



MAY/JUNE 2020

**CORONAVIRUS**

**“I’ve never seen anything like this.”**

Legislatures respond | **14**

Lawmakers in the battle | **22**

Changes coming for elections | **26**

No policy area untouched | **28**





# **BUILDING DEMOCRACY**

THE STORY OF  
LEGISLATURES

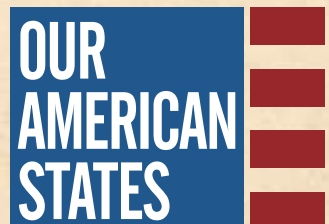
## **A special podcast series of NCSL's Our American States**

Explore the characters, stories and historical events that shaped how we are governed today. Hosts Megan McClure and John Mahoney, along with special guests, walk listeners through the evolution of our modern-day American state legislatures, including a look at what lies ahead.

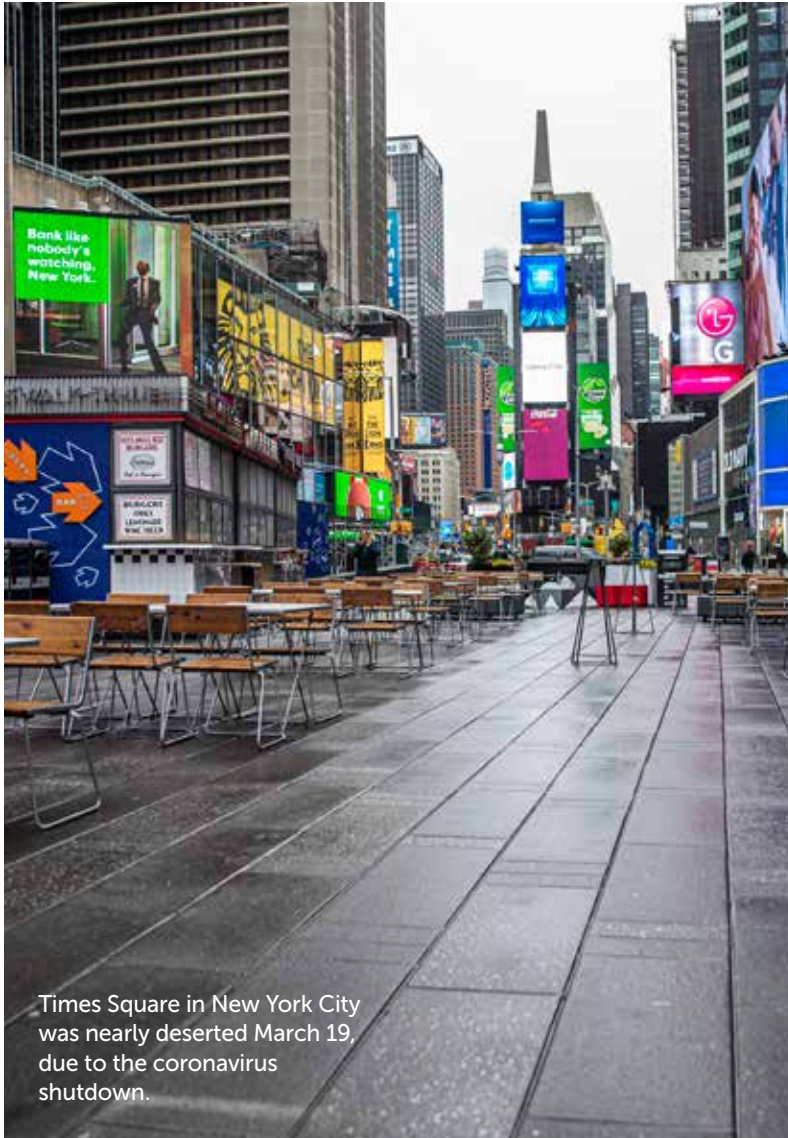
Here's what we'll cover:

- **Episode 1:** First Assembly - Virginia 1619
- **Episode 2:** Legislatures in the Revolutionary War Era
- **Episode 3:** Early Western Legislatures
- **Episode 4:** Leading on Women's Suffrage
- **Episode 5:** The Modern Legislature
- **Episode 6:** The Future of State Legislatures

For outtakes, extended interviews and additional resources for this podcast, please visit [www.ncsl.org/BuildingDemocracy](http://www.ncsl.org/BuildingDemocracy).



## FEATURES



Times Square in New York City was nearly deserted March 19, due to the coronavirus shutdown.

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State Legislatures (ISSN 0147-0641) is published 6 times a year by the National Conference of State Legislatures. ©2020. All rights reserved. Reproduction in whole or in part without permission is prohibited. Requests for permission to reprint may be emailed to Julie Lays at: julie.lays@ncsl.org. Opinions expressed in this magazine do not necessarily reflect NCSL policy. State Legislatures is indexed in the PAIS Bulletin and Expanded Academic Index.

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

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

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# From the Editor

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Ash and smoke rise from the massive central crater of the Mount St. Helens volcano after the eruption in 1980.

## CRISIS MANAGEMENT

# The Current Pandemic Has Echoes of Emergencies Past

At first, state health officials advised us to cover our nose and mouth with bandanas when we went outside. Then they told us to wet the bandanas, then came a wear-nothing command. And, finally, the advice was to just stay inside. The reality was no one really knew what was best.

It was May 18, 1980, in Spokane, Wash., the day Mount St. Helens erupted and rained several inches of thick, very fine, gray ash on my college graduation ceremony.

I've been struck by some of the similarities of that event with the current pandemic. The eerie quietness. The empty grocery store shelves. The disappointment of events canceled. The frustration



Lays

of being confined to your home. The uncertainty of what lay ahead. It was a confusing time with conflicting information on what to do with all the ash, and what all the ash might do to us.

Still, the scope of that natural disaster 40 years ago pales in comparison to what we face today. COVID-19 is like no other. In this issue, we discuss how it has affected legislatures and how they have responded. We look at how policy areas and elections have been altered, perhaps permanently.

And we introduce you to some of the heroes among us—fellow lawmakers and staff who are nurses and doctors working on the front lines against the coronavirus.

We know we'll get through this pandemic, as the TV ads continually remind us. So, we've included a few non-COVID-19 topics as well, along with a nod to all the hardworking legislative staff, highlighting a few of you in a Legislative Staff Week special section. And, we bring this issue to you as a digital and PDF edition only, keeping an acceptable social distance, always.

—Julie Lays

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# From the Director

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## QUARANTINE DAYS

### Despite Our Losses, Americans and NCSL Are Adapting

Throughout this COVID-19 pandemic, I've noticed how Americans and our institutions have responded quickly by innovating and adapting. Even though it seems to many that we are sometimes living these quarantine days in slow motion, the pace at which American institutions, and the American people, pivoted to combat the threat has been truly remarkable.

Despite the awful loss, pain and suffering that the virus has caused for too many in the United States and around the world, I believe that we will look back and marvel at how we responded:

- Our health care system focusing all its knowledge and effort on treating the afflicted.
- The scientific community working to understand and address the new viral threat.
- Teachers finding creative ways to keep children engaged through distance learning.
- Parents, who are pivoting so often they are spinning, trying to manage working from home, supporting learning and keeping everyone safe and fed.
- Grocery stores reinventing the shopping experience to keep customers safe.
- Small businesses innovating to keep as many people employed as possible.
- Businesses, large and small, shifting operations to produce ventilators and other vital medical equipment.

The list could go on and on. Everyone has had to adapt, and most have done it with grace and resolve. Could it have been even better? Sure. Yet, the way Americans have risen to the crisis has been phenomenal, and that's led to hundreds of thousands of lives saved.

NCSL's pivot has been not so much about what we do as how we do it. Yes,

NCSL'S PIVOT HAS BEEN NOT SO MUCH ABOUT WHAT WE DO AS HOW WE DO IT. YES, WE'RE WORKING FROM HOME ... BUT OUR WORK REMAINS THE SAME: SUPPORTING LEGISLATORS AND STAFF.



Storey

we're working from home and often playing leading or supporting roles in the efforts listed above. But our work remains the same: supporting legislators and staff as they focus their attention on

the critical role legislatures are playing in this crisis. I'm incredibly proud of the way NCSL staff have stepped up. It's been remarkable, and we know that legislators and staff from every state have noticed because engagement and compliments have skyrocketed.

NCSL staff innovated and rallied to produce resources and programs in record time. They were in constant contact with legislative leaders, chairs, rank-and-file members, staff and others to provide up-to-the minute research, programs and information. In April, NCSL held more than 10 webinars related to COVID-19 on public health, the economy, workforce, education, energy and several other topics. The number of legislators, staff and others participating in these programs crushed past webinar attendance records.

We were one of the very first policy

organizations to put together webpages on COVID-19. In about a month's time, the "NCSL Coronavirus (COVID-19) Resources for States" page logged more than 1.4 million visits.

NCSL outthrustled most news organizations the night the U.S. Senate passed the big stimulus bill. By the time the vote closed, NCSL had a full summary of the bill and what it meant for states on our website and out to our members, well ahead of news alerts merely skimming the bill's highlights from CNN, Fox, Politico and others. The webpage had tens of thousands of visits the next day.

NCSL has been a key source for the media, too. In fact, in one week, NCSL was cited more than 1,700 times by newspaper and broadcast journalists across the country with a reach of nearly 1 million news consumers.

NCSL will continue to work hard to provide research and information for legislatures. And, like all Americans, we will continue to react, innovate and adapt to the unprecedented world we find ourselves in.

A handwritten signature in black ink that reads "Tim".

—Tim Storey

# We're With You.

## T-Mobile is delivering 5G nationwide.

T-Mobile appreciates the hard work of state legislators and their staff to address the needs of their communities, especially during this unprecedented public health challenge. As we weather the COVID-19 crisis and look to the future, it is important that our country promotes connectivity in rural and underserved communities.

T-Mobile is here as a partner to state and local governments, providing relief and a reliable network to communicate with family and friends and to facilitate virtual learning, telehealth, and other essential services while we are physically distanced.

Following the close of our merger with Sprint on April 1, T-Mobile is better equipped than ever to keep American families and businesses connected. As a stronger competitor leveraging Sprint's mid-band spectrum, we will deliver on our commitment to deploy a broad and deep nationwide 5G network and the services that come with it.

We are rapidly integrating Sprint's assets into our existing network, and we're already delivering benefits to communities across the country:



**5G For All.** T-Mobile's transformational, nationwide 5G network and services will supercharge U.S. innovation and leadership by connecting people throughout the country, from rural America to urban centers. Within six years, T-Mobile will provide 5G to 99% of the U.S. population and average 5G speeds in excess of 100 Mbps to 90% of the U.S. population. T-Mobile's business plan is built on covering 90% of rural Americans with average 5G speeds of 50 Mbps, up to two times faster than broadband on average.



**Lifting Up Communities Nationwide.** To address the urgent needs of American communities, we launched T-Mobile's lowest-priced plan ever—**T-Mobile Connect**—on March 23. We'll launch our **Connecting Heroes** initiative to offer free unlimited talk, text, and smartphone data to all first responders at all public and nonprofit state and local fire, police, and EMS agencies. We'll also activate **Project 10Million**, helping close the homework gap by delivering free internet access and hardware to 10 million households over the next five years.



**Keeping Americans Connected When It Matters Most.** To address the needs of our customers during the COVID-19 pandemic, we are temporarily offering increased data to schools and students in our EmpowerED program and offering consumers additional smartphone mobile hotspot/tethering service. For a period of time, we also will not terminate service to any residential or small-business customers because of their inability to pay their bills due to disruptions caused by the pandemic, and we will waive any late fees that any residential or small-business customers incur because of their economic circumstances related to the pandemic. You can find the latest on our [COVID-19 response here](#).

