistics of moving 12,000 National Guard troops and 1,000 state troopers from around the state to where they were needed.

The federal government was there with FEMA, and President Trump from day one was on top of this issue. Many of the county judges and sheriffs that I met with have been through storms, and they've all said the federal government has never done a better job of getting in quickly with aid through FEMA. And I would agree.

For the first 30 days, the federal government pays local and state governments 100 percent of the cost of the storm damage. But after 30 days, depending on what it is, it can be 90-10. There are limits on what they give each family and how they rebuild homes, particularly those who don't have flood insurance, which were the majority.

What kind of response do you expect the legislature to take?

Recovery involves a complex network of federal, state and local resources and efforts. At the state level, we will try to make it all come together in a cohesive manner to get people back in their homes, and back at work as fast as we can. But it's a long road to go and the next legislative session will have to address many needs.

We need to look at new reservoirs around the city of Houston. Several were designed and on the map in the 1940s, but only a few were built. And they were out in the country then, but now there are a million people around those reservoirs. So, we're going to need more reservoirs and coastal barriers. Infrastructure will be key.

Rebuilding after Harvey will require a massive effort by the federal government

BY THE NUMBERS

Hurricane Harvey

300 miles

The breadth of Hurricane Harvey

40 to 61 inches

The amount of rain Harvey dropped in parts of Texas and Louisiana

10 million

Texas residents affected by the storm, 37% of the state's population

1/3

The portion of Houston underwater at the peak of flooding

1 million

Cars totaled from being submerged in floodwater

12,000 and 1,000

National Guard troops and state troopers, respectively, who responded

\$10 billion

Size of Texas' rainy day fund

and each of the states and local municipalities hit by the storm. But America is strong and we will be even stronger for it in the end.

Editor's note: In September, Patrick released a long list of Harvey-related topics for the Texas Senate committees to study before the next legislative session convenes in 2019. Items on his to-do list range from assessing the impact of Harvey on transportation infrastructure, student enrollment and property values, to making recommendations on expediting debris removal, better notifying homeowners on their need for flood insurance and improving property tax law to advance recovery efforts. Texas House Speaker Joe Straus charged House committees with similar tasks.

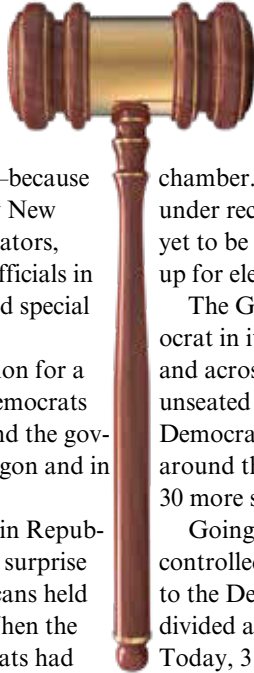
This interview is part of a series of conversations with interesting people. It has been edited for length and clarity. The opinions are the interviewee's and not necessarily NCSL's. To hear the entire interview, check out NCSL's podcast, "Our American States."

Party Control as Sessions Begin

When gavels come down across the nation, the complexion of the legislative chambers will have changed—ever so slightly—because of the November elections. Only New Jersey and Virginia elected legislators, governors and other statewide officials in 2017, but another nine states held special elections for legislative seats.

A single win in a special election for a Washington Senate seat gave Democrats total control—both chambers and the governorships—in that state, in Oregon and in California.

Virginia House of Delegates, in Republican control since 2000, was the surprise reward for Democrats. Republicans held 66 of the 100 seats on Nov. 8. When the votes were counted, the Democrats had



snared at least 15 of them. Flipping seats also meant flipping genders. When the House comes to order on Jan. 10, there will be 11 more women in the chamber. At press time, several seats were under recount, so final party control had yet to be determined. The Senate was not up for election.

The Georgia Senate has one more Democrat in its ranks following the election, and across the rotunda, two Democrats unseated Republicans in the House. In all, Democrats won about 24 legislative seats around the country and now hold about 30 more seats than they did in 2016.

