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JULY/AUGUST 2019

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found them. **10**

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State Legislatures (ISSN 0147-0641) is published 6 times a year by the National Conference of State Legislatures. ©2019, All rights reserved. Reproduction in whole or in part without permission is prohibited. Requests for permission to reprint may be emailed to Julie Lays at: julie.lays@ncsl.org. Opinions expressed in this magazine do not necessarily reflect NCSL policy. State Legislatures is indexed in the PAIS Bulletin and Expanded Academic Index.

Annual subscription rates: U.S.—\$49; foreign—\$55; teachers—\$25 (promo code SLMTEA). Single copy: \$6.50. Periodically, NCSL rents mailing labels to other organizations. If you prefer your name not be included please send a written request.

Postmaster: Send address changes to: State Legislatures magazine, 7700 East First Place, Denver, CO 80230.

Trends



ISTOCK

A New York pilot program lets food stamp recipients who don't have grocery stores nearby order food from Walmart and other retailers.

FOOD STAMPS

Putting SNAP Online Could Help Food Deserts Bloom

Americans are growing quite fond of buying groceries online and having them delivered to their front doors. So, expanding the service to those on food stamps—especially the elderly and disabled—seems like a logical next step.

New York is starting with a two-year pilot program. Food stamp recipients with state electronic benefit transfer cards will be allowed to buy groceries online through Amazon, Walmart or ShopRite. They can have them delivered but may not use their benefits to pay for service or delivery charges. ShopRite and Amazon will deliver to the New York City area, and Walmart will deliver in upstate New York.

Retailers will be added in the next sev-

39.7 million

Average number of people using SNAP program in FY 2018

eral months, allowing the program to expand into other parts of New York state, as well as into Alabama, Iowa, Maryland, Nebraska, New Jersey, Oregon and Washington.

Expanding the service, however, raises some concerns. Will staying home and having fewer social interactions and less physical activity affect participants' health? Will the increased traffic from delivery trucks and greater use of plastic

packaging do more harm to the environment? Will participants fully understand the health effects of their online purchases? And, finally, how much money will local economies lose when food stamp dollars go to large national retailers?

The U.S. Department of Agriculture oversees the Supplemental Nutrition Assistance Program, known as SNAP. The agency will measure whether the pilot program increases access to food for SNAP beneficiaries who do not have nearby grocery stores and will assess whether ordering and paying online are safe and secure.

—Haley Nicholson

GUN SAFETY

Red Flag Laws Draw Fans, Fire

Red flag gun laws, also known as extreme risk protection orders, are aimed at people who are in crisis and at a dangerously high risk of harming themselves or others. The laws allow law enforcement and certain other people—family members, romantic partners and, in Maryland, mental health providers—to petition courts to issue orders allowing law enforcement to remove people's access to guns if they appear to be in imminent danger.

Connecticut and Indiana were the first states to enact red flag laws, in 1999 and 2005, respectively. Both states allow only law enforcement to petition the courts. This year, 15 states have enacted similar laws, though they vary in their definitions of “dangerous” people, burden-of-proof requirements and processes for confiscating firearms. Proponents argue the laws can save lives by helping to prevent tragedies before they occur. A study on Connecticut's law found that one suicide was averted for every 10 to 20 guns seized under the law.

The laws are not without critics, however. Colorado's law raises “serious concerns about due process, in that a person can have their guns taken away and their rights violated, all without ever having a chance to appear in an initial court hearing and cross examine accusers and witnesses in person,” says Weld County Sheriff Steve Reams. Once a judge hears from a respondent, about 30% of petitions are reversed, according to reports from Connecticut and Indiana.

The ACLU of Rhode Island has expressed concern over “the breadth of this legislation, its impact on civil liberties and the precedent it sets for the use of coercive measures against individuals not because they are alleged to have committed any crime, but because somebody believes they might, someday, commit one.”

About 50 red flag measures have been introduced in 21 states this year.

—Anne Teigen

HOUSING

Oregon Is First to Enact Statewide Rent Control Protections

Oregon lawmakers recently passed legislation that limits landlords across the state from raising rents more than 7% annually, plus any increase in the cost of living. It exempts landlords of buildings with fewer than five units or whose properties have had renters for less than 15 years.

The law also requires landlords to have a valid reason for evicting tenants. However, when a tenant chooses to leave, landlords may raise the rent above the limit for the next tenant.

California, Maryland, New Jersey and New York also have rent control laws, but Oregon is the first to go statewide with the regulations. At least 10 states have considered new controls this year.

Thirty-two states prohibit such measures. Most states bar cities from capping rent increases, though New York City, Washington, D.C., Los Angeles and San Francisco have had limits for years.

Supporters say rent controls help address the growing costs of housing. Oregon's median rent is up more than 14% since 2011; in Portland, it's more like 30%, when adjusted for inflation.

“This groundbreaking tenant protection bill will make a real difference for Oregon renters,” House Speaker Tina Kotek (D) said after it passed the House.

Opponents disagree. The laws may assist lower-income renters initially, they say, but experience shows that rent controls only worsen problems in the long run. If landlords are limited in what they can charge, they are more likely to take properties off the market or raise rents disproportionately for new renters. In addition, there's little consensus on the

Other Options

States are responding in a variety of ways to what many observers describe as a housing affordability crisis. Six states, the District of Columbia and Puerto Rico have enacted 11 bills addressing housing affordability in 2019. In addition to rent control, policy options enacted or under consideration include resident bills of rights, housing for veterans and other special populations, workforce housing and property tax relief.

Eviction-Affordability Connection

Princeton University's Eviction Lab is raising awareness of the link between high rates of evictions and rising housing prices. Listen to a conversation with Eviction Lab founder Matthew Desmond, author of the Pulitzer Prize-winning “Evicted: Poverty and Profit in the American City,” on NCSL's podcast, “Our American States” (episode 48).

bill's effect on rural areas.

“Studies have shown that rent control policies will reduce the quantity and quality of housing available,” Representative Jack Ziska (R) said in a tweet.

Even supporters acknowledge the bill is no magic bullet. “This will not solve Oregon's housing crisis — it is one of the tools in the toolbox,” Governor Kate Brown (D) said.

—Julie Lays and Sarah Hill

WOMEN IN LEADERSHIP

Indiana's POWER Caucus Puts Focus on Women

To celebrate the ratification of the 19th Amendment, giving women the right to vote, NCSL's Women's Legislative Network is launching the Suffrage Amendment State History (SASH) Campaign.

Aug. 18, 2020, marks the 100th anniversary of the amendment's approval by three-fourths of the states and its guarantee that the right to vote shall not be denied on the basis of sex. The SASH Campaign will celebrate the accomplishments of female legislators.

The campaign is currently highlighting Indiana's POWER Caucus—or Political Organization for Women's Education and Representation.

The POWER Caucus does not produce legislation but serves as a forum for women legislators to discuss legislative issues that could improve the quality of life for the women—and all citizens—of Indiana. Beyond legislative matters, it provides scholarships for non-traditional women students, especially those who demonstrate a passion for giving back to their communities. This may include women who are returning to school, changing careers, seeking advancement in their career, or entering the workplace after being stay-at-home moms.

Every other year, the POWER Caucus hosts a silent



Wikipedia

Suffragists parade down New York's Fifth Avenue in 1917 carrying placards with the signatures of more than 1 million women demanding the right to vote. Below, the Indiana POWER Caucus logo.



auction to raise funds for the scholarships. This year there will be at least 18 scholarships awarded to nontraditional women, each for \$750. Indiana's nine congressional districts will each get two.

Aug. 18, 2020

The date marks the 100th anniversary of the 19th Amendment's approval by three-fourths of the states.

One will be awarded to a woman enrolled in any college courses. The second will be awarded to a woman majoring in a science, technology, engineering or mathematics (STEM) program. Both must attend a state higher education institution.

"Here in Indiana, whenever we can promote women in leadership by helping other women, I am all for it," says Representative Holli Sullivan (R), the caucus president. "When we tackle problems together in a united, civil approach, we make an impact that affects women all across the state. That's what the Indiana POWER Caucus has done since its creation, and I am beyond proud to serve as president of this bipartisan, problem-solving group."

—Erin Smith

A 'Good Boy' Tennessee Lawmaker and His Mother Make Voting History

Every so often a national history-making decision comes down to a single state legislative vote. That's what happened in ratifying the 19th Amendment giving women the right to vote. After Congress passed the amendment in 1919 it had to be ratified by at least 36 states. In 1920, Tennessee became that deciding 36th state, but not without some drama.

The story goes like this, according to Jennie Cohen with History.com.

The Tennessee Senate passed the amendment easily, but it stalled in the House. Thousands of pro- and anti-suffrage activists filled Nashville to voice their opinions. Tension was high, and debates were fierce.

Many lawmakers chose to show which side they were on by the color of the rose in their lapel. Red signified they were against giving women the right to vote. Yellow reflected support. Representative Harry Burn, who at 24 was one of the youngest legislators, wore a red rose. Af-



Representative Harry T. Burn, left, and his mother, Phoebe "Febb" Burn.

ter a motion to table the amendment was defeated in a 48-48 tie, the speaker called for a ratification vote on Aug. 18, 1920. With an evenly divided House, it looked like Tennessee would not become the final state needed to ratify the amendment.

Except that young Burn had received a note from his mother that morning that proved providential. Phoebe "Febb" Ensminger Burn, according to Cohen, had written this to her son: "Hurrah, and vote for suffrage! Don't keep them in doubt.

I notice some of the speeches against. They were bitter. I have been watching to see how you stood but have not noticed anything yet." She ended by imploring her son to "be a good boy" and help the great suffragist leader Carrie Chapman Catt put the "rat" in ratification.

On Aug. 18, when it was his turn to vote, holding his mother's letter in one hand and still wearing his red rose, Burn said "aye" so quickly that it took his fellow legislators a few moments to register this unexpected response. After tensions died down a bit, Burns came out of hiding and told his fellow lawmakers, "I believe we had a moral and legal right to ratify. ... I know that a mother's advice is always safest for her boy to follow, and my mother wanted me to vote for ratification."

With Burn's vote, Tennessee became the needed 36th state, enabling the 19th Amendment to become law half a century after suffragists began their campaign.

—Julie Lays



Suffrage Amendment State History

Announcing the SASH Campaign to commemorate the 100th anniversary of the 19th amendment. The Women's Network will celebrate, state by state, the women who have contributed to American democracy in so many significant ways.

Join us at the Legislative Summit in Nashville on Aug. 6 for our program about Tennessee suffrage history.

Learn more and share state stories at www.ncsl.org/wln.



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ANNIVERSARIES

400 Years and Counting

In 1619 a group of 22 men met in Jamestown, Va., to begin what would become a legacy of representative democracy in the British colonies and eventually, the United States.

“Virginia’s significant impact on American history and culture can be traced back to the beginning of our ongoing experiment in representative self-government. Four centuries later, it continues to motivate and empower us to take an active role in shaping the commonwealth’s future,” says G. Paul Nardo, clerk of the House.



Nardo

In 1617, the Virginia Company of London received word of much unrest among the exhausted colonists. To appease them, the British monarchy via the Virginia Company gave 22 burgesses a chance to sit at the table. Their first meeting—the first such gathering in the Western Hemisphere—was a unicameral session on Friday, July 30, 1619. In later years, they separated into two chambers, the lower of them being the House of Burgesses. Their world was very different from ours, of course, but the issues they discussed in that brief first session are still debated today: taxes, race relations, what qualifications a burgess must have.



Cox

“What began during that blisteringly hot summer in 1619 with little fanfare or formality was actually the forerunner of all our American representative government institutions,” Virginia House Speaker M. Kirkland Cox (R) says.

In what some call a paradox of American history, the same year those men were seeking freedom, the first documented African slaves—Kimbundu-speaking people from current-day Angola—were brought to Virginia’s shores. Twenty or so arrived on the English ship *White Lion* followed a few days later by another 25 or so on the *Treasurer*. Both groups were captured from the Spanish slave ship *San Juan Bautista*, which departed Angola with 350 enslaved Africans, some 150 of whom died. The survivors were traded for supplies, and thus began their long struggle for freedom from slavery.

Both events of 1619 will be commemorated this year.

NCSL is working with American Evolution, an organization created by Virginia to observe the first assembly of 1619. A series of activities throughout the year will culminate with the Forum on the Future of Representative Democracy, where attendees from across the globe will reflect on democracy and offer new visions for what it may hold in the future.

—Megan McClure



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American Society of Legislative Clerks and Secretaries (ASLCS)	Seattle, Wash.	Sept. 22-27
Legislative Research Librarians (LRL)	Portland, Maine	Sept. 23-25
National Association of Legislative Information Technology (NALIT)	Boise, Idaho	Oct. 1-4
Fiscal Analysts Seminar (NALFO)	Columbus, Ohio	Oct. 9-11
Legislative Information and Communications Staff (LINCS)	Kansas City, Mo.	Oct. 22-25
National Seminar on Human Resource Management	San Diego, Calif.	Oct. 23-26

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LEGISLATIVE STRENGTHENING

Taking Oversight to LOFTy Heights in Oklahoma

BY NATALIE WOOD

Strong legislative oversight is a top priority for many state lawmakers, with good reason. It is a fundamental institutional check and balance, crucial to legislative independence and effectiveness.

To help meet this responsibility, at least three-fourths of state legislatures have specialized units to evaluate state government policies and programs, and a majority of legislative audit or evaluation offices have operated for more than 25 years. Alaska and South Dakota expanded their oversight capacity by adding program evaluation units in 2013 and 2018, respectively. This year, it was Oklahoma's turn.

Lawmakers in the Sooner State passed legislation (Senate Bill 1), co-sponsored by Senate President Pro Tem Greg Treat (R) and House Speaker Charles McCall (R), creating a nonpartisan, centralized legislative staff office: the Legislative Office of Fiscal Transparency, or LOFT. The bill empowers LOFT to review budgetary decisions and agency performance—distinct from audits performed by the executive branch. The law also sets powers, duties and definitions for the new agency, appropriates funding and creates a bipartisan legislative committee to oversee its work. LOFT will, according to Treat, give lawmakers and the public tools to hold state agencies accountable and ensure the people's money is spent wisely and efficiently.

The legislation is the culmination of



McCall



Treat

THE LOFT BILL CREATES A NEW LEVEL OF TRANSPARENCY.

several years of work to strengthen legislative oversight in Oklahoma. A previous Senate-led attempt was vetoed by the governor, and budgeting constraints over several legislative sessions stymied House-led measures.