**We are just getting started, and we're in this together. As state legislatures reconvene, we look forward to working together to keep our country connected.**

**To all our state leaders and their staff, thank you for your hard work.**

# NCSL on the Hill

## NCSL Helps Secure State Funding in 2 Major Federal Relief Packages

As the nation's capital was shutting down to help mitigate the COVID-19 virus, NCSL's staff ramped up advocacy efforts in Washington, D.C., to ensure states had the federal resources needed to battle the pandemic.

The unprecedented public health emergency posed a behemoth challenge to states, requiring NCSL to leverage relationships at the federal and legislative levels and with coalition partners. Even as staff adapted to a "tele-advocacy" environment, they produced a flurry of forms, including letters to Congress and the Trump administration, Big Seven coalition statements of position and virtual meetings with congressional members and staff—all with the goal of securing flexible, direct resources to states on the front lines of the pandemic.

NCSL successfully helped to secure funding for states in both the Families First Coronavirus

Response Act (FFCRA) and the \$2.2 trillion Coronavirus Aid, Relief and Economic Security (CARES) Act.

Within hours of enactment of the response packages, NCSL staff released an analysis and initiated a series of webinars for members distilling all the major policy areas affected, including education, emergency management, fiscal and health services.

In addition to launching more than a dozen webinars, staff also conducted multiple state-focused briefings for legislative leadership. In lieu of in-person gatherings, large-scale virtual engagements continue at a feverish pace with no signs of slowing as Congress and the administration produce new legislation and regulatory guidance affecting recently passed laws.

NCSL will continue to be the states' advocate in D.C. as the next phase of COVID-19 response develops.

### D.C. FLY-INS

## Carlucci Talks Privacy, Consumer Protection

In early March, New York Senator David Carlucci (D) visited Washington, D.C., to help NCSL showcase state leadership in privacy and consumer protection. Carlucci met with staff from the Senate Commerce and House Energy and Commerce committees, both of which have released bills or proposed legislation on privacy.

Although neither chamber currently has scheduled hearings on comprehensive privacy legislation, progress on a federal bill continues.

Carlucci also met with Federal Communications Commission representatives to discuss spoofing and robocalls, state-federal collaboration and the agency's proposed three-digit mental health hotline.



Carlucci

*D.C. Fly-Ins: As the voice of state legislatures in Washington, D.C., NCSL brings legislators to Capitol Hill to meet with members of Congress, the administration and other players involved in crucial state-federal issues.*

## THE LATEST FROM D.C.

# 1

### Updating COVID-19 Relief Bills

NCSL is working on two changes to recent coronavirus relief measures: The first would make lost revenue a valid use of the \$150 billion available to states, territories, localities and tribes through the Coronavirus Aid, Relief and Economic Security (CARES) Act. The second would expand eligibility for emergency paid leave payroll tax credits to state and local governments under the Families First Coronavirus Response Act.

—Erlinda Doherty, Jon Jukuri

# 2

### Real ID Deadline Extended

The Department of Homeland Security has moved the Real ID enforcement deadline to Oct. 1, 2021, a change that NCSL sought. NCSL continues to work on updates, including that IDs acceptable for Real ID match those forms of ID already accepted by the Transportation Security Administration, such as military IDs, transportation worker credentials, tribal-issued photo IDs and trusted traveler cards.

—Ben Husch

# 3

### Senate Action on LWCF Likely

Following a presidential tweet of support in early March, U.S. Senate Majority Leader Mitch McConnell (R-Ky.) put a bill on the Senate calendar to allocate \$900 million in permanent funding for the Land Water Conservation Fund, which finances state efforts to develop public parks and other outdoor recreation sites. The bill could come up for a vote when the chamber next convenes.

—Ben Husch, Kristen Hildreth

# 4

### Support for Older Americans

The Supporting Older Americans Act of 2020, which became law in March, appropriates funding across fiscal years 2020-24 for a variety of services and programs for older individuals. The law boosts funding by 7% in the first year, with 6% increases in subsequent years. Among other things, the law removes funding limits for the National Family Caregiver Support Program and supports efforts to address social isolation among older Americans.

—Haley Nicholson, Margaret Wile

### ON THE RADAR

**Data delay:** NCSL is working on behalf of states forced to amend redistricting laws after the U.S. Census Bureau pushed its data delivery date to July 31, 2021.

Visit [www.ncsl.org/ncsl-in-dc](http://www.ncsl.org/ncsl-in-dc) for more on these stories.

# Newsmakers

"I can't think of a better use for a rainy day fund."

West Virginia Senate President **Mitch Carmichael** (R) on allocating money to cover projected revenue shortages caused by pushing back the state tax return filing deadline, from [wvnews.com](http://wvnews.com).

## NCSL's Child Welfare Program Picks Up National Award

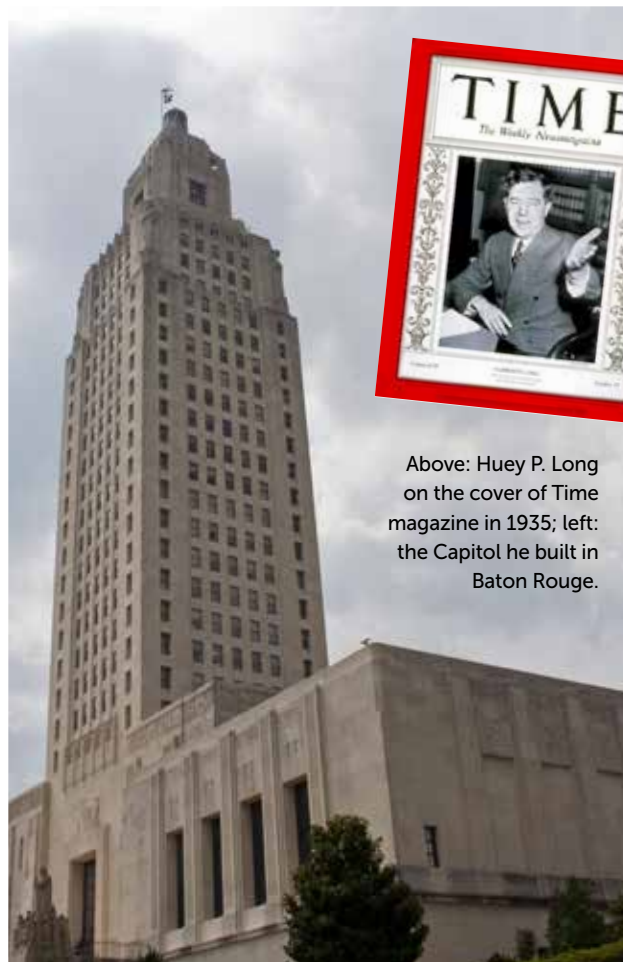
When the National Foundation to End Child Abuse and Neglect announced a contest calling for ideas to transform training in the field of child abuse and neglect, NCSL's Child Welfare team responded. In a paper produced with Florida State University and Prevent Child Abuse America, the team argues that child welfare policy would benefit from greater use of state-specific data and structured collaboration among researchers, policymakers and practitioners. All of that, they write, requires training that breaks down silos in the field.

EndCAN, as the foundation is known, selected the team's paper, "Bridging the Gaps Between Research, Policy and Practice in the Field of Child Maltreatment Through Cross-Sector Training and Innovation," as the winner in the education and training category. The award comes with a cash prize to help put the idea to work, along with publication in the *International Journal on Child Maltreatment*.

Among the paper's authors were NCSL's **Donna Wilson**, **Nina Williams-Mbengue** and **Wade Fickler**.

"You've created civility in this chamber. You walk the walk, and I'm grateful for that."

Florida Senator **Tom Lee** (R) during a farewell tribute to outgoing Senate President **Bill Galvano** (R), from [floridapolitics.com](http://floridapolitics.com).



Above: Huey P. Long on the cover of *Time* magazine in 1935; left: the Capitol he built in Baton Rouge.

## ERA ENDER

### Last in a Long Line



In Louisiana politics, Huey P. "The Kingfish" Long was larger than life. But let's not forget the others in the colorful Long family political dynasty—namely Russell, "Uncle" Earl, Gillis, Speedy, Jimmy and Gerald. They're all part of a line that began with Long's election to the Public Service Commission in 1918. After that a succession of Longs served in the state legislature, the governor's office and Congress.

But, when Louisiana Senate President Pro Tem **Gerald Long** (R), above, left the legislature in January, it marked the first time in a century there wasn't someone with his family's name serving in elective office. Long was term-limited after serving 12 years in the Senate.

"It's the end of an era," he told [thenewsstar.com](http://thenewsstar.com). Long, 75, of Natchitoches (where "Steel Magnolias" was filmed), was a rare Republican in a famously Democratic family. "I don't have a child or a grandchild or a cousin who is even talking about running for elective office."



"I feel like I'm living in extrovert hell. It's not the most important issue at this time, but it's been enlightening to examine how I get my energy. And what it feels like—emotionally and physically—to be distant from others."

Vermont Senate Majority Leader **Becca Balint** (D) on the forced isolation of working from home during the pandemic, from her column in the *Brattleboro Reformer*.

"You have an 86-year-old on a ventilator and you also have a 26-year-old in the ER. Who gets the ventilator?"

Tennessee Senator **Katrina Robinson** (D), an intensive care nurse who went to work in a New York hospital after her state ended its session early due to the coronavirus, from [wate.com](http://wate.com).

## 'Legislative Icon' Fred Risser Announces Retirement



Wisconsin Senator Fred Risser (D), the nation's longest-serving state lawmaker, announced he will retire after his current term ends. Once elected to the Assem-

bly in 1956, then to the Senate in 1962, Risser never looked back. His historic 64-year tenure spanned the terms of 13 different governors, and he proudly claims never to have missed a legislative roll call.

Risser, 92, is also the last World War II veteran remaining in either a state legislature or Congress.

"I've always enjoyed representing people," Risser told the Wisconsin State Journal. "I always knew from the time that I was born that I would be involved in some type of political service. I was honored that the people of this district allowed me to serve that long."

Risser "is a legislative icon," said Assembly Speaker and NCSL President Robin Vos (R). "He has inspired generations of current and future lawmakers and, undoubtedly, made a lasting impact on our state."

"We can come out of this pandemic stronger than ever if we look out for our neighbors."

Maine Senate President **Troy Jackson** (D) in a letter to constituents, from [thecounty.me](http://thecounty.me).

## Arkansas Senators Elect New Pro Tempore

The Arkansas Senate elected Jimmy Hickey (R) to serve as the next president pro tempore, from 2021 to 2023. Assuming his party retains control of the chamber in the fall, Hickey will succeed Jim Hendren (R), the current pro tem. Hickey, 53, has served in the Senate since 2013.

## Connecticut Senate Minority Leader to Retire

Len Fasano (R) announced he would not seek a 10th term. Fasano, 61, won his Senate seat with an upset victory in 2002. He succeeded John P. McKinney as caucus leader after the 2014 election cycle. A centrist, Fasano earned a reputation for working across the aisle. "Len and I have worked together countless times to solve problems, help people in need and get vital things done," Senate President Martin M. Looney (D) told [ctmirror.org](http://ctmirror.org).

## Florida Republicans Choose New Leaders

Senator Wilton Simpson (R) was selected to succeed Senator Bill Galvano (R) as the upper chamber's next president. Simpson, 53, was first elected to his seat in 2012. Assuming Republicans maintain control of the chamber, he will have a hand in the next redistricting with Representative Chris Spowls (R), who is in line to become speaker.

## Wisconsin's Longest Serving Female Leader to Retire

Senator Jennifer Shilling (D) announced she will not seek reelection after 20 years in state politics. Shilling joined the Assembly in 2000 and was elected to the Senate in a special election in 2011. She was elected to serve as minority leader in 2014 and is the longest serving female leader in state history. Senator Janet Bewley (D) will replace Shilling as the minority leader. Bewley, 68, was elected to the Assembly in 2010 and to the Senate in 2014.