Going into the 2017 race, Republicans controlled both chambers in 32 states, to the Democrats' 14 (three states were divided and Nebraska is nonpartisan). Today, 31 states have Republican major-

ities, and the Democrats still control 14. The Virginia recounts could change that.

What about ballot issues? Citizens voted on 22 across the country and approved 17. Mainers voted to expand Medicaid, but Ohioans said no to matching prescription drug prices in state-funded health programs to the lowest price paid by the VA.

Texas and Louisiana voters approved tax exemptions for surviving spouses of first responders and others. Washington voters rejected three tax hikes the Legislature recently passed in a nonbinding vote. And New Yorkers don't want convicted felons who were public servants to receive their state pensions, and they don't want a state constitutional convention—something their constitution requires them to vote on every 20 years.

Stay tuned. There will be more to report on in November, when 82 percent of all legislative seats will be up for election.

—NCSL staff

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The Territories: They Are Us

It became clear following the massive hurricane destruction last fall that most Americans don't know much about the 16 U.S. territories. Sixteen? Yes, but you've probably heard of only the five that have permanent residents: American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands.

All but American Samoa are classified as "organized territories," meaning Congress passed an Organic Act allowing them to establish a government and elect a governor and a legislature. Their residents are American citizens. Because Congress has not passed

an Organic Act for American Samoa, it is technically considered "unorganized" and residents are American nationals, not citizens. There's not much difference between the two designations, however.

All use the U.S. dollar, none pay federal taxes and all have the protection of the U.S. court system. But neither citizens nor nationals from the territories can vote in presidential elections, based on the U.S. Constitution giving that responsibility to the "states." And, like the District of Columbia, each territory elects a member to the U.S. House of Representatives who may participate in most aspects of Congress, except floor votes.

By the Numbers
U.S. TERRITORIES

3,789,851
Citizens living in the five inhabited territories in 2016

No. 1
American Samoa's rank among states for the number of military enlistments per capita

20,000
Number of men and women from the territories who serve in the military

2008
Year Northern Mariana Islanders elected their first U.S. congressional delegate (nonvoting)

1
Number of U.S. national parks south of the equator: the National Park of American Samoa

60%
Portion of St. John that is part of the Virgin Islands National Park

10 x
Number of people who live in Puerto Rico compared with all other territories combined

0
Amount of land people who are not of "Northern Mariana Islands descent" can own



Northern Mariana Islands

Saipan, Tinian, Rota and 15 minor islands
Year it became a U.S. territory: 1976
Population: 53,500, 89% urban
Capital: Saipan
Legislature: 9 senators, 20 representatives
Exports: clothing, iron and steel, fish
GDP per capita: \$16,297



Guam

Year it became a U.S. territory: 1898
Population: 161,000, 94.6% urban
Capital: Hagåtña
Legislature: 15 senators
Exports: food and drinks, cars, watches
GDP per capita: \$31,809



American Samoa

Islands of Tutuila, Tau, Olosega, Ofu and Aunuu, along with Rose Atoll and Swains Island, both coral reefs
Year it became a U.S. territory: 1900
Population: 57,400, 87.3% urban
Capital: Pago Pago
Legislature: 18 senators, 21 representatives
Exports: canned tuna
GDP per capita: \$13,000



Puerto Rico

Year it became a U.S. territory: 1898
Population: 3.415 million, 93.6% urban
Capital: San Juan
Legislature: 27 senators, 51 representatives
Exports: medical chemicals, food, computers
GDP per capita: \$19,310



U.S. Virgin Islands

St. Croix, St. John, St. Thomas and 50 minor islets and cays
Year it became a U.S. territory: 1917
Population: 102,951, 95.3% urban
Capital: Charlotte Amalie on St. Thomas
Legislature: 15 senators
Exports: refined petroleum, rum, watches
GDP per capita: \$35,302



Sources: britannica.com, Doug Mack in "The Not-Quite States of America."