That changed in 2017 when the Legislature passed a bill, authored by McCall, that formed the Agency Performance and Accountability Commission, whose members were appointed by legislative leaders and the governor. The commission was authorized to audit a limited number of agencies, was staffed by legislative and executive branch personnel and was permitted to contract with other entities to conduct audits.

Still, the Legislature wanted more. Last year, leaders coalesced around ideas that more fully supported legislative oversight. The Senate held an interim hearing on the topic, during which experts from NCSL and the New Mexico Legislature shared insights—including key considerations for structuring audit and evaluation offices.

That hearing helped inform Oklahoma's approach. "To say NCSL played a small part in helping us would be an understatement," Treat says. "Meeting with my colleagues and staff in other states and learning new concepts was so useful." Input from New Mexico illustrated how unbiased information can help ensure bipartisan action in response to audits and evaluation.

Budget transparency and government accountability were top priorities for the Senate majority in 2019, and SB 1 was the first Senate bill filed. In addition to creating and empowering LOFT, and the legislative committee to oversee its work, it repeals the commission.

Increased oversight resonates with Oklahomans, who want to know their tax dollars are spent effectively and appropriately. McCall says the Legislature has a duty to provide this assurance, and that "(LOFT) will ensure lawmakers are getting accurate and timely information from agencies so we can make better informed decisions for citizens."

Treat adds that SB1 creates a new level of transparency, since everything the agency produces will be available to the public. "When we hold the executive branch accountable, it helps us be accountable to citizens," he says.

SB1 took effect on May 24, and legislative leadership will make appointments to LOFT's oversight committee this summer.

Natalie Wood is the director of NCSL's Center for Legislative Strengthening.



Ellen Jaskol Photography

A Remarkable Man

William T. Pound is stepping down as executive director of NCSL, leaving legislatures stronger than he found them.

BY CARL TUBBESING

Bill Pound and I came to NCSL shortly after its birth in 1975. Our first boss was Jim Edgar, who later became governor of Illinois. Jim tells a story about the first trip he and Bill made together. They were at a meeting, the first of thousands. When they came back to the hotel after dinner, Jim went to his room and Bill stayed downstairs to socialize. The next morning, Bill couldn't wait to tell Jim how he stayed up till 2 a.m. talking to a legislative

staff member about parliamentary procedure and legislative politics. Jim says he knew then, in the new organization's first few months, that Bill was made for NCSL.

Jim was prescient. If ever there was a perfect fit between an organization, its members, its mission and its staff leader, the match between NCSL and Bill Pound is it. I am not objective about this. He was my boss, but we also were close friends. That put me in an ideal position to observe and marvel in the qualities that have made Bill Pound synonymous with NCSL for the past 32 years.

When NCSL was created 44 years ago, legislatures were going through an intense period of modernization, adding staff, removing restrictions on when they could meet, strengthening committees, raising legislator salaries. Our brand-new organization thrived in this environment. Legislators and staff needed services and NCSL quickly became their trusted, objective source for policy analysis, training, workshops, technical assistance, publications and representation in Washington, D.C. These early years established a culture of responsiveness and adaptability that has guided NCSL ever since.

A Long List of Achievements

Under Bill's leadership, first when he became director of state services, then, beginning in 1987, as executive director, NCSL became one of the most respected and successful public organizations in the country. The list of achievements is vast—helping legislatures reform their budget processes; assisting others with overhauls of their rules; training new legislative leaders, committee chairs and legislative staff; orchestrating landmark lobbying victories in Washington, D.C.; conducting staff compensation studies in numerous legislatures; providing research and producing publications on the incredible array of issues legislatures contend with every year; using technology to facilitate information sharing among the states; promoting international understanding through exchange programs and technical assistance projects in other countries. That, of course, just scratches the surface.

Bill might say that anyone could have accomplished all of this. He would say that NCSL has succeeded because of the support, commitment, energy and creativity of the hundreds of legislators, legislative staff and NCSL staff who have led the organization's efforts for the past 44 years. That, of course, is undeniable. What is also undeniable is that Bill brought special qualities to his position that made him and NCSL a perfect fit.

Let's start with his unbridled passion for state legislatures—the institutions, their politics, the legislators and staff who



Bill Pound, "a country boy who made good," as his hometown newspaper described him, showed his leadership skills while at the University of Denver, where he became president of both the Board of Governors and the Student Senate. Here he is, far right, with fellow students, from left, Jim Easton, Frank Johnson and Al Scrafin.

populate them, the lobbyists and many others who are part of the state legislative community. That 2 a.m. story was just Bill's first venture into the late-night/early-morning cycle: listening to stories, telling his own, fielding compliments and complaints and learning, always learning.

Bill's passion for legislatures translated into dedication and sacrifice. Without hesitation he would stay late on a Friday to answer an urgent information request. Give up his Sunday afternoon so he could be in Washington, D.C., first thing Monday. Spend January on the road because he was in demand at new-legislator orientations. Even sleep in his chair in the Washington office when his flight home from Dulles had been canceled.

Bill's knowledge is encyclopedic. He reads, listens, absorbs, distills and interprets. State budgets and tax policy were particular specialties from his earliest days on the job; but you wouldn't want to go up against him on "Jeopardy!" on any other state issue, either. He knows federal issues because they affect the states. His knowledge of state legislatures is un-

"NCSL IS ONE OF THE MOST RESPECTED ORGANIZATIONS IN THE UNITED STATES DUE TO BILL POUND'S EXTRAORDINARY LEADERSHIP AND BIPARTISAN VISION. I'M PERSONALLY GRATEFUL FOR BILL'S INPUT. HE'S BEEN A MENTOR TO ME, ESPECIALLY ON THE IMPORTANT ROLE THAT LEGISLATIVE LEADERS PLAY IN THEIR INSTITUTIONS."

Robin Vos, Wisconsin Assembly speaker and incoming president of NCSL

matched, even with a staff full of legislative experts.

Bill revels in the people of the state legislative community. Getting a call from an old friend is a special pleasure. His excitement at making new acquaintances has never abated. Whether longtime friends or new, he delights in mining their knowledge of their legislature, hearing what they have to say about NCSL, talking politics and policy and learning about their families. Not surprisingly, his enthusiasm for people is infectious. Most of us, upon returning from a trip, couldn't wait to drop by his office and tell him whom we had met and what we had learned.

Balance in All Things

This piece, of course, will make Bill uncomfortable. He will read this and walk down to the publications staff and say, "I can't let you run this. It's not balanced. There's no opposing viewpoint. Carl's biases are showing." Anticipating this scenario, I conducted a highly scientific poll of two people who have known Bill especially well over the past several decades—his daughter Rebecca and myself. In the interest of balance, here are three Bill Pound foibles we were able to identify.

One, Bill is a terrible judge of distances. Rebecca remembers an incident just before the 1982 Annual Meeting in Chicago. (That's what we called the Legislative Summit back in the day.) NCSL staff, including Bill, spent the day stuffing 3,000 packets to be given to the attendees at registration. Twelve-year-old Rebecca helped out. When we were finally done, several of us decided to have dinner at The Berghoff, a storied German restaurant in the Loop.

"It's not far," Bill said.

"How far?" asked Rebecca. "Can't we take a cab? I'm tired."

"It's not far. Let's walk," Bill said. A block or two into the walk (any parent knows what's coming next), Rebecca asks, "How much farther, Dad?" In classic dad fashion, Bill responds, "Not much farther, Becca." Another block or two, same ques-

"SIMILAR ORGANIZATIONS HAVE ENDURED ROUGH TIMES IN THE LAST TWO DECADES. NCSL HAS MAINTAINED ITS STRONG BIPARTISAN REPUTATION IN LARGE PART THANKS TO BILL'S STEADY HAND AND DURABLE LEADERSHIP."

Chuck Truesdell, Legislative Fiscal Analyst, Kentucky

"BILL POUND IS NCSL. BILL LOVES THE LEGISLATIVE PROCESS. HE HAS WORKED AND PUSHED NCSL CONSTANTLY TO BE THE AIDE LEGISLATURES NEED. IN GEORGIA, THE FIRST PLACE THAT WE LOOKED FOR ANSWERS WAS NCSL."

Dan Balfour, NCSL president 2009-10 and former Georgia senator

tion, same answer.

When they finally made it to the restaurant. "It was way over a mile," Rebecca says.

"Oh, no. It wasn't that far," claims her father.

Two, Bill's words don't always mean what they appear to mean because he hates saying "no." Take his two-word response to a variety of questions, especially those beginning with "May we ..." or "What about ..." or "Why don't we ..." Rebecca says she and her brother Michael learned early on that Bill's "we'll see" really meant "no." Not surprisingly, most NCSL staff have come to the same conclusion over the years. The dreaded "We'll see" meant you weren't going to get that extra \$5,000 in your budget or receive that promotion you'd been hoping for.

Three, Bill has a temper, but he doesn't display it in public and hardly ever in the confines of the NCSL offices. But baseball, one of Bill's great passions beyond NCSL, is another matter. Before the Colorado Rockies became Denver's team, Bill had spent his life as a Dodgers fan. He was used to success. In the 1966 World Series,

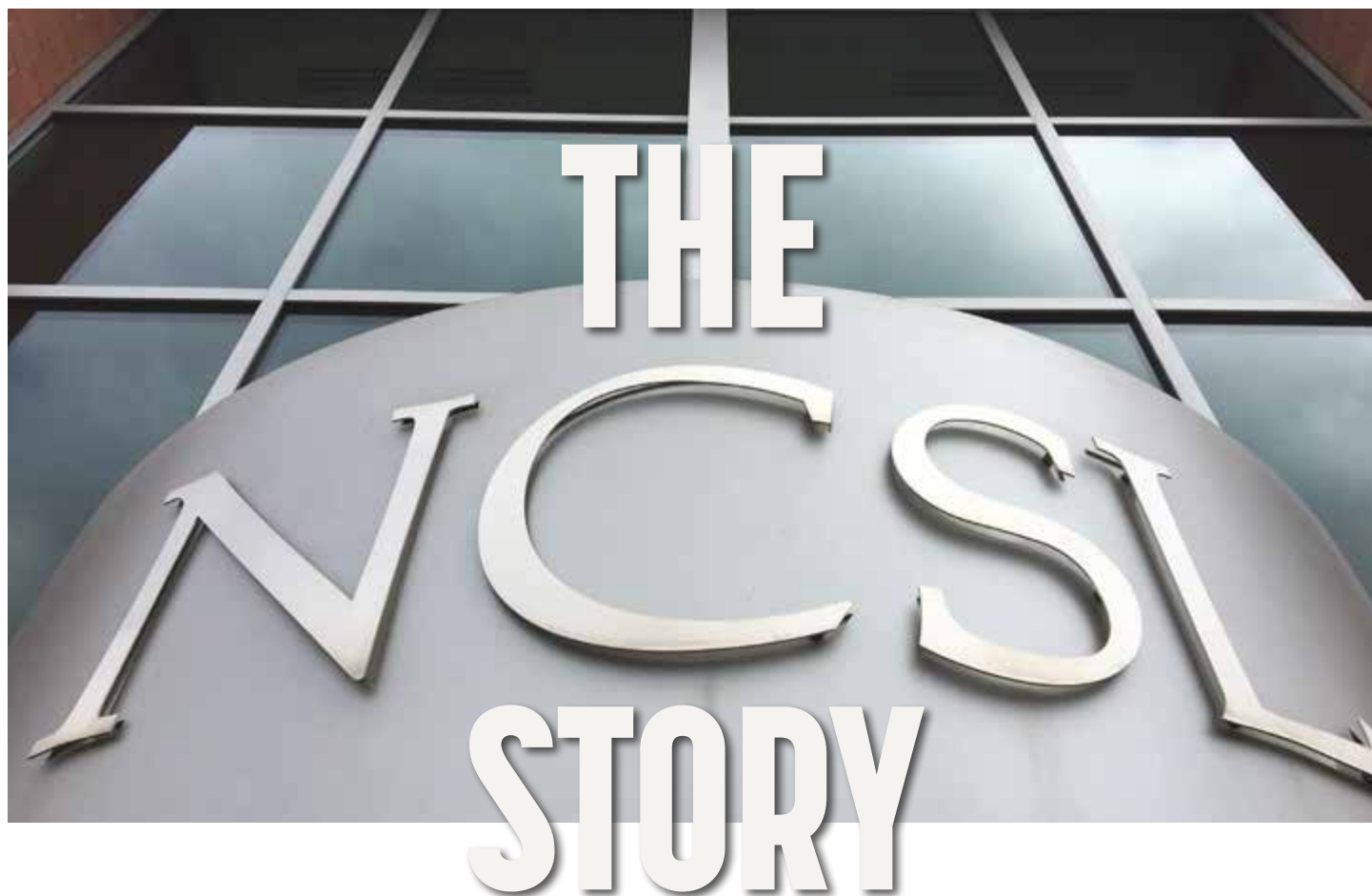
the Dodgers faced the Baltimore Orioles. In game 2, star Dodger outfielder Willie Davis made three errors in one inning, losing three fly balls in the sun. After the third error, Bill, watching at home, ripped off his glasses, threw them at the TV and yelled, "Catch the d*** ball!" The glasses broke and the Dodgers were swept in four games.

So there you have it, a balanced look at a remarkable man. Bill is deliberate and fair. He grasps the nuances of complicated political and policy matters. He is proud of the NCSL staff and the impact they have had on legislatures and state and federal policy outcomes. He is trusted, respected and revered in the state legislative community and beyond.

Bill was made for NCSL. With the help and support of innumerable legislative staff, legislators and NCSL staff, Bill, in turn, made NCSL what it is today.



Carl Tubbesing joined NCSL shortly after its inception in 1975 and later served as its deputy executive director.



NCSL has become the highly respected organization it is today under William T. Pound's leadership.

BY JULIE LAYS

The year was 1974. America was in a nasty recession, unemployment hit a high of 11.3%, OPEC controlled energy prices, air pollution filled the skies and speed limits were capped at 55 mph. You could buy a computer, if you had \$9,000 and could carry 50 pounds.

Back then, a majority of legislatures convened only every other year. And, when they did, women occupied less than 10% of the seats nationwide. No one was term-limited and only about 3% of legislators considered themselves full-time lawmakers. Across the country, 5,100 legislators were Democrats and 2,385 were Republicans. The nation was a different place. Or, was it?

