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ON SHAKY GROUND

Urgent infrastructure needs are straining public resources. **10**



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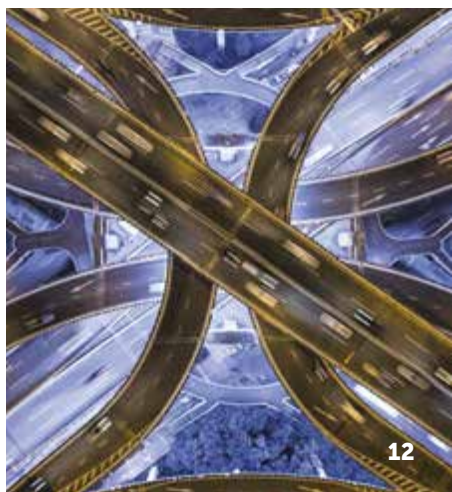
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THE INFRASTRUCTURE ISSUE



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You can find more on many of the topics covered in these pages at ncsl.org/magazine. And you can always drop us a line at magazine@ncsl.org.

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From the Editors

THE INFRASTRUCTURE ISSUE

States Are Breaking Ground, Even as Congress Delays

Political observers like to point out that, despite the partisan acrimony in Congress, our representatives agree on at least one thing: Our nation's aging infrastructure is in tough shape.

The American Society of Civil Engineers has given our transit, communication, sewage, water, electric and other vital systems a D-plus grade, and lawmakers on both sides of the aisle recognize the need to invest in these assets that are so vital to our health, safety and economic prosperity.

Congressional leaders and President Donald Trump even agreed earlier this year that addressing our most pressing infrastructure problems will cost at least \$2 trillion over 25 years. Fixing crumbling roads, highways and bridges alone could top \$1 trillion.

Unfortunately, that's as far as the bipartisan geniality went. The parties disagreed on how the needed upgrades and other investments should be funded. That leaves the states, which already pay 90% of the cost of operating and maintaining public

infrastructure, to act on their own and, increasingly, seek private investment.

In this issue, beginning on page 10, we look at the planning frameworks and new funding approaches states are experimenting with in four key infrastructure areas: transportation, drinking water, wastewater and disaster mitigation.

Be sure to visit ncsl.org, where the NCSL staff who collaborated on this package of stories have compiled more detailed information, including the recently updated Transportation Funding Deep Dive.



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Trends



ELECTIONS 2019

Flipped Seats, Narrow Margins Mark Off-Year Results

Democrats in the Old Dominion took control of both legislative chambers and, along with a Democratic governor, have gained full control of the state's government for the first time since 1993.

Going into the election, Virginia Republicans held a 21-19 seat advantage in the Senate and a 51-49 lead in the House of Delegates. (Control of the House rested on a single seat decided by a random drawing in 2017.) Democrats, capitalizing on an invigorated electorate as indicated by relatively high voter turnout, now hold advantages of 21-19 in the Senate and 55-45 in the House.

Democrats also celebrated the victory of Kentucky Attorney General Andy Beshear (D), son of former Governor Steve Beshear (D), over incumbent Governor Matt Bevin (R) in a race separated by only 5,300 votes. Beshear becomes the state's 35th Democratic governor.

Democrats didn't win everywhere, however. Republicans in Mississippi expanded their comfortable majority in the Senate by two, while maintaining their large mar-

gin in the House. And although the race between Mississippi Lieutenant Governor Tate Reeves (R) and Attorney General Jim Hood (D) was tapped by some analysts as an opportunity for Democrats to gain control of the governor's mansion for the first time since 2004, it was obvious when the polls closed that Reeves would succeed in keeping Mississippi red.

In New Jersey, Republicans flipped five Democratic seats—four in the Assembly, one in the Senate—though Democrats still hold commanding leads in both chambers.

Ballot Measures

Voters in seven states also weighed in on 20 ballot measures, bringing the total number of measures decided this year to 25. (In recent months, Louisianans voted on four, and U.S. Virgin Islanders on one.) Of the total, three were citizen initiatives and 22 were referred by legislatures.

Successful measures included a change in how Kansas counts students and military service members for redistricting. The

state will no longer adjust counts based on where their "permanent" homes are, since for thousands of them, that's outside of Kansas. Colorado voters narrowly agreed to allow sports betting to pay for the state's water plan. Louisianans voted to increase education funding. Mainers elected to let people with disabilities use alternative methods to sign a citizen initiative or people's veto. And Texans just said "no" to a state income tax, going so far as putting the prohibition into their state constitution.

Although voters approved most of November's ballot measures, Coloradans rejected a change to their Taxpayer Bill of Rights that would have allowed the state to keep surplus general fund revenue to spend on transportation and education. And Washington voters appeared to have rejected an attempt to reverse the current ban on affirmative action, in place for more than two decades, though the outcome wasn't clear at press time.

—John Mahoney and Amanda Zoch

PENSIONS

Invest or Divest? Public Pensions Face Tough Questions

Many Americans try to put their money where their values are. It's called "socially responsible investing" because investors consider social and environmental impact along with an investment's potential financial return. Such investments account for \$12 trillion—or \$1 in \$4—of the \$46.6 trillion in total assets under professional management in the United States.

State legislators, too, have protested certain environmental, social and political practices—from fossil fuels to firearms to foreign affairs—by divesting public pension funds from industries and countries they disagree with.

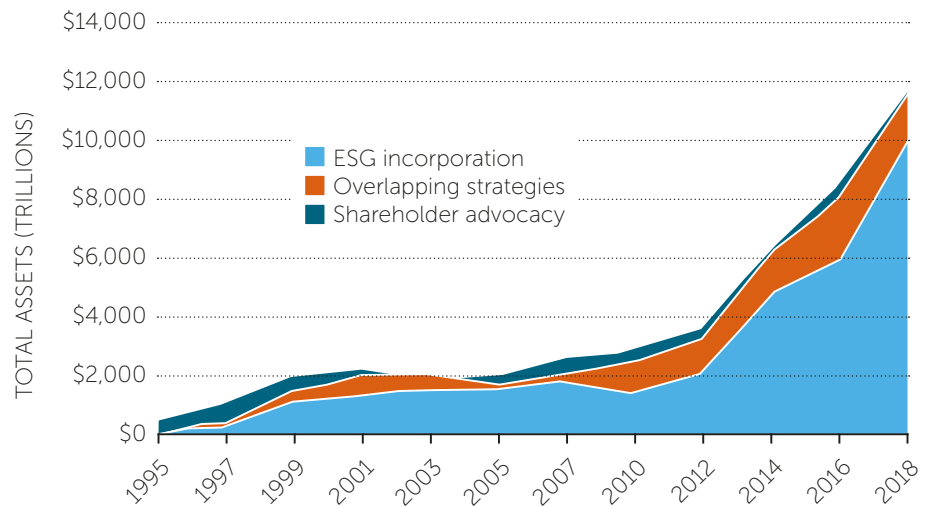
Critics argue that pension fund managers' first responsibility is to protect their obligations to retirees, not necessarily to be socially responsible with their investments. They warn of a host of possible problems, including lower returns.

California's \$381 billion public pension fund, CalPERS, is the country's largest. It may have missed out on nearly \$3.6 billion in investment gains over a 17-year period by dumping its tobacco stocks, according to a 2018 report. (The report also notes that, although tobacco divestment has had a negative effect overall on the CalPERS portfolio, other divestments have helped.) Other critics say that keeping a seat at the table and encouraging change from within is more effective than divesting.

Nevertheless, the California Legislature took a major step in 2015 by calling for the divestment of public funds in the thermal coal industry. Legislators in Massachusetts, Minnesota, New Jersey, New York and Vermont considered proposals this year to direct public pensions to study or abandon certain types of fossil fuel investments. Other bills introduced this year targeted makers of firearms and nuclear

Sustainable Investing in the United States, 1995-2018

Institutional investors, including public pension funds, now account for \$8.6 trillion of the total assets shown here.



ESG incorporation: Investments considered environmental, social and corporate governance factors.
Shareholder advocacy: Investment driven by shareholders exercising rights as partial owners.
Overlapping strategies: Investments resulting from both ESG and shareholder advocacy.

Source: The Forum for Sustainable and Responsible Investment

Known by Many Names

Socially responsible investing—also known as social investment, or sustainable, socially conscious, "green," impact or ethical investing—generally considers both financial return and social/environmental impact in all investment decisions.

weapons, companies building the border wall and those shifting business operations outside the U.S. to lower their taxes. None of these measures passed.

Still other efforts targeted companies doing business in or with certain countries or the investments issued or owned by certain countries. Lawmakers in California, Massachusetts, New Jersey, New York

and Pennsylvania debated divesting from Brunei, Cuba, Iran, Saudi Arabia, Sudan and Turkey to protest those countries' links to terrorism or genocide. All of the measures failed, except California's, which is contingent on federal action.

Even more states—at least 27 since 2015—have adopted measures that prohibit state contractors from boycotting Israel or that require pension boards to divest from companies that boycott the country.

Federal courts have struck down some state divestment legislation on constitutional grounds. State divestment efforts also may conflict with national foreign policy objectives, fueling debates on the proper role of states in foreign affairs.

—Anna Petrini



KIDS' HEALTH

Little-Known PANDAS Syndrome Getting Attention

A debilitating neuroimmune disorder associated with the common strep bacterium grabbed the attention of legislators in 16 states this year.

After a bout of strep throat, some children suddenly experience symptoms such as obsessive-compulsive disorder, anxiety, tics and irritability, according to the National Institute of Mental Health. The condition is known as PANDAS, which stands for pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections. Other symptoms include difficulty sleeping, loss of handwriting and math skills, and severe separation anxiety. The symptoms may be so severe that parents hardly recognize their child.

According to the nonprofit PANDAS Network, the condition affects an estimated 1 in 200 kids in the United States. Prompt treatment for the often-misdiagnosed condition may ease the most severe symptoms. But antibiotics, psychiatric care and other

prescribed treatments can be costly. Intravenous immunoglobulin therapy, for example, which can help patients fight infection, can cost between \$5,000 and \$17,000 per dose, the Foundation for Children with Neuroimmune Disorders estimates.

States Take Action

In 2019, policymakers in Georgia, Illinois, New York and Oregon adopted measures to raise awareness about PANDAS and other pediatric neuropsychiatric syndromes, called PANS, that come on quickly and can be quite serious.

As Illinois lawmakers debated their legislation, they discovered a potential obstacle: The disorder lacked a medical diagnosis code. So that medical professionals could be reimbursed for their services, lawmakers allowed a PANDAS/PANS diagnosis to be coded the same as autoimmune encephalitis until the American Medical Association and the Centers for Medicare and Medic-

aid Services assign a specific code. Lawmakers in Arkansas, Minnesota and New Hampshire joined Delaware and Illinois in requiring insurance plans to cover PANDAS/PANS treatment. Arkansas legislators formed an interdisciplinary team to recommend diagnostic criteria by December this year to speed up the establishment of coverage requirements.

Texas lawmakers created the Pediatric Acute-Onset Neuropsychiatric Syndrome Advisory Council to advise the health commission and Legislature on research, diagnosis, treatment and education. The advisory council presented its first report in September and will continue meeting until 2031.

Preparing for PANDAS may well become a focus in many communities as word spreads of its sometimes devastating consequences.

—Alissa Johnson

EDUCATION

Non-Degree Credentials Lift Career, Earnings Potential

As many as 65% of all the jobs in the United States will soon require education beyond a high school diploma, according to the Georgetown Center on Education and the Workforce. But only 47.6% of working-age Americans are educated beyond that level, according to the Lumina Foundation.

To help close this gap, one option is to offer short-term postsecondary credentials. They can cover a range of skills—from health care to manufacturing—and are offered by community and technical colleges, both on campus and online.

Stackable credentials, which are bite-sized courses that build toward a higher level certificate or degree, are popular, especially among busy adult learners who have limited time to complete a full-time

degree program. A one-year credential program in computer science, for example, can qualify students for entry-level programming positions and can give them credits they can use to complete a formal degree program later. In 2018, nine states passed bills that referred to stackable credentials.

Schools are also offering microcredentials, brief programs on narrow topics for workers or students in specific professions. They are typically offered online and on demand. Nine states have incorporated them into professional development and education programs for teachers.

Advocates hope microcredentials can eventually be used to renew licenses and satisfy continuing education requirements, offering teachers a convenient

alternative to professional development programs.

Recent data from the Lumina Foundation and Strada Education Network show that adults who earned a credential or certificate, even those without a college degree, have higher full-time employment rates and higher median annual incomes than those without a credential. Income gains, however, vary drastically by profession and gender. IT credentials, for example, more often lead to higher earnings than manufacturing credentials.

Roughly 60% of those who earn a certificate say it is valuable, and a little more than two-thirds say they would recommend it as a path for others.

—Andrew Smalley

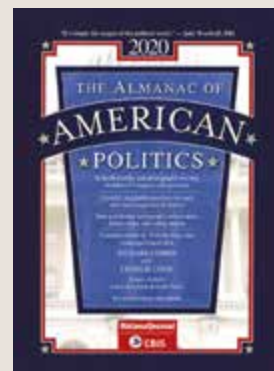
BOOK REVIEW

'Bible of American Politics'

For those with a penchant for all things political, the 2020 edition of *The Almanac of American Politics* is a must-have. It's 2,043 numbered pages long, weighs in at 3 pounds and is produced in rather tiny type, but it's a fantastic resource on the people who are reshaping American politics.