NEWSMAKERS

SENATOR JANET PETERSEN (D) IS THE NEW LEADER OF THE IOWA DEMOCRATIC CAUCUS after her colleagues ousted Senator Rob Hogg (D), the former minority leader. Hogg lost the confidence of his colleagues over lackluster fundraising efforts following the November 2016 election in which six Democrats, including former Majority Leader Mike Gronstal (D), were defeated. Hogg had held his post for just a year when the caucus took the unusual step of replacing him halfway through the campaign cycle. Petersen was first elected in 2000.



“I could only hope the dog ate it.”

Minnesota Senator David H. Senjem (R), referring to his wallet, which he lost briefly, to illustrate the reason for legislation creating an “identity theft passport” to help victims prove their identity, in the Post-Bulletin.



CALIFORNIA SENATE PRESIDENT PRO TEM KEVIN DE LEÓN IS CHALLENGING FELLOW DEMOCRAT DIANNE FEINSTEIN FOR HER U.S. SENATE SEAT. De León served in the state Assembly for four years before being elected to the Senate in 2010. Elected speaker in 2014, he is the first Latino to hold the post in more than 130 years.

“As we wrestle with the budget contradictions, it almost drives us into the trap of doing things that voters perceive are underhanded and trying to trick them. It is sneaky. But that’s the hole we’ve got ourselves in.”

Colorado Representative Dan Thurlow (R) on exempting the hospital provider fee from the state’s TABOR amendment, which limits the state’s revenue growth and requires excess revenues to be returned to taxpayers unless they approve an increase in spending, in Governing.



TEXAS HOUSE SPEAKER JOE STRAUS (R) ANNOUNCED HE WILL NOT SEEK RE-ELECTION IN 2018. Straus has led the chamber since 2009 and is the state’s longest serving Republican speaker. He did not rule out seeking higher office. Representatives John Zerwas (R), chair of the House Appropriations Committee, and Phil King (R), chair of the Homeland Security and Public Safety Committee, are running for the speakership. Straus’ decision was unexpected, but “a confident leader knows when it’s time to give it back,” he said.

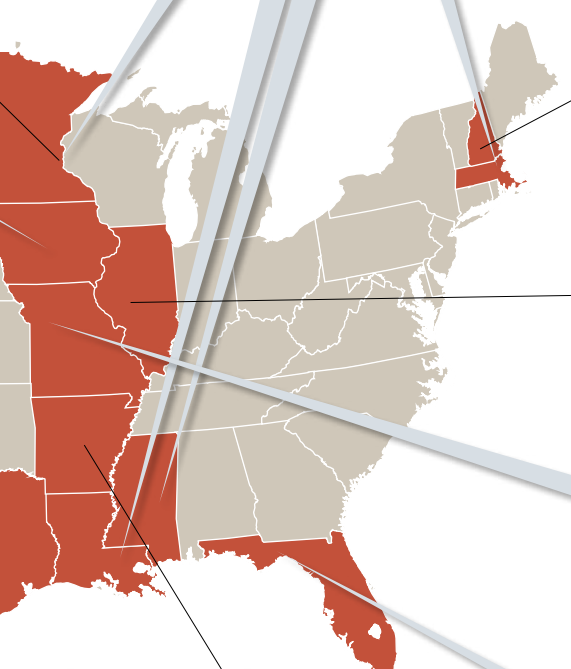
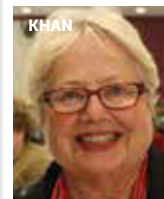
FOUR WOMEN LEGISLATORS HAVE BEEN NAMED WOMEN IN POLITICS MAKING A DIFFERENCE BY NCSL'S WOMEN'S LEGISLATIVE NETWORK.

Massachusetts Representative **Kay Khan** (D) was elected in 1995. She is a tireless advocate for mental health and women in the criminal justice system and is founder and co-chair of the legislative mental health caucus, the first in the nation. She chairs the Joint Committee on Children, Families and Persons with Disabilities.

Louisiana Senator **Yvonne Colomb** (D) served as House speaker pro tem before her election in 2007 to the Senate, where she chairs four major committees: judiciary, revenue and fiscal affairs, education and health and welfare. Each year she raises funds to send up to 80 children on an educational vacation.