Dolly Parton was hot, wild weather was

frequent (148 tornadoes hit 13 states) and executions were on hold. Policy discussions centered on clean air, the high costs of college, overcrowded prisons, marijuana, abortion and gun control.

And all eyes were focused on the chaos in the federal government. Seven former White House officials had been indicted and charged with conspiracy to obstruct justice for their role in the Watergate scandal. In August, President Richard Nixon resigned.

In that context, state legislatures were needed more than ever to be the government by and for the people. Many believed that with some support and assistance, legislatures were more likely than their federal counterparts to fulfill the Founding Fathers' desire to "form a more perfect union, establish justice, in-

sure domestic tranquility ... promote the general welfare, and secure the blessings of liberty.”

They just needed an NCSL.

Three Into One

In the mid-’70s, there were three national organizations competing for state legislators and legislative staff.

The National Legislative Conference, founded by a group of legislative service agency directors in 1948, was under the wing of the Council of State Governments. Then came the National Conference of State Legislative Leaders in 1959, followed by the National Society of State Legislators in the early ’60s. After a few failed attempts to merge themselves, a group of lawmakers asked the Eagleton Institute of Politics at Rutgers University, then under the direction of political scientist Alan Rosenthal, to survey legislators and staff and recommend a solution.

In August 1974, following the researchers’ advice, representatives from the three groups voted to dissolve their organizations and form the National Conference of State Legislatures, effective Jan. 1, 1975.

The organizations formed a 34-member Executive Committee and, with a \$500,000 grant from the Council of State Governments, NCSL was born.

The executive committee decided funding should come through appropriations from the states based on their population, and that holding an annual meeting would be the most democratic way to approve the NCSL budget, elect officers and the Executive Committee, and adopt policy positions. That annual business meeting has grown into the Legislative Summit and draws about 6,000 people a year.

Each of the original groups left its mark on NCSL. NCSL’s Leaders’ Center responds to the needs of legislative leaders through special seminars, trainings and publications. The support of legislative staff has continued and expanded under NCSL, with three of the seven NCSL officers and one-third of the Executive Committee being staff. NCSL also has nine very active professional staff associations.

The Executive Committee selected Earl S. Mackey to be NCSL’s first executive director. Mackey led the National Legislative Conference and had previously served in the Missouri House. The committee also decided to locate the headquarters of the new national state organization in a state capital, and out of 10 cities, Denver was chosen. NCSL’s founders also agreed to run a smaller state-federal office in Washington, D.C.

Open for Business

The D.C. office opened in January 1975 and soon moved to what became known as the “Hall of the States,” because the building was home to most of the major state government associations, including the National Governors Association and the Council of State Governments. The Denver office opened in April that year, with William T. Pound and Carl Tubbesing hired as special assistants for state services.

Pound, a native Coloradoan, wrote a letter to Mackey explaining why he should be hired. “As a political scientist with a background and interest in legislative activity ... I believe that my education and experience might be profitably employed by the National Conference of State Legislatures and I would appreciate the opportunity to further discuss such employment with you.” Mackey quickly knew Pound would be a good fit and the rest is history.

One of the first things NCSL staff did was produce a monthly newsletter called *State Legislatures Today*. Forty-five years later, the newsletter’s successor, *State Legislatures magazine*, remains the only national publication dedicated to the ideas, issues and insight of the men and women who work in the nation’s state and territorial legislatures.

From the beginning, NCSL has been committed to supporting sound management and fiscal policy and good organization of the legislative institution.

NCSL staff have always placed high priority on prompt, nonpartisan responses to information requests; comprehensive, unbiased research reports; and balanced, relevant magazine articles. In NCSL’s



earliest days, a small group of generalists would review all pending information requests and discuss how to answer them.

Those days are long gone. Information requests now number several thousand a month, and NCSL policy staff are experts in their fields. NCSL has grown in concert with the hot policy issues of the day. The energy crisis of the late 1970s, for example, led to an expansion of NCSL grants in the areas of energy, natural resources and the environment. NCSL’s growing reputation in those policy areas helped to obtain grants in human services, health care and criminal justice.

As information technology was developing in the early 1980s, a small group of legislative staff directors worked with NCSL to create an electronic information exchange of legislative research reports called LEGISNET. This very early use of online information systems for the exchange of policy information among the states was a milestone in NCSL’s growth and value to states.

Federalism in Flux

NCSL is on its eighth U.S. president and has seen the state-federal relationship



NCSL

Bill Pound, fifth from the left, with members of the Executive Committee, breaks ground for NCSL's new headquarters east of downtown Denver on Oct. 3, 2001.

ebb and flow over the years as power and control shift back and forth. Interestingly, Ronald Reagan, whose administration substantially reduced federal grants to state and local governments, was especially close with NCSL. During his first term, the president met with NCSL officers in the Cabinet Room of the White House to talk about his vision of federalism. In 1982 he spoke at the annual meeting in Atlanta, the only sitting president to do so. Through the years, NCSL's lobbying efforts for states within the federal system have been vital. NCSL has fought to end unfunded federal mandates and the preemption of state laws. It helped in achieving welfare reform that devolved control back to the states and in winning the U.S. Supreme Court battle over internet sales taxes last year.

The federal cutbacks of the 1980s, however, led to the first significant reductions in NCSL staffing. They also spurred NCSL to expand the marketing of its products

and services, including advertising in the magazine and the sale of publications and exhibits at the annual meeting, to diversify funding sources.

In 1982, NCSL established the Foundation for State Legislatures to foster partnerships with the private sector and to support the work of the conference. Its volunteer board of directors is composed of corporate and union executives, state legislative leaders and senior legislative staff. Its fundraising has grown from \$108,791 with 27 members in 1985 to \$2,775,500 with 220 members in 2018.

And in 1983, NCSL, along with other state and local organizations, formed the State and Local Legal Center to advocate for state and local governments in U.S. Supreme Court cases. The center has had a significant impact on the court's federalism decisions.

Changing of the Guard

When Mackey retired in 1987, Pound became NCSL's executive director. Under his leadership, the conference has continued to expand the depth and breadth of its resources. Grants and contracts grew in number, with grants making up 42% of NCSL's funding by the early 1990s.

Public cynicism and distrust in all levels of government, however, continued to grow as well. Citizen initiatives set term limits on lawmakers in 21 states, requiring NCSL to adapt to a more frequently changing membership. The organization launched the Trust for Representative Democracy, a public education and outreach initiative that, among other projects, created the Legislators Back-to-School program, which encouraged lawmakers to visit their local schools to talk about our form of government.

NCSL established the Center for Ethics in Government in 1999 to promote ethical behavior among state legislators, staff, lobbyists and advocates. The center conducts training programs in ethical decision-making and is a clearinghouse for information on states' ethics laws and rules.

One of the biggest logistical projects Pound oversaw was the construction of

a new NCSL headquarters building on Denver's East Side. The organization took a bold step away from high and ever-increasing downtown rents and bought land at the former Lowry Air Force Base, which was being redeveloped for commercial and residential use. The three-story building, which opened in 2002, houses a mini-dome, photos of the 50 state capitols and the majority of NCSL's research staff.

Defending Democracy

NCSL was founded on the conviction that legislative service is one of democracy's worthiest pursuits. But democracy is under fire. NCSL's latest efforts to bolster democracy's defenses include creating the Center on Legislative Strengthening and the Redistricting and Elections Program in 2017. Meanwhile, the organization has beefed up its services for staff and expanded its training offerings for lawmakers and their leaders.

The greatest challenge state legislatures face, Pound says, is "the extreme partisanship that exists in all levels of government, the attitude that, 'If you're not with us then you must be against us.'"

The unabashed party loyalty that elevates partisan politics over respect for the legislative institution is a barrier to thoughtful lawmaking. NCSL's strength lies in its determination to remain the premier bipartisan organization that serves all legislators, regardless of party, and their staffs, no matter how venomous our politics are or how polarized our country becomes.

Under Bill Pound's leadership, and working in partnership with state legislatures, the organization has helped build stronger states and, thus, a stronger nation. And we're sure that will continue as the mantle of leadership passes to Tim Storey, NCSL's new executive director.

Julie Lays is the editor of State Legislatures magazine. This history is based in part on an article by Karl T. Kurtz, former director of operations at NCSL, who joined the organization when it opened in 1975.

Can Your State Legislature Adequately Oversee Your State's Executive Branch?

A new study released this summer by the Center for Urban Studies (CUS) at Wayne State University and commissioned by the Levin Center at Wayne State University Law School assesses the oversight capacity and performance of each of the 50 state legislatures and identifies the best practices of those states doing the best job.

The research results are presented on a special website, <http://stateoversightmap.org>. The website allows the viewer to access the research results of each state individually by clicking the desired state on a map of the United States. Once clicked, the ranking of the state with respect to six dimensions of legislative oversight is easily visible as well as the full research report on that state. The six dimensions of legislative oversight addressed by the study are: analytic bureaucracies, the appropriations process, committees, the administrative rules process, advice and consent, and monitoring of state contracts.

The study found that states vary widely in their capacity to oversee the work of the executive branch. Using a range from "minimal" to "high," CUS found that nine states have limited capacity, 29 states have moderate capacity, and 12 have high oversight capacity.

In assessing states' use of the oversight resources available to them, the study found that one state makes minimal use of its oversight capacity, 12 states make limited use, 27 make moderate use, and only 10 states ranked "high" in use of their oversight capacity.

Nevada, Colorado, and Maryland were at the top of the list for both their capacity to do oversight and their use of oversight. The full list of the rankings can be viewed on page 68 of the report.

The CUS researchers, headed by Lyke Thompson, director of CUS, and Marjorie Sarbaugh-Thompson, professor of political science at Wayne State University, identified a number of best practices



among the states, including:

- Creating special oversight committees with a balance of party membership, giving minority party members a voice in bringing evidence to the table.

- Requiring legislators to hold committee hearings on auditor's reports and recommendations.

- Making public reports on how legislators responded to problems identified by auditors.

- Having auditors who work closely with the legislature to increase oversight.

Based on their findings, the researchers made several recommendations to state legislatures:

- Find ways to provide a voice to the minority party during the oversight process.

- Monitor state contracts.

- If you don't have your own audit unit, create one and ensure it is well-funded and well-staffed.

- When reviewing rules, consider the benefits of administrative rules as well the costs.

The Levin Center will use the study to



guide its program for training state legislators and their staffs in how to conduct effective oversight. The Center has been a leader in such trainings for congressional staff and has recently turned to expanding its oversight training to state legislatures.

Former U.S. Senator Carl Levin, chair and namesake of the Levin Center, said, "The key to good governance is good oversight, and the legislative branch has the responsibility to achieve that. Good oversight requires a commitment to bipartisanship and fact-finding. The CUS study confirms this and provides a road map for state legislatures to strengthen their hands in this regard. The Levin Center is available to assist the states in doing so."

The Levin Center at Wayne can be reached through its website at <https://law.wayne.edu/levin-center> or by email at levincenter@wayne.edu.

This special advertising feature was prepared by the Levin Center. The views expressed here do not necessarily reflect NCSL policy.

Tim Storey Named New NCSL Executive Director

Thirty years after packing his mom's Chrysler K-car to drive cross-country for an internship with the Denver-based National Conference of State Legislatures, Tim Storey took the reins as the organization's executive director.

"I had never been west of Knoxville, Tenn., but at NCSL I found a place that I loved and just stuck with it," he says.

Storey's appointment on July 15 follows the retirement of William T. Pound, who led NCSL for 32 years.

A native of North Carolina, Storey holds a bachelor's degree in English and political science from Mars Hill University in North Carolina and a master's in public administration from the University of Colorado School of Public Affairs.

"NCSL is in good hands with Tim Storey. ... I'm confident he'll take the organization to the next level," says Robin Vos, Wisconsin Assembly speaker and NCSL's incoming president.

At NCSL, Storey, 52, gained expertise in redistricting, elections, legislative organization and management, and education, and has served as director of Leaders Services and Legislative Training. Most recently, he served as director of State Services, which includes the Center for Legislative Strengthening, fiscal research, institutional studies, leaders' services, staff training, and redistricting and elections.

"Working for legislatures is my calling, and I was blessed to discover it early in life," he says. "I love the people who work in them and the people who work around them. What happens in legislatures is what's really important to people: It's about their kids' schools, health coverage, infrastructure and transportation and so much more."

Storey says his passion for the legislative institution as the cornerstone of American democracy is as strong today as when he first walked into the North Carolina General Assembly as a wide-eyed intern in the late 1980s before arriving at NCSL.

"I've had the privilege of speaking to



Ellen Jaskol Photography

"TIM'S KNOWLEDGE, INFECTIOUS ENERGY AND ENTHUSIASM FOR THE WORK OF STATE LEGISLATURES IS GOING TO HAVE A DYNAMIC IMPACT ON THE VISIBILITY AND EFFECTIVENESS OF OUR STATES' WORK."

Martha Wigton, incoming NCSL staff chair and the Georgia House Budget and Research Office director

thousands of legislators and legislative staff as well as many others who work in and around legislatures," he says. "I often end those talks by citing NCSL's mission

and encouraging the listeners to be extraordinary stewards and guardians of the legislative institution. It's as important now as ever."

Representative democracy, adds Storey—who lives just outside Denver with his wife, Amy, and their three kids—is not just some ideal to be tossed around.

"It's vital," he says. "We've tinkered with the system for 240 years and it's still not perfect. It's a work in progress and we get the opportunity to help legislatures improve and thrive. I believe in the work we do, the talented group of people who work here and our culture of collaboration and innovation."

And one thing is of paramount importance to NCSL, Storey says: bipartisanship.

"During these increasingly polarized times, bipartisanship must be NCSL's bedrock," he says. "I genuinely respect people from all political backgrounds and enjoy working with them and bringing them together under the NCSL banner."

—Lesley Kennedy

LEGISLATURES

WHY LAWMAKERS FLEE

Oregon's recent walkout reflects a growing trend.

BY MATT VASILOGAMBROS

Oregon Democrats were on track to pass sweeping legislation this session that would reduce statewide greenhouse gas emissions. But then Republican lawmakers threw a political Hail Mary. They left the state.

Their play appears to have worked.

Eleven Senate Republicans left June 20, returning nine days later, after Senate President Peter Courtney said the majority Democrats lacked the necessary votes to pass the bill. The climate measure was sent back to committee, killing it for the session.

With any walkout, a large question looms over the political protest: Will it work?