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# Trends

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## 911 SERVICES

# To Modernize Call System, States Increase Charges

The 911 emergency system receives more than 240 million calls a year, according to the National 911 Program, with about 80% coming from wireless devices. Americans have come to rely on the system and value it as an essential service.

Nearly 70% of respondents to a National Highway Traffic Safety Administration survey were willing to pay more for expanded 911 services if it would shorten the time it takes for emergency responders to locate them during a crisis.

So far this year, South Dakota enacted a bill that allows emergency call centers (aka public safety answering points) to request, on behalf of law enforcement, that a wireless communications carrier provide the location of a telecommunications device, if the information could help in providing emergency services.

In a significant trend last year, state lawmakers modified funding models for 911 services and increased 911 fees and surcharges. Seven states—Arkansas, California, Kansas, Maryland, New York, Oregon and Utah—created new fees or increased 911 service charges for subscribers of telecommunications services and for consumers who make prepaid purchases of cellphone and other services.

### NG911 on the Way

Some of the new statutes also make money available to implement Next Generation 911 technology, which expands emergency services considerably. NG911 is an internet-based system that allows users to send photos, text messages and videos to an emergency call center and can reroute the data in case the nearest center has problems or is overloaded with calls.

Text-to-911 services are vital when the caller has a hearing or speech disability,



Most Americans say they would pay more for 911 services if it would shorten the time it takes for emergency responders to locate them during a crisis.

when placing a call could put someone in danger or when call systems are overloaded during disasters

No state has fully deployed NG911, but several are modernizing their systems. Arkansas, California, Florida, Kentucky, North Carolina, Pennsylvania and South Carolina have passed legislation supporting enhanced services, with the laws in California, Florida and North Carolina requiring statewide use of text-to-911.

New and enhanced 911 services require not only technical upgrades, but also changes in the roles and responsibilities of 911 dispatchers. More than 90% of respondents to the traffic safety administration's 911 survey said they expected to receive instructions such as how to perform CPR or deliver a baby from 911 dispatchers while waiting for an ambulance.

### Update: 911 and COVID-19

- California's planned upgrades to NG911 are on hold due the pandemic.
- A proposed initiative in Pennsylvania would create a grant program to help fire and EMS companies provide services during the pandemic.
- Minnesota passed legislation to ensure that first responders who contract COVID-19 qualify immediately for workers' compensation without having to prove they got sick on the job. Massachusetts, New York and Ohio are considering similar bills.
- With 911 calls hitting record numbers during the pandemic, there is discussion at the federal level to create a new hazard-pay program for frontline workers.

—Samantha Bloch

## ECONOMY

# Price Gougers Beware

A bottle of hand sanitizer selling for \$60, a thermometer for \$26, 36 rolls of toilet paper for \$80. Reports like these quickly turned public attention to price gouging during the coronavirus outbreak. And states took action immediately.

With grocery stores struggling to keep up with demand for cleaning supplies and other necessities, policymakers moved to protect consumers from outrageous price increases.

Thirty-six states, Guam, Puerto Rico, the U.S. Virgin Islands and the District of Columbia have statutes or regulations that define price gouging during a disaster or emergency. In most states, price gouging is a violation of unfair or deceptive trade practices law. Many of the laws assess civil penalties, though in some states price gouging is a criminal offense.

Eleven states, Guam and the District of Columbia introduced measures addressing price gouging in their 2020 sessions. Maryland, West Virginia, Guam and the District of Columbia enacted legislation.

Maryland prohibited retailers from raising prices in ways that increase the seller's profit by more than 10% while the governor's COVID-19 emergency declaration is in effect. Guam made price gouging illegal during an emergency or epidemic or during a disaster.

And West Virginia lawmakers passed a measure amending the definition of "state of emergency" and authorizing the governor to review the scope of price changes during a crisis and the time period during which prices may not be changed. The governor signed the bill March 25; the law goes into effect June 1.

—Heather Morton

# 11M

Number of Americans who receive a monthly check from a pension program.

## PUBLIC PENSIONS

# Virus Causing Anxiety for Already Troubled Retirement Systems

In addition to its staggering toll on human life and health, the coronavirus has multiplied financial anxieties for millions of Americans. States with chronically underfunded public employee pension plans are also wringing their hands as investment portfolios suffer serious losses and falling revenue projections stress state budgets.

U.S. public pension plans could be starting down an average investment loss of about 21% for the fiscal year ending June 30, according to Moody's Investors Service estimates. Huge losses due to COVID-19 threaten to heap additional debt atop a mountain of unfunded pension liability in

some states. That is, absent a rapid market rebound, increased government contributions or decreased benefits for retirees.

But, as some observers point out, COVID-19's full impact on state retirement systems is difficult to predict, and pension funds have two things on their side: diversified holdings and time to ride out market turmoil. California Public Employees' Retirement System CEO Marcie Frost noted in a recent webinar that pensions anticipate market corrections and that traditional defined benefit structures serve as part of the social safety net, helping ensure financial security for millions of retired workers.

Public pensions' investment time horizons span decades. Fund managers invest their assets in diversified portfolios that include public equities, bonds and alternatives (real estate, private equity, hedge funds, infrastructure). Some funds maintain lower-risk investment profiles than others. But funds with weaker liquidity (cash on hand or short-term investments used to pay out benefits and administrative costs) may need to sell off assets now at a loss, damaging their funded status, according to S&P.

Because of the way pension accounting works, annual losses or gains are smoothed out over several years so that state and local governments don't see big spikes in their annual pension bills. As a result, these dismal numbers won't begin to hit government balance sheets until next year or even 2022. But as states look for longer term budget relief, we are likely to see renewed calls for plan design and benefit changes, like those that followed the Great Recession.

—Anna Petrini



CalPERS headquarters in Sacramento. The California Public Employees' Retirement System is the nation's largest, with assets of \$371 billion.

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# Trends

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## CHILD WELFARE

### A Lawmaker's Guide to Improving Outcomes for Kids

The Family First Prevention Services Act of 2018 offers states an unprecedented opportunity to transform their child welfare systems. Among other things, the law reimburses states for substance abuse and mental health services and for parent skills training to prevent children's entry into care. The law also seeks to reduce states' reliance on group and residential treatment settings. Like many federal laws, Family First is big and complicated. Last year alone, lawmakers enacted 47 Family First-related bills in 24 states.

Here's a how-to guide to the strategies lawmakers are using now to take advantage of the law.

#### How to Maximize Collaboration

As of mid-April, 11 jurisdictions had submitted their required five-year Family First plans for approval by the federal Title IV-E Prevention Services Clearinghouse. Four of the plans—from the District of Columbia, Utah, Arkansas and Maryland—had been approved, with others expected to be OK'd in coming months.

Some of the plans place the goals of Family First within a broader strategy to improve child and family well-being. Washington, D.C.'s Child and Family Services Agency, for example, embedded its plan in the mayor's new Families First DC Initiative, an effort to strengthen families throughout the city.

Kentucky is using Family First as a tool to transform child welfare in the state. Its plan involves the Department of Community Based Services, the governor, the legislature, child welfare advocates, private and community agency partners and other stakeholders. According to the overview, the goal is "reorienting around prevention and family preservation and



utilizing foster care as an intervention of last resort."

#### How to Engage Stakeholders

Lawmakers can work with child welfare agencies and other stakeholders to ensure that community resources, multiple public agencies and individuals who have direct experience with the system are engaged. They can educate legislative peers by leading interim work sessions, calling for informational briefings and forming task forces and work groups. They can request reports identifying eligible prevention programs; assess their agencies' plans to evaluate programs that have yet to receive federal approval; and request assessments of residential service providers and the costs associated with making them conform with Family First. Lawmakers can also request estimates of the costs that prevention services would avoid.



#### More online

Contact Nina Williams-Mbengue at [nina.mbengue@ncsl.org](mailto:nina.mbengue@ncsl.org) for answers to your Family First questions. Visit [ncsl.org](http://ncsl.org) and search "Family First" for 2018-20 legislation, approved state plans and other information.

And, of course, they can craft legislation to align state statutes with Family First and appropriate matching funds for prevention services.

A 2019 Michigan law requires the state's child welfare agency to report to the legislature on the status of the department's planned and achieved implementation of Family First. Other states mandated analyses and cost projections. Colorado, for example, passed legislation in 2018 that required each

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# 440K

The estimated number of children in foster care in the United States.  
—childwelfare.gov

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county to perform an analysis of in-home, family-like and out-of-home placements and to develop a plan to expand capacity in out-of-home placement.

## How to Build Evidence-Based Programs

To help prevent unnecessary foster care placements, Family First allows the use of Title IV-E funds for mental health and substance abuse prevention and treatment services and for in-home parenting skills programs for parents, kinship caregivers and children at risk of placement. The programs must be trauma-informed and meet “promising,” “supported” or “well-supported” levels of evidence as defined by Family First.

As part of their planning process, states are surveying their evidence-based prevention and kinship navigator programs, which are designed to help relatives find services, and identifying gaps in coverage. The Kentucky Department for Community Based Services, for example, partnered with Kentucky Youth Advocates for nine regional forums to engage with stakeholders and integrate their perspectives into program planning. Before the forums began, the department prepared by analyzing data, assessing the risks of child welfare involvement, and evaluating prevention services and placements. The District of Columbia’s Child and Family Services Agency took a similar approach, reviewing data, running client and provider focus groups and identifying candidates for foster care.

## How to Limit Use of Group Care

Family First limits federal reimbursements to certain types of group care, including qualified residential treatment programs. Most states are delaying implementation of Family First for up to two years to better prepare to meet the QRTP requirements, which include licensing



U.S. Department of Health & Human Services

The federal Prevention Services Clearinghouse identifies and rates evidence-based child welfare services.

by a national accrediting body; use of a trauma-informed treatment model; registered or licensed nursing staff on site and available 24/7; family involvement in the treatment process; and six months of support after discharge. Other requirements include an age-appropriate and evidence-based review within 30 days of a child’s placement in a QRTP to determine whether it’s a good fit. A court must rule on the placement within 60 days and continue to find at each status review that the placement is beneficial to the youth.

Some legislatures are amending their statutes to align with these requirements and ensure that children are placed in group care only when clinically necessary. Maine lawmakers, for example, introduced a bill this year that would require a court to conduct status hearings for all children placed in a QRTP within 60 days of a child entering the program. Maryland enacted legislation in 2019 that would, among other things, require a court to review children’s placement assessments.

## How to Support Caregivers

Kinship navigator programs help family caregivers identify and access programs and services that will better enable them to care for children. Family First allows states to claim 50% federal reimbursement through Title IV-E for administrative and

training costs related to such programs, which must meet the Title IV-E clearinghouse’s criteria of promising, supported or well-supported. As of March 1, no kinship navigator program had been certified as evidence-based.

Some states addressed these programs in legislation last year. A Minnesota law directed the commissioner of human services to review kinship navigator models for relative foster parents and children. And Washington state required its Children, Youth and Families and Social and Health Services departments to evaluate kinship navigator services that would qualify as well-supported, supported or promising, as defined by Family First.

## How to Use Transition Funding

States face common challenges as they implement Family First, particularly in meeting the new requirements for evidence-based services, getting federal approval and reducing use of group care. In response, Congress passed the Family First Transition Act of 2020, providing states \$500 million in one-time, flexible funding to help with these obstacles.

Due to COVID-19, states are no longer required to have submitted an application by April 30, the original deadline. The federal government will distribute the funds to eligible states, territories and tribes as soon as possible.

The transition act delays by two years the requirement that half of a state’s prevention services claims go toward programs deemed well-supported by the clearinghouse. The level of evidence required for reimbursement will instead be phased in over four years. Congress also increased the clearinghouse’s funding to improve the capacity of the program and speed up evaluations.