Minnesota Senator **Karin Housley** (R) chairs the aging and long-term care policy committee. She is a small-business owner, a successful real estate agent, a radio show host, a published author and a huge hockey fan. (Her husband is NHL Hall of Famer Phil Housley.) She was elected to the Senate in 2012.

Mississippi Senator **Sally Doty** (R) was elected in 2011 and is an attorney, small-business owner and law school faculty member. She worked to change the state's divorce statute to make it easier for victims of domestic violence to be divorced without having to have the abuse corroborated by a third party.



"Don't get drunk, jump in your Tesla and say, 'Take me home.'"

New Hampshire Representative Steven Smith (R), stressing that drivers are still responsible in certain autonomous vehicles, while discussing his bill to allow testing of driverless cars, in the Concord Monitor



"Negotiations are always in order. I love to negotiate."

Illinois Senator Kimberly Lightford (D) on being flexible about the size of a minimum-wage increase and the amount of time to phase it in, in the State Journal-Register.



MISSOURI REPRESENTATIVE ELIJAH HAAHR (R) WILL BE HOUSE SPEAKER IN 2019. He succeeds Representative Todd Richardson (R), who cannot serve beyond 2018 because of term limits. Haahr is currently speaker pro tem and is serving his fifth term.



"They think we have our junk together, when in reality we've had to go through trials to get where we are today."

Arkansas Representative DeAnn Vaught (R) on her hope to inspire young women as part of a new project, ARGIRLSLEAD, created by Representative Sarah Capp (R), in which the 18 women of the House will produce and share videos of their life stories, in the Northwest Arkansas Democrat Gazette.

FLORIDA REPUBLICANS SELECTED REPRESENTATIVE JOSÉ OLIVA (R) AS THEIR SPEAKER-DESIGNATE FOR THE 2019 SESSION. He will succeed current Speaker Richard Corcoran (R), who is term-limited at the end of this year. Oliva, representing Miami, is following in the footsteps of U.S. Senator Marco Rubio, who served as speaker from Miami in 2006-08.



Yes, No, Maybe So

Is it wrong to use photos funded by the state on your personal social media accounts?



The line between what is permissible to post on social media and what is not is often blurred these days.

Take the case involving Washington Representative Melanie Stambaugh (R) and the Washington State Legislative Ethics Board. Stambaugh, who is 27 and the state's youngest legislator, was accused of posting legislative pictures and videos of herself at work in the Legislature on her Facebook page, which also contained some campaign material. Washington ethics rules prohibit the use of state resources to promote campaigns.

In Washington's first legislative ethics hearing in 22 years, the board, citing its zero tolerance policy, found Stambaugh committed 44 violations of the rules by improperly using videos and photos produced by legislative staff. It fined her \$5,000 (the maximum for one violation).

The state's ethics rules say that lawmakers cannot embed state-funded materials on websites they use for any kind of campaign activity. They may, however, post a link that takes visitors to a separate site to view such items.

Stambaugh said she used the resources to communicate with her constituents, and that her Facebook page is not specifically a campaign page. She argued that the videos and photos are public records available on publicly accessible websites like YouTube and Flickr. She also demonstrated how certain social media sites, like Twitter's mobile phone platform, don't let you link

to a video without first embedding it.

As a general principle, all states prohibit legislators from using taxpayer-funded resources for personal benefit, including campaigning, one reason being the unfair advantage incumbents could gain by using pictures and videos of their legislative work during re-election campaigns.

The same holds true at the federal level. When a president is running for re-election, for example, his or her campaign must pay for the use of Air Force One—with all its fanfare, security and display of power—when making campaign stops and speeches.

Washington's Ethics Board reasoned the same principle applied at the state

level. When public money is used to produce pictures and videos of legislative proceedings, those materials cannot be used for election purposes without paying a fee or acknowledging the source, or both.

Fair enough—if the rules are applied fairly, Stambaugh argues. "More than 30 Washington state legislators, including past and current Ethics Board members," she says, "have not received reprimand for sharing similar YouTube videos and Flickr photos on their Facebook pages with campaign content."