Used around the country for the past two centuries, by countless state lawmakers from both political parties, walking out grinds legisla-

tive action to a halt. Without enough lawmakers present in the Capitol, legislative chambers can't reach a quorum. The gamble is whether the maneuver will work or whether it will deal the lawmakers in flight a hefty political price.

Walkouts May Increase

As state politics become more partisan and lawmakers are less willing to negotiate legislation, walkouts may be used more frequently. The tactic, which at times gains national attention, can run out the clock on legislative sessions and stall bills that otherwise would have passed.

While the gamble may have worked in Oregon in the short run, walkouts can be politically costly plays that rarely work in the long run, says Andrew Downs, director of the Mike Downs Center for Indiana Politics at Indiana

University-Purdue University Fort Wayne, who studied the 2011 legislative walkout in the Hoosier State.

Their fate often depends on the kind of walkout, he says. The most common are ones that last for a few hours or days. Members of a caucus won't show up to a committee or floor votes, preventing a quorum. It sends a message they're serious about an issue being debated, Downs says. It rarely gets much press and can be an effective negotiating tool.

The second and more rare walkouts are ones like that in Oregon, where lawmakers flee the state for several weeks or months. These large events use a lot of political capital and show voters that those lawmakers might be sore losers and unwilling to negotiate, Downs says.

"If you're using this option, you're probably not in a good

bargaining position to begin with," he says.

At the same time, it might fire up their base, showing they refuse to give up their principles.

Both types of walkouts should be used with caution and can have widespread consequences for the lawmakers involved.

The challenge, as Downs outlines it: "There are ways to walk out and there are ways to walk out."

Politicians have been dodging votes for the past two centuries.

When Abraham Lincoln was an Illinois representative, he jumped out of a first-floor window to avoid a quorum call on a Democratic banking bill he and fellow Whigs vehemently opposed. His stunt, however, failed to block the vote and earned him and his "flying brethren" nickname used by Democrats in the state Capitol.



iStock

The Oregon Capitol in Salem. Eleven Senate Republicans left the state for nine days in June to deny Democrats the votes they needed to pass a carbon emissions bill.

"IF YOU'RE USING THIS OPTION, YOU'RE PROBABLY NOT IN A GOOD BARGAINING POSITION TO BEGIN WITH."

Andrew Downs, director of the Mike Downs Center for Indiana Politics at Indiana University-Purdue University Fort Wayne

For the next 150 years, walking out was commonly used in state legislatures across the country. There have been several high-profile walkouts over the last three decades.

In 1994, California Assembly Republicans walked out of the chamber to a hotel across the street to prevent a quorum that would have allowed Democrat Willie Brown to get re-elected speaker. The three-

day exile ran out the clock on the legislative session. Brown won in the end: Two Republicans defected and he gained the speakership again two months later.

Texas lawmakers absconded to two different states in 2003. In an attempt at blocking Republican-drawn redistricting, 11 Texas Senate Democrats fled to New Mexico for 46 days. In the House, 51 Dem-

ocrats holed up in Oklahoma for several days. Still, the redistricting plan passed soon after the Democrats returned.

Even in Oregon, there have been two major walkouts in the past two decades, one by Democrats in 2001 over redistricting and another by Republicans in 2007 over a tax deal.

More recently, walking out has been an essential tool for Democrats defending public unions.

In 2011, Democratic lawmakers from Indiana and Wisconsin both fled to Illinois to avoid casting votes for Republican legislation.

While the three-week exile of 14 Wisconsin Senate Democrats failed to stop a bill on collective bargaining, Democrats in Indiana were able to secure some concessions.

One bill that would have barred public employees from paying union dues was removed from the legislative docket because of the walkout. Several other bills, including one involving student vouchers, were watered down.

At the time, Indiana House Democratic leader Patrick Bauer told the press the Illinois exile was a "timeout" that "gave Hoosiers an opportunity to examine the radical agenda being attempted in Indiana and to speak out."

It might have had more far-reaching consequences, however.

The Political Fallout

Lawmakers in Indiana used this tactic for 1991 and 2001 redistricting fights.

But today, eight years after the 2011 walkout, Ed DeLaney, one of the Democratic lawmakers who holed up in an Urbana, Illinois, hotel for nearly six weeks, has some regrets.

"You only have so much authority, so much good will to use," DeLaney says. "The question on this tactic is it burns up a lot of good will."

Democrats chose to go all-in on labor issues, leaving them without much political capital to negotiate effectively on a later redistricting fight, DeLaney says. The move would cost many of them their jobs. Democrats lost nine seats in the Indiana House in the 2012 general election. DeLaney kept his seat.

With diminished Democratic political power in the state, Republicans were able to draw congressional and legislative districts that have

"ONE BILLION SMOKERS DESERVE PRAGMATISM, NOT DOGMA."

MOIRA GILCHRIST, HEAD OF SCIENTIFIC AND PUBLIC COMMUNICATIONS AT PHILIP MORRIS INTERNATIONAL, OFFERS A SCIENTIFIC TAKE ON THE INNOVATION IN THE TOBACCO SPACE.



Why would someone from the pharmaceutical industry want to join Philip Morris International?

R&D in the pharma industry is all about applying innovation and science in order to provide solutions to pressing health problems. Philip Morris International is all about applying technology and science to develop alternatives that are a better choice for smokers than continuing to smoke. I joined at the very beginning of the transformation journey because I saw how serious the company was about addressing the root cause of a major public-health problem in society.

But surely the best way to address the problem is just to stop selling cigarettes?

That wouldn't address the fundamentals. The fundamental issue is that there are 1 billion men and women on the planet who are ready to buy cigarettes every day. If we unilaterally stop selling them, they'll simply buy somebody else's product, and that will have zero impact on public health. What we're focused on is initiating a massive behavioral change. We are working to help ensure that 1 billion people stop wanting to buy cigarettes because either they quit or, if they don't, they switch to a better product. This approach can have a meaningful impact on public health.

There's a lot of opposition to innovation in the tobacco space. Why do you think that's the case?

Many in public health believed that the existing strategies of preventing people from starting to smoke and encouraging cessation in those who have were sufficient to solve the problem. But even with these measures in place, there will still be more than one billion smokers in 2025. My question is, why can't technology play a complementary role? In every other major sector, technology is seen as key in improving outcomes.

Some of these new smoke-free products contain tobacco and deliver nicotine. Those substances are the cause of the problem, so why should we expect things to be different this time around?

Nicotine is addictive, but most health experts agree it is not the primary cause of smoking-related diseases. Science shows that the combustion of tobacco is what causes the production of the vast majority of harmful chemicals that cause smoking-related diseases. Eliminating combustion is a key step toward reducing the production of harmful chemicals.

What do you think of the criticism of your science?

When we fund the research, there always seems to be a question mark. But we are confident in the methods we've used and in the conclusions we've made. Much of the criticism comes from individuals and organizations who are focused on defeating the tobacco industry, rather than on providing solutions that can improve the lives of smokers who would otherwise continue to smoke.

How do you justify continuing to work with addictive products? As a former healthcare professional, don't you think it's unethical?

I've spent my entire career working within the reality of patients' lives and choices. In an ideal world, people would not be addicted to anything. But here in the real world, there are more than 1 billion men and women across the planet who are getting their nicotine from the most harmful delivery mechanism: burning tobacco in cigarettes. I cannot stress enough that quitting tobacco and nicotine products altogether is the best thing a smoker can do for his or her health. However, we understand that many will not. These men and women deserve better alternatives to smoking, and this is what guides our approach and motivates me as a professional.



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made it almost impossible for Democrats to make substantial gains for the past eight years.

"That worked out as badly as it could," DeLaney lamented.

The walkout was one of several factors—including the new gerrymandered districts, a national tea party wave and a backlash to higher state property taxes—that led to widespread Democratic losses in Indiana, says Downs of Indiana University-Purdue University Fort Wayne. Republican lawmakers eventually passed the "right-to-work" legislation a year later. The tactic merely delayed the inevitable.

In Wisconsin, two Republican senators lost their seats to Democrats in recall elections in the months following the fight over public unions. Republicans, however, kept control of the state Senate. Then-Governor Scott Walker, a Republican, also survived a recall effort a year later.

"THE QUESTION ON THIS
TACTIC IS IT BURNS UP
A LOT OF GOOD WILL."

Representative Ed DeLaney, Indiana

While some might contend a walkout could energize a political base, Downs says, the move could send a negative message to voters that lawmakers are unwilling to do their jobs.

There also might be financial repercussions.

DeLaney and some of his fellow Indiana Democrats chose not to accept a per diem from the state when they fled to Illinois, avoiding a financial penalty. But those who did collectively racked up more

than \$233,000 in fines. In 2013, the state supreme court ruled they had to abide by the fines.

Republican leaders in Texas and Wisconsin threatened Democrats with fines for their protests but soon abandoned the punishment.

Given recent events in Oregon, Downs thinks walkouts may become more common.

"Because state legislatures are becoming more partisan, bringing the hammer to something that doesn't need a hammer is the answer," he says. "It doesn't make it the right tool, though."

This article was first published by Stateline, an initiative of The Pew Charitable Trusts. It was updated to reflect the latest developments in Oregon. Reprinted with permission. Matt Vasilogambros is a staff writer for Stateline.

Can't join us in Nashville? Yes, you can!

Join us online for the 2019 NCSL Legislative Summit. While we're sad to say we can't deliver hot chicken and live music via the Internet, you can still participate in the 2019 NCSL Legislative Summit virtually from the comfort of your air-conditioned office. Just make sure to block some time on your calendar Aug. 5-8!

- Watch select sessions live
- Read the wrap up blogs – get the skinny on all the sessions in just a few minutes
- Follow the social media conversation on Facebook and Twitter

Tune in to
www.ncsl.org

 **NCSL** LEGISLATIVE
SUMMIT
AUGUST 5-8 



TEXAS

Plumbers Get Backed Up

Texas lawmakers chose to let the state's licensing requirements for plumbers slide down the drain. Thanks to a legislative impasse, Texas plumbers will no longer be subject to state regulations starting in September, and the Board of Plumbing Examiners, the state's licensing agency, will cease operation in 2020. Critics object to the idea that anyone can call themselves a plumber without completing required education and tests and warn that unqualified workers pose a safety risk. Without the state code, regulation likely will fall to cities and municipalities, though the state Department of Licensing and Regulation, which oversees more than two dozen other professions, might eventually handle the job.



BLACKFEET NATION

A New Tribal National Park?

Tourists spend hundreds of millions of dollars annually in the communities outside Montana's Glacier National Park. But spending is not evenly distributed. Outside the park's west side, in Flathead County, it was \$505 million in 2016. On the east side, in Glacier County, which is home to the Blackfeet Indian Reservation, it was \$93 million. Hoping to capture more of that revenue—but also to assert its historic importance in the region, protect its natural resources and create economic opportunities—the Blackfeet Nation is considering opening part of its reservation as a tribal national park. The Navajo Nation and the Ute Mountain Ute also operate tribal parks.

HAWAII

Not Just a Pose

It's no stretch to say Hawaii has a thing for yoga. This summer, the Legislature passed an act to establish June 21 of each year as International Yoga Day "to promote the practice of yoga to increase the health and well-being of the people of Hawaii." Yoga Day recognition dates to Dec. 11, 2014, when the United Nations adopted a resolution proclaiming June 21 as the In-

BABY BUST

The Child-Free Economic Recovery

The nation's birth rates last year hit record lows for women in their teens and 20s, according to a new government report. The number of births last year was 3.8 million, the lowest since 1986 and a surprise to some experts given the improving economy. The U.S. fertility rate of 1.7 births per woman also dropped, by 2%, meaning the current generation isn't having enough babies to replace itself. Other experts are not concerned. As one demographer put it, "Our fertility rates are still quite high for a wealthy nation."



ternational Day of Yoga. One hundred seventy-five countries cosponsored the resolution. More than 36 million people practice yoga in the United States, according to a 2016 study.

LOUISIANA

Helping Foster Kids Succeed

Making the transition to adulthood is a challenge for everyone, but this summer it got a little easier for kids in Louisiana's foster care system. With near-unanimous support, state lawmakers expanded foster care services until age 21 to all youth who were in the system when they reached 18 and who are en-

rolled in school or job-training or who are working nearly full time. The Pelican State is the 29th to adopt such a program, which is linked to the federal Fostering Connections Act of 2008, through which states are reimbursed for some costs if they extend foster care through age 21.

EQUAL PAY

Education Isn't Helping Women

More education yields higher earnings—unless you're a woman. Workers with a bachelor's degree earn about double that of those without a college education, the U.S. Census Bureau reports. But the gender pay gap is wider

among men and women with a bachelor's degree than among those without. Among workers with a bachelor's, women earn 74 cents for every dollar men make. For workers without the college degree, the gap between men's and women's earnings narrows to 78 cents for every dollar. Among the factors affecting the pay gap are age—more women hold college degrees but are young—the different types of jobs men and women tend to hold and the earnings differences among those occupations.

CONNECTICUT

Prosecutorial Transparency

With the goal of reducing the disproportionate number of minorities who are convicted and sentenced, Connecticut became the first state to mandate the collection of prosecutorial data. The bill, which passed unanimously in both chambers, calls for the collection and publication of data on charges, diversionary programs, bail requests, plea deals and sentencing recommendations, all broken down by race, ethnicity, sex and age. Connecticut has the nation's 10th-lowest incarceration rate, according to a 2018 report. But it is among 10 states cited by the ACLU for disproportionately imprisoning black and Latino adults.

On the Same Page

Successful bipartisan efforts
in legislatures across the country

Party Mix

In changing its House seating plan,
Maine removes the aisle between
Democrats and Republicans.

BY MARK WOLF

Principles are where you stand. Civility, sometimes, is where you sit.

When Maine House Speaker Sara Gideon (D) was thinking about the 2019 session, the first in eight years without combative Governor Paul LePage (R), an idea she'd had for several years began to percolate seriously.

The notion: Dispense with the House's seating plan, with Republicans on one side of the aisle and Democrats on the other, in favor of interspersing lawmakers without regard to party. The Maine Senate had moved to mixed seating this year also.

"It was always on my mind, the more I saw in my first two years as speaker, arguing in ways that weren't always civil, to say the least," said Gideon, who plans to challenge veteran U.S. Senator Susan Collins (R) in 2020.

Gideon was first elected speaker in 2016 but didn't quite have enough confidence in running a chamber back then to make the move, she said.

That changed when she was reelected speaker in 2018 and her party won the majority back. "I really started thinking more seriously and floating it to my members and the other side as well."