—Nina Williams-Mbengue

## RESEARCH CLEARINGHOUSES

# Helping Lawmakers Cut Through the Data Clutter

After an unprecedented spike in suicide rates in Minnesota, the state health department asked lawmakers in 2019 to fund a comprehensive suicide prevention program with telephone crisis lines and grants and training for local initiatives. Agency officials backed up their spending request with evidence showing that crisis lines had improved mental health and reduced rates of suicide elsewhere.

To build their case, the officials turned to the Results First Clearinghouse Database, a research tool created by The Pew Charitable Trusts. The database showed that rigorous research supported the effectiveness of crisis lines, earning them the clearinghouse's second-highest evidence rating.

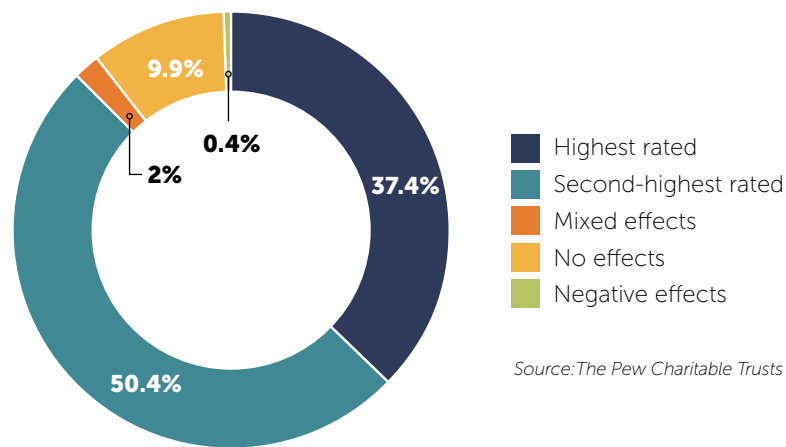
Legislators and legislative staff often turn to clearinghouses, or directories, to understand the research behind programs and policies. That can be time consuming given that there are some 20 publicly accessible clearinghouses, according to the Corporation for National and Community Service. The Results First database cuts the time significantly by synthesizing research from nine national clearinghouses.

Results First assigns each policy program in its database a color based on the ratings it received from the nine clearinghouses. Researchers quickly can see if a program is broadly viewed as effective, ineffective or, in some cases, detrimental.

The database currently has information on more than 3,000 programs across various policy areas, including employment and job training, crime and delinquency, child and family well-being, and mental and public health. With information evaluated and gathered in one place, policymakers and agency staff can systematically review programs based on

## Results First Clearinghouse Color Rating System

Results First assigns each policy program in its database a color based on the ratings it received from up to nine national research clearinghouses. The color coding lets researchers quickly see whether a program is broadly viewed as effective or not. Looking at all the programs in the database at once, as shown in this chart, more than one-third received the highest rating, and more than half got the second-highest rating.



Source: The Pew Charitable Trusts



the strength and quality of the evidence behind them.

If the goal is to reduce alcohol use among teens, for example, the Results First database gives the highest evidence ratings to certain programs that educate parents, reinforce young people's positive qualities in school classrooms and get the community involved to address underage drinking.

Back in Minnesota, lawmakers authorized the funds the state health department requested for suicide prevention programs. It's too early to know if the evidence directed them correctly, but officials are hopeful.

—Kristine Goodwin

# StateStats

## States Got More Than a Rainy Day With COVID-19

To prepare for a possible recession, state lawmakers have been building up their budget stabilization—or rainy day—funds for nine years straight, reaching a record combined total of \$74.9 billion in fiscal year 2019, according to The Pew Charitable Trusts.

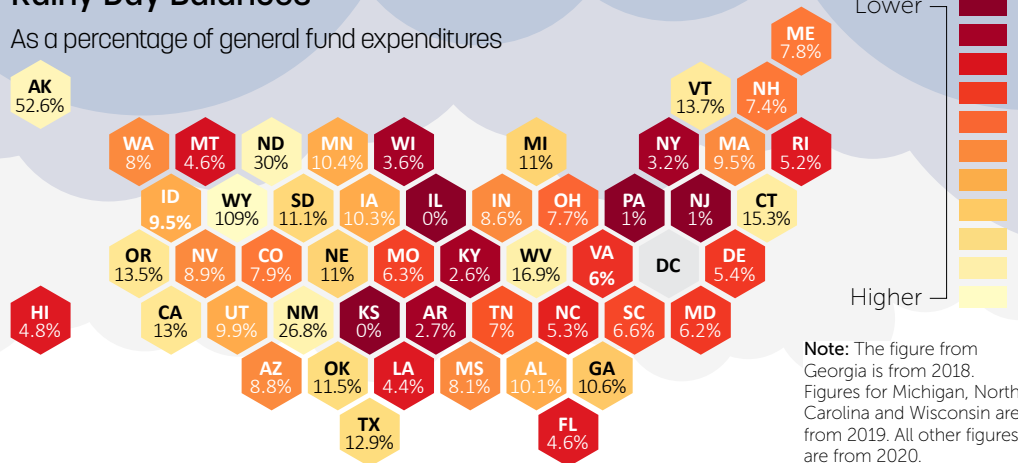
Rainy day funds can lessen the pressure fixed costs—like debt service, retirement system contributions, Medicaid and the Children’s Health Insurance Program—can have on a budget during economic downturns.

Funds were at an all-time high in early March and, on average, could be used to run government for almost 30 days, compared with just 17 days in 2007.

States were prepared for a rainstorm. But they got a tsunami instead.

## Rainy Day Balances

As a percentage of general fund expenditures



Note: The figure from Georgia is from 2018. Figures for Michigan, North Carolina and Wisconsin are from 2019. All other figures are from 2020.

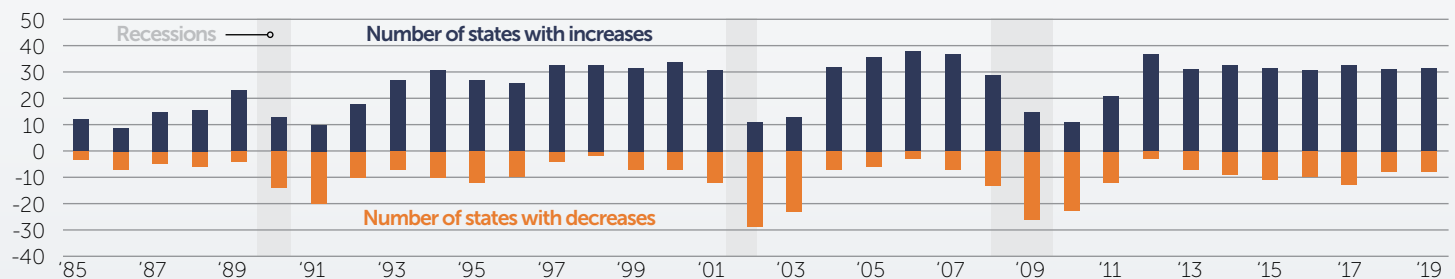
## States That Have Dipped Into Their Rainy Day Funds

Since February 2020, as of May 1, 2020.

State	Amount
Arkansas	\$173.6 million
Arizona	\$55 million
Georgia	\$100 million
Maine	\$11 million

State	Amount
Maryland	\$150 million
Nebraska	\$83.6 million
Pennsylvania (pending as of April 2)	\$50 million
Washington	\$100 million

## Rainy Day Balances by Fiscal Year



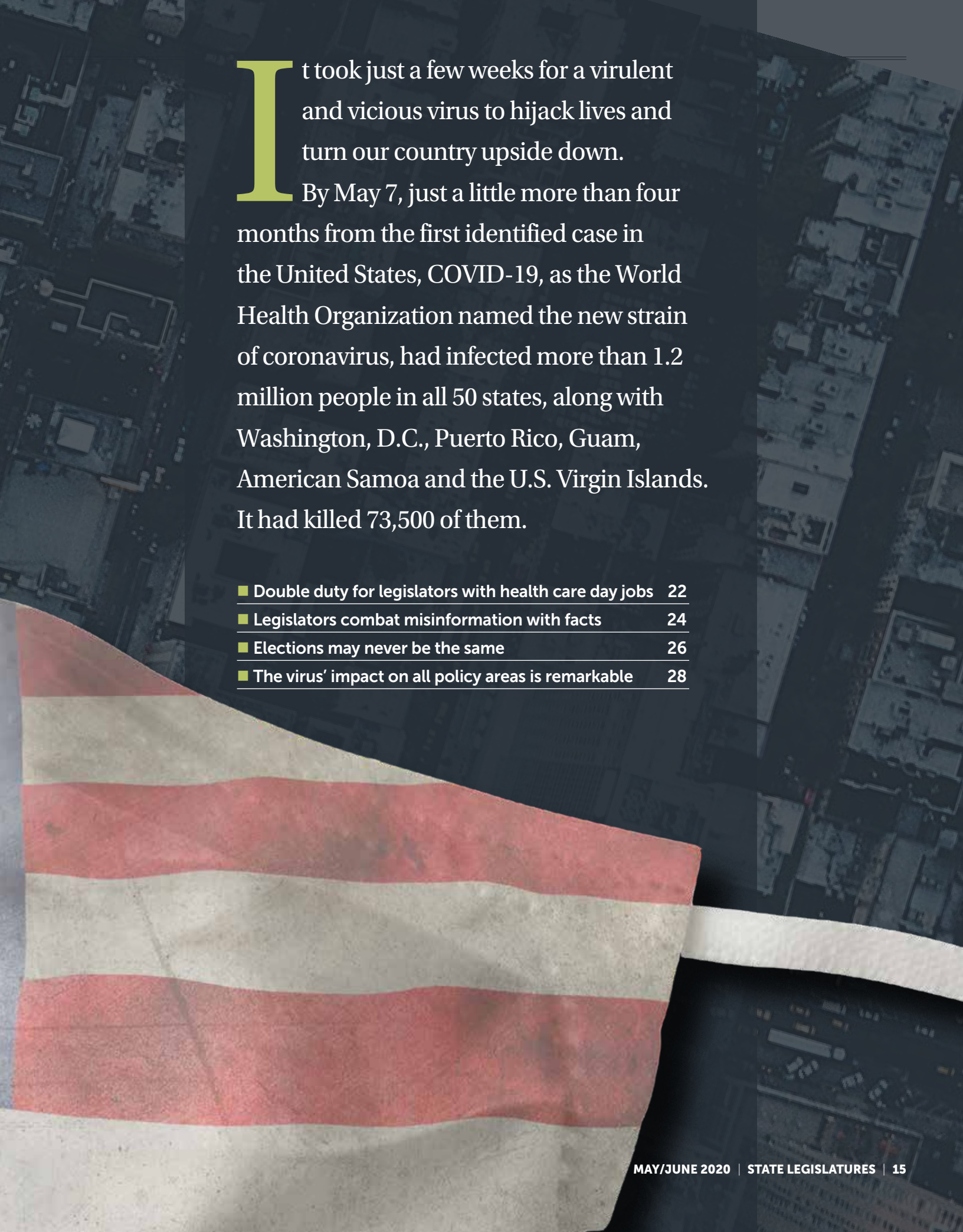
Sources: Tax Foundation, The Pew Charitable Trusts, NCSL, National Association of State Budget Officers

# “I’ve never seen anything like this.”

The coronavirus has redefined what constitutes an emergency and changed how legislatures do business.

BY JULIE LAYS



An aerial photograph of a city grid is the background, with a portion of the United States flag in the foreground at the bottom left. The text is overlaid on the dark, shadowed part of the city image.