Stambaugh paid her fine and reclaimed the \$35,000 she spent in legal fees by holding 44-minute marimba concerts—one minute for each violation—interlaced with motivational talks about standing up for what you believe is right. She's played the marimba since seventh grade.

With lawmakers making increasing use of Facebook, Twitter, YouTube and other social media platforms, questions about fair use are bound to come up again. Stambaugh says she hopes to "further the conversation about social media and the work of our state government."

—Mark Quiner

Have you dealt with an ethical dilemma recently? We'd love to hear about that or other questions or comments on ethics. Email Mark Quiner, with NCSL's Center for Ethics in Government, at mark.quiner@ncsl.org.

David Ralston

Speaker, Georgia House

David Ralston begins his ninth year as speaker of the Georgia House this month. Ralston served in the state Senate from 1992 to 1998, then practiced law and “led a normal life” until being elected to the House in 2002. Ralston attended Young Harris College and North Georgia College (now the University of North Georgia), and earned his law degree from the University of Georgia. He previously served as chair of the Southern Legislative Conference and as a member of the NCSL Executive Committee.

What are the biggest changes you’ve witnessed in politics over the years? Our political dialogue has become a little bit less civil, a little bit less respectful, than it was when I started out. I think that’s unfortunate. We’ve had a lot of groups spring up, both on the right and the left, that seek relevance in destructive ways.

How do we achieve a more civil dialogue? It’s up to the people we serve. I think when they demand that pivot, it will happen.

Has the tone made your job more difficult? Probably to some degree, but I don’t really think about it that way. I’m honored to have this job. Whether it’s a party’s caucus or different political parties, I still like to think that we can get around the table and work out solutions. It’s not easier because of the tone, certainly, because you have to filter out a lot of what’s being said and how it’s being said.

What do you hope to see from the Trump administration and Congress regarding state-federal relations? That we will see greater respect for the states. I’m a great believer that the states are truly the laboratories of democracy. States could be much more innovative if they’re given the ability. I hope this administration will emphasize the role of the states over the role of the federal government. I participated in a discussion about the infrastructure bill in Washington and came away very encouraged by what I was hearing—that the administration was going to actively include the states in what the plan ultimately looks like. So I am hopeful.

What is your most important legislative priority this session? To revitalize our rural areas. We’ve had a great record of economic success that’s been largely limited to the metro areas, and we realized that we needed to make sure that happens all over the state.

What does it take to be an effective leader? Having a vision of what you want to accomplish and the resolve to see the process through, having the courage to do what it takes to get it done, and being able to look past the political reward or harm to accomplish something that’s worthwhile. Those are the qualities I admire most.

What made you decide to run for the legislature? I grew up in a family where we talked about current events and issues around the dinner table, so I was taught from an early age that public service was an honorable thing to do. I managed to avoid catching the bug until my mid- to late 30s before I decided to take a run at it.

How do you de-stress from the pressures of the legislature? I read a lot. I don’t play as much golf as I used to. Mostly I enjoy following my Georgia Bulldogs.

What book is on your nightstand? I’m reading “The Best President the Nation Never Had.” I interned in [former U.S.] Senator Sam Nunn’s office when I was an undergrad, and his press secretary, Roland McElroy, wrote the book about his experiences working for Nunn from his election up until close to his retirement. Senator Nunn, for whom I have much respect, got elected with almost no name ID, was vastly outspent and proved the old adage that sometimes the best formula is just plain-old hard work.

What would surprise people most to learn about you? I guess if they think I’m a fairly calm person who doesn’t get excited easily, they would probably be really scared to see me at a Georgia Bulldogs football game. It can be ugly.

Who inspires you and why? One of my heroes was my dad. He held county political office for 28 years. He taught me the importance of treating everybody equally, was very respectful to people and took his job very, very seriously. I think he left office, if not more popular, at least as popular as when he went in.

What final words would you like to leave with our readers? We’re living in a very tumultuous period. It is important that as we adapt to new issues and new perspectives, we keep in mind that there are some time-tested values we ought to still embrace, and those are remembering who we serve and why we serve, and to keep our focus on that.

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



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