Given the response, you would have thought she had proposed outlawing lobster rolls. "It was largely negative. Any change can feel alarming to the status quo. Because we had allowed ourselves to become more divided, leaders had a lot of concerns. I also heard things like, 'It's too soon after some difficult years to make this change.'"

"I heard, 'I won't feel comfortable in the chamber. I want to be surrounded by people like me.' Every one of those arguments made me think this is something we have to be able to do to restore integrity to the body and press the reset button on civility."

"Nobody was going to give me their blessing on this."

Not the First Attempt

This wasn't the first time Maine lawmakers had been interspersed in the chamber, however.



"The seating change ... is not a new concept," said Maine House Republican Leader Kathleen R. J. Dillingham in an email. "When my uncle served in the Maine House, the same seating format was used, intermixing political parties on both sides of the chamber for many years."

"Committees are not seated by party, and members have always been able to work in a congenial manner, even when voting differently," she said. "The same has proven true on

the floor of the Maine House, where a very small percentage of bills are considered partisan."

Gideon told leaders of both caucuses that she wanted people to feel confident with the change. She tried to accept recommendations from both caucuses, such as giving aisle seats for seniority. A key was pairing people intentionally, trying to balance personalities, such as lawmakers of either party who like to stand and talk more than others.



COURTESY MAINE HOUSE OF REPRESENTATIVES

Maine Representatives Christopher W. Babbidge (D), left, and John Andrews (R) are new next-door neighbors.

And the takeaway?

Sitting next to someone of the opposing party “makes a difference in how people debate each other,” Gideon said. “We’ve had some contentious debate and it hasn’t been easy, but I think people have more respect and more civility in how they talk and when arguing for their position. They feel accountable to the people they’re arguing against.”

So, for now, the mixed seating arrangement is staying, Gideon said.

“It’s worked great. ... I see Republicans and Democrats working out the calendar, trying to convince each other, just laughing. It’s an affirmation of how we are supposed to function.”

Mark Wolf is the editor of the NCSL Blog.



ISTOCK

Blended seating promotes collaboration between the parties, say members of the Tennessee Senate, shown here.

Seating Plans as Varied as the States

There appears to be no consensus on how to seat lawmakers in their chambers—by party, by mixing them up or by some other means. A little more than half the states seat legislators by party, according to an informal survey and NCSL report, from 2018.

- Several states have unusual arrangements that members regard as promoting personal relationships and bipartisanship. In the Connecticut and Massachusetts senates, seating is in the round, so members can see each other. In addition, Connecticut’s senators are seated by district number, not by party.

“It may not change the way we vote, but it probably helps to increase civility and may help deflect partisanship a bit,” said one senator.

- In Alabama, the chair of the Internal Affairs Committee determines desk assignments, with the speaker traditionally having control over the eight desks surrounding the well, says Jeff Woodard, clerk of the Alabama House. There is no set seating plan. Seniority, leadership status and geographic location of members’ districts are considered, but a lot of the process simply focuses on who wants to sit next to their friends, mentors or neighboring members from back home.

“As a result, the seating is a hodgepodge, with Democrats and Republicans, males and females, and Caucasians and African Americans scattered everywhere,” Woodard says.

- Tennessee lawmakers believe their form of blended seating promotes relationships and collaboration between the parties.
- Seating in the Iowa General Assembly is decided by seniority. As a result, members of the two parties are interspersed. According to a knowledgeable Iowa observer, “When members are sitting knee to knee on the floor with nowhere to hide, it makes a difference. You have to sit eye to eye and talk to each other, even after disagreements. It humanizes the process.”

LEGISLATORS

HERE COMES GENERATION Z

Four fledgling state legislators, the youngest in the nation, talk about what they hope to accomplish.

BY SUZANNE WEISS

Caleb Hanna (R) is the son of a laid-off West Virginia coal miner. Dennis Ruprecht (D) and Cassie Levesque (D) hail from small, working-class towns in rural New Hampshire. Kalan Haywood (D) is the scion of a prominent Milwaukee family whose company redevelops inner-city real estate.

This quartet of college students have the distinction of being the nation's youngest state lawmakers—all members of Generation Z, born in the late 1990s—and part of a wave of new legislators elected in November 2018 that included 275 millennials (ages 22 to 37).

In the Spotlight

The youth wave attracted considerable attention, with particular interest in the four youngest, all of whom were just 19 when sworn in earlier this year. Over the past few months, they have been interviewed by media outlets ranging from The New York Times, The Washington Post and Fox News, to Teen Vogue and the British online newspaper The Independent.

Levesque's path to a seat in the New Hampshire House of Representatives was particularly captivating. An outdoorsy young woman with a flair for landscape



Hanna



Ruprecht



Levesque



Haywood

photography and a fondness for the tales of Edgar Allan Poe, she parlayed her research for a Girl Scout project on child marriage into a successful push to change a state law that allowed boys and girls as young as 14 and 13, respectively, to marry. The experience left her feeling “that if I could do what I did as a private citizen, how much more I could do as a state rep? I wouldn’t have to jump through so many hoops to have my voice heard—I’d be right there.”

Hanna—a self-described “God, guns and babies Republican”—made something of a splash, too, by knocking off a three-term Democratic incumbent 50 years his senior. He was inspired as a grade-schooler to enter politics, he says, by the victory of former President Barack Obama—“but strictly because of the fact that he was African American. It had noth-

ing to do with his policies,” which Hanna blames for his father losing his job as a miner.

By contrast, Levesque is a progressive-leaning Democrat, as are Ruprecht and Haywood. But whatever their differences in background and outlook, all four of these young freshmen share a number of notable characteristics.

What stands out is their enthusiasm, their confidence and their determination to give voice to the interests, needs and aspirations of Gen Z. That’s the demographic cohort of Americans that, at 25 percent of the population, is now larger than the baby-boom, Generation X or millennial cohorts that preceded it.

“The average age in the New Hampshire legislature is 66, so young people are really underrepresented,” says Ruprecht, a political science major at Plymouth State



"I THINK MY AGE IS MY
BIGGEST ASSET. I CAN BRING
A WHOLE DIFFERENT
PERSPECTIVE TO ISSUES."

Representative Kalan Haywood,
Wisconsin



University who handily won election to an open House seat last fall. "When I was campaigning, I had some people tell me, 'You're too young, too inexperienced,'" he says. "But I went with the competing narrative, which is that I have the energy to get things done."

Accomplished Yet Still Learning

Haywood agrees. "I think my age is my biggest asset," he says. "I can bring a whole different perspective to issues, and at the same time project a positive image of what people my age can accomplish."

56

Average age of legislators

5%

Portion of legislators under age 30

1997

Year in which the eldest of the
Gen Zers were born

A sophomore business student at Cardinal Stritch University in Milwaukee, Haywood ran unopposed for an open seat in his district after defeating four rivals in the Democratic primary. Both he and Ruprecht describe themselves as having had a keen interest in politics since their grade school days, and both envision running for reelection or another office in the future.

"I would have run for Congress, if I was old enough, but right now I love being in the Assembly. Every day is better than the one before, because I learn something new," Haywood says.

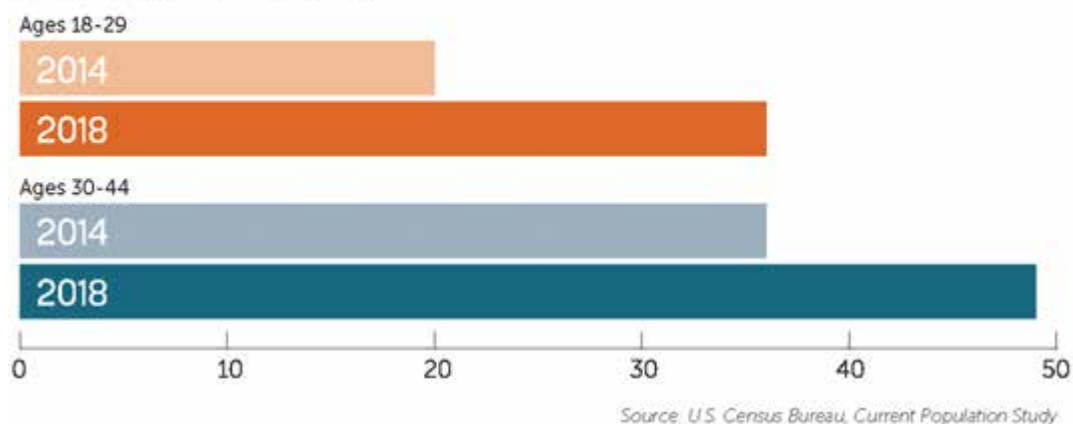
Hanna, too, views being a legislator as "a great learning experience," but isn't sure he wants to pursue a political career after he graduates from West Virginia State University, where he is studying economics. Levesque, a sophomore at Southern New Hampshire University, is also undecided about running for office again, though she did recently change her major from art education to political science.

Finding Key Issues

The issues that motivate these young people range from education, environmental quality and tax reform, to greater investment in infrastructure, workforce

Who's Voting

Percentage of U.S. citizens, ages 18-29 and 30-44, who reported voting in 2014 vs. 2018 midterm elections.



development and substance-abuse treatment programs.

Hanna's signature issue, for example, is to create an elective course that introduces technical and career education in West Virginia's middle schools. "There are a lot of good-paying, high-skill jobs out there that don't require a four-year degree," he says. "We need to focus more on teaching kids about the opportunities in those fields."

Piggybacking on a newly enacted law that requires Wisconsin high-school seniors to pass a civics exam, Haywood is sponsoring an amendment that would also require them to register to vote, if they are 18. He lists his other top priorities as economic development and reducing the high rates of incarceration, unemployment and educational underachievement among young people of color.

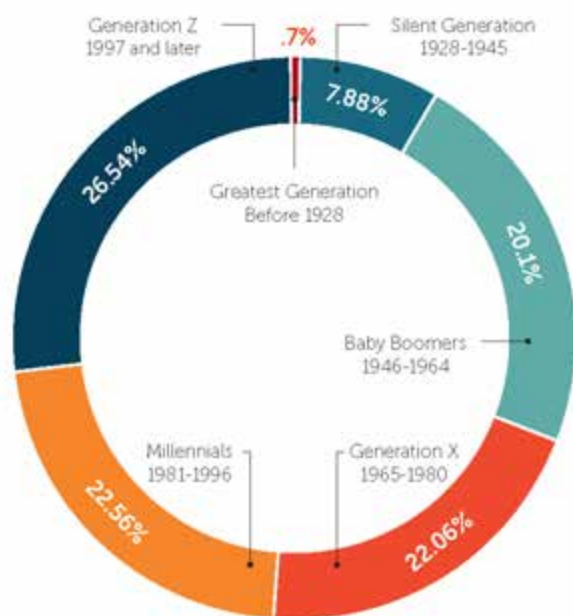
Ruprecht, who describes the culture in the North Country towns he grew up in as "frugal, traditional, hard-knocks," says he will work on several issues

important to his constituents: better roads, cellphone service and broadband access in rural areas; increased support for the biomass industry; and broader-based taxes that would narrow the gap between property-poor and -rich towns in New Hampshire.

As for Levesque, she's still plugging away on the issue

that propelled her into public office. In 2017, her proposal to raise the minimum age for marriage to 18—in the form of a bill sponsored by Representative Jackie Cilley (D), from her hometown of Barrington—went nowhere. The following session, proponents did manage to get a bill passed—but only after an

U.S. Population by Generation, 2017



"THERE ARE A LOT OF GOOD-PAYING, HIGH-SKILL JOBS OUT THERE THAT DON'T REQUIRE A FOUR-YEAR DEGREE. WE NEED TO FOCUS MORE ON TEACHING KIDS ABOUT THE OPPORTUNITIES IN THOSE FIELDS."

Representative Caleb Hanna,
West Virginia

amendment setting the minimum age at 16, not 18.

Now that she's in the legislature and serving on the Children and Family Law Committee, Levesque says she'll continue pushing for her original proposal, and broadening awareness of the connection between child marriage and human trafficking, domestic violence and other social ills. But her interests have broadened, she says, to include water quality, women's issues and college affordability.

Working Across the Aisle

All of these young legislators are confident they can work across party lines to get things done.

"I've always loved the policy side of things," Ruprecht says. "But now I'm finding it's sec-

ondary. You have to put your efforts into coalition-building if you're going to get anywhere."

Haywood says the key to advancing his voter-registration proposal is to win over the Wisconsin House's Republican majority, which overwhelmingly supported the mandatory civics-exam law two years ago. "That's something I think I can do," he says.

Even Hanna, the most openly partisan of the group, acknowledges the need for both parties to work together. "It's the only way to make effective policy.

"It's like pulling on a piece of taffy. They pull from one side of the table and you pull on the other side," he says.

Perhaps the most striking difference among the four budding lawmakers is their day-to-day workload.

Levesque and Ruprecht, who both live at home with their parents, spend about 10 days a month at the capitol attending meetings and floor sessions. Each is serving on just one committee.

New Hampshire has the largest legislature in the nation (424 members) and the lowest total compensation—\$100 a year, plus mileage reimbursement. Senators are provided with office space, but members of the lower chamber are given "only a locker," Levesque says. Both she and Ruprecht lament the lack of resources for things like responding to constituents' requests and researching issues.

In West Virginia, Hanna isn't provided with office space or staff, either, but he receives a salary of \$20,000 a year, which

How Old Do You Have to Be to Run For the Legislature?

In many states, the age requirements are lower in the house than the senate

18 years for both chambers	California, Connecticut, Hawaii, Kansas, Louisiana, Massachusetts, Montana, New York, North Dakota, Ohio, Rhode Island, Vermont, Washington, Wisconsin
21 for both chambers	Florida, Idaho, Illinois, Michigan, Nebraska, Nevada, Oregon, South Dakota, Virginia
25 for both chambers	Arizona, Colorado, Utah
21 for the house; 25 for the senate	Alabama, Alaska, Arkansas, Georgia, Indiana, Iowa, Maine, Maryland, Mississippi, New Mexico, North Carolina, Oklahoma, Pennsylvania, South Carolina, Wyoming
18, 21 or 24 for the house; 30 for the senate	Kentucky, Missouri, New Hampshire, New Jersey, Tennessee
Unique minimum age requirements	Delaware, Minnesota, Texas, West Virginia

Notes: Nebraska has only one chamber. Minimum ages for the house/senate for Delaware, 24/27; Minnesota, 18/21; Texas, 21/26; West Virginia, 18/25.