Called "the bible of American politics" by columnist George Will and now in its 25th edition, it remains the gold standard for extensive, accurate, accessible, useful information on every congressional district, state, governor and member of Congress.

Articles in the front profile President Donald Trump and Vice President Mike Pence; discuss what happened to American politics in 2016 and why; and look forward to what may happen in 2020—from the states that could become battlegrounds to those the next president needs to capture to win the election. The almanac offers analysis, insight and candor, without ignoring the controversial issues facing our democracy, such as political gerrymandering in our redistricting process and the ever-growing polarization between the two major parties.



THE ALMANAC OF AMERICAN POLITICS 2020 EDITION

Compiled by Richard Cohen and Charlie Cook

2,100 pages. Columbia Books Inc.
\$125 hardcover; \$89 paperback;
\$59 e-book.

thealmanacofamericanpolitics.com

The bulk of the book consists of state-by-state-by-territory facts and information, including economic, occupational, social, geographic and voter registration data for every state and congressional district along with the voting tendencies of their populations.

Tapping into the Census Bureau's American Community Survey, the almanac also offers updated veteran status data and health insurance coverage rates by congressional district.

—Julie Lays

KIDS' HEALTH

Handful of Cities, States See Drop in Childhood Obesity

The national obesity rate for children has leveled off but remains a serious health issue.

On average, obesity affects 18.5% of children from 2 to 19 years old. The National Institutes of Health reports that childhood obesity rates have doubled in the past 30 years among kids ages 2 to 5 and have nearly tripled among those over age 6.

Despite these broader trends, a few cities, counties and states have experienced declines. Mississippi, for example, reported an 11.6% decrease in obesity rates in 2013 among children in kindergarten through fifth grade following the creation of nutritional standards for food sold in school vending machines and the passage of the Healthy Students Act in 2007, among other efforts. Lincoln, Neb., achieved an 8% decline in childhood obesity rates after launching the public service campaign “Rethink Your Drink,” which promoted healthy beverage options, and other citywide programs.

Complicated Condition

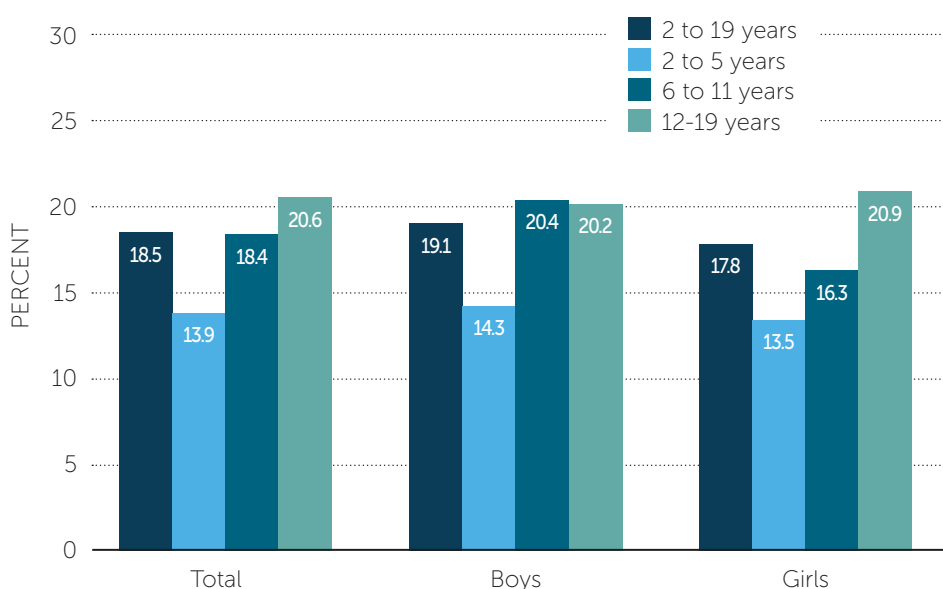
Many factors contribute to obesity, including genetics, metabolism, neighborhood design, sleep behaviors, adverse childhood experiences, and eating and physical activity habits, according to the Centers for Disease Control and Prevention. Obesity-related conditions are among the leading causes of preventable premature death.

Obesity is linked to a variety of diseases and conditions, including certain types of cancers, anxiety and depression, low self-esteem and social problems. Overweight or obese schoolkids also are more likely to be bullied.

Schools are a natural setting for improving physical health, and lawmakers in a

Prevalence of Obesity in the United States, 2015-2016

Youth, ages 2 to 19.



Source: National Health and Nutrition Survey, 2015-2016

1 in 5

The portion of school-age children and young people (6 to 19 years) in the United States who are obese.

A Worldwide Problem

Childhood obesity is expected to increase in developing countries where traditional diets are being Westernized.

The current estimated number of obese children worldwide, 158 million, is expected to climb to 206 million by 2025 and to 254 million by 2030.

Sources: Centers for Disease Control and Prevention; Statista

handful of states have passed school-related laws in the last two years. Colorado, Michigan and New York created school health programs to increase opportunities for physical education, while Louisiana and Tennessee require certain reporting measures on the status of health and physical education in public schools.

Other states have drawn attention to the issue through public education campaigns that designate certain weeks or months every year to focus on it. In the last two years, at least six states passed resolutions promoting healthy lifestyles, including Florida's Every Kid Healthy Week, California's Physical Education Week and Wisconsin's Health and Wellness Month.

—Kate Bradford

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MASON'S MANUAL

A handy reference to basic parliamentary rules and procedures. Be sure to look for the revised edition coming in late 2020!

2020 CALENDAR

Be sure to save the date for these NCSL events to learn from and network with colleagues:

- NCSL Legislative Staff Week, May 4-8
- Legislative Summit, Aug. 10-13, Indianapolis, Ind.
- Legislative Staff Management Institute, Aug. 28-Sept. 4, Sacramento, Calif.
- Staff professional development seminars, September and October.
- Staff Certificate Program, Oct. 6, Atlanta, Ga.

ISSUE SPECIALISTS

Questions? Find NCSL's staff listed by the issues they cover online or call 303-364-7700 with requests.



Health Coverage Stalls as Drug, Suicide Deaths Climb

Death rates from suicide, alcohol and drug overdose are up and so is the growth in health care spending among those with employer coverage. What's down, or at least stalled, is health insurance coverage rates, according to The Commonwealth Fund's 2019 Scorecard on State Health System Performance. The scorecard assesses the states and the District of Columbia on 47 measures of health care, including access, quality and costs of care, health outcomes and income-based health care disparities.

Deaths from suicide, alcohol and drug overdose affect states differently but all contribute to the recent decline in average life expectancy in the U.S. And the overall increases in rates of individuals with health insurance coverage that occurred between 2013 and 2017 have since leveled off. In most states new census data show a decrease in the insured rate for 2018.

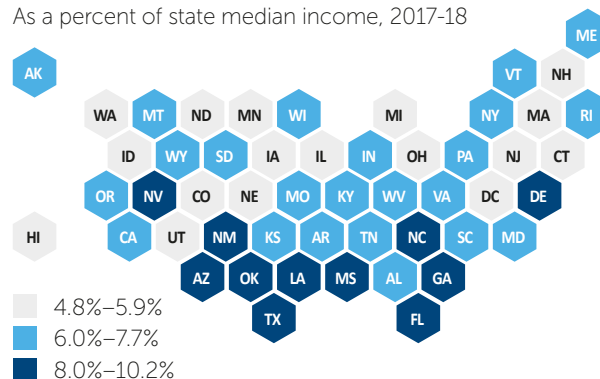
Costs grew faster for those with insurance through their employer than for those on Medicare in 31 states between 2013 and 2016. The Commonwealth Fund report also found that per-enrollee costs vary across states and are among the largest drivers of health insurance premiums, which can affect whether consumers choose to enroll in insurance plans and whether they seek health care.

How does your state rate? You can find The Commonwealth Fund's interactive report and a data center with information by state, region and topic at scorecard.commonwealthfund.org.

—Kelly Hughes

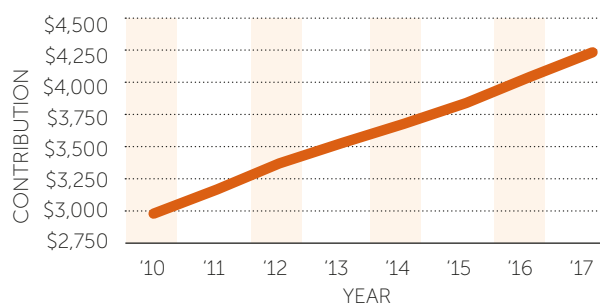
Average Employee Share of Health Insurance Premium

As a percent of state median income, 2017-18

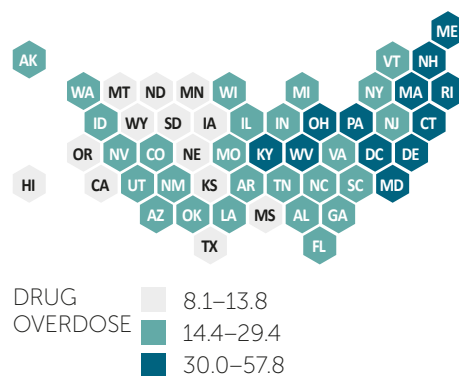
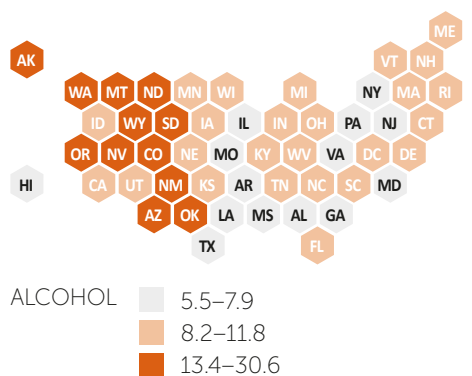
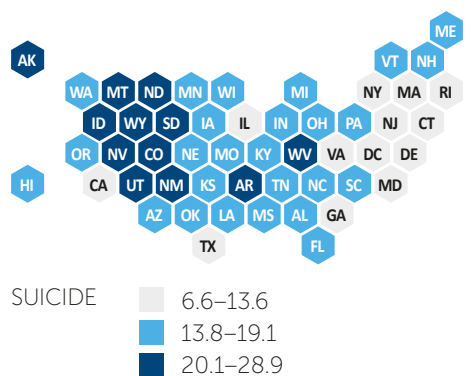


Employee Contribution to Total Premium Cost

For employer-sponsored health plans



Deaths From Suicide, Alcohol and Drug Overdose, 2017



Note: For all maps, rates are shown in deaths per 100,000.

Source: The Commonwealth Fund



INFRASTRUCTURE

ON SHAKY GROUND

Urgent infrastructure
needs are straining
public resources.

BY JIM REED

It's no secret that America's infrastructure needs help.

The 2017 Infrastructure Report Card, the latest iteration of the American Society of Civil Engineers' oft-cited national assessment, gives America a D-plus for the condition of our system of basic public works.

The report covers 16 categories including roads and bridges, transit, drinking water, solid waste and energy. That grade is the same one we got in 2013 (the assessment is done every four years), and in fact, since the report card started in 1998, we've never done better than a D overall.

The big question, as always, is how to pay for needed upgrades. The report estimates that \$2 trillion is necessary over 10 years to close the gap between infrastructure needs and available funding.

The need for additional infrastructure funding is a long-running policy conversation at all levels of government. Yet, recent analyses show a slightly declining level of spending by federal, state and local governments since 2007, in inflation-adjusted dollars.

Modern, well-maintained infrastructure that efficiently transports people, goods and services forms the basis of smoothly running economies. Newer infrastructure eliminates public safety hazards, increases business productivity and job creation, and improves overall quality of life.

Those hopeful for a more significant federal role in infrastructure investment have been encouraged by a variety of proposals offered at the federal level in the last couple years to increase spending beyond base levels, but none has been enacted. In the meantime, states have continued to assess and fund their infrastructure needs through a variety of mechanisms.

States and localities pay for most of the capital improvements made to the nation's infrastructure. According to the Congressional Budget Office, state and local governments accounted for \$102 billion, or 59%, of total investment in 2017, while the federal portion was \$72 billion, or 41%. In terms of operation and maintenance of public transportation, drinking water, wastewater and other critical infrastructure, the state and local share was \$240 billion, or 90%, while the federal share was \$27 billion, or 10%.

Certainly, state lawmakers are hopeful they will see additional federal funds for infrastructure use, but they know solutions will have to include state dollars and private investment.

Add ongoing environmental shocks—like increasing storm severity—to worn-out facilities and the rising cost of construction materials and you get a pressing need for better planning frameworks and new funding approaches. Solving this equation is essential to ensuring a better economy and quality of life for future generations of Americans.

The articles that follow will elaborate on state policies to improve infrastructure in transportation, energy transmission facilities, water and wastewater plants, and systems to mitigate and control flooding and other disaster-related damage.

Jim Reed directs NCSL's Environment, Energy and Transportation programs.

Transportation

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Water

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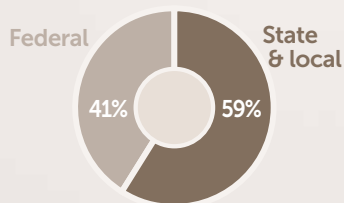
Energy

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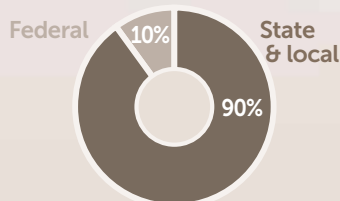
Disaster Mitigation

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Who Pays?