**I**t took just a few weeks for a virulent and vicious virus to hijack lives and turn our country upside down.

By May 7, just a little more than four months from the first identified case in the United States, COVID-19, as the World Health Organization named the new strain of coronavirus, had infected more than 1.2 million people in all 50 states, along with Washington, D.C., Puerto Rico, Guam, American Samoa and the U.S. Virgin Islands. It had killed 73,500 of them.

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■ The virus' impact on all policy areas is remarkable	28

When the virus showed early signs of waning following social distancing and shutdown orders across the country, some states began easing restrictions and re-opening some businesses. Many health officials feared this could result in a resurgence of the virus. But to the protestors at various state capitols, it was high time to get the country back to work and start triaging the economic bloodletting, virus or no virus.

## Legislatures Responded

COVID-19 moved quickly through the states, and legislatures sprung to action just as swiftly. It didn't take long for lawmakers to realize the disease was going to be more devastating than first believed. On Jan. 20, when the first case of the virus in the U.S. was identified in Washington state, most legislatures were in regular sessions, debating opioid addiction, tax cuts, school bus safety, e-scooters and a slew of other pressing issues—not the least being state budgets.

Just a few weeks later, many were passing emergency measures, appealing for assistance from the federal government, rushing through budget bills, cutting sessions short, closing capitols, moving primary election dates, meeting virtually and voting remotely.

Some lawmakers caught the disease, making it dangerous to continue meeting in the close quarters of capitols.

“Legislatures have continued to do their work despite unprecedented challenges,” said Natalie Wood, director of NCSL's Center for Legislative Strengthening. “As early as mid-March, legislatures cut things short, suspended or postponed sessions to buy some time, and worked really quickly on emergency legislation and budgets. As usual, it has worked differently for everyone, and it's not been without drama.”

About half of state legislatures suspended legislative sessions. Before adjourning, most had put business as usual on hold to focus on mitigating the effects of the virus, deflating the hopes some members had for their sessions.



**TRANSPORTATION:** Highway traffic was reduced to a fraction of normal in Portland, Ore. America's ground transportation systems are in a tailspin due to the COVID-19 crisis, according to Doug Shinkle, NCSL transportation expert. Typically clogged roads are largely empty and gas tax revenue has plunged due to less driving. Traffic crashes and deaths are down in some states, but extreme speeding by motorists is up. Public transit systems are struggling to keep drivers and passengers safe while providing transportation for essential workers.



**HUMAN SERVICES:** On April 1, California public schools, like Kelly Elementary in Carlsbad, Calif., above, were closed for the remainder of the school year. Nationwide, 22 million low-income kids rely on free and reduced-price school meals. With schools closed to limit the spread of the virus, many children have been left without the only nutritious food they will receive all day, according to NCSL's Emerson National Hunger Fellow, Sean Walsh. In response, many districts have started critical pick-up or delivery programs providing breakfast and lunch. In addition, Congress is giving states the option to establish a Pandemic EBT program to provide income-eligible families with electronic benefit transfer cards loaded with \$5.70 for each day that school is closed to replace the cost of school breakfast and lunch.

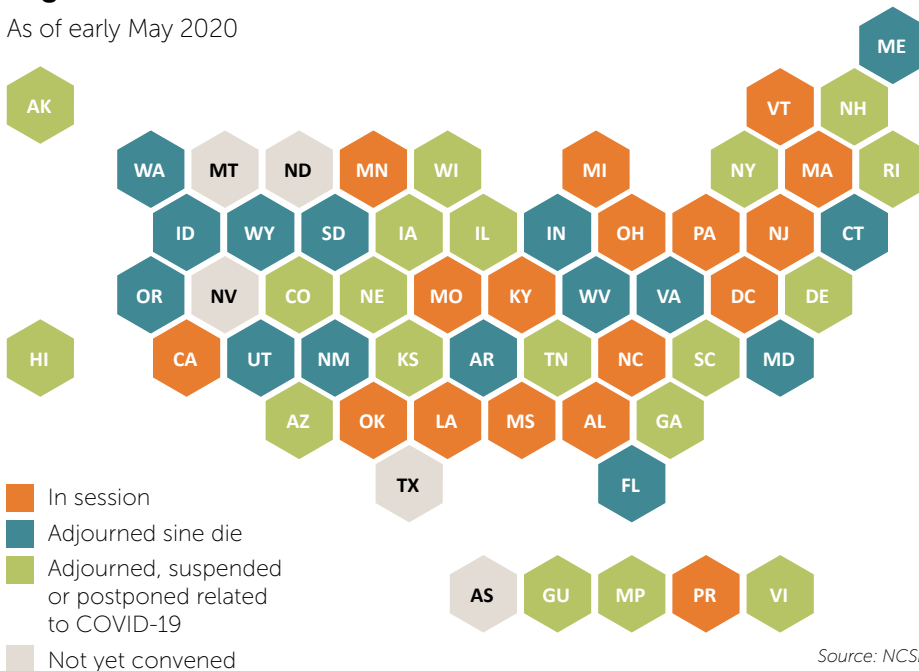
At least 38 states, the District of Columbia, Guam and Puerto Rico had introduced bills supporting state action related to COVID-19, as of May 7. Several resolutions adjourned legislative sessions and adopted temporary rules to allow governing bodies to meet or vote electronically. Many bills appropriated funds focused on health topics such as insurance coverage, medical costs or telehealth services. Others involved paid

leave, unemployment benefits, guidance for schools or workforce protections for those in quarantine or isolation. Still others addressed price gouging and eligibility for public services, temporarily prohibited evictions, ensured utility services or extended certain legal deadlines.

Minnesota, like many states, had a substantial budget surplus forecast as recently as February, and Senator Paul Gazelka, the Republican majority leader,

## Legislative Sessions

As of early May 2020



## Going Remote

By early May, legislatures or chambers in at least 15 states, the District of Columbia, Guam and the U.S. Virgin Islands changed their procedures to allow for remote participation. In many cases these changes are temporary or tied specifically to the COVID-19 emergency.

- Arizona House
- Arkansas House and Senate
- California Senate
- Connecticut House and Senate
- Kentucky House
- Massachusetts House
- Minnesota House and Senate
- New Jersey Assembly
- New York Assembly and Senate
- North Carolina House
- Oklahoma House and Senate
- Pennsylvania House and Senate
- South Dakota Legislature
- Utah House and Senate
- Vermont House and Senate
- District of Columbia, Guam, U.S. Virgin Islands

## CORONAVIRUS: A TIMELINE

Dec. 31, 2019

China confirms that its health officials have been treating dozens of patients with a pneumonia-like illness.

Jan. 7, 2020

The illness is identified as a new coronavirus. China reports its first virus-related death on the 11th.

Jan. 21

Officials in Washington state confirm the first case of the virus on U.S. soil—a man in his 30s.

Jan. 29

The White House announces the formation of a task force to monitor the spread of the virus.

Jan. 30

World Health Organization declares the outbreak to be a "public health emergency of international concern."

Jan. 31

The U.S. suspends entry into the country of foreign nationals who have recently traveled to China.

---

had been considering tax cuts. Now that's out of the question. "The big-price-tag tax relief, there's just no way we can do it right now," he says. "I don't know how we could do it."

Instead, he adds, Minnesota lawmakers need to "get resources to the governor with special powers to purchase the equipment we need to fight COVID-19, that's No. 1. At the same time, whatever we can do to make sure that private sector businesses do not fail and keep their employees, we need to focus on. The more incentives we give right now to businesses, I think, the better."

### Emergency Planning

Did the virus catch legislators off guard? Not exactly. There's been a lot written about the possibility of a pandemic in recent years, but the realization that this was "the big one" took many a while to comprehend.

States have made plans for maintaining continuity of government during emergencies since the Cold War, when fear of a nuclear attack led to strategies for continuing operations should the whole legislature be wiped out. Following the terrorist attacks on 9/11, another wave of emergency plans was developed, while other disaster plans addressed flooding, hurricanes, wildfires, tornadoes and other natural events.

These plans have been adequate through Y2K scares and beyond, but the depth, breadth and life span of the current pandemic, its damage to the economy and its need for a lengthy social distancing response from the public raise COVID-19's impact above all other recent emergencies.

"This public health emergency is like nothing we have ever seen before," NCSL Executive Director Tim Storey told a CSPAN audience in late March. "Tens of thousands, if not hundreds of thousands, of Americans are being devastated by not just the virus and its health effects, but also the economic effect. We are in absolute uncharted waters. The economy was sailing along, then the wind just stopped."



**HIGHER EDUCATION:** The Miami Dade Community College campus in downtown Miami was shut down due to the pandemic. "It's important to understand the demographics of today's higher education student," says NCSL's Sunny Deye, program director for postsecondary education. "Nearly half of undergraduate students attend community colleges, and almost 40% of today's higher education students are working adults." These students face additional challenges during the pandemic, including access to affordable transportation, child care, food and housing, Deye says.



**MILITARY:** Military police in Rhode Island monitored cars entering the state with out-of-state license plates, instructing them to self-quarantine for 14 days. Close to 50,000 National Guard members are on duty in response to the COVID-19 pandemic in all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands. Under state control, guard units are supporting virus testing sites, facilitating logistics and transportation, staffing state emergency operations centers, distributing food and other supplies, and building medical field hospitals. Federal funds are paying for most guard activities during the pandemic, according to NCSL's Jim Reed, program director for military and veterans affairs.

"I'VE BEEN IN OUR GENERAL ASSEMBLY FOR 40 YEARS, 12 IN THE HOUSE, 28 IN THE SENATE. I'VE NEVER SEEN ANYTHING LIKE THIS."

Senator Martin Looney, Connecticut

## The Technology Difference

Improvements in technology and the public's comfort using it to work remotely have benefited many legislatures, businesses and workers during this protracted emergency.

"Some states already used teleconferencing and remote testimony for committee meetings and even for legislator town halls," Wood said. Oregon and Wisconsin had constitutional provisions in place allowing lawmakers to vote remotely in emergencies long before anyone had heard of COVID-19.

Wisconsin has led the way in figuring out how legislative bodies can meet in circumstances requiring social distancing. A change in state statutes in 2009 allowed lawmakers to "adopt such other measures that may be necessary and proper" to maintain the continuity of government. Lawmakers interpreted that to mean virtual sessions, and leaders of both houses spent a few weeks with staff fine-tuning how to run Skype sessions.

"We've been able to create a whole infrastructure, including new web-based applications that allow us to try to mimic what happens on the floor in a virtual setting," Senate President Roger Roth (R) said, noting that during crises, democracies must be able to show the public that they remain strong.

The Utah Legislature passed legislation before adjourning to permit meeting and voting electronically during public

health emergencies. The legislature was able to end the session on time in mid-March, and the new rules allowed members to call themselves back into special session remotely in mid-April to address COVID-19 issues.

House Speaker Brad Wilson (R) said the break gave "the amazing staff" time to create a system to make it all happen and provide each member with remote one-on-one training.

"It's crazy," Wilson said just after going through a dry run before the special session, which was live-streamed. "I'm standing on the dais with three big-screen TVs showing all 74 members of the House. It's an amazing moment in time for us as a state to be able to do the people's business from the state Capitol but with only one person there, with the rest of the members in their home districts serving their constituents."

Although working remotely is technically possible for most legislators, state laws, legislative rules or even state constitutions may not allow remote sessions. Legislatures must consider what it means to be "present to vote," what constitutes a quorum and how to make the process accessible to the public, among other provisions. Chambers that move forward with remote voting have to navigate these issues and contemplate how to mirror, as much as possible, what happens on the floor.

Not everyone is convinced remote meetings are productive. When the Connecticut General Assembly was debating whether to suspend its session, Senate President Pro Tem Martin Looney (D) wasn't so sure meeting remotely would suffice.

"It'd be fairly difficult to do that, to have a free-flowing debate including the offering of floor amendments, things of that sort," he said. "It's totally unprecedented. I've been in our General Assembly for 40 years, 12 in the House, 28 in the Senate. I've never seen anything like this."