Source: NCSL, May 2019

"WHEN I WAS CAMPAIGNING, I HAD SOME PEOPLE TELL ME, 'YOU'RE TOO YOUNG, TOO INEXPERIENCED.' BUT I WENT WITH THE COMPETING NARRATIVE, WHICH IS THAT I HAVE THE ENERGY TO GET THINGS DONE."

Representative Dennis Ruprecht,
New Hampshire

frees him from having to rely on a part-time job. He currently serves on four committees, including a special panel on combating the state's opioid epidemic.

Balancing School and the Legislature

At the other end of the spectrum, Haywood has the advantage of serving in what is classified as a full-time legislature, where members are paid \$50,950 a year and have both office space and a staff assistant.

Of the four fledgling legislators, Haywood is by far the busiest, commuting back and forth several days a week between school, where he is carrying a full course load, and the Capitol in Madison, 80 miles away. His committee assignments include Ways and

"IF I COULD DO WHAT I DID AS A PRIVATE CITIZEN, HOW MUCH MORE I COULD DO AS A STATE REP.? I WOULDN'T HAVE TO JUMP THROUGH SO MANY HOOPS TO HAVE MY VOICE HEARD—I'D BE RIGHT THERE."

Representative Cassie Levesque,
New Hampshire

Means, Workforce Development, Housing and Real Estate, International Affairs and Commerce, and Veterans and Military Affairs.

He also serves as chair of the city of Milwaukee's Restorative Justice Advisory Committee, president of Determined Young Investors and vice president of the Milwaukee chapter of BlackCEO.

Asked at the tail end of a recent interview about what he likes to do in his free time, he blurted out, "I'll tell you what I do—I sleep!"

Suzanne Weiss is a Denver-based freelance writer and frequent contributor to State Legislatures.



I'll stop fighting for a cure

Ian / MS Researcher

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DRIVEN TO DISTRACTION



In the fight against distracted driving, lawmakers are enacting bans on handheld devices and waging public awareness campaigns.

BY ANN KITCH

We drive past signs on our roadways that warn, “Talk, Text, Crash” or “Phone in One Hand, Ticket in the Other.” The warnings are reminders that distracted driving has become a traffic safety epidemic, creating challenges and dangers on U.S. roadways.

Distracted driving includes any activity that diverts a driver’s attention from the road. Using a cellphone is a distraction, of course, but so is eating or manipulating a GPS system in hopes of finding the fastest route to work. National Highway Traffic Safety Administration data show that, in 2017, crashes involving a distraction led to 3,166 deaths. However, the number of lives lost because of distracted driving each year is likely much higher. Because of challenges identifying and citing distracted drivers, available data often undercount crashes that involve distraction.

The growing awareness of the dangers

of distracted driving has not yet translated into reducing the behavior, however. AAA’s 2017 traffic safety culture index indicates that 45% of drivers surveyed reported having read a text or email while driving within the past 30 days.

Legislating to Save Lives

Each state has enacted some form of distracted driving law. Currently, 48 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands ban text messaging for all drivers. Twenty states and the District of Columbia ban the use of handheld wireless devices behind the wheel.

At least 22 states debated handheld mobile device bans this year. As of July 1, however, only Arizona, Maine, Minnesota and Tennessee had enacted such legislation.

Arizona’s recent handheld ban garnered attention because the state’s previous distracted driving law banned only drivers



Campbell



Straus

under the age of 18 from texting. The state enacted two bills that apply to all drivers: One bans texting while driving, the other prohibits handheld phone use. Law enforcement officers are permitted to issue warnings for distracted driving offenses and will issue citations starting in 2021.

“A huge part of this law is about changing behavior—to stop driving distracted,” says Representative Noel Campbell (R), who sponsored the state’s legislation. He notes that cities and counties had already passed their own ordinances banning handheld phone use. The state’s new leg-

isolation alerts drivers that when they enter Arizona, handheld phone use is prohibited statewide.

The Massachusetts House voted in May to ban the use of mobile devices while driving. “With widespread cellphone use, a traffic hazard has exploded on the roads of the commonwealth and frankly around the country over the last 10 to 15 years,” says Representative William Straus (D), co-chairman of the Joint Committee on Transportation. “This legislation makes clear that drivers must keep their hands and eyes on the road and not on cellphones.”

Massachusetts’ legislation also had lawmakers debating the relationship between handheld mobile device bans and racial profiling. “That’s a legitimate concern—profiling,” says Massachusetts Governor Charlie Baker (R). “And there are a number of approaches people can take to deal with that issue.”

The proposed bill’s approach is to require police to record a driver’s age and ethnicity, among other data, during traffic stops to identify any disparate enforcement.

The Known Unknown

Despite the recent enactment of handheld bans, lawmakers and law enforcement officers often wonder about the laws’ effectiveness. Unfortunately, there is no conclusive answer. Crash data show distracted driving plays a major role in the high number of road deaths, but more data are needed to better understand its prevalence in vehicle crashes.

One recent legislative trend is using more prescriptive language to clarify the definition of handheld phone use. Lawmakers hope to make the laws more enforceable to save lives and better collect crash and citation data.

Early handheld phone bans often prohibited drivers from holding a phone to their face or in their hands. But some of the laws did not account for drivers’ ability to rest a phone on their lap or stream or record video while driving. Georgia’s 2018 hands-free legislation explicitly states

What Does ‘Hands-Free’ Driving Mean?

Georgia is among several states that have clearly defined the meaning of “hands-free” in legislation. Georgia prohibits drivers from physically holding or supporting a wireless communications or standalone electronic device with any part of the body. Drivers may, however, use a single touch on a wireless device to activate or terminate a call.

Did You Know?

- National Highway Traffic Safety Administration data show that 9% of fatal crashes involved some kind of distraction in 2017.
- Cellphone use while driving is highest among 19- to 39-year-old drivers, according to the AAA Foundation for Traffic Safety.
- The Virginia Tech Transportation Institute estimates that texting and driving increases the likelihood of a crash or near-crash by 20 times.

that drivers are prohibited from holding or supporting a wireless communications device with any part of the body. In addition, Georgia drivers engaged in distracting behavior, such as writing or sending text messages or streaming video while driving, are in violation of the state’s law.

Since enacting or enhancing their bans, California and other states have reported a roughly 4% decrease in distracted driving within a year of enactment. The data analytics company Zendrive, however, reports that distracted driving has increased in every state except Vermont. These variations in data highlight the blurred understanding of the extent of distracted driving and how it changes over time.

Drop the Distraction

There are significant challenges to enforcing handheld phone and texting bans. Often there is no witness to describe precollision behavior. This leaves law enforcement officers struggling to gather ev-

idence of distracted driving. State privacy laws make it difficult for officers to access phone records to discern whether a crash involved use of a mobile device. Thus, a post-crash citation may be issued for following too closely or careless driving, simply because it’s impossible to prove the driver was distracted.

Some drivers also try to place their devices in lower positions to avoid detection by law enforcement. The transportation safety administration notes that, in these cases, law enforcement officers can sometimes identify distracted driving behavior by looking for clues such as failure to maintain lane control or speed. Despite efforts to enhance detection tools, the continued lack of evidence and underreporting inhibit the use of data collection to guide policy and enforcement methods.

To tackle enforcement obstacles, some states are using high-visibility public awareness campaigns or enlisting drivers of higher-profile vehicles, such as buses or commercial trucks, with a good view down of passing vehicles, to report violations. Delaware, for example, has used unconventional vehicles or unmarked state police vehicles to spot and pull over distracted drivers.

“This is all about making the highways safer and making sure your most dangerous drivers, those who are texting and are not even looking at the road, are ticketed,” says Delaware State Police Sergeant Tony Mendez. “It helps to make sure the police are doing something positive in terms of reducing fatalities.”

Despite the challenges of legislating and enforcing distracted driving laws, 2019 has been an active year for state legislation and enforcement campaigns. Moving forward, lawmakers are working to better understand the prevalence of distracted driving and find the most effective ways to eliminate it.

In the meantime, the National Highway Traffic Safety Administration has this advice: “U text, U drive, U pay.”

Ann Kitch is a policy associate in NCSL’s Transportation Program.

RETIREMENT SYSTEMS

PENSION POLICIES THAT PERFORM

Disciplined funding practices have helped some states withstand market volatility.

BY ANNA PETRINI

After nine years of economic recovery from the Great Recession, some state pension plans have regained their financial footing. Others never lost it. But many continue to struggle, despite healthy investment returns, according to a new report from The Pew Charitable Trusts.

The report highlights three states with disciplined funding policies that have helped them withstand market volatility while still providing benefits that put workers on the path to retirement security. It also raises questions about how well states with severe funding woes can weather another economic downturn. Pew collected 50-state data for pension systems in fiscal year 2017 and found a cumulative \$1.28 trillion deficit—an improvement from the \$1.35 trillion gap reported for FY 2016 but an indication that

certain funds are straining to cover their obligations to employees and retirees.

Aggregate data about costs and funding can belie significant variations. Public pension plans are not monolithic. They have different funding histories, face different challenges and occupy different fiscal positions as a result. For example, Wisconsin had 103% of the assets it needed to fully fund pension liabilities in 2017. Kentucky? Just 34%.

Between 2012 and 2017, the median pension plan boasted investment returns over 9%. But even with a strong investment performance, the worst-funded plans continued to report declines. Illinois, Kentucky and New Jersey saw an average 15% decrease in their funded ratios.

In contrast, South Dakota, Tennessee and Wisconsin claim funded ratios between 97% and 103% and have never dipped below 89% over the last two de-



The Wisconsin Capitol, above, seen from State Street in Madison. The state is one of only 10 that have paid the full actuarial contribution to its pension fund every year from 2007 to 2013.

CADES. How have three states, with different pension plan designs and funding policies, maintained such good financial posture as the recession set so many back on their heels? Pew cites two factors: full contributions in good times and in bad, and sound risk management policies that allowed them to weather volatility.

Notable features of the Wisconsin Retirement System include a commitment to making full actuarial contributions and a formal risk-sharing arrangement, which spreads the costs of poor investment returns and the benefits of solid ones between employers and employees. Retirees' cost of living adjustments also ratchet



\$1.28 trillion

Cumulative 50-state deficit for pension systems in fiscal year 2017, less than the \$1.35 trillion gap in 2016.

up or down based on investment performance and plan funding.

South Dakota's defined benefit pension plan has fixed employee and employer contributions, and the state automatically adjusts benefits through a variable COLA. The South Dakota Retirement System also recently began stress testing its plan assumptions and releasing the results publicly, so officials and plan members can assess how the plan would fare under different economic and investment-return scenarios.

When Tennessee saw investment gains in 2010 and '11, it raised employer contributions, speeding its return to full funding and creating a funding cushion to stabilize costs when markets become volatile. In 2013, Tennessee adopted a risk-managed "hybrid" pension plan for its new employees that combines a traditional defined benefit plan with a 401(k)-type defined contribution arrangement.

Employer contributions to the Tennessee Consolidated Retirement System are set to exceed expected costs. Excess employer payments are set aside in a stabilization reserve. The plan includes five additional "shock absorbers" that adjust benefits and contributions, if needed, to keep the plan on track to full funding.

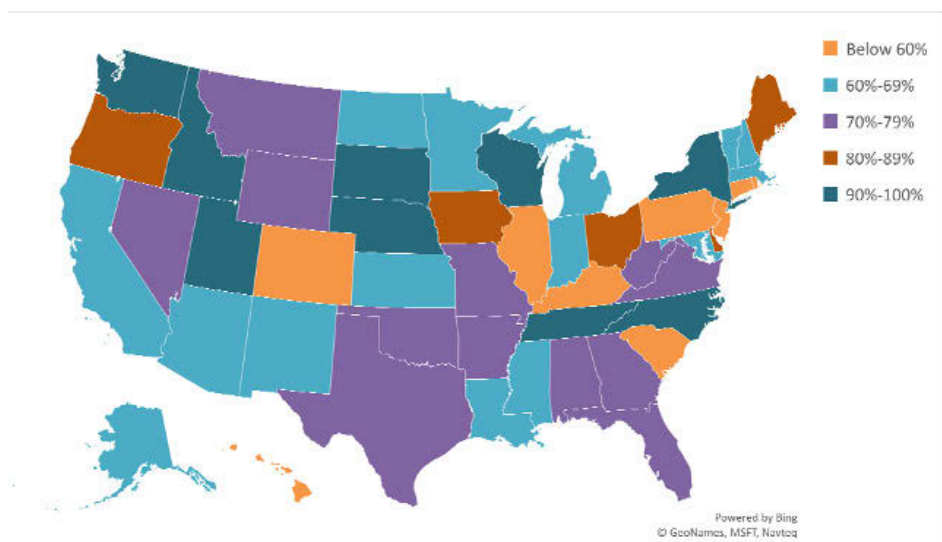
By minimizing pension debt, Wisconsin, South Dakota and Tennessee have achieved full funding with limited demands on taxpayer dollars. But, as Tennessee plan director Jamie Wayman reminded participants during a recent webinar, every state's position is unique.

"It's not one size fits all for everybody," he said. "Every jurisdiction is going to have to do what's best for them."

Anna Petrini is a senior policy specialist in NCSL's Employment, Labor and Retirement Program.

State Pension Funding

Just nine states were at least 90% funded and 23 were less than 70% funded in 2017.



Note: Numbers reflect GASB reporting standards as of 2017.

Source: The Pew Charitable Trusts

HIGH-TECH HEALTH TRENDS

Telehealth may be one answer to the shrinking number of medical facilities and health care providers in rural areas.

BY SYDNE ENLUND

Health care in rural America is hurting. Medical facilities are closing and doctors, nurses, physician assistants and other health professionals are in short supply.

At least 100 rural hospitals have closed since 2010 and more than 400 are at risk of financial distress. Meanwhile, physicians between the ages of 55 and 64 make up 27% of the active workforce. As the demand for health care services rises over the next decade, there will not be enough providers to fill the gap left by those retiring. The American Association of Medical Colleges projects a shortfall of between 42,000 and 121,000 physicians by 2030.

Telehealth—the use of electronic information and telecommunications technologies to support long-distance health care—has the potential to address both of these challenges.

Telehealth gives rural patients access to more providers and allows them to receive care in their home communities, instead of traveling sometimes long distances. This can reduce health disparities for aging and underserved populations, as well as lower the costs and burdens for patients who must take time off work and find child care or transportation. Patients can instead stay at home or visit a nearby clinic and have a live video visit with primary care providers for treatment of acute or chronic issues.