Capital improvements in all infrastructure



Operation and maintenance of all infrastructure



INFRASTRUCTURE: TRANSPORTATION

Obstacles Ahead

As roads and bridges deteriorate and federal funding stagnates, states get creative with new revenue streams.

BY DOUGLAS SHINKLE

State lawmakers perennially hope for a massive infusion of federal transportation funding. But this year, just as certainly as the cherry blossoms along the National Mall fade each April, Congress and the Trump administration again failed to come to consensus on an infrastructure deal.

The federal government sends states more than \$45 billion annually to help construct and maintain our nation's roadways. But that hasn't been enough. The federal-aid highway program and several competitive grant programs are guided by the FAST Act of 2015, which will expire in less than a year. Its reauthorization is anything but assured.

America's roads, bridges and transit systems are in poor shape, threatening safety, lowering productivity and increasing long-term costs. There are more than 47,000 structurally deficient bridges in the U.S., and roads and transit are in even worse shape, according to the American Society of Civil Engineers and the American Road and Transportation Builders Association.

The federal gas tax of 18.4 cents per gallon has not been increased since 1993, and several factors including fuel efficiency, an increase in the number of electric vehicles and the rise of mobility services continue to weaken the gas tax system that has served the nation for 100 years.

Meanwhile, construction and labor expenses continue to rise because of higher

material costs and a tight labor market. Construction costs are projected to increase 185.7% by 2030, according to the Institute on Taxation and Economic Policy.

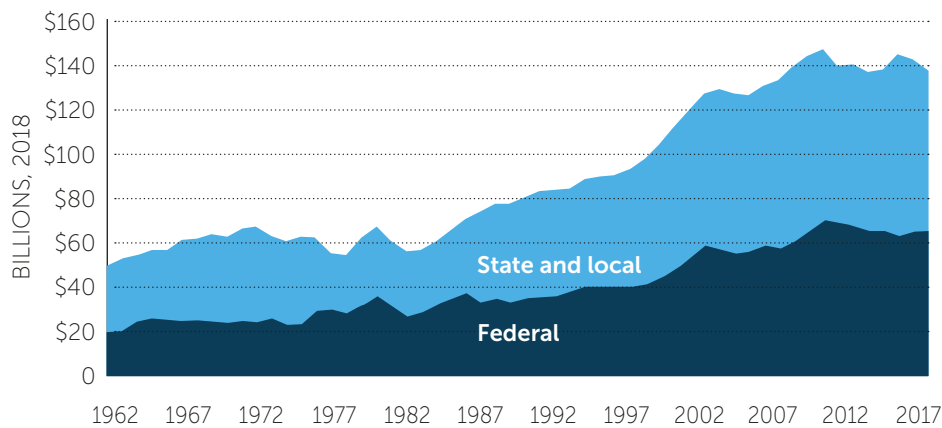
All this has forced states to be creative in finding new ways to firm up the long-term solvency of transportation revenue and ensure safe, efficient infrastructure for all.

Refining the Gas Tax

Since 2013, 30 states and the District of Columbia have increased their gas tax. This year, for example, Alabama approved a 10-cent increase over three years, and Illinois passed a 19-cent increase that began in July. Twenty-two states have linked their gas taxes to inflation, creating variable-rate taxes. Georgia, for example,

Sources of Nondefense Transportation Infrastructure Investment

1962-2017



Source: Congressional Budget Office, 2019

linked its gas tax to construction costs and the average miles per gallon of new vehicles in the state.

Tapping Into Tolling

Federal law generally prohibits states from tolling existing federal-aid highways and interstates. A few Federal Highway Administration programs, however, allow states to apply for approval in certain circumstances. The Interstate System Reconstruction and Rehabilitation Pilot Program, for example, allows up to three states to convert an existing interstate into a toll “facility” to pay for its repair, with priority given to states that have enacted enabling legislation to toll.

The Wyoming Legislature considered tolling Interstate 80—a critical freight toll corridor—in an interim committee this summer, and lawmakers may introduce a bill next year that would be the first step toward applying for a pilot program slot.

The federal Value Pricing Pilot Program allows states to toll lanes on interstates to manage congestion. Oregon is seeking approval under the program to toll Interstates 5 and 205 to help lower congestion in the Portland metro area. Additionally, the General Tolling Program allows tolling of a corridor’s roads and bridges to pay for a capital investment in that corridor.

New York lawmakers enacted legisla-

tion this year creating the nation’s first zone-based congestion pricing program, which authorizes tolls when entering Manhattan’s Central Business District below 61st Street. The Legislature cited the need for a sustainable solution to fund repairs to the city’s subway, bus and commuter rail infrastructure, and to reduce congestion and air pollution.

In most cases, states may also convert high-occupancy vehicle lanes to high-occupancy toll lanes without federal approval, and they may toll new highways and those that aren’t interstates. Alabama, Florida, Kansas and Washington approved tolling legislation this year. Florida’s legislation authorized the design and construction of three regional toll roads, along with \$70 million in funding over two years.

Charging Road Users

One hundred years after Oregon created the nation’s first gas tax, the state has started the first road usage charging program, called OReGO. The state is one of 15 in a consortium of Western states that have



More online

For more on the federal transportation funding available to states, see NCSL’s FAST analysis and the Transportation Funding Deep Dive, at www.ncsl.org.

begun road usage charging programs or are conducting pilot programs or research. The consortium defines road usage charging as “a transportation funding model wherein all drivers are assessed a fee based on the number of miles they drive, rather than on how much gas they consume.” Many experts believe it may someday replace the gas tax. This year, Maine, Nevada, New Mexico, Oregon, Utah and Washington approved legislation creating road usage charging studies or pilots.

Oregon established OReGO within the state Department of Transportation in 2015. Participants currently pay 1.7 cents per mile and receive a credit against any state gas taxes paid. Drivers can choose from two private vendors or a vendor that operates a system for the state DOT. The program, previously limited to 5,000 vehicles, will soon be open to all vehicles that get at least 20 miles per gallon. The long-term goal is for OReGO to replace the gas tax system.

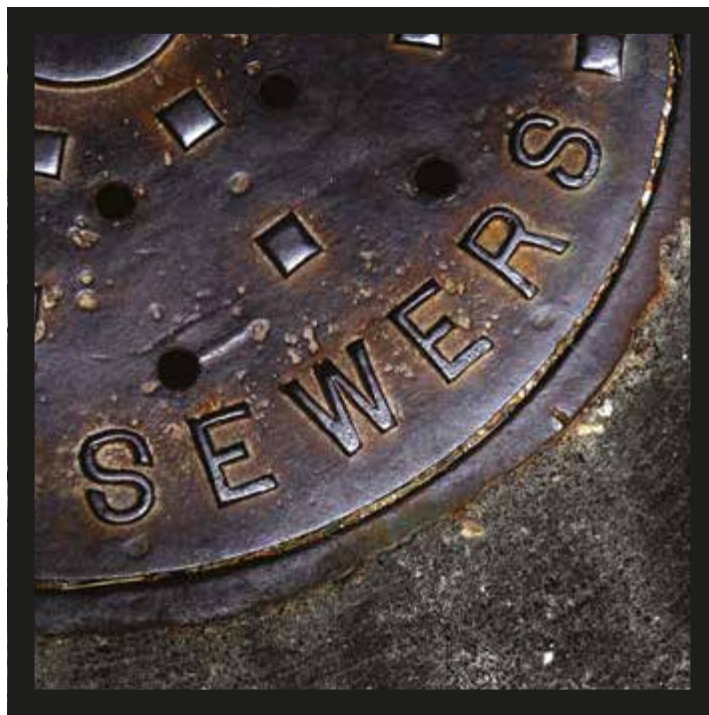
Oregon and Utah are putting particular focus on carrots and sticks to attract electric and hybrid vehicle owners to their programs to make up for the associated loss of gas tax revenue from such vehicles.

A Federal Role

The federal government has supported the states’ study and development of road user programs. Through the Surface Transportation System Funding Alternatives program, many states have received federal funding to study and pilot user-based alternative revenue mechanisms.

States will continue to experiment to find new and sustainable funding sources to maintain and improve America’s transportation system—while hoping, of course, for that needed increase in federal transportation funding.

Douglas Shinkle is director of NCSL’s Transportation Program. Jonathon Bates, NCSL’s transportation policy associate, and Ben Husch, director of NCSL’s Natural Resources and Infrastructure Committee, contributed to this story.



INFRASTRUCTURE: WATER

More Ebb Than Flow

Funding isn't keeping pace with increasing demands for safe drinking water and wastewater removal.

BY DOUG FARQUHAR

At one time, state legislatures were not that involved in water infrastructure. The federal government set the standards and provided money; local water utilities followed the standards using the federal funds and revenue from their ratepayers. Legislatures would authorize their state agencies to follow federal laws such as the Clean Water Act and the Safe Drinking Water Act and relied on local utilities to ensure that drinking water was safe and that wastewater was disposed of properly.

Many of these laws were enacted in the 1970s, when the demands for safe drinking water and wastewater removal were lighter. But those demands have increased

significantly since then, and the federal funds currently appropriated for water infrastructure are no longer enough to cover the costs.

Federal funding comes primarily through the Drinking Water State Revolving Fund and the Clean Water State Revolving Fund. Both programs are administered by the Environmental Protection Agency, which awards grants to states for each program based on their needs. The states provide a 20% match, and the funds work like infrastructure banks by providing low-interest loans to eligible recipients. States are responsible for the operation of their programs and may set loan terms and target the resources to fit their specific needs.

Widespread Water Woes

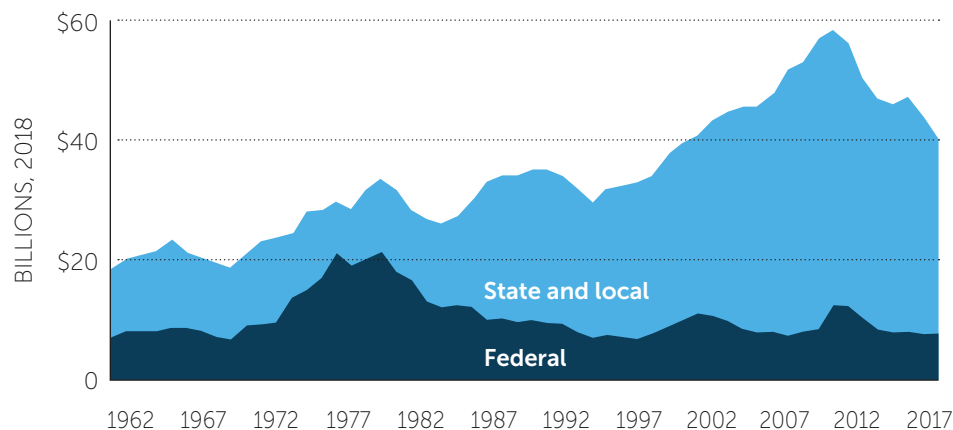
The infrastructure problems resulting from a lack of funding have been felt across the country. Although the legislatures weren't directly responsible for them, recent crises quickly have become legislative problems.

Drinking water emergencies, during which a utility must shut off water to customers because of an environmental health hazard, have occurred in Charleston, W.V., Jackson, Miss., and Toledo, Ohio. Small towns such as Alamosa, Colo., and Worden, Mont., have had to ship in water supplies due to contamination.

The tragedy in Flint, Mich., is the best-known example. Flint's change in April

Sources of Nondefense Water Infrastructure Investment

1962-2017



Source: Congressional Budget Office, 2019



Chatfield



LaSata



Novak



Shankland

2014 from water treated by the Detroit Water and Sewerage Department to water from the Flint River, exposed residents to elevated levels of lead and possibly caused an outbreak of Legionnaires' disease, which killed 12 people.

"In the case of Flint we messed up," says Michigan House Speaker Lee Chatfield (R). "There was a problem and the Legislature did not address it until it was too late."

When it did respond, the Legislature created a joint committee through the Flint Water Public Health Emergency Act of 2016. The committee concluded that corrosive water from the Flint River leached lead from aging pipes into the water supply, poisoning between 6,000 and 12,000 children. Among the committee's 35 recommendations were some to fortify the state's water infrastructure, including requiring each community water supplier to complete an inventory of all water system components; replacing lead service

lines and moving away from them in all communities; and establishing an Underground Asset Management Council to develop and advance a best-practice approach for water infrastructure systems.

"Michigan is defined by its water, both literally and figuratively," says Senator Kim LaSata (R), who is sponsoring a water testing bill in response to the committee's proposals. "We are going above and beyond to help prevent another Flint water crisis and to ensure contamination is identified and remedied quicker than ever before."

Other states are facing similar water infrastructure concerns. California enacted legislation in 2007 to ensure the state's water systems deliver an adequate and affordable supply of safe drinking water. Illinois' new law, which supports green infrastructure solutions, calls for replacing lead components and improving wastewater treatment, flood control and stormwa-

ter management, among other actions. Indiana established the Water Infrastructure Assistance Fund and Program, and West Virginia lawmakers enacted legislation to protect sources of safe drinking water.