For Colorado, the debate over whether to suspend session wasn't so much the open meeting conflict as it was the state

## CORONAVIRUS: A TIMELINE

Feb. 11

WHO officially names the disease caused by the new virus: COVID-19, for coronavirus disease 2019.

Feb. 24

U.S. stock market plummets, with the Dow Jones Industrial Average experiencing its worst day in two years.

Feb. 29

First recorded virus-related death in the U.S.; reports will later find a death Feb. 6 may have been the first.

March 6

Trump signs \$8.3 billion emergency spending package. The SXSW conference and music festivals are canceled.

March 11

WHO says outbreak is a "pandemic." NBA suspends all games after a player tests positive for COVID-19.

March 13

White House declares national emergency. States begin announcing plans to close schools.



UTAH.GOV

The Utah Senate meets remotely during the state's "Stay Safe, Stay at Home" directive.

"IT'S CRAZY. I'M STANDING ON  
THE DAIS WITH THREE  
BIG-SCREEN TV'S SHOWING ALL  
74 MEMBERS OF THE HOUSE."

Speaker Brad Wilson, Utah



constitutional requirement that the legislature "conclude its work after 120 days." Did that mean 120 days in a row? Lawmakers couldn't agree, so they asked the state Supreme Court to decide. The court ruled 4-3 that during a state of emergency, the days do not have to be counted consecutively.

"We feel that it is in the best interest of all Coloradans to recess the session until citizens can safely participate in their democracy," Senate Majority Leader Steve Fenberg (D) tweeted.

### **Making It Work**

Throughout the spring, while some state legislatures continued meeting in capitols, others postponed or adjourned until a later date, and a few took the virtual route. And special sessions, or discussions about

them, are popping up, even in states that had finished sessions or were not scheduled to meet in 2020.

Methods for meeting will continue to vary. In at least 15 states, two territories and the District of Columbia, one chamber or both adopted temporary rules or enacted legislation to allow for virtual meetings and remote voting, often with at least one member on the floor. Other legislatures will keep meeting in person, but these convenings may require some creativity.

"Legislatures, as we all know, are made up of innovative and committed people who have problem-solved throughout history when faced with extraordinary times such as these," NCSL's Wood said.

For the New Hampshire House of Representatives, the largest state legislative



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Kentucky Senator Whitney Westerfield (R), left, speaks with Senate Minority Floor Leader Morgan McGarvey (D) in the Senate chamber April 15.

body in the country, the challenge was finding a place big enough for all 400 representatives to meet while practicing social distancing. The state constitution says it must meet in person, so House Speaker Steve Shurtleff (D) was seeking alternatives, including large auditoriums.

“We have to find a facility to possibly space people out to meet in person,” Shurtleff said.

In Arkansas, lawmakers met in a college basketball arena so they could maintain distancing as they adopted new rules and voted on emergency legislation.

In Virginia, senators chose a room in a science museum, while representatives met on the Capitol lawn.

### States Lead On

Whether remotely or in chambers,

governors and lawmakers remain on the front lines in the fight against the pandemic. But there’s no quick fix for the destruction the virus leaves behind. Even as the rate of infection declines, legislators will face the challenge of rebuilding economies at a time when revenues are expected to take unprecedented hits. Legislatures will have to make hard choices to balance budgets while continuing to fund education, transportation, criminal justice, unemployment, health care and more.

A pandemic this epic requires a response as impressive as we sail on into uncharted waters.

*Julie Lays is the editor of State Legislatures magazine.*

## CORONAVIRUS TIMELINE

### March 16

Wall Street plunges again. Coronavirus task force issues distancing guidelines to remain in effect for 15 days.

### March 17

Maryland and Ohio postpone primary elections; Arizona, Florida and Illinois proceed with theirs.

### March 18

Trump signs Families First Coronavirus Response Act, providing, among other things, free COVID-19 testing.

### March 19

California, the most populous state, is the first to issue a statewide, mandatory stay-at-home order.

### March 24

Japanese officials announce that the 2020 Olympics are postponed. They are later scheduled for July 2021.

### March 25

Congress passes first of three stimulus packages. NCSL helps to secure \$150 billion in state assistance.



Barlow



Campbell



Conaway



Garcia



Harrison



Mullica

# DOUBLE DUTY

Legislators who are also health care professionals are serving on two fronts these days.

BY SUZANNE WEISS

Amid the nation's worst public health crisis in a century, a growing number of doctors, nurses and other medical professionals serving in state legislatures have answered the call to help on—and behind—the front lines.

Some are working 12-hour shifts doing triage and treating patients at beleaguered hospitals in their districts. Others are working as paramedics or volunteering at local clinics, and still others are playing key roles in coordinating their states' or counties' response to the crisis.

At the epicenter of the pandemic, New York Assemblywoman Karines Reyes (D) returned in early April to her job as a nurse at the Montefiore Medical Center in the Bronx after she learned of the severe staffing shortage there. Around the same time, Tennessee Senator Katrina Robinson (D), an intensive-care nurse, left her home in Memphis to volunteer her services in New York City.

## Hospitals Working at Capacity

In Colorado, which has among the highest rates of COVID-19 infections and deaths in the West, Kyle Mullica (D), a House freshman, has been working long shifts as an emergency room nurse at Presbyterian/St. Luke's Medical Center in Denver, one of the state's largest hospitals.

Reyes and Mullica describe their experiences over the past several weeks as harrowing.

"It's like nothing I've ever seen," said Reyes, who participated in relief efforts in Haiti after the 2010 earthquake and in Puerto Rico after Hurricane Maria in 2017. In an interview with the New York Post, she described nightmarish conditions while working the medical/surgical units and said she was stunned by how quickly patients suffering from the virus deteriorated.

When asked how many of her patients have died, she answered simply, "Too many." She said the hospital is "at capacity" and most of the floors have been devoted entirely to treating coronavirus patients. Even family waiting areas had hospital beds in them after they were converted into medical rooms, Reyes told the newspaper.

"It's almost like you can see a tsunami coming—and there's nothing that you can do about it," Mullica said in an audio diary he recorded for The Colorado Sun, a Denver-based news outlet, in early April. "What's so scary about this is we have no tools. All hospitals are able to do—until they figure out antivirals—is treat those symptoms. And as a provider, for me at least, that's really scary. That scares the hell out of me."

## Some Rural Areas Ready

Some legislators are working where the battle against COVID-19 is less intense, at least for now. Texas Senator Donna Campbell (R) is an emergency room physician who divides her time between two hospitals in rural counties south of Austin that so far have had fewer than 100 confirmed cases of coronavirus and no deaths.

"Of course, we have devoted a lot of time and effort to sanitizing and other precautionary measures, but our overall emergency room census is down," she said. "The big difference is that we have many, many more phone calls to the ER every day from people wanting to know, 'Do I need to come in?'"

Campbell said that, so far, Texas hasn't run short on equipment and personnel like other areas of the nation. "We still have ample capacity in terms of hospital beds, intensive-care units and ventilators. Texas is ready to take care of its citizens."

Her days as a lawmaker are filled with fixing problems and answering questions—from school superintendents, mayors, court officials, health departments and others. "About 75% of everything we do these days is COVID-related," she said.

As the crisis unfolds, physician-legislators like Campbell are pitching in on a variety of fronts:

- In Utah, three physicians who serve in the House—Stewart Barlow (R), Suzanne





Pan



Reyes



Robinson



Ward

Harrison (D) and Ray Ward (R)—organized an appeal for businesses that use personal protective equipment to donate N95 masks, which protect against airborne droplets from sneezes or coughs, to hospitals.

• New Jersey Assemblyman Herb Conaway (D), an internist and director of the Burlington County Health Department, is leading the county’s coronavirus task force, which is grappling with high levels of infection among jail inmates and nursing home residents.

• Colorado Senate President Leroy Garcia (D), a paramedic and emergency medical services instructor, is being dispatched on ambulance calls in his hometown of Pueblo, about 112 miles south of Denver. He is among several lawmakers interviewed by State Legislatures magazine who predicted that the pandemic will have a lasting effect on policymaking, “including how the legislature does its work. Once something this significant happens, it’s impossible not to change. We’ll need to focus on being better prepared.”

### A Bipartisan Fight

California Senator Richard Pan (D), a pediatrician who currently chairs the Senate Health Committee, agrees about the need for preparation. “This pandemic is a stark reminder of the cost of not having a robust public health system in place,” he said.

During his 10 years in the California Legislature, Pan has advocated for increasing vaccination rates, boosting funding for county health departments and augmenting the state’s emergency-response capabilities.

“In the public health world, there’s always talk about outbreaks like this and how to be ready for them,” he said. “Every year, we have something to worry about. In 2009, it was H1N1, then it was pertussis, then the Zika virus and, in the past couple of years, measles.”

At the same time, Pan said, a series of federal and state budget cuts have steadily eroded the capacity of the public health system—reducing the number of epidemiologists and other medical workers, for example, and forcing the closure of 11 testing laboratories statewide.

Pan points out that the first known instance of community spread (person-to-person transmission) of COVID-19 in the United States was in Sacramento, his district, in mid-February. Since then, the city of more than 2 million has had about 700 confirmed cases and 26 deaths. “Had it not been for early action, those numbers would be a lot higher. We haven’t seen a big spike, so I would say that we’re doing OK.”

Over the last two months, Pan has volunteered at a county health clinic, met with state and county officials, tweeted regular updates and spent a half-hour every Friday morning answering callers’ questions on a local AM radio show.

Pan said the bipartisan nature of the state’s fight against the coronavirus is heartening. “We have people working together at every level, and that’s what we need. Public health should never be a partisan issue.”

*Suzanne Weiss is a freelance writer in Denver and a frequent contributor to State Legislatures.*

## CORONAVIRUS: A TIMELINE

March 27

Trump signs \$2 trillion stimulus bill. Two days later, administration extends distancing guidelines to April 30.

April 15

At least 23 legislatures have postponed their legislative sessions. Protests erupt over stay-at-home orders.

April 20

The Navajo Nation reports the nation’s third-highest infection rate behind New York and New Jersey.

April 24

Demonstrators, some armed, gather at the Wisconsin Capitol to protest stay-at-home restrictions.

April 30

30 million U.S. workers, or about 18% of the workforce, have lost their jobs, the Labor Department reports.

May 5

About half the states have begun easing stay-at-home restrictions and reopening their economies.



Kentucky legislators alternated seats to maintain safe distancing during their session.

LRC PUBLIC INFORMATION

## CORONAVIRUS

# Pandemic Leads to 'Infodemic'

Policymakers can combat misinformation with facts.

BY KRISTINE GOODWIN

As COVID-19 spreads, so too does misinformation, creating what data and health scientists at the World Health Organization have deemed an “infodemic.” It’s what happens when we have what the organization calls an “overabundance of information—some accurate and some not—that makes it hard for people to find trustworthy sources and reliable guidance when they need it.”

So rampant is misinformation that the WHO began tracking and dispelling myths on its myth-busters webpage and offering shareable graphics that communicate sci-

ence clearly for the public.

In an era when so many have what amounts to a Google degree in COVID-19, state and local policymakers are showing how data and research offer both an antidote to misinformation and a path forward. To cut through the clutter, policymakers can consider asking the following questions to test the merits of evidence and decide how to use it.

### 1. How are you defining “evidence”?

Policymaking through an infodemic merits a healthy dose of skepticism. When you hear claims about what “the evidence

shows,” ask how it’s being defined. Does it reflect an expert’s professional judgment, an anecdotal study, a study with a control group? While professional opinions and anecdotal observations have value, evidence that’s been tested is more trustworthy.

Some states have defined what constitutes evidence in legislation or through definitions established by state agencies. Lawmakers value high-quality, causal evidence that shows whether a policy will produce a specific result. Knowing your state’s definitions, and clarifying them when needed, can ensure that everyone is speaking the same language.