Many policymakers, particularly those from states with large rural areas, see telehealth as a key component in the future of health care in their state. But along with the benefits come potential challenges,

including a lack of access to broadband, state licensure issues, questions about the quality of telehealth, and the need for in-person follow-up care for patients with certain conditions. Despite these potential difficulties, most states are increasing their investment in telehealth services.

North Dakota uses telehealth because the state lacks providers in its rural counties. According to Senator Judy Lee (R), 36 of the state's 53 counties are designated “frontier” counties, with six or fewer people per square mile. “Telehealth is one of the tools the state uses to provide follow-up care, particularly in the behavioral health field,” she says.

State legislatures are designing regulations and laws on telehealth to increase patients' access while ensuring their safety. Strategies include licensure compacts and reciprocity agreements, expanded reimbursement, store-and-forward technology, and new rules on patient-provider relationships.

Crossing State Borders

State health care laws usually require providers to be licensed in the state where the patient is receiving care. The remote nature of telehealth, however, lets states break down that traditional licensing barrier. At least nine states have created telehealth-specific licenses that allow out-of-state providers to offer telehealth services in the state, if they abide by certain requirements. Physicians providing telehealth services to patients in Louisiana, Maine and Minnesota, for example, cannot set up physical office locations where the patients are located. Some states grant



Lee



Mizuno

temporary licenses or have reciprocity agreements with neighboring states.

Licensure compacts are mutual agreement between participating states to accept each state's licenses. Compacts are formed and become active when a certain number of states enact the same legislation, with specific required language, by a certain date. Joining the compact is voluntary for the providers, however. Among the largest of these agreements is the Nurse Licensure Compact, created nearly 25 years ago by the National Council of State Boards of Nursing. It currently comprises 31 states, including Kansas and Louisiana, which joined on July 1 this year.

Three Modes of Care

Reimbursement from private insurance and Medicaid for telehealth services varies widely across the nation depending on the type of service and how it is delivered. Although states occasionally use similar language in their policies, no two states define and regulate telehealth in exactly the same way.

There are three primary ways (called modalities) that telehealth is delivered: real-time communication, store-and-



Telehealth practitioners use electronic information and telecommunications technologies to provide long-distance health care.

“TELEHEALTH IS ONE OF THE TOOLS THE STATE USES TO PROVIDE FOLLOW-UP CARE, PARTICULARLY IN THE BEHAVIORAL HEALTH FIELD.”

Senator Judy Lee, North Dakota

forward technology and remote patient monitoring. Real-time communication allows patients to connect with providers through a videoconference. Store-and-forward technology lets a practitioner receive stored data, images, sound or video for use in providing care. Remote monitoring involves collecting a patient's vital signs or other health data while the patient is at

home or another site and transferring the information to a remote provider. Mobile health, or mhealth, is also an emerging area for telehealth and state policy.

All 50 states and the District of Columbia offer some type of coverage for live videoconferencing in their Medicaid programs, and most reimburse for live video services under private insurance. Laws and regulations in 23 states and the District of Columbia allow for reimbursement of store-and-forward services. And at least 27 states allow reimbursement for remote patient monitoring, according to the Center for Connected Health Policy and NCSL.

Maintaining Care Standards

States are regulating the ways they provide telehealth services to take full advantage of rapidly accelerating technology while maintaining high-quality care and practice standards for providers.

There are concerns as well. For example, what if care becomes so fragmented among different providers that a patient's primary care provider is not aware of services received via telehealth? Ideally, telehealth is integrated into the health care delivery system and is coordinated with other providers. Another concern is that remote services are not as safe and comprehensive as in-person care. To ensure patients' safety, some lawmakers are creating guidelines for establishing patient-provider relationships and mandating certain informed consent requirements.

The Work Continues

State lawmakers continue to develop innovative ways to harness technology to bring health care services to their constituents. A recent example is legislation passed in Hawaii, where almost 94 percent of the total land area is rural.

The bill establishes the Telehealth Advisory Council and a state telehealth coordinator position. The council is charged with developing a comprehensive plan that will establish telehealth as a high-quality, cost-effective and reliable means of receiving health care services.

The telehealth coordinator will ensure that state agencies and private businesses have the infrastructure and policies in place to promote the expansion of telehealth services.

The bill establishes “permanent resources to increase the visibility of telehealth and enable the Department of Health to work with community stakeholders to ensure the state remains on track to achieving its telehealth goals,” says Representative John Mizuno (D).

More than 50 telehealth-related bills have been enacted nationwide this year. Telehealth is a rapidly growing field that has the potential to help states address a shrinking provider workforce, increase access to services and improve public health.

Sydne Enlund is a policy specialist in NCSL's Health Program.

REDISTRICTING

Redrawing Maps the Right Way

States have an opportunity to make a fresh start
and achieve greater cooperation when redistricting.

BY JEFFREY M. WICE
AND FRANK M. STRIGARI

The U.S. Supreme Court's recent *Rucho v. Common Cause* decision has closed the federal court door to partisan gerrymandering cases, but the fighting over redistricting plans is far from over. Plans considered "too partisan" may face challenges in state courts in the future, and those alleged to be racial gerrymanders can still be challenged in federal and state courts.

Several states that recently adopted bipartisan redistricting reform can provide lessons to legislators on how to promote fair procedures, transparency and civility, and avoid costly challenges in the upcoming round of line-drawing.

In addition to population equality disputes, challenges to redistricting maps have generally fallen into one of two categories: racial gerrymandering and partisan gerrymandering.

Gerrymanders and Recent Litigation

Racial gerrymandering occurs when minority voters are "packed" into districts beyond the necessary threshold to enable them to elect their preferred candidates. Courts have found this practice violates the 14th Amendment's equal protection standard. The courts have also set standards for what constitutes Voting Rights Act violations to better define the scope of these challenges.

Partisan gerrymandering generally oc-

curs where the majority party intentionally draws districts to minimize the ability of the minority party to elect candidates.

In the most recent round of litigation, both types of gerrymanders have been at issue. Cases alleging racial gerrymandering are pending in federal courts in Alabama, Connecticut, Georgia, Louisiana, Mississippi and Texas. In June, the Supreme Court dismissed the appeal of a racial gerrymandering case from Virginia on the grounds that the Republican-led House of Delegates, alone, lacked the necessary legal standing to appeal a lower court ruling. That lower court had invalidated 11 state House districts for being illegally gerrymandered on the basis of race. The Supreme Court's ruling left in place the court-ordered replacement districts that favored Democrats.

Over the years, courts have struggled with cases alleging partisan gerrymandering. In a 1986 case involving state legislative districts in Indiana, the Supreme Court held that charges of partisan gerrymandering (when one party is deliberately favored over another) could be heard in federal courts if challengers could prove that a redistricting plan was drawn with the intention and effect of disadvantaging members of a political party.

Yet in a 2004 case involving congressional districts in Pennsylvania, the court concluded that no judicially manageable standard existed.

The final die was cast in June when the Supreme Court decided in *Rucho* that par-

tisan gerrymandering is indeed a political question and, thus, not reviewable by federal courts. The 5-4 ruling came out of two cases challenging congressional lines, from Maryland and North Carolina, and consequently put the responsibility on legislatures and individual states to police redistricting efforts. How this decision will affect pending federal cases in Michigan and Ohio is unknown, but the cases will likely be set aside. Another partisan challenge is pending in North Carolina state court. One case in Wisconsin has already been dismissed.

While the *Rucho* decision may have ended the federal court fight against partisan gerrymandering, challengers may start flooding state courts, arguing that state constitutions protect against partisan mapmaking. Other states for the first time will be using new mechanisms such as redistricting commissions. And while Congress could adopt legislation applicable to states for congressional redistricting, such measures historically face long odds and that's likely to be the case in the current Congress.

Lessons From the States

Redrawn maps often end up in court after a breakdown in communication and cooperation between the two political parties. Often, challengers claim the majority party did not provide the minority party with a meaningful role in the process. The majority party generally disputes such charges, arguing that the processes fol-



STATES THAT RECENTLY
ADOPTED BIPARTISAN
REDISTRICTING REFORM
CAN PROVIDE LESSONS TO
LAWMAKERS.

lowed were fully within its constitutional authority. And back and forth it goes.

New York and Ohio offer lessons on how legislatures can avoid this partisan paralysis. In 2014, New York voters approved a constitutional amendment crafted by a Democratic Assembly, a Republican Sen-

ate and a Democratic governor. It established an advisory redistricting commission appointed by legislative leaders to recommend up to three congressional and state legislative plans for the Legislature's consideration and approval.

The New York Legislature will still control the redistricting process since it can draw its own plans if the commission's plans are rejected. But requiring affirmative votes of commission members appointed by the minority party is a key to fostering greater bipartisan cooperation in developing a plan.

In Ohio, separate constitutional amendments submitted by the General Assembly were overwhelmingly approved by voters in 2015 and 2018. They change how the state draws its legislative and congressional districts beginning in 2021.

The 2015 amendment adds more mi-

Who's in Charge?

In two-thirds of the states, the legislature has responsibility for redistricting. Increasingly, though, states are moving to a commission model. According to NCSL data, Colorado, Michigan, Missouri and Utah created new redistricting commissions in 2018. Commissions in New Hampshire and Virginia are pending.

Fourteen states have a commission that has primary responsibility for redrawing state legislative districts; seven states have them for congressional districts. Six states have an advisory commission that may assist with drawing legislative or congressional lines. Five states use a backup commission to draw legislative districts if legislators are unable to agree on a plan. And three other states use backup commissions for stalemates in redrawing congressional districts.

And then there's Iowa, which conducts redistricting like no other state. Nonpartisan legislative staff, without any political or election data, including the addresses of incumbents, draw up several possible plans for state and federal districts. The General Assembly then votes on the one to adopt (and can create its own map if it chooses to do so).

nority party members to the state's redistricting commission and requires bipartisan approval of all newly drawn state legislative maps to ensure they will remain effective for a decade.

The 2018 amendment similarly requires bipartisan approval for the state's congressional districts. While the General Assembly retains its authority to draw congressional districts, the state's newly reformed redistricting commission will now be a backup for approving a congressional map.

Instead of relying on the courts, states have an opportunity to make a fresh start and achieve greater cooperation. Civility across party lines, standards, fairness and transparency will help. By following an objective, criteria-driven process, legislative leaders from both parties can be assured their state's redistricting processes will respect the will of the voters.

Commonsense Steps Can Yield a Better Process

So, what specifically can lawmakers do to improve the redistricting process? Here are some suggestions:

1 Work together to achieve a complete census count, knowing that both urban and rural districts have their challenges. A full and fair count is fundamental to our representative democracy.

2 Study the Census Bureau's redistricting operations. Learn how the bureau prepares redistricting data maps

through the Block Boundary Suggestion Project, a nonpartisan effort to ensure that physical features align with census data geography when the data are provided to states in 2021.

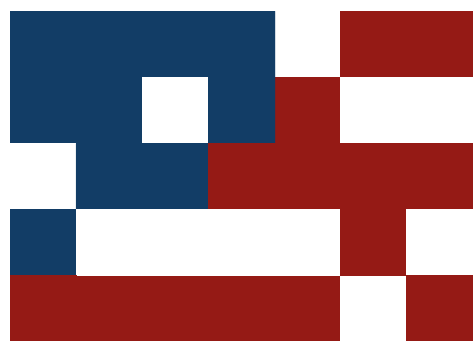
3 Develop user-friendly redistricting websites. These should include information on state redistricting laws, committee memberships, contact information, schedules, maps, census data and histories of previous redistricting processes. Offer as much information as possible.

4 Apply meaningful criteria to guide the process and help avoid prolonged litigation. In addition to adhering to the federal Voting Rights Act, strive for districts that are equal in population, keep communities of interest intact and follow defined standards for compactness and contiguity. Ensure the criteria is flexible enough to provide decision-makers with reasonable discretion.

5 Maintain transparency once redistricting begins so the public can offer meaningful input and not feel left out of the process. Schedule public hearings at convenient times and places throughout the state before draft maps are developed and before final plans are adopted. Open all redistricting meetings and hearings to the public and news outlets.

State legislatures and commissions can help prevent the legal challenges that have marked the last 10 years by creating a responsive redistricting process that lets everyone participate in a meaningful way. If basic rules of law, civility and fairness are followed, lawmakers can expect high marks from the public.

Jeffrey M. Wice, an attorney for the New York Assembly, and Frank M. Strigari, the chief legal counsel for the Ohio Senate, are staff co-chairs of NCSL's Redistricting and Elections Standing Committee.



MAKING THE MAPS

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Medicaid: Some States Expand, While Others Debate

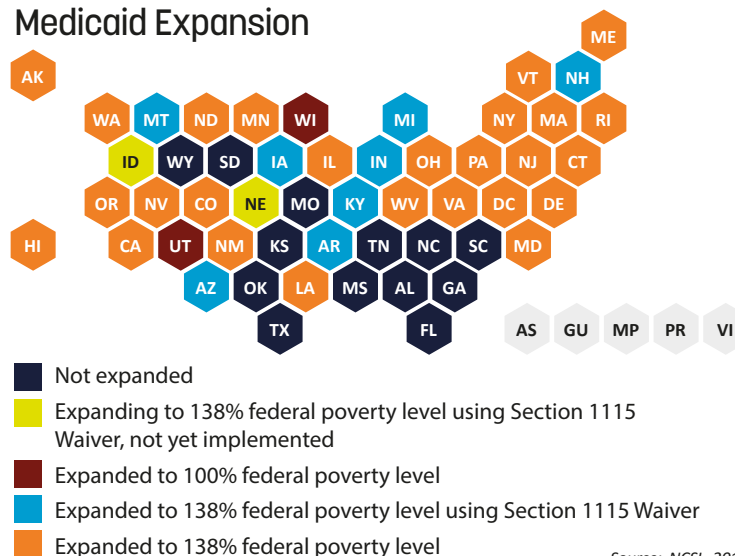
The Affordable Care Act expanded Medicaid coverage for nonpregnant adults ages 19-64 with income up to 138% of the federal poverty level. Thirty-six states and the District of Columbia have adopted the expansion, while other states continue to debate it and other options.