On the Wastewater Side

To combat stormwater surges and overflows, the New Jersey Legislature authorized the creation of local stormwater utilities. The act will improve stormwater infrastructure and management by allowing local utilities to upgrade and maintain their systems. North Dakota's new law created a legislative management study on the installation, maintenance, testing and repair of sewage treatment systems.

In Wisconsin, Assembly Speaker Robin Vos (R) created the Speaker's Task Force on Water Quality, which coincided with a declaration by Governor Tony Evers (D) that 2019 would be "the year of clean drinking water." The task force is considering proposals to increase water quality staff at state agencies and county departments and to develop a grant program for counties to use to study well water. Task force members stress that action is vital to protecting property values, tourism and recreation.

"There's so much that we could be doing and now's our opportunity," says Representative Katrina Shankland (D), a task force co-chair. "The long-term cost of doing nothing is much worse than the short-term cost of doing something."

In Wisconsin, Representative Todd Novak (R) feels a similar urgency.

"We need to get a water plan in place," he says. "We can't keep doing this every two-year budget cycle. We need to figure out a sustainable way to keep water programs going."

Doug Farquhar directs NCSL's Environmental Health Program. Kristen Hildreth, a senior policy specialist with NCSL's National Resources and Infrastructure Committee, contributed to this story.



INFRASTRUCTURE: THE ELECTRIC GRID

Smart Power

Can technology make the electric grid better for consumers without leaving it vulnerable to cyberattacks?

BY DANIEL SHEA

The electric grid faces threats on several fronts—most pressing of which are cyberattacks and natural disasters. And, although it may seem counterintuitive, investments that are helping to make the grid more resilient to one of those threats are making it more vulnerable to the other.

Grid modernization is the catchall term for a wide variety of initiatives aimed at moving the analog, 20th century electric grid into the age of the smartphone. Many of these efforts involve the introduction of new “smart” components that enhance the flow of data to grid operators, providing them with heightened operational awareness and the ability to detect and

correct grid anomalies before they lead to outages. Ultimately, these technologies help create a more reliable and efficient electric grid.

State legislators are enacting policies that encourage and facilitate grid modernization, often starting with the use of smart meters before addressing policies that allow grid operators to shape supply and demand. The pace of these changes, however, varies significantly by state and utility. In many cases, technological developments and consumer preferences are outpacing public policy.

Grid Vulnerability

This is where cybersecurity concerns come into focus, because even as these

new technologies offer significant improvements in grid operations and enhance flexibility, they also substantially increase the grid’s vulnerability to potential attacks. Whereas two decades ago, operations and information technology were isolated from each other, these new pieces of internet-enabled hardware and software are located throughout the system, connecting operations and IT in ways previously unseen.

The federal government is addressing cybersecurity through the Federal Energy Regulatory Commission, the entity responsible for regulating the interstate transmission of electricity. The commission has developed and approved man-

datory cybersecurity standards for the bulk power grid, while the Department of Energy is developing a national energy cybersecurity plan that's expected to be released late this year. Despite these federal cybersecurity standards, more than 80% of the grid's total assets fall largely under state jurisdiction. States have begun addressing these vulnerabilities by creating task forces, establishing cybersecurity standards and reporting requirements, and preparing for service disruptions and emergencies. But one largely unresolved issue is how to adequately fund these programs.

Texas, for example, recently bolstered its cybersecurity oversight and granted utilities full authority to recover the costs of the program.

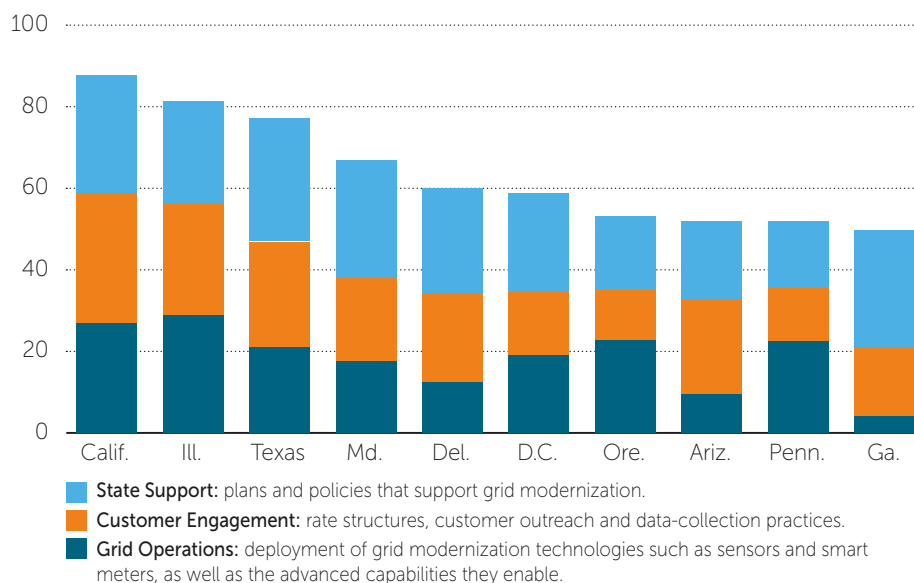
The need for substantial investments in more traditional infrastructure—namely, poles and wires—is only compounding the funding issue. One study found that 60% of U.S. distribution lines have surpassed their 50-year life expectancy, and current funding levels are nowhere near adequate for the amount of work needed. According to the American Society of Civil Engineers, at the current level of investment in the grid, there will be a funding gap of \$136 billion for transmission and distribution systems by 2025.

To facilitate transmission, distribution and other grid modernization investments, the Indiana General Assembly recently enacted a law that allows utilities to recover costs on projects outlined and approved under long-term plans. The law eliminates the need for utilities to seek permission from state regulators to raise rates to fund these projects. It should make it easier for utilities to finance transmission and distribution improvements. But it has drawn criticism from consumer advocates who claim it amounts to handing utilities a blank check.

Ultimately, costs trickle down to customers who, regardless of whether the upgrades are necessary, don't like seeing their rates go up.

Grid Modernization Index: The Top 10

The index ranks states and the District of Columbia by the degree of modernization in their electric power grids.



Source: GridWise Alliance and Clean Edge

Building in Resiliency

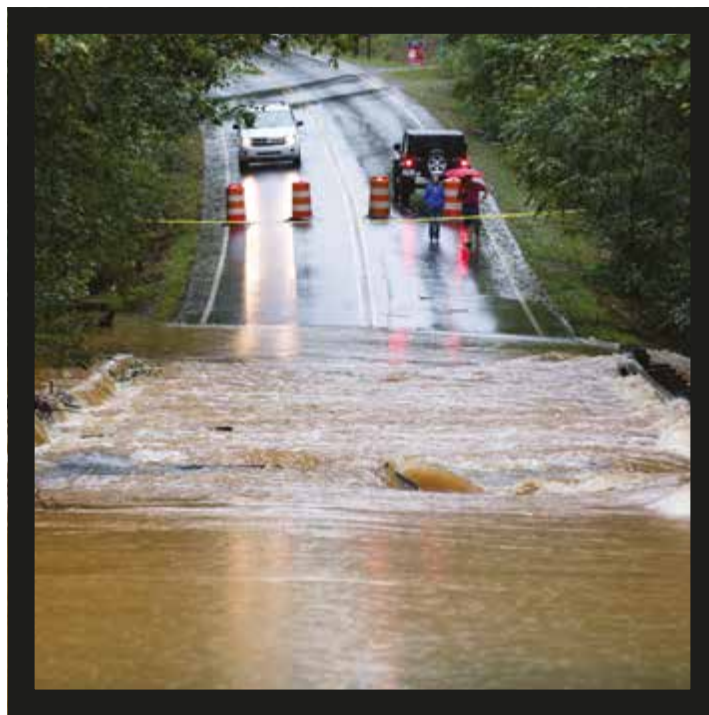
Of course, the alternative is even more costly. The electric grid underpins modern society—it enables financial systems, health care and basic infrastructure to function. According to one study, basic power losses cost the U.S. economy close to \$30 billion in lost output every year. Weather-related outages add significantly to that figure due to lost productivity and the need to rebuild communities and businesses, homes and lives. The 2018 wildfires in California—several of which were sparked by utility equipment—are estimated to have cost the state around \$400 billion in economic losses.

With the threat from wildfires and hurricanes increasing, states have started to fund resiliency measures to help minimize damages and facilitate rapid recoveries. Florida lawmakers recently enacted a law to support utilities' efforts to harden their infrastructure—including burying electric lines. Legislators in California and Nevada enacted laws bolstering utility disaster mitigation requirements, including cutting power to certain parts of the grid

under dangerous conditions to prevent sparking wildfires like California did in October. Meanwhile, Hawaii, Maine, New Jersey and North Carolina all enacted measures to enable the rapid restoration of services.

Many of these efforts overlap with grid modernization initiatives, which can help utilities to identify system imbalances before outages occur and to quickly locate them when they do. Whether they bolster cybersecurity or strengthen the system against natural disasters, efforts to make the grid more reliable and resilient are going to cost money. The issue facing many state policymakers is how to balance the significant need for investment on several fronts with consumer concerns over rising electricity prices.

Daniel Shea is a senior policy specialist in NCSL's Energy Program. Ben Husch, director of NCSL's Natural Resources and Infrastructure Committee, and Kristen Hildreth, a senior policy specialist with NCSL's National Resources and Infrastructure Committee, contributed to this story.



INFRASTRUCTURE: MITIGATION

Deterring Disaster

As the costs of extreme weather events rise, states turn to mitigation and risk reduction.

BY KIM TYRRELL

Headlines in the last several years have been dominated by a spate of natural disasters, and unfortunately, no state has been immune. According to the National Oceanic and Atmospheric Administration's National Center for Environmental Information, large-scale disasters cost the country \$91 billion in 2018.

Data compiled by The Associated Press shows that 24 states have suffered about \$1.2 billion in damages this year to roads, bridges, buildings, utilities and other public infrastructure from floods, storms and tornadoes.

Severe weather in the United States varies by region and season, but flood-

ing affects nearly every state. Flood data, in fact, shows that inland states, near rivers, experience flooding more frequently than coastal states. Whether it's the catastrophic but occasional flooding caused by hurricanes, or the frequent but less severe inundation of low-lying areas caused by inland rainstorms, both threaten millions of people and businesses.

For decades, the framework for dealing with calamities has centered on response and recovery, not on mitigation or risk reduction. As disaster recovery costs have risen for all levels of government, there has been a shift toward preventing damage rather than just repairing it. Many of these mitigation strategies require investing in strengthening infrastructure. In 2018, the

National Institute of Building Sciences released a finding that for every \$1 invested in disaster mitigation, future costs associated with loss are reduced by \$6.

Traditionally, "infrastructure" has conjured up visions of concrete and steel, but when it comes to flooding, a combination of "gray" infrastructure (engineered solutions using concrete, steel and other materials) and "green" infrastructure (living shorelines, open space and wetlands restoration) can be the best antidote to disaster.

State Actions

So far this year, lawmakers in at least 31 states have introduced legislation related to flood control. In Texas, which is still recovering from 2017's Hurricane Har-

vey, the Legislature passed seven bills to better prepare the state for future floods. Legislators took the unprecedented step of amending their state constitution to create a flood infrastructure fund to help pay for flood drainage, mitigation and control projects. One bill called for the “construction and implementation of nonstructural projects, including projects that use nature-based features, to protect, mitigate or reduce flood risk.” These investments will be made alongside traditional “gray” solutions such as stormwater drainage systems, levees and retention basins.

In response to record-setting floods in 2008, the Iowa General Assembly established a flood center at the University of Iowa College of Engineering. It works closely with the state Department of Natural Resources and other state and federal agencies. Over the last decade, it has become a leader in developing flood-resilient infrastructure projects. Legislators also created a competitive grant program to support infrastructure projects such as rebuilding, reconstructing and replacing buildings after disasters, and controlling, protecting against and preventing flooding.

A number of states, including Maryland, North Carolina and Virginia, which have suffered devastating floods in the last few years, are turning to science for help. They’re using research, data and new technologies such as LiDAR, a surveying tool that uses laser light to measure distances, to help guide infrastructure investments. LiDAR, which stands for light detection and ranging, can generate computer models that simulate floods, showing the most vulnerable areas.

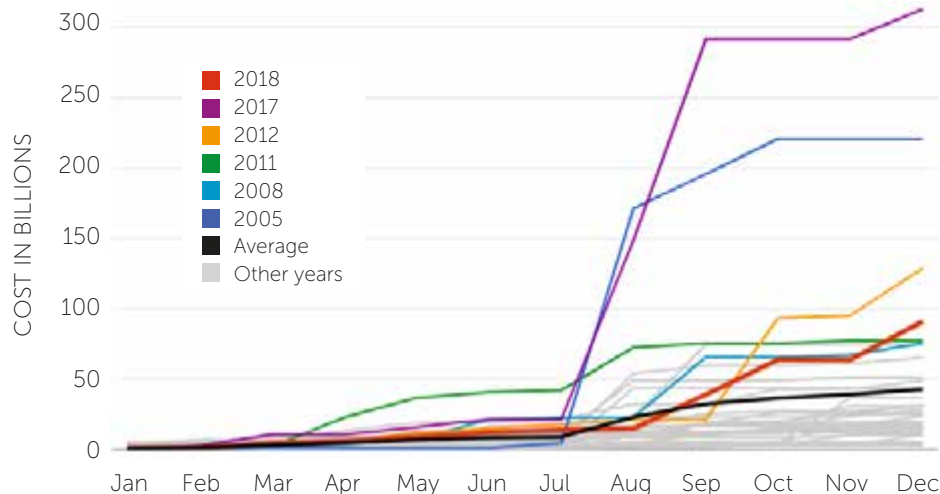
Federal Assistance

Paying for these infrastructure investments has been among states’ biggest obstacles. Until recently, federal funds mostly have targeted disaster response and recovery, leaving states with limited resources to make what are often costly investments.