### 2. What’s your source?

Driven by a mission to inform and protect the public, many federal sources offer reliable, science-based information and guidance. These include the Centers for Disease Control and Prevention, the Food and Drug Administration and coronavirus.gov, a partnership of the CDC, the White House and the Federal Emergency Management Agency. Many state and territorial health agencies also are good resources. Several national organizations

committed to delivering unbiased, bipartisan information, like NCSL, track and post federal and state actions daily.

But with so many news and information outlets, it can be hard to judge a source's quality and credibility. It can help to know if a study has been published in a peer-reviewed journal, such as *The New England Journal of Medicine*, because that tells you it was reviewed by independent experts. Not every study cited in today's 24-hour news cycle has gone through such a process.

To get information into decision-makers' hands more quickly, researchers and online publishing services, known as pre-print servers, have begun posting study findings before they've gone through peer review. Such drafts may have value to those wanting to learn about emerging research, but it's important to understand they are preliminary and subject to critique.

### 3. How strong is the evidence?

"Evidence hierarchies" and online research clearinghouses rank evidence based on the rigor of the supporting methodology, from anecdote and opinion to causality. The more highly the evidence is ranked, the more likely it is to produce its intended effect.

Proving that a treatment can cause a specific result is the strongest type of evidence. That kind of proof comes through clinical trials, health care's gold standard for demonstrating that a treatment is safe and effective, according to the National Institutes of Health. Concerning COVID-19, the Food and Drug Administration has not approved any therapeutics, but some are under investigation and will be tested through such trials.

Public health officials didn't recommend the public use of cloth face masks, for example, until recent high-quality studies confirmed that asymptomatic carriers of the virus could transmit it to others. This prompted CDC officials in April to recommend that everyone use face coverings in public settings.

### 4. What am I missing and how do I balance competing priorities?

Dealing with a novel virus, by definition, puts us in new territory. Public health officials and lawmakers are learning and refining and responding in ways that reflect available data and research findings. We don't always have access to the evidence we need to make real-time decisions, so ask questions of colleagues and experts to learn how the available evidence, imperfect as it may be, can help inform your policy decisions.

### 5. How can I be sure to communicate reliable information?

There is no playbook for communicating during a crisis like this one. But policymakers can draw from a public repository of tools and best practices that grows by the day. Case in point: The Association of State and Territorial Health Officials has developed a crisis communication guide that uses "message maps" to help organize complex scientific information into easily understood messages.

Policymakers also can look to other states' communication strategies and publicly available data visualization tools and share that information with colleagues and constituents—like the U.S. maps that illustrate how the virus is spreading across communities and states. NCSL has summarized these communications approaches and linked them to templates and other online resources. The CDC's infographics share the facts about COVID-19 and highlight effective crisis communication strategies. Among them: Before distributing information, fact-check it with subject-matter experts, because "one incorrect message can cause harmful behaviors and may result in people losing trust in future messages."

*Kristine Goodwin is a program director in NCSL's Employment, Labor and Retirement Program.*

## Fact vs. Fiction

Common myths and questions addressed by health organizations include:

### ■ Alcohol consumption kills the virus.

Drinking alcohol does not protect you against COVID-19 and can be dangerous. Frequent or excessive alcohol consumption can increase your risk of health problems.



### ■ The virus is spread through new 5G wireless networks.

Viruses cannot travel on radio waves or mobile networks. COVID-19 is spreading through many countries that do not have 5G networks. COVID-19 is spread through respiratory droplets when an infected person coughs, sneezes or speaks. People can also be infected by touching a contaminated surface and then touching their eyes, mouth or nose.



### ■ Does the new coronavirus affect older people, or are younger people susceptible?

People of all ages can be infected by the new coronavirus. Older people and people with pre-existing medical conditions (such as asthma, diabetes and heart disease) appear to be more vulnerable to becoming severely ill with the virus. People of all ages should take steps to protect themselves from the virus, for example, following good hand hygiene and good respiratory hygiene.



*Source: World Health Organization, Centers for Disease Control and Prevention*

# Voting After the Virus

Will elections be changed forever after COVID-19?

BY AMANDA ZOCH

The COVID-19 pandemic has fundamentally altered the 2020 election landscape. By May 1, at least 18 states had postponed presidential preference primaries, state primaries, runoffs or a combination of these. Georgia and Louisiana—the first two states to delay their elections—have now shifted their primaries for a second time.

Many of the postponed primaries are slated for June 2, which—with at least nine presidential and seven state primaries—is now set to be a second Super Tuesday.

With former Vice President Joe Biden as the presumptive Democratic presidential nominee, the state primaries may be the races to watch.

Several states have rescheduled for even later dates, including New Jersey, which moved its primaries to July 7 from June 2. More delays may be coming.

How voters' anxiety over the pandemic will affect their voting behavior is hard to know. Rescheduling elections, however, allows them to stay home during the worst of the crisis. And it gives states more time to adapt to the challenges of running elections during a public health emergency—moving polling places away from assisted living facilities, protecting voters and poll workers from spreading the disease, making special arrangements for certain voters (those in quarantine, for example), all while keeping it fair for everyone.

## Voting by Mail

Many state legislatures and governors are looking to reduce potential health risks by expanding absentee or mail-in voting, at least for the primaries. Thirty-four states allow any voter to request an absentee ballot for any reason. Several of the states that require voters to supply a reason before receiving an absentee ballot have clarified that COVID-19 counts as a valid excuse.

The Granite State, for example, has a temporary emergency order allowing anyone to vote absentee using the “disabled” reason. New Hampshire Senator Melanie Levesque (D) would like that to be permanent and clearer for voters. “Enacting no-excuse absentee voting would give the public more certainty,” she says, so that “they can choose how to vote if they have concerns about safety.”

Lawmakers in some states have also made it easier for voters to obtain their absentee ballots. Idaho launched an online absentee ballot application option in March, becoming the 12th state to do so.

## COVID-19 and the Census

There are things you can count on: Mom's welcoming arms, daisies in June and the decennial census, among them. Now COVID-19 is wreaking havoc on all the good planning that has gone into the 2020 census.

Most people know we count every person living in the United States once every decade, and they probably think of the census as a point of national pride. Policy people know the “enumeration” undergirds the distribution of federal money to the states, is the basis for reassessing U.S. House seats and provides

the data the states use for redistricting. But, for many, that's as far as the interest goes.

The census has adhered to the same cast-in-concrete timeline since 1980. Census Day is April 1 of the year ending in zero; data for divvying up congressional seats is due on the president's desk no later than Dec. 31 of the same year. And redistricting data—as defined in Public Law 94-171, which was pushed forward by NCSL in our first year of existence—is due to the states no later than March 31 of the year ending in “1.”

Then came the coronavirus.

Thanks to COVID-19, the timeline for gathering the data is delayed. While it's never been easier for households to respond to the census, not everyone does it without a personal knock on the door. It's standard operating procedure for the bureau to send workers to every nook



Election officials in 10 states decided to mail absentee ballot applications directly to all registered voters for the states' primaries. And Michigan and Nevada will send actual absentee ballots—not just applications—to all eligible voters.

Concerned about voter safety during the state and presidential primary, Ohio Senator Matt Huffman (R) wanted to build time into the process.

"I introduced a bill that provided Ohioans with an additional 42 days to vote by mail for free in this election," he said. The legislation extended the ballot return deadline from March 17 to April 28 and was incorporated into a broader COVID-19 bill, which the legislature approved unanimously.

Five states currently conduct all elections by mail—Colorado, Hawaii, Oregon, Utah and Washington—and COVID-19 has encouraged others to consider a permanent or temporary shift in that direction. Some states are undertaking mail-in voting on a smaller scale or on a shorter time frame.

Alaska, for example, enacted a law allowing the state to conduct all-mail elections, but only during the current state of emergency.

### Campaigns Adapting, Too

Candidates and citizen initiative campaigns also have been affected by stay-at-home orders and mandated social distancing. Unable to gather physical signatures, many of these campaigns have been effectively stalled. Given the circumstances, candidates and initiative sponsors have looked to legislatures and governors for accommodations, such as extending deadlines and using more electronic options for circulation, signatures and filing.

Vermont lawmakers suspended requirements that candidates circulate petitions and collect signatures to get on the ballot. Legislation has been introduced in New Jersey to extend candidate petition filing deadlines and to waive certain related petition signature requirements.

Executive actions have addressed petition concerns in some states. New Jersey's gov-

ernor issued an order allowing candidates to circulate petitions online. Utah's governor issued two orders, one allowing remote filing of candidate declarations, the other permitting electronic circulation of candidate and initiative petitions. Voters still must print the petitions and provide a wet (not electronic) signature, but now they can scan the signed petition and return it via fax or email.

### How Permanent Are the Changes?

Whether the election hurdles thrown up by the pandemic can be cleared by November remains to be seen. For now, states have adapted their primary election procedures to ensure a safe, secure and private ballot for every eligible voter—one no one knows, though, whether states will make the changes permanent or be forced to alter them again.

*Amanda Zoch is an NCSL legislative policy specialist and Mellon/ACLS Public Fellow.*

## Census Date Changes

Activity	Pre-COVID-19	Post-COVID-19
Data gathering begins	January 2020	January 2020
Data gathering ends	July 31, 2020	Oct. 31, 2020*
Data for congressional reapportionment due	Dec. 31, 2020	April 30, 2021**
Data for redistricting by the states due	March 31, 2021	July 31, 2021**

\* Date change made by the Census Bureau.

\*\* Changes the bureau requested from Congress.

and cranny of the nation to make sure the count is as accurate as possible—something the bureau decided can't happen now because of the virus.

Taking a safety-first approach, the bureau delayed step one in the counting process: Field operations will now begin May 13 in some areas, an understandable decision given state shelter-in-place and stay-at-home orders.

With step one delayed, it's no surprise the other steps will be delayed as well. Step two, data collection, will end 90 days later than originally planned, on Oct. 31, 2020. Steps three and four, data preparation and the release of public data, respectively, are accordingly held up.

Trouble is, Congress long ago set the deadlines for the release of at least two sets of information: the

congressional apportionment data and the redistricting data. For that reason, the bureau requested in mid-April that Congress approve a four-month delay for the release of both data sets: The apportionment data deadline would move from Dec. 31, 2020, to April 30, 2021; the redistricting data deadline from March 31, 2021, to July 31, 2021.

Will Congress approve? That's to be determined, though it's hard to imagine they'd require workers to go into the field during a pandemic.

Will this be the only delay required? The virus' trajectory will be the guide.

How will states respond? We'll see. Each faces a unique set of constitutional, statutory and election date challenges.