In November 2018, ballot initiatives to expand Medicaid in accordance with the ACA passed in Idaho, Nebraska and Utah. All three state legislatures passed corresponding legislation that modified the initiatives. Idaho and Nebraska both authorized Medicaid eligibility up to 138% of the federal poverty level, and Utah authorized coverage up to 100%. Idaho, rather than providing traditional coverage, will assist newly Medicaid-eligible adults in purchasing plans on the private marketplace. All three states added work requirements to their expansions, despite current federal injunctions on such requirements in other states. And all three are currently designing 1115 waivers to implement their alternatives and will need to obtain approval from the Centers for Medicare and Medicaid Services.

Newly elected governors in Wisconsin and Kansas included funding for full Medicaid expansion in their proposed budgets, though they faced stiff opposition from their legislatures. No other states have adopted Medicaid expansion at this time. The Georgia legislature will fund a consultant to recommend an 1115 waiver for a limited expansion.

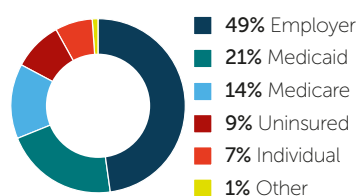
Since Medicaid expansion began across the country, overall Medicaid spending and enrollment have evened out and are relatively stable. Whether a state has expanded Medicaid or not, it will remain a hotly debated topic because it consumes such a large share of state budgets,

State Decisions on ACA-Related Medicaid Expansion



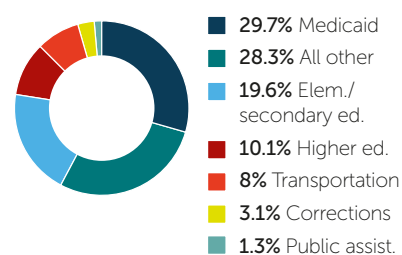
How Are We Covered?

Most get coverage through an employer.



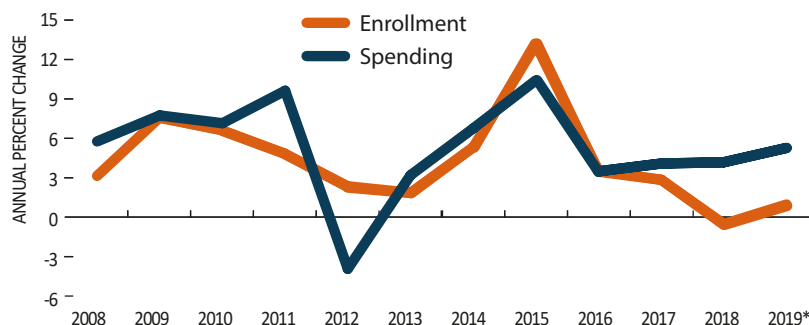
Where State Money Goes

Medicaid is the biggest portion of expenditures.



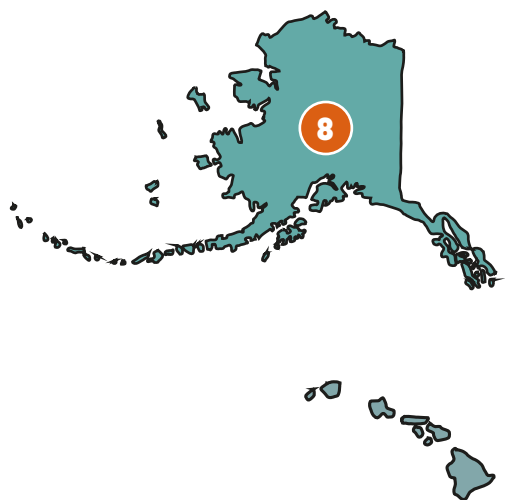
Medicaid Enrollment Growth and Spending

Annual percentage change, 2008-2019 (projected*).



—Emily Blanford

Newsmakers



1 | ARKANSAS

"People always say they want to run government like a business. I'm not aware of any business that fires their board of directors or their management team every six, eight or 10 years."

Senate Minority Leader Keith Ingram (D) on measures to change term limits, from The Associated Press

2 | NEVADA

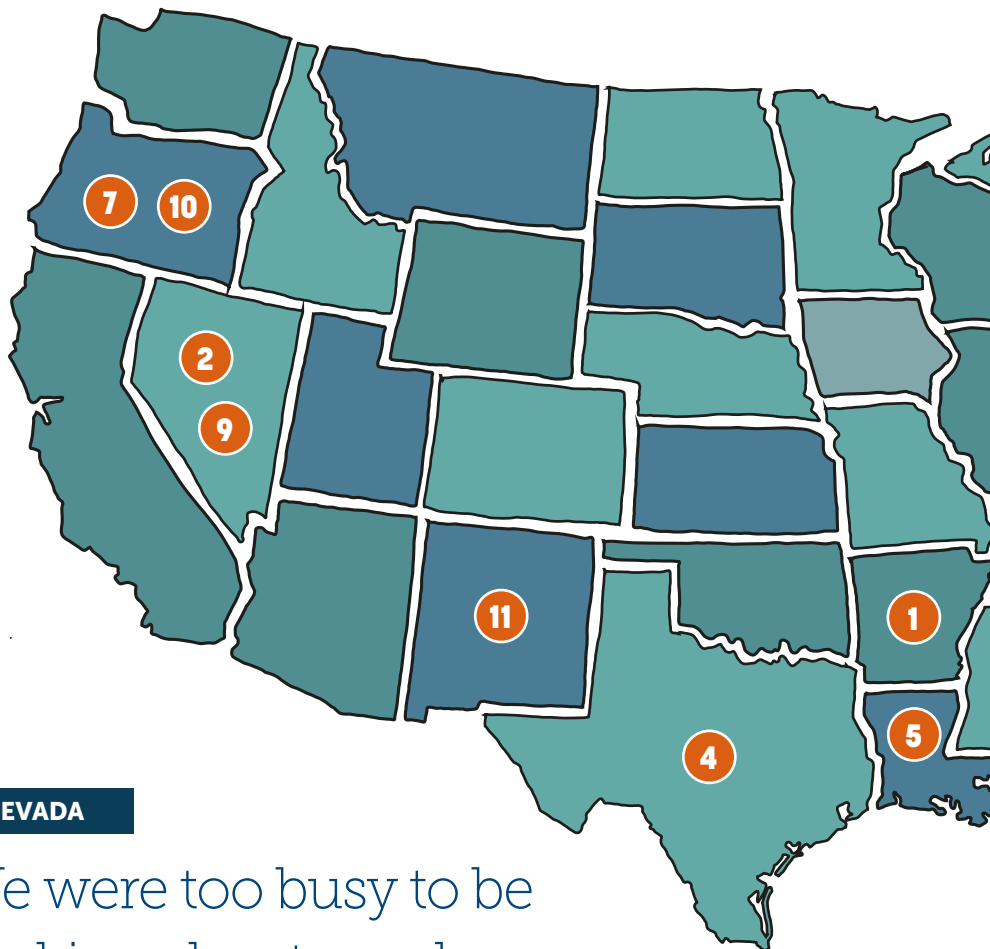
"We were too busy to be thinking about gender or how gender affected anything."

Senate Majority Leader Julia Ratti (D) on finishing up the nation's first legislative session with a majority of women, in the Las Vegas Review-Journal.

3 | PENNSYLVANIA

"Everything they're saying makes it sound like unicorns and rainbows. I'm anxious to see it."

Representative James Rigby (R) on waiting for the governor's budget to be unveiled, in the New Castle News





4 | TEXAS

"It's a historic legislative effort on behalf of public schools. ... I think it will be a national model for reforms."

Senator Brandon Creighton (R) on legislation to significantly overhaul school finance, from Community Impact Newspaper

5 | LOUISIANA

House Speaker Taylor Barras (R) and Senate President John Alario (R) bid farewell to their chambers. Barras, who was term-limited, was first elected to the House in 2007. Alario, also term-limited, has served in the legislature for 48 years and has been both House speaker and Senate president, twice. He is eligible to run for the House in 2020, though it is unclear if he will.

6 | MAINE

House Speaker Sara Gideon is running for U.S. Senate, joining two other Democrats running against incumbent Susan Collins (R).

7 | OREGON

Barbara Smith Warner was chosen to be the new House majority leader. She replaces Jennifer Williamson, who recently stepped down from the post. Warner was appointed to the Legislative Assembly in November 2013.

8 | ALASKA

Senators appointed Lyman Hoffman to majority leader during a special session in July. Hoffman, the Legislature's longest-serving member, replaces Senator Mia Costello.

9 | NEVADA

Assemblyman Tyrone Thompson (D) died recently. Thompson recently served as majority whip and chairman of the Assembly's Education Committee. He was well-respected by his colleagues on both sides of the aisle for his dedication and leadership. Thompson was 51.

10 | OREGON

Senator Jackie Winters died in late May. She was the first African American Republican elected to the Legislative Assembly in 1999. Winters was 82.

11 | NEW MEXICO

Senator John Pinto (D) also died recently. He was a World War II-era Marine who trained as a Navajo Code Talker. He was 94.

Yes, No, Maybe So

ETHICS

Is There an Ethical Duty to Be Civil to Our Rivals?

BY NICHOLAS BIRDSONG

War has been described as politics by other means. At a time when political divisions appear as bitter and personal as ever, the reverse may seem true: Politics is war by other means.

A survey released last year showed that 93% of Americans believe the nation has a civility problem. Around the same number of Republicans and Democrats agree that civility is vital to democracy, and that its absence may cause political gridlock, deter people from entering public service and decrease political engagement.

People who have disagreements are rarely nice about it, and in politics, maybe even less so. Policy divisions often involve controversial issues of significant public concern. Debates can be full of passion, complex underlying realities and competing perspectives.

Yet, respect can be shown even in the midst of fierce competitions.

During the 2008 presidential race, U.S. Senator John McCain defended his opponent, then-U.S. Senator Barack Obama, against the fearful and offensive statements of McCain's own supporters. In one instance he said, "I admire Senator Obama and his accomplishments. I will respect him. I want everyone to be respectful, and let's make sure we are. Because that's the way politics should be conducted in America."

Chelsea Clinton, whose family has been

EVEN WHEN UNCIVIL
CRITICISMS WORK, THEY
MAY DO LASTING
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in bitter personal conflict with President Donald Trump, chastised media outlets several times for their coverage of Trump's youngest son.

Social norms of courtesy, politeness and respect can help avoid the gridlock that plagues some divided legislative bodies. This may lead to policies beneficial for all sides, according to an NCSL report. Traditions of mutual respect between debating sides tend to enable productive compromises even among polarized legislatures.

Self-interest might also provide a motivation to be civil.

Intensely negative campaign strategies have been shown to lower the favorability ratings of all sides in an election. In some instances, the backfire from uncivil attacks may exceed damage done to a rival.

Even when uncivil criticisms work, they

may do lasting harm to the public perception of government and public officials overall. A victorious-but-uncivil candidate could be less effective after assuming office as a result.

The most serious potential threat from incivility comes from the risk that certain types of verbal attacks, such as those that question the patriotism of an opponent, could motivate unstable individuals to commit violent acts. The 2011 shooting of then-U.S. Representative Gabrielle Giffords at an Arizona campaign event motivated the NCSL Executive Committee to adopt an accord pledging bipartisan support for civility in state legislatures.

However, not all facts or opinions support the idea that there is an ethical duty to be civil.

The purpose of political debate is to point out the flaws in an opponent or opposing position. Winning involves making the case that your ideas are better, or that opposing ideas are relatively inferior. Belittling an opponent's viewpoints or experience may be an effective way to point out his or her flaws.

While extreme incendiary language should be avoided, the choice of how to approach our disagreements isn't limited to either incitement or civility. The middle ground is vast and full of snarky comments about the competence of those who hold competing beliefs.

Different situations call for different tones. In the current environment, however, it is tough to argue for less civility when all but 7% of Americans say there needs to be more of it.

Nicholas Birdsong is a policy associate with NCSL's Center for Ethics in Government. Is an ethical dilemma keeping you up at night? Let Nicholas know, at nicholas.birdsong@ncsl.org.

The Final Word

Larry Householder

Speaker, Ohio House of Representatives

First elected to the Ohio House in 1996, Larry Householder served as speaker from 2001 to 2004 before being term-limited. He returned to his family farm and business pursuits for over a decade. He ran for the House again in 2016, and was reelected two years later. In January, his colleagues elected him speaker. Householder received his bachelor's degree in political science from Ohio University.

You're in your second go-round as speaker. How have you changed?

When I was speaker before, I had five young sons and I don't think I had as much patience. Today I have a grandchild and more patience. When you're a parent of a large family, you learn that because all your children are different, you have to find ways to satisfy family goals with everyone. It's the same in the legislature. You find a way to accomplish goals working with various personalities and interests.

What prompted you to run again?

I saw term limits start to have a real negative effect here in Ohio. It seemed like there were a lot of pressing issues that weren't being handled through the legislature. I won my seat back and we've done some pretty significant things in a short period of time. It's an exciting time here in Ohio.

What are you most proud of?

We passed an energy policy that is moving away from renewable portfolio standards toward giving incentives for clean energy. That will save some nuclear power jobs. And we've focused a lot of resources into the families and communities impacted by the devastating opioid crisis, mainly in foster and elder care. We're really trying to rebuild our families and communities.

Why is bipartisanship important to you?

It's like walking into the junior high gym for a dance. The girls are all in one corner and the boys are in another corner.



There's no action that can take place unless you get in the middle of the floor. I encourage the parties to work together to build relationships so we can learn to trust each other, and then find areas where we are similar. There are probably 12 or 13 out of our 15 priority bills that have joint sponsors.

What keeps you up at night?

Here in Ohio we have tremendous natural resources and a great workforce, yet pockets of unemployment. We are transitioning to needing a much more skilled workforce. How we get these people the skills necessary to compete in this job market keeps me up at night.

What would surprise people most to learn about you?

I like to wear Hawaiian shirts. I've got a little Caribbean soul in my heart, I guess. Even when I was growing up on the farm, I liked to slip into a Hawaiian shirt, drive tractors and work on the farm.

How do you stay at the top of your game?

The thing that recharges my batteries the most—and with term limits we always have fresh faces showing up here—is helping people start their career and mentoring them. It excites me to see them accomplish their goals, whether it's passing a piece of legislation or becoming a statewide official.

What final words would you like to share?

We can all learn from each other. We're all frustrated because of what doesn't occur in Congress and how slow things grind in D.C. Here in the state legislatures—and they're meant to be this way—it's where things happen. We actually get things done.

Jane Carroll Andrade, a contributing editor, and Stacy Householder (no relation), director of NCSL's Leadership and International programs, conducted this interview, which has been edited for clarity and length.



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