Revolving loans, which have been used to fund water projects, have been gaining

Disaster Event Costs, 1980-2019

Consumer price index-adjusted, in billions of dollars.



Source: climate.gov

Mitigation Saves

Every \$1 spent on mitigation saves \$6 on future disaster losses.

traction at the state and federal levels to fund flood-mitigation efforts. As recipients repay the low-interest loans, funding becomes available for other borrowers.

The federal Disaster Recovery Reform Act, which Congress passed in October 2018, is considered the most comprehensive disaster reform legislation since Hurricane Katrina. The new law created a federal funding stream known as BRIC (Building Resilient Infrastructure and Communities) by setting aside up to 6% of estimated disaster expenses. The funds will be available to state, local, tribal and territorial entities on a competitive basis for use on mitigation and resilience projects before disaster strikes.

BRIC is expected to provide a more reliable stream of funding, allowing states to more consistently plan and execute mitigation programs. Application guidance will become available once FEMA’s rulemaking and public comment period has been completed.

In the meantime, some states are find-

ing ways to pay for their own improvements. Virginia lawmakers, for example, enacted legislation this year that provides loans to strengthen shorelines and improve the management of stormwater. The law gives preference to natural or nature-based solutions and living shorelines, which combat soil erosion with organic materials like sand, wetland plants, oyster reefs, submerged aquatic vegetation, stones and coir fiber.

Indiana has a similar loan program, funded through legislative appropriations, to help construct and widen stream channels, and to build and repair dikes and levees, among other projects.

As states prepare for what many consider to be the new normal when it comes to flooding and other natural disasters, there is an increased willingness among federal, state and local governments to invest in building more resilient communities, ones that can better withstand disasters and reduce or eliminate the associated economic, social and environmental impacts.

Kim Tyrrell is director of NCSL’s Environment Program. Lucia Bragg, a policy specialist in NCSL’s Washington, D.C., office, contributed to this story.

HANDS OFF THE DATA

California's new data protection law gives consumers greater control over their information.

BY PAM GREENBERG

Groundbreaking. Sweeping. Influential.

Those are a few of the adjectives used to describe the CCPA, the landmark data protection law set to take effect in January 2020. Formally known as the California Consumer Privacy Act, the law gives state residents the right to know what personal information businesses collect, sell or disclose about them and to opt out of the sale of that information to third parties, among many other provisions.

The law was drafted and passed very quickly in a compromise to stave off an even tougher proposed ballot initiative. It is the nation's broadest online privacy law, affecting companies across the country that do business with California residents, and is considered a bellwether for action in other states.

In more than half the states, lawmakers introduced some kind of consumer data privacy legislation this year—a substantial increase compared with previous years. In only a few states, however, did legislation pass.

Changes Coming

The California law was enacted in June 2018 and amended later that fall, but lawmakers, consumer groups and businesses agreed that it would need further work before its effective date.

More than a dozen bills amending the act were introduced this year. At least six had passed the Legislature and were waiting for the governor to sign at press time. The changes include technical corrections, exemptions and clarifications:

- The act does not govern the collection of personal information by employers.

- “Personal information” does not include de-identified or aggregate information.

- Information lawfully available in local, state or federal government records is exempt from the law.

- Certain business-to-business transactions and communications, as well as some types of information subject to the Fair Credit Reporting Act, are exempt.

- There is a limit on the law's private right of action so that a claim cannot be brought by those whose information was encrypted and redacted when breached.

The state also passed a new law that regulates data brokers who buy and sell personal information. It's similar to the first-of-its-kind law Vermont enacted last year.

Other States Act

Although legislation similar to California's was introduced in about 17 states this year, lawmakers mostly passed less controversial measures. Five states—Connecticut, Hawaii, Louisiana, North Dakota and Texas—for example, created privacy task forces, councils or studies.

On some lawmakers' minds were the concerns of critics, including the Information Technology and Innovation Foundation, which said in a statement that, “California's new privacy legislation will do less damage to the Internet economy than the proposed ballot initiative would have done. But even so, the bill is flawed. ... This legislation will undercut access to free content and services by prohibiting companies from penalizing consumers who

opt out of sharing their personal data. This is like passing a law saying that consumers can opt out of paying for their meals, but restaurants can't refuse them service.”

Still, a few states took measured steps forward. Nevada, like California, already had a law requiring commercial websites and online services to post a privacy policy outlining the handling of personal data. But this year state legislators went further by prohibiting those businesses from selling personal data if Nevada consumers request it not be sold.

Maine stood out this year as well. Over the past three years, many state legislatures considered, but did not pass, legislation in response to the repeal of federal internet privacy protections that would have restricted what internet service providers could do with consumer data.

Maine passed legislation that prohibits internet providers from disclosing, selling or permitting access to customers' per-





What Does the CCPA Do?

The California Consumer Privacy Act gives state residents the right to:

- Know what personal data is being collected about them.
- Know whether their personal data is sold or disclosed and to whom.
- Say no to the sale of personal data.
- Access their personal data.
- Request that a business delete any personal information about a consumer collected from that consumer.
- Not be discriminated against for exercising their privacy rights.

Who's Affected?

For-profit entities that collect Californians' personal data and meet at least one of the following:

- Annually buys, receives, sells or shares the personal information of 50,000 or more consumers, households or devices.
- Has annual gross revenue of more than \$25 million.
- Derives 50% or more of its annual revenue from selling consumer personal information.

Source: Security Boulevard



Carlyle

sonal information unless the customer expressly consents, with some exceptions. It also prohibits ISPs from refusing to serve a customer, charging a customer a penalty or offering a

customer a discount if he or she has not opted in.

Critics say the law unfairly targets ISPs, while leaving social media and other online services to operate by less restrictive rules. Further, some say, it may be in conflict with federal law and will face legal action.

States to Watch

Washington state was widely expected to be the second to pass comprehensive consumer privacy legislation this

year. The Washington Privacy Act passed overwhelmingly in the Senate early in the session, but then stalled in committee and failed to come to the House floor for a vote. It was supported by Microsoft and other tech groups, but in later versions was opposed by consumer advocates. The bill's primary sponsor, Senator Reuven Carlyle (D), says he is committed to getting legislation passed next year.

Privacy bills in Massachusetts, New Jersey, New York and Washington were pending or had been carried over for consideration in 2020. Similar measures will likely be introduced in significant numbers again next year.

Despite calls for comprehensive federal legislation from many tech companies and from groups like the Business Roundtable, whose members are the chief executives of major U.S. companies, state lawmakers are taking the lead in protecting consumer privacy.

But the tug-of-war between those who want more restrictions and those who want fewer is far from over. California privacy activists recently signaled that they're preparing to put an initiative on the state's 2020 ballot that's even tougher than the current law.

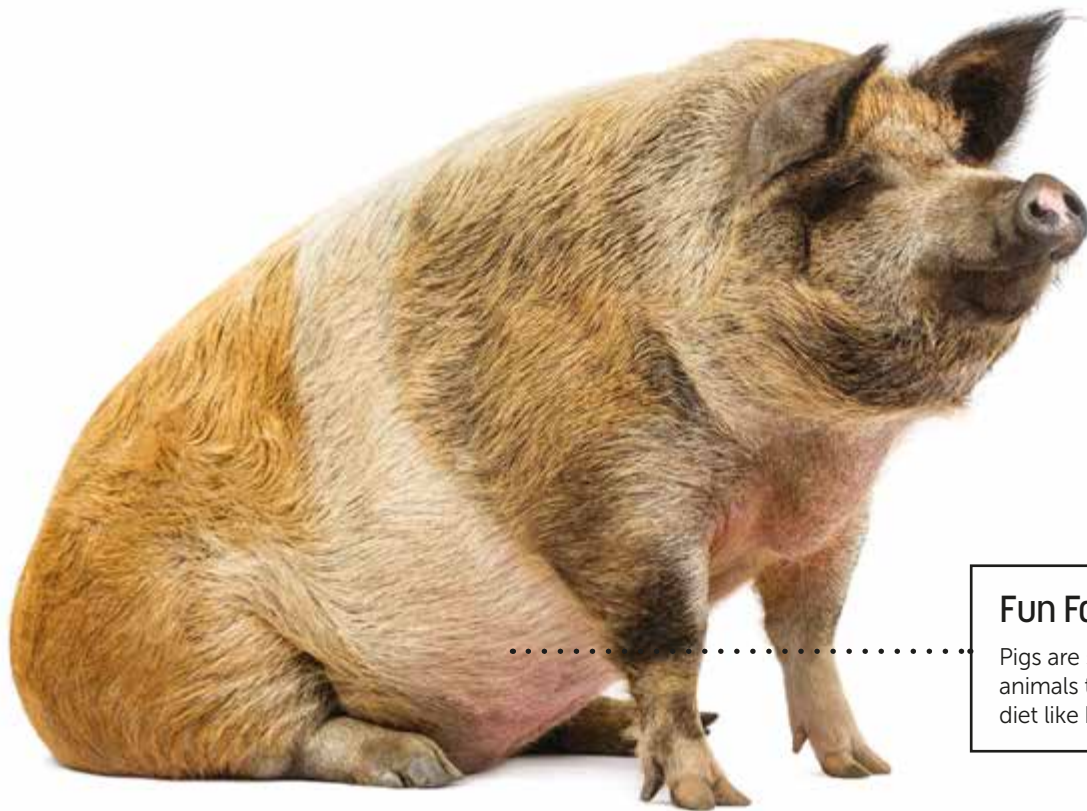
The measure would establish a data protection agency to enforce the state's new privacy laws and would create a new class of "sensitive information"—Social Security numbers, precise location, financial data—that firms could not sell without users opting in.

Pam Greenberg follows privacy and technology-related issues for NCSL.

MAINE

School Lunches Don't Boar These Eaters

Maine schools and swine producers have teamed up to keep food scraps out of the landfill: They're giving them to the pigs instead. A new law says that any individual or institution, including a school, can donate food waste to a swine producer to use as feed. Farmers must be licensed to feed pigs food waste, but the law makes clear that schools don't have to know a producer's licensure status to donate scraps. Supporters say the law will help cut back on waste while helping local farmers. More than half the states allow garbage feeding, according to the National Pork Producers Council.



Fun Fact

Pigs are single-stomach animals that can eat a varied diet like humans do.

ILLINOIS

Civics Education for Inmates

The Re-Entering Citizens Civics Education Act makes Illinois the first state to require prisons to offer civics education classes to inmates starting 12 months before their scheduled release. The classes will be taught by incarcerated peer educators who have been trained by nonpartisan civics organizations. The curriculum will cover voting rights, governmental institutions and current affairs and will include simulations of voter registration, elections and other democratic processes. Prisons across the country have offered similar classes, but until now no state has mandated that they be held at all state institutions. The law takes effect in January.

NEW YORK

This Just In

With local news outlets folding fast, two New York lawmakers have proposed a law requiring that any cable company operating in the state offer a local channel with “news, weather and public affairs programming.” The programming would have to be independently produced and could not be a rebroadcast of other news shows. New Jersey allocated \$2 million to support local news, but New York’s law, if passed, would be the nation’s first legislative effort



MASSACHUSETTS

Using the B-Word? That's So 'Disorderly'

A Massachusetts statute allows citizens to file proposed bills directly through a representative. And so it was that Representative Daniel Hunt (D) was obligated to introduce a proposal to ban the use of the word “bitch.” The bill says that “a person who uses the word ‘bitch’ directed at another person to accost, annoy, degrade or demean the other person shall be considered to be a disorderly person.” Should the bill become law, it would almost certainly face a stiff First Amendment challenge. “It’s important whether you agree or disagree with the legislation being proposed that you honor the duty to represent your constituents and have their voices heard,” Hunt said.

to bolster community journalism. Some media experts are leery of government being at all involved in the production of news reporting.

CALIFORNIA

Forego the New Fur

California is the first state to ban the manufacture and sales of new items made from animal fur. The law imposes a civil penalty for each violation and will apply to clothing, handbags, shoes, hats and other fur-bedecked items. Leather, cowhide and shearling are not covered, nor are products used by Native tribes

for religious purposes. Also exempted are used-fur items, taxidermy products and fur from animals taken lawfully with a hunting license. Hawaii and New York are considering similar bans. The Fur Information Council of America, a trade group, has threatened to sue California over the law, which takes effect in 2023.

TENNESSEE

Felons and Antique Firearms

Tennessee is the latest state to allow felons to have antique guns. The new law lifts a ban on guns manufactured before

1899, certain replicas and black powder-using muzzle-loaders for people convicted of felonies or certain misdemeanors. It brings the Volunteer State’s law in line with federal code, which doesn’t prohibit felons from having antique guns. The bill passed unanimously and took effect in May. Its sponsor, Senator Kerry Roberts (R), says his research found that antiquated weapons, which don’t use modern ammunition, are seldom if ever used to commit violent crimes.

PENNSYLVANIA

Hygiene Products in Public Schools

Needing a tampon and knowing the dispensers at her Pennsylvania high school hadn’t been refilled in years, 17-year-old Lilly Minor decided she’d had enough. She contacted her state representative, Danielle Friel Otten (D), and the two wrote Lilly’s Bill, which would require the state’s public schools (charter schools included) to provide free menstrual hygiene products in every bathroom accessed by female students in grades six through 12. The bill is pending. Meanwhile, other states have acted. California, Illinois, New Hampshire and New York all require schools to provide free menstrual products. Connecticut no longer charges sales tax on tampons, and Ohio has a similar measure pending.

TELECOMMUNICATIONS

LET'S ROBOCALL IT OFF

Technology and new state laws are helping consumers end unwanted phone calls.

BY HEATHER MORTON

Your phone rings. The caller ID says it's the IRS. With butterflies in your stomach, you answer the call and are told there is a problem with your tax return. To verify some information and avoid penalties, you must give your Social Security or credit card number.

Another caller mimics a family member and asks you to send a prepaid debit card for bail or some other emergency. That's followed by still another call from a number that looks familiar but turns out to be a recorded pitch for a product or service.

Then, just before you go to bed, the phone rings again. This time you're glad you answered. It's another recording, but it's from the school announcing a snow day tomorrow. There are good robocalls and there are bad ones!

According to the Federal Communications Commission, the IRS hoax has scammed 14,700 victims out of more than \$72 million since October 2013, despite ongoing efforts to educate consumers about the fraud.

No one, not even NCSL staff, is immune



Benninghoff



Chenette



Halloran

from receiving unwanted telephone solicitations, often as robocalls using misleading caller ID. (While writing this article, I received four unwanted calls in four hours.) According

to the YouMail Robocall Index, 4.5 billion robocalls were placed in September. That's more than 150 million calls a day and an average of 13.8 calls per U.S. resident. Texas, California, Florida, Georgia and New York were the top five states receiving robocalls in September.

According to Hiya, an app that helps block unwanted robocalls, the five area codes targeted the most by spammers are 214 (Dallas), 210 (San Antonio), 817 (Forth Worth, Texas), 512 (Austin, Texas) and 832 (Houston). Hiya estimates that 25.3 billion calls have been made to U.S. mobile phones in the first half of this year.

YouMail reports just over 46% of the robocalls placed in September were scams, 12% were telemarketing calls, 23% percent were alerts and reminders, and the remaining 19% were payment reminders. Although nearly half the robocalls were made with the recipient's permission, the majority were unsolicited and unwanted.

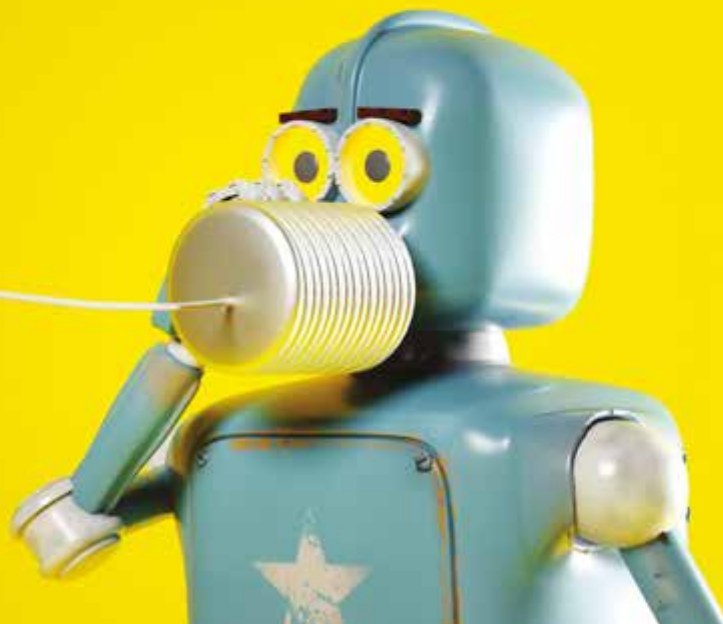
FCC Regulations Issued

The FCC has issued several declaratory rulings to address illegal robocalling. The most recent was in June to clarify that voice service providers may offer consumers features that block unwanted calls through analytics (call-blocking programs) and from numbers not in a consumer's contact list (whitelist programs).

The call-blocking clarification was

"ILLEGAL ROBOCALLS ARE MORE THAN ANNOYING, THEY ARE A DELIBERATE ATTEMPT BY CRIMINALS TO FLOOD VOICE NETWORKS WITH UNWANTED CALLS THAT SCAM, SPOOF AND PREY UPON VULNERABLE CONSUMERS."

Tim McKone, of AT&T, in a joint industry statement

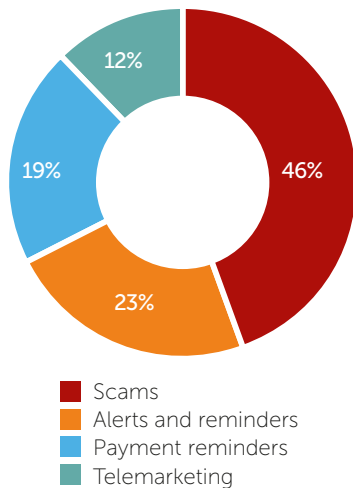


meant to ensure that the programs' "reasonable analytics" could discern unwanted robocalls from wanted calls, like school notifications and payment reminders. "Call-blocking and labeling services can benefit consumers by reducing the number of illegal calls received by consumers, but they can also erroneously prevent legal and wanted communications," says Michele Shuster, general counsel for the Professional Association for Customer Engagement.

In the ruling, the FCC cautioned voice service providers to avoid blocking calls from law enforcement, emergency operations and other public safety entities. Call-blocking programs should also include a point of contact for legitimate callers to report erroneous blocking and a mechanism to resolve such complaints.

The FCC's whitelist clarification says that voice service providers may offer an opt-in program letting consumers specify the phone numbers they wish to receive calls from. If used, a whitelist program makes call blocking the default for consumers.

Robocalls by Category, for September 2019



Source: YouMail

In addition, the FCC has urged the telecommunications industry to develop caller ID authentication, known as SHAKEN/STIR (see "Know Your Robo-Terms," page 26), to combat caller ID spoofing. Many providers are using the SHAKEN/STIR framework to ensure that the information about the source of calls on the network is accurate.

States Not Waiting on Feds

In the midst of the FCC regulatory actions, state legislators have introduced numerous bills and resolutions to address commercial communications, including robocalls, caller ID spoofing, no-call lists and registries and other telemarketing issues.

So far just this year, 35 states have introduced more than 150 bills and resolutions and enacted or adopted 25 of them. Arkansas enacted legislation that holds telecommunication service providers and third-party spoofing providers accountable for certain activities, imposing criminal penalties for some. Kentucky prohibited phone solicitations that misrepresent the name or phone number in caller ID services, with specified exemptions.

Maine Senator Justin Chenette (D) sponsored legislation that makes it an unfair trade practice for a telemarketer to misrepresent his or her phone number when making a solicitation or to use a recorded or artificial voice. "The state can't sit idly by and wait for the federal government to act when small businesses are losing productivity, seniors are being

scammed and people are afraid to answer their phones,” Chenette said when the bill was signed.

Nebraska created the Neighbor Spoofing Protection Act, which bans selling, renting or conveying telephone numbers and prohibits connecting with a telecommunications service or IP-enacted voice service to gain access to a caller ID to defraud, cause harm or wrongfully obtain anything of value. Senator Steve Halloran (NP), who sponsored the bill, worked to balance the economic role of the telemarketing industry with consumer protections. “As a citizen and businessman, I clearly recognize that this is an important industry to the economy,” he says. “I don’t intend to harm the industry, but rather help [them] and protect the good people of Nebraska.”

Tennessee and Virginia increased the penalties for using false caller ID information. Alabama, Hawaii, Illinois, Kentucky, New Jersey, North Dakota and Pennsylvania adopted resolutions. Pennsylvania Representative Kerry Benninghoff (R), who supports more federal action, sponsored a resolution urging Congress to grant the FCC additional authority to stop unwanted and illegal robocalls and spoofing.

“Clearly, more needs to be done,” Benninghoff says. “Our phones are ringing off the hook. Every day, and several times a day, our seniors and neighbors are being bombarded by people who are attempting to steal their hard-earned money and personal information.”

Industry Responds

In a joint statement, USTelecom, CTIA—The Wireless Association and NCTA—The Internet & Television Association affirmed their commitment to battling illegal and unwanted calls. “Illegal robocalls are more than annoying, they are a deliberate attempt by criminals to flood voice networks with unwanted calls that scam, spoof and prey upon vulnerable consumers who are justifiably fed up.”

When the U.S. House passed the Stopping Bad Robocalls Act and sent it to the Senate in July, the response from Tim

“PEOPLE ARE AFRAID TO
ANSWER THEIR PHONES.”

Senator Justin Chenette, Maine



McKone, AT&T’s executive vice president of federal relations, was encouraging. “We have long called for a holistic approach to addressing unwanted and illegal robocalls, encouraged the deployment of new technologies, and advocated for increased law enforcement,” he said. “The Stopping Bad Robocalls Act represents another tool in our collective industry and enforcement toolbox.”

The U.S. Senate passed the bipartisan TRACED Act (short for Telephone Robocall Abuse Criminal Enforcement and Deterrence) in May. It will, among other things, raise the fines the FCC can levy on robocallers and increase the statute of limitations for bringing those cases.

Consumer Beware

What can frustrated, wary consumers do as they wait for action at the state and federal levels? Stay alert.

To combat unwanted robocalls and phone scams, the FCC recommends that you not answer calls from unknown numbers. If you do answer and realize it’s an unwanted call, hang up immediately. If the caller or recording asks you to hit a button to stop getting calls, just hang up. It’s a trick often used by scammers to identify potential targets. And do not respond to any questions, especially those that can be answered with “Yes.”

So, fair warning to the robocaller targeting this NCSL staffer, in Japanese, on my office phone. I’m not going to push any more buttons or try to get you to speak English. I’m simply not answering any more unknown callers. I’m robocalling it off. I’ve had enough.

Heather Morton is a program principal in NCSL’s Fiscal Affairs Program.

Know Your Robo-Terms

Robocall: a telephone call from an automated source that delivers a recorded message to a large number of people.

Caller ID spoofing: deliberately falsifying the information transmitted to a caller ID display to disguise the caller’s identity.

SHAKEN/STIR: a technology that prevents the completion of spoofed phone calls and ensures calls are authentic and secure by using cryptographic certificates. It stands for Signature-based Handling of Asserted Information Using toKENs (SHAKEN) and the Secure Telephone Identity Revisited (STIR).

The IRS Scam

The Internal Revenue Service will not:

- Call you to demand immediate payment. The IRS will not call you if you owe taxes without first sending you a bill in the mail.
- Demand that you pay taxes and not allow you to question or appeal the amount you owe.
- Require that you pay your taxes a certain way—with a prepaid debit card, for example.
- Ask for your credit or debit card numbers over the phone.
- Threaten to bring in police or other agencies to arrest you for not paying.

If you don’t owe taxes or have no reason to think that you do:

- Do not give out any information. Hang up immediately.
- Contact TIGTA (the Treasury Inspector General for Tax Administration) to report the call. Use its “IRS Impersonation Scam Reporting” webpage. You can also call 800-366-4484.
- Report the call to the Federal Trade Commission. Use the “FTC Complaint Assistant” on FTC.gov. Add “IRS Telephone Scam” in the notes.

If you know you owe tax or think you may owe:

- Call the IRS at 800-829-1040. IRS workers can help you.

Source: IRS.gov

Backstories

Our occasional series profiling legislators and their personal journeys to the statehouse

Illinois Senator Napoleon Harris represents Chicago's 9th Ward and cites as a role model Harold Washington, who in 1983 was the first African American to be elected mayor of the city.



Courtesy Napoleon Harris

ILLINOIS

Napoleon Harris

Napoleon Harris cherishes his role as the legislative voice of Chicago's 9th Ward and the demographically diverse string of small cities and townships to the southwest, in which he has deep roots.

"This south-suburban area is a hidden gem that a guy like myself, with help from others, can turn around," he says. Elected without opposition to his third term in the Illinois Senate in 2018, Harris says he

continues to focus on "enacting legislation that helps communities grow, change and get stronger."

Harris, 39, grew up in the hardscrabble towns of Dixmoor and Harvey—both are just south of Chicago—where his mother, a hair stylist, struggled to make ends meet after his father died. An honor student and standout athlete in high school, Harris had scholarship offers from all over the country but chose Northwestern University for its highly rated communications program—plus its proximity to his family.

Following his senior year in 2002, Harris

was a first-round draft pick of the Oakland Raiders and went on to play seven seasons at linebacker for the Raiders, the Minnesota Vikings and the Kansas City Chiefs.

Throughout his playing career he always found time to return to Harvey—working out at his old high school, spending time with neighborhood kids and opening a pair of Beggars Pizza restaurants, along with a summer job-training program.

After Harris retired from professional football in 2009, he and his wife, Nicole, a nurse, decided to put down roots in his hometown.



Wikipedia

Harris during his playing days with the Kansas City Chiefs, in 2008.

"YOU KNOW, IN FOOTBALL, IT'S X'S AND O'S, EVERYTHING'S ACCOUNTED FOR, AND YOU CAN SEE THE FRUITS OF YOUR LABOR. THE NATURE OF POLITICS IS DIFFERENT—EVERYTHING TAKES LONGER."

Senator Napoleon Harris, Illinois



Harris says that, growing up, he found a strong role model in Harold Washington, who in 1983 was the first African American to be elected mayor of Chicago. "He was commanding, intelligent, illuminating—a man of real quality who did so much for people," Harris says. "I looked at him and thought, if he can do it, so can I."

In 2012, Harris, a Democrat, was elected to an open seat in the Illinois Senate. Among the first bills he successfully sponsored was one providing new protections for high school athletes, including concussion protocols, and catastrophic accident insurance for students injured during high school athletic events.

Over the years, he has played a key role in advancing legislation on urban flooding, K-12 school disciplinary policies and community banks. He chairs the Senate Agriculture Committee and serves on committees handling commerce and economic development, telecommunications, insurance and pensions, and transportation.

Harris says his biggest frustration is "not being able to get things done quickly, mostly because of partisan politics. You know, in football, it's X's and O's, everything's accounted for, and you can see the fruits of your labor. The nature of politics is different—everything takes longer. So I put a lot of focus on getting people to talk to one another."

He is particularly proud of having sponsored a recently enacted requirement that all public postsecondary institutions in the state offer a course in African American history. "Education is the only way we can combat negative stereotypes seen on the news, social media and in movies," he says. "It should be a priority for our universities to offer a course that teaches students about our culture and the contributions we've made to society."

In 2016, Harris made an unsuccessful run for the Democratic nomination for the U.S. Senate seat that Tammy Duckworth went on to win. Will he run again for higher office? "It's always a possibility, if the opportunity presents itself," he says.

"I do know that I don't see myself stay-

ing in the [General] Assembly for the next 30 years. I'm looking at making way for the next generation of leaders. New people and new ideas are essential."

—Suzanne Weiss

MISSOURI

Wayne Wallingford

As a newly elected member of the Missouri General Assembly, Wayne Wallingford was asked which committees he wanted to serve on. "All of 'em," I said, and I was only half-joking," he recalls.

Nine years later, Wallingford's appetite for the nuts and bolts of legislative work—digging into issues, holding hearings, introducing bills, moving them forward—remains undiminished.

Indeed, rather than giving it all up next year, when he is term-limited out of the Senate, he's decided to restart the clock by running for what will be an open House seat in his southeast Missouri district.

"I've never been in favor of term limits. You just lose so much when people are forced to move on—knowledge, experience, institutional memory, the relationships you've built up," says Wallingford, a Republican who over the course of his life has been a career Air Force officer, a college professor and a corporate executive. "Besides, I'm not ready to retire."

A native of Geneva, Ill., Wallingford, earned a bachelor's degree in business and completed an officer-training program at the University of Nebraska. In 1970, he was sent to Thailand for what would be the first of five deployments during the Vietnam War, serving as a navigator aboard the B-52 Stratofortress, a long-range strategic bomber, for more than 300 missions.

On one of the last of those missions, his plane was hit by antiaircraft flak and limped back to base with nearly 700 holes in the fuselage. "The plane got the Purple



Courtesy Wayne Wallingford; below, Wikipedia

Above, Wallingford with his wife, Susan. Below, Wallingford, a career Air Force officer, served as a navigator on a B-52 Stratofortress, like this one, for more than 300 missions during the Vietnam War.

Heart. The crew members didn't. I liked it that way," he says.

In 1985 he was offered a position as professor of aerospace science at Southeast Missouri State University in Cape Girardeau, a picturesque Mississippi River town where he and his family decided to settle down.

In 1990, Wallingford returned to combat, serving six tours as an intelligence officer in Iraq during Desert Shield and Desert Storm. He retired in 1993 at the rank of lieutenant colonel, having earned 47 medals, including the Silver Star and the Distinguished Flying Cross.

For most of his life, Wallingford says, he had only a passing interest in politics. But a business acquaintance's suggestion that he think about running for office piqued his interest. In 2010, Wallingford was elected to the Missouri House of Representatives, where he served one term be-



fore running for—and winning—an open Senate seat.

Wallingford has racked up a solid legislative record, successfully sponsoring major bills in areas ranging from juvenile jus-

tice reform to transportation to public employee retirement funding. He currently chairs the Commerce, Consumer Protection, Energy and Environment Committee, serves on four other standing committees

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Senator Wayne Wallingford, Missouri





Courtesy Robert Lee Dickey

Robert Lee Dickey, from left, his son, Lee, and his father, Robert “Mr. Bob” Dickey, enjoying the fruit of their labor—Dickey Farms peaches.

and several study panels, and in 2018 was elected assistant majority floor leader.

Three of his biggest victories have come in the last two legislative sessions: a \$100 million road and bridge reconstruction package, a bill raising the age of those considered adult offenders from 17 to 18 and the establishment of a state funding mechanism for 911 emergency services—which Missouri was the only state in the nation not to have done over the years.

At 73, Wallingford shows no signs of slowing down. In addition to his legislative duties, he is the “chief people officer” (aka HR director) for McDonald’s southeast Missouri operations and serves on the board of more than a dozen nonprofit organizations.

He is looking forward to running for the House seat in his district next year, even though he faces a serious challenge in the Republican primary from a former Cape

Girardeau city councilman. “It’s not going to be easy, I know,” he says. “But that’s OK—I’m up for it.”

—Suzanne Weiss

GEORGIA

Robert Lee Dickey

Legislating is a lot like farming, says Robert Lee Dickey III, who knows a thing or two about both. A good yield, in his view, requires “discipline, patience, hard work, reinvestment and long-term perspective.”

Dickey is a fourth-generation peach and timber grower who was named the 2019 Georgia state winner of Sunbelt Ag Expo’s

Southeastern Farmer of the Year Award.

He describes serving in the state House of Representatives for the past eight years as “one of the most rewarding experiences of my life.” His legislative work in areas ranging from early-childhood education to rural economic development has given him the opportunity to “help make Georgia a better place to live—and you can’t beat that.”

Agriculture, politics and public service are in Dickey’s blood. His great-grandfather—who began cultivating peaches in the heavy clay soil of central Georgia in 1897—served in the state legislature, as did one of his uncles, and Dickey’s father was a county commissioner.

“Being a legislator was something that I’ve always wanted to do, and I came pretty close to running many years ago,” he says. “But now I’m glad I waited until later in life to do this. I’m much better at

being able to balance the demands on my time and energy than I would have been back then.”

From that first small orchard planted by Dickey’s great-grandfather, Dickey Farms has grown into a 4,000-acre spread, spanning several counties, on which the family produces peaches, pecans, strawberries and specialty crops, and manages a large expanse of timberland. The farm is home to the state’s oldest continuously operating peach packinghouse, a thriving retail and mail-order business, and a growing agritourism program.

Over the years, Dickey has made many changes on the farm while honoring his family’s history. To increase energy efficiency and reduce water use, the farm has transitioned to low-volume drip irrigation. Its 100,000 peach trees are still planted in traditional rows, but the areas between them are maintained in sod—an environmentally friendly practice that prevents erosion, adds organic matter to the soil and provides habitat for beneficial insects.

Running the farm is a family endeavor. Dickey’s wife of 41 years, Cynde, is the farm’s chief financial officer; his son, Lee, manages the farm’s food-safety program and the installation of new trees and specialty crops; and his daughter-in-law, Stacy, oversees marketing, retail and educational services. His 91-year-old father, known as “Mr. Bob,” is “the farm’s biggest cheerleader and a wonderful mentor for me and my son.” Dickey, a Republican, won a three-way race for an open legislative seat in a 2011 special election. He has run unopposed for reelection every two years since.

Agriculture is Georgia’s leading industry but, mirroring a decades-long national trend, the number of farmers serving in the legislature has steadily decreased to just six in the Senate and 10 in the House currently. “There’s just a handful of us, but we’re all pulling in the same direction,” Dickey says. “Our biggest challenge here in Georgia is to stay economically competitive, so it’s vital to have the experience and ideas of farmers taken into account.”

As chair of the House Appropriations

“OUR BIGGEST CHALLENGE HERE IN GEORGIA IS TO STAY ECONOMICALLY COMPETITIVE, SO IT’S VITAL TO HAVE THE EXPERIENCE AND IDEAS OF FARMERS TAKEN INTO ACCOUNT.”

Representative Robert Lee Dickey, Georgia



Courtesy Robert Lee Dickey

Dickey at his family farm. Agriculture, politics and public service are in Dickey’s blood. His great-grandfather—who began cultivating peaches in central Georgia in 1897—served in the state legislature, as did one of his uncles.

Subcommittee on Education, Dickey has earned a reputation as a champion of greater investment in early-childhood education, higher salaries for teachers and restoration of higher education funding to pre-Great Recession levels. He has also led several efforts to support economic development in rural counties, from expanding access to high-speed internet to bolstering programs that supply locally grown produce for school cafeterias.

Dickey says his schedule during each year’s legislative session is “pretty intense,”

including a daily three-hour round trip between the farm and Atlanta four or five days a week. “Fortunately, I’m blessed with a supportive family who’ve made sacrifices in time and energy so that I can be away so much from January through March.”

—Suzanne Weiss

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

SEXUAL HARASSMENT

Lawmakers Bolster Their Anti-Harassment Policies

BY SELENA SAUCEDO

The #MeToo movement of 2017 prompted lawmakers in several states to pass measures to combat sexual harassment in workplaces both inside and outside the legislature. Other legislative bodies modified chamber rules and internal personnel policies. From creating new offices to increasing training requirements to expanding the list of those subject to new policies, these reforms are reshaping the workplace culture in many state capitols.

The Massachusetts House of Representatives was an early adopter of post-#MeToo changes, passing a sweeping rules reform package in 2018 after conducting a human resources audit and reviewing current policies and best practices. The House subsequently created the position of equal employment opportunity officer, charged with oversight of the chamber's anti-discrimination policy, including harassment, and implementing measures to prevent disparate treatment in the future. According to House Speaker Robert DeLeo (D), the changes made "represent some of the strongest measures in the nation when it comes to fostering a safe, professional workplace."

The Illinois General Assembly created a Task Force on Sexual Discrimination and Harassment in 2018 to conduct a review of the legal and social consequences of sexual harassment and to make recommen-

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dations for both the public and the private sectors. Lawmakers also passed legislation that requires the legislature to adopt sexual harassment policies, establish training for legislators, legislative staff and lobbyists, and create a hotline for reporting harassment.

The Massachusetts House and the Illinois General Assembly also focused on how internal harassment policies can include "third-party" actors in legislative workplaces—or people other than legislators and legislative staff. Including third-party actors in policies recognizes their access to and the interaction they may have with lawmakers and legislative staff. The Massachusetts rule defines third party as "any person visiting the House of Representatives, or conducting official business or work with any member officer or employee of the House." In other states, third parties can specifically include lobbyists,

the media, vendors and other non-legislative employees, and the public.

Most recently, California, Georgia and Maine adopted new laws, rules or policies that include third parties. In a 2019 NCSL survey of 39 legislative HR staff, more than half reported that people other than legislators and staff were also included in their sexual harassment rules or policies.

Despite the trend toward expanding coverage to include lobbyists and others, no two policies are the same.

In Georgia, lobbyists must verify that they have received, read and agreed to abide by the sexual harassment policy of the General Assembly. The Idaho Legislature broadened its harassment policy beyond legislators and legislative employees, interns and volunteers to include "legislative partners," defined as "lobbyists, representatives of state agencies, members of the media and other individuals conducting business in the Capitol or conducting business with the Senate, the House of Representatives, the Legislative Services Office or the Office of Performance Evaluations."

Maine requires lobbyists to attend sexual harassment prevention training similar to that conducted for legislators and legislative staff.

And in Washington, the Legislature recently passed legislation requiring lobbyists to complete sexual harassment training developed by the chief clerk of the House and the secretary of the Senate.

Whatever direction a state has gone with its harassment policies, it's clear that lawmakers are serious about eliminating demeaning and inappropriate behavior from their workplaces. And they're not done. More action is sure to follow.

Selena Saucedo is a policy specialist in NCSL's Center for Legislative Strengthening.

EVIDENCE-BASED POLICY

5 Questions to Help You Test Evidence

BY IRIS HENTZE

If you haven't yet heard the term "evidence-based policy," you haven't been listening. It was first used in 1992 in medicine and has since spread to other fields, including education, law and public policy. It's now used so often, it's easy to gloss over. But what does it really mean? When your colleagues in the legislature take policy positions, claiming the evidence supports their opinion, here are five questions to ask them.

How is 'evidence' being defined?

1 Often, lawmakers will claim they have evidence to support a policy, but rarely do we stop and ask them to define how exactly they are using the term. In some states, evidence is statutorily defined. Knowing the definition in your state, and clarifying the definition when needed, is important. This will help ensure that everyone is speaking the same language and adhering to the same standards.

Is it causal or correlational?

2 Causal evidence tells us whether a policy produced its intended outcomes. It's the strongest type of evidence you can use to predict a policy's impact on constituents. When used as part of a well-done study, it can even measure the extent to which a change can be attributed to a given policy. Correlational evidence can tell us that there is a relationship between a policy and its outcomes, but not that the policy caused the outcomes. The results may come from other factors or policies. Be sure to look for these differences.

How strong is the evidence?

3 If your colleague's evidence is in fact causal, rather than anecdotal, it's time to dig deeper. The scientific method teaches us that a study's results aren't completely reliable until the experiment has been replicated, producing the same or similar results. Policy-making is no different. The more a policy has been replicated and studied, the stronger the evidence and the more confident you can be that it will have the same effect in your state. Ask whether there is evidence from other states that shows similar, as well as different, results. Better yet, ask if there is a systematic review, which summarizes the best available research on the policy.

What's the goal of the policy?

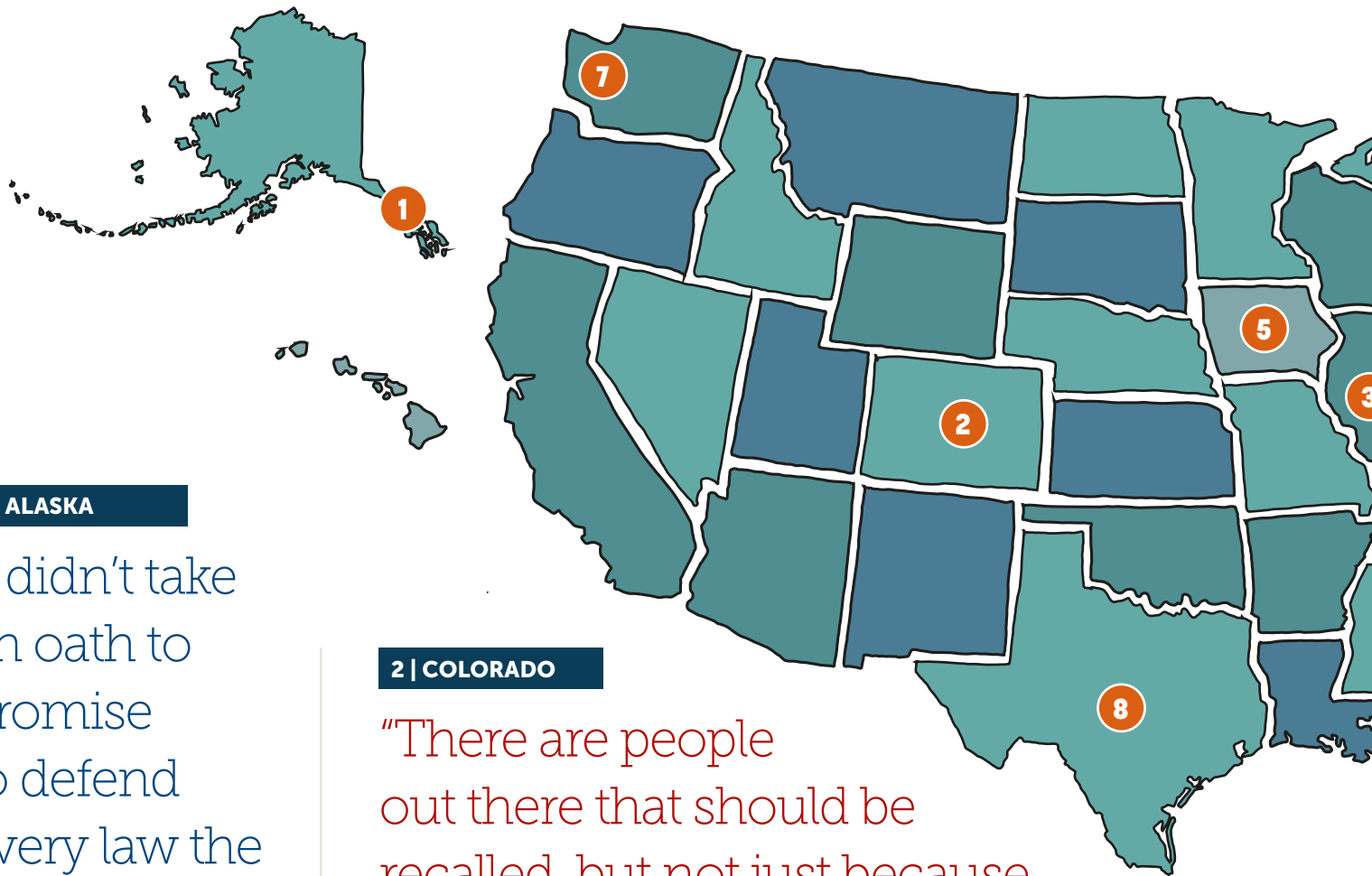
4 At this point you may know the evidence is scientific, and that studies have been replicated. But does the evidence show that the policy achieves the specific outcomes that you want? It's important to understand what outcomes the evaluations studied since a policy can be effective for many reasons. For example, a policy addressing substance use disorders among offenders may have been evaluated only for its impact on drug use and not on recidivism or employment. When assessing a policy's evidence of effectiveness, it is crucial to ensure the evidence matches your state's objectives.

How will we know the policy works?

5 The policy may be evidence-based, with a clearly described goal, but does it include specific measures or benchmarks to track its progress and success? If such measures are left out, the agencies tasked with implementation will develop their own. Lawmakers can help ensure success by writing benchmarks into the policy and by requiring regular evaluations.

Iris Hentze is a policy associate in NCSL's Employment, Labor and Retirement Program.

Newsmakers



1 | ALASKA

"I didn't take an oath to promise to defend every law the Legislature passes no matter how unconstitutional it is."

Attorney General Kevin Clarkson (R), in response to being sued by Senate President Cathy Giessel (R) and Senate Minority Leader Tom Begich (D) for refusing to defend a law that encourages construction firms to use Alaskan workers on state contracts, in the Anchorage Daily News.

2 | COLORADO

"There are people out there that should be recalled, but not just because you don't like the way that person is."

Representative Tom Sullivan (D) on his support of a bill to tighten the state's recall rules, from the Colorado Sun.

3 | ILLINOIS

"After getting to know these bright and intelligent individuals, I have no doubt our future is in great hands."

Senator Donald DeWitte (R) on the nearly 50 high school students who participated in the inaugural Youth Advisory Council, a hands-on experience in public policy, state government and leadership, in the Kane County Chronicle.



4 | VIRGINIA

"I could continue to be quiet and accept things, or I really had to become much more visible."

Senator-elect Ghazala Hashmi (D), the state's first Muslim senator, on why she decided to run for office, in the New York Times.

5 | IOWA

Speaker Linda Upmeyer (R), the state's first female speaker, plans to step down from the legislature. Upmeyer was first elected to the House in 2002 and has served as speaker for four years. "It has been the honor of a lifetime to serve the people of Iowa," Upmeyer said in a statement. She plans to spend more time with her family, including her grandchildren. House Republicans selected Pat Grassley as the new speaker. Grassley is the grandson of U.S. Senator Chuck Grassley (R) and works the Grassley family farm with his father and grandfather. Representative Matt Windschitl (R) will serve as majority leader and Representative John Wills (R) as speaker pro tem.

6 | TENNESSEE

Speaker Cameron Sexton (R) will lead the House chamber into 2020. Sexton succeeds Representative Glen Casada (R), who resigned as speaker in August. A fifth-generation Tennessean, Sexton is serving his fifth term in the legislature. "In this chamber, I will always encourage robust but respectful debate," he said during his acceptance speech. "Debate and conversation make us stronger."

7 | WASHINGTON

House Democrats chose Laurie Jinkins of Tacoma to succeed Speaker Frank Chopp (D). Until he stepped down in May, Chopp was among the longest-serving speakers in the nation. Jinkins will be formally voted in at the start of the new session in January. She will be the state's first female speaker and is one of just three openly LGBTQ lawmakers nationwide serving as a chamber leader.

8 | TEXAS

House Speaker Dennis Bonnen (R) announced in October that he will not seek reelection and will give up his leadership gavel. He will continue to serve until a new representative for his district takes office in January 2021. It was unclear at press time how Bonnen's decision would affect his duties as leader during the interim. Bonnen's announcement closes a 22-year career in the House, to which he was elected at age 24.

9 | MARYLAND

Senate President Thomas V. Mike Miller (D), the nation's longest-serving Senate president, announced that he'll step down from his post next year. He has held the role since 1987. He will serve as president until the start of the next session in January, then complete the remaining three years on his Senate term. Miller has been in treatment for metastatic prostate cancer for over a year. Senate Democrats unanimously elected Bill Ferguson (D) as their Senate president nominee.

Yes, No, Maybe So

ETHICS

Should Payment for Testimony Be Disclosed?

BY NICHOLAS BIRDSONG

You've been in office for two years now. Why haven't you fixed our city's potholes, lowered the cost of drugs and balanced the federal budget yet?

Unrealistic expectations aren't that uncommon. Lawmakers are likely to have a difficult job trying to satisfy constituents who expect virtual miracles.

Among the most widespread of all unrealistic expectations is the idea that public officials should know the intimate details of every issue affecting a state and its residents. While many legislators are extremely knowledgeable, they lack omniscience.

The legislative process depends on constituents and their representatives engaging with public officials to explain how state action might affect their lives or businesses.

Recognition of the importance of open communication between a government and its people dates to at least 1628, when the adoption of the Petition of Right into the Magna Carta. This provision later formed the basis for the First Amendment right that ensures every American may petition the government to redress grievances.

Although that right is commonly framed as being in service of the people, elected officials benefit by gaining insights into the interests, motivations and concerns of voters. The collaboration grants individ-

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ual legislators access to information that brings them closer to the otherwise impossible expectations of the office.

But, like most ideas, they get more complicated when put into practice.

Some lobbyists have employed a strategy of paying constituents to testify in public committee hearings without disclosure of the payments until long after consideration of an issue has concluded.

Critics of the practice argue that paid testimony presents a false impression of public opinion. As a result, legislators may be misled into taking a position at odds with the true wishes of their constituents.

Restricting the practice of undisclosed paid public testimony may be in line

with existing rules that require lobbyists to identify themselves and who they represent.

Currently, 43 states include compensation as one of the defining characteristics of a lobbyist and may require their registration. Just over half have laws that may consider paid public testimony a reason to require registration and disclosure as lobbying activity. At least 21 states also explicitly forbid lobbyists from misleading legislators about a matter.

On the other hand, opponents of restricting paid public testimony have plenty of room to argue.

Some free speech advocates decry any additional restrictions based on the constitutional right to petition. They argue that reimbursements or small payments may enable people to show up and testify, but are insufficient to get someone to testify against their own beliefs and are unlikely to motivate someone to present a false appearance of public opinion.

The act of testifying occurs in full public view, which may negate any threat of apparent unethical conduct. In at least four states, committee testimony is exempted from the definition of lobbying or related registration requirements.

Anyone motivated to visit the capitol and speak about a bill probably has a personal or financial interest at stake. The underlying rationale of the testimony may matter more than the number of speakers who show up. The ultimate determination about how or if paid public testimony should be regulated may depend on whether legislators or the public feel they have been misled or manipulated by the practice.

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

Lee Chatfield

Speaker, Michigan House of Representatives

Lee Chatfield, 31, is the youngest speaker in Michigan in more than 100 years and is currently the youngest speaker in the country. First elected to the House in 2014, Chatfield was a high school teacher, coach and athletic director. He earned a master's degree in public policy from Liberty University in Lynchburg, Va.

What are the advantages and disadvantages being in a leadership position at a young age?

I don't view age as a hindrance to those in leadership as long as they surround themselves with people who have experience. I do believe, though, that with age and experience there is a potential to become entrenched in your position. I've approached this position with an open mind and a fresh perspective and understanding that I don't have the answers to everything. If there's one thing the people of our country have proven in the past couple of elections, it's that they don't necessarily value experience. They want a fresh perspective and someone who is going to speak their mind willingly and freely. That can happen at any age.

What effect do Michigan's term limits have on your approach to leading?

I do believe I would not be speaker had there not been term limits, and the stringent term limits in Michigan and other states lead to an element of inexperience at the helm. That's why I've surrounded myself with people who challenge me and lead me down the path of experience.

What led you to make government transparency a priority?

I think trust in government is at an all-time low in our country. To restore that trust between the people and government we need to have openness and transparency.

You and your wife have five children. What has parenthood taught you?

My children have taught me that you don't get everything you want. Parenting is all about negotiating, and I take that and implement it in government every day.



What drove you to run for office?

It was partly the lesson I learned from my father that you either put up or shut up. If you're not happy with what's going on in society, then get involved. Our communities or churches or whatever sector you're involved in aren't short of complainers, but many times we're short of doers.

What life lessons did you learn from coaching?

You're not always going to win. Even though I was a teacher, I was a big believer that you learn more life lessons on the soccer field or basketball court than you do in the classroom. The importance of being a team player was a big lesson for me growing up. You'll never win unless you work with others and try to find your role and perform it well. That's probably one of the biggest elements that's lost today, certainly on the national scene. We all feel the desire to placate a base rather than come up with good, sound public policy.

What would surprise people most to learn about you?

I tend to be very conservative in my beliefs regarding public policy, but I understand there's a need within government, and certainly the divided government in which I serve, to reach a consensus. And reaching a consensus requires a certain element of compromise. Many at the beginning of my political career believed I was going to have an all-or-nothing approach but found out very quickly that when you approach something as all or nothing, you normally get nothing. If it's my way or the highway, you're normally walking down the highway alone.

What final words would you like to share?

I'm an eternal optimist and avid Detroit sports fan. Because of that, I still believe that the Lions will win a Super Bowl in my lifetime. It's destined to happen.

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



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-Representative Christine P. Barber, Massachusetts