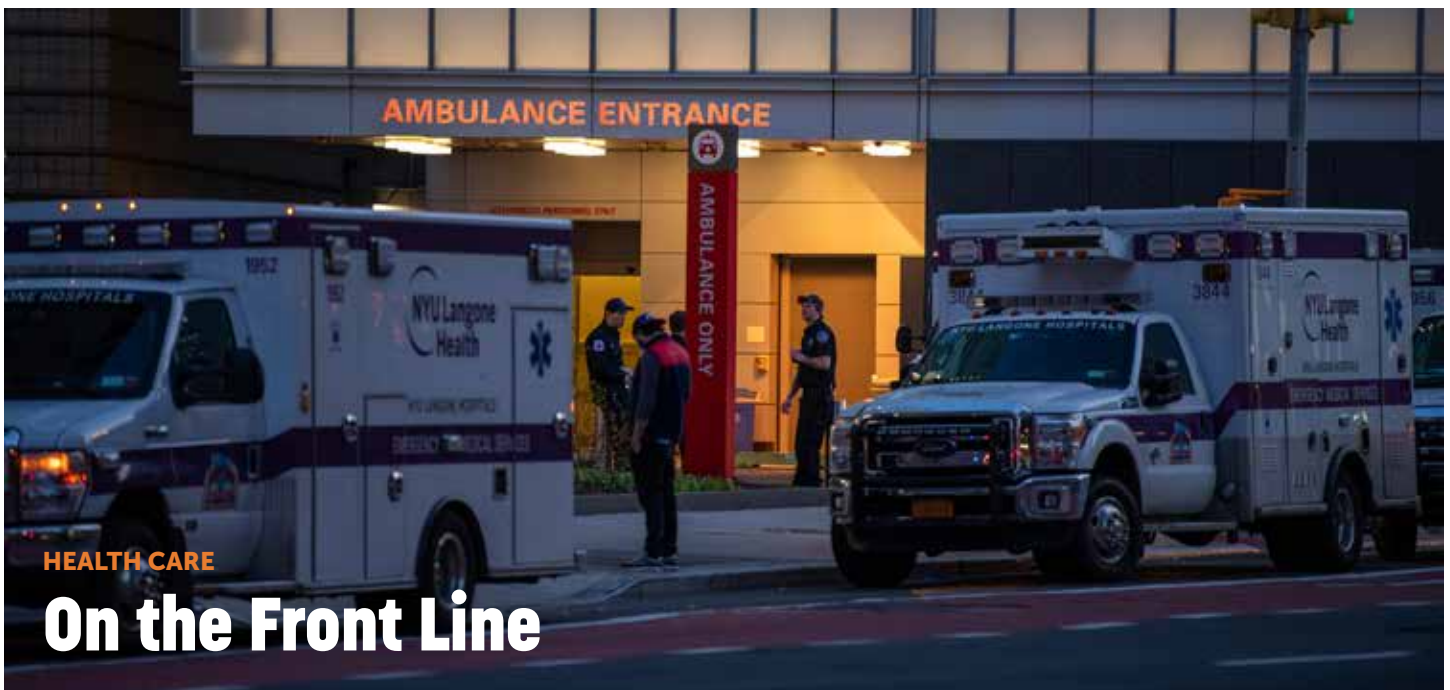
—Wendy Underhill

# Policy Impacts of COVID-19

The widespread effect of COVID-19 on all areas of our lives has been remarkable.

State budgets are being hit hard, driving lawmakers to pass legislation to protect and support vital programs and policies as best they can.

Here's an overview of just how deep and wide the virus' influence has been.



**A**s the novel coronavirus began to spread across the country, the public health and health care systems were the first sectors affected and the first to respond.

To date, governors in every state and territory have declared emergencies, allowing greater authority and flexibility to respond to COVID-19. Even with many state legislatures suspending or postponing sessions, more than 20 states, the District of Columbia and Puerto Rico have passed more than 35 health-related bills that appropriated money and supported other efforts in the health care and public health systems. Here's a look at state responses to the pandemic.

## ■ Bolstering the health care system

To address concerns about health care system capacity, states loosened requirements around the health care workforce and telehealth. Most of the changes are for the duration of the pandemic only and, to date, have been led by the executive branch.

More than 40 states have modified licensing requirements and expedited approvals for physicians and other health care providers to recruit out-of-state, inactive and retired providers to expand the state's workforce. At least 29 states also expanded the scope of practice for nurse practitioners and physician assistants, allowing them greater independence in pro-

viding care to patients.

Telehealth was used early in the crisis, particularly to help determine whether people's symptoms required a test or hospital visit. Other uses included managing chronic conditions and providing mental health care or substance use disorder treatment at home to reduce the need to visit a health care facility.

Federal and state action expanded telehealth by ensuring coverage and relaxing a number of restrictions, such as requirements related to providers and telehealth methods. Although governors' orders led many state changes, legislatures in Alaska, Maine, New Jersey and Puerto Rico also took similar action.

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## ■ Ensuring affordability and accessibility of care

As the virus spreads, coverage and access to needed health care services, including COVID-19 testing and treatment, remains critical. Federal and state leaders first focused on reducing patients' costs, such as copays and deductibles, for testing.

The Families First Coronavirus Response Act requires insurers to cover testing for the virus without any cost to patients or prior authorization requirements. The federal law also gives states the option to cover COVID-19 testing and test-related visits for uninsured individuals. So far, 12 states have taken advantage of this flexibility, according to the Kaiser Family Foundation.

A handful of states have gone further, adopting measures to waive cost sharing for treatment as well as testing, through mandates or insurer agreements. Many insurers have also committed to waiving costs associated with seeking treatment.

For individuals without health insurance, 11 states and the District of Columbia have created a special open enrollment period on their state-based exchanges, allowing anyone to buy a plan. Other states are allowing longer grace periods for premium payments or placing moratoriums on the cancellation of insurance policies for not paying premiums.

All states have received Medicaid Section 1135 waivers—available during emergencies—to ease requirements in areas like prior authorizations for services, provider credentialing, and reporting and oversight. States also are exercising flexibility using State Plan Amendments, Section 1115 waivers, and home- and community-based services waivers.

## ■ Reopening states

In an effort to flatten the curve and prevent health systems from being overwhelmed, most governors or state health commissioners issued statewide stay-at-home orders, closed schools and certain businesses, and placed limits on gatherings, according to tracking by the National

Governors Association. As state leaders begin easing restrictions, they are closely watching the data.

Widespread testing and contact tracing are key to reopening states, according to most public health experts and guidance from the White House, NGA, the Association of State and Territorial Health Officials and others.

WIDESPREAD TESTING AND CONTACT TRACING ARE KEY TO REOPENING STATES, ACCORDING TO MOST PUBLIC HEALTH EXPERTS AND GUIDANCE DOCUMENTS FROM THE WHITE HOUSE, NGA, THE ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS AND OTHERS.

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Testing and contact tracing help monitor and control the spread of the virus by identifying hot spots or outbreaks and isolating infected people.

Despite progress in the last few weeks, widespread testing for COVID-19 still lags in terms of per capita testing. At the lower end, one report estimates the U.S. needs 750,000 tests per week, while another estimate suggests millions per day.

While state leaders seek more testing kits, state and local public health departments are scrambling to ramp up the workforce to the level necessary for comprehensive contact tracing.

"We have the knowledge and the skill [to do contact tracing]—we just need the numbers," said ASTHO's chief execu-

tive officer, Mike Fraser, in a recent NCSL webinar.

The country needs close to 100,000 tracers, according to ASTHO. State needs range from 176 in less populous states like Wyoming to 12,000 or more in states like Texas and California.

## ■ Looking ahead

Most experts agree that social distancing may be necessary for many months ahead, and many argue that states won't fully return to "normal" until there is a vaccine.

While effective treatment for COVID-19 is likely to come more quickly, researchers, pharmaceutical companies and federal agencies are working to accelerate the development of a vaccine. Recent reports indicate progress in identifying potential treatments and vaccines, though many estimate it will be 12 to 18 months before a vaccine is available.

Still, public health experts caution about obstacles in the road ahead. CDC Director Dr. Robert Redfield warned that states could experience significant challenges this winter. "We're going to have the flu epidemic and the coronavirus epidemic at the same time," he told *The Washington Post*.

Federal and state leaders also will be tackling emerging consequences of the virus, including the disproportionate effect it has had on communities of color, the financial hit already unstable rural health facilities have taken, and the potential for increased enrollment in Medicaid as a result of the economic downturn.

The pandemic will continue to evolve, as will the responses from public health and health care systems to improve prevention, mitigation and treatment of the virus.

State legislatures are likely to take a larger role in the coming months, as many reconvene not only to tackle ongoing issues and new funding challenges, but also to examine and confront the weaknesses in public health and health care systems exposed by the coronavirus.

—Kate Blackman

## EDUCATION

### Adapting to virtual learning, with challenges ahead

Education has been dramatically affected by COVID-19. All states eventually shut down college campuses and K-12 schools through at least mid-May, and most turned to online learning.

School leaders and teachers face significant challenges to ensure students have access to technology, whether that's devices or internet connections.

Teachers, not all of whom are trained in remote instruction, have had to quickly adapt their delivery to a virtual platform, whether their students are kindergarteners or graduating seniors.

Schools, too, are struggling to get materials and meals to students in rural areas who qualify for free and reduced-price lunches.

Meanwhile, higher education is working to ensure that students who were quickly displaced have a safe place to live and access to distance learning.

Even as schools face these immediate and significant challenges, state policymakers are trying to determine how best to help them. They have applied for waivers from the federal government's required testing, held harmless K-12 grades, released schools from taking attendance and suspended enforcement of accountability requirements for struggling K-12 schools.

As legislatures reconvene this summer and fall, they will need to deal with not only the immediate challenges that come with attempting to reopen a school system by fall, but also the long-term impact to the entire system.

They will need to address how the education system can help students recover from the learning losses sustained this spring and summer and the mental health challenges that have been exacerbated during this turbulent time.

They also will have the daunting task of determining how to ensure that inevitable education budget cuts will not further the

inequities exposed since the Great Recession and protect those school-related factors that most affect student success.

—Michelle Exstrom

## EMPLOYMENT

### Job front remains rocky for some industries

State economies face a long, steep climb out of record-breaking unemployment claims, with millions of Americans out of work. Especially hard hit were jobs in leisure and hospitality, health care and social assistance, and business and professional services areas, according to the Bureau of Labor Statistics. Those three sectors alone lost 572,200 jobs in March.

Yet, despite those numbers, some industries, such as shipping and delivery, are booming. Amazon is hiring more than 175,000 workers and UPS and FedEx are hiring to help deliver the growing flow of e-commerce orders. Grocery stores, pharmacies and other major retailers are bumping up their staffs as well. Walmart hired 150,000 new workers and promises to add another 50,000 to its payroll, and other big-box stores including Target and Costco are also looking to ramp up hiring. Gig jobs in food delivery are thriving.

Online learning companies are hiring thousands of teachers, and remote meeting and communications companies are trying to keep up with demand as millions of students and workers are now regularly using telecommunication and videoconferencing tools.

The question remains, as states begin letting businesses reopen, how many jobs will return?

—Linnette Vasquez

## WORKERS' COMPENSATION

### Who's covered?

An important employment issue that has arisen in the wake of the COVID-19 crisis is whether workers' compensation comes into play for employees infected with the virus.

Workers' compensation covers medical expenses and lost wages when workers become injured or ill as a direct result of their job. But, generally, it does not cover routine community-spread illnesses such as the cold or flu because those conditions cannot be directly tied to the workplace. Severe respiratory illnesses among firefighters and other first responders, however, are presumed to be work related and

STATE POLICYMAKERS CAN DEFINE THE EXTENT TO WHICH WORKERS INFECTED WITH COVID-19 ARE COVERED. A HANDFUL OF STATES HAVE STRENGTHENED THE COVERAGE FOR FIRST RESPONDERS, HEALTH CARE WORKERS AND OTHER ESSENTIAL WORKERS WITH A HIGH RISK OF EXPOSURE.

covered by workers' compensation in at least 20 states.

So, should COVID-19 be treated differently than a cold or flu? Without state intervention, perhaps. The determination would likely be made on a case-by-case basis by the workers' compensation insurer and may depend on specific circumstances, such as who infected the worker and what that worker was doing at the time.

State policymakers can define the extent to which workers infected with COVID-19 are covered. A handful of states, including Minnesota, North Dakota and Washington, have strengthened the coverage for first responders, health care workers and other essential workers with a high risk of

*Continued on page 32*





States welcomed the new decade and 2020 with strong economic growth and healthy finances. Tax collections were robust. Spending was keeping pace with revenues. Rainy day funds were full, unemployment was low and business was booming. True, a few dark clouds hung over oil- and gas-producing states because of low energy prices, but, by and large, the fiscal outlook for states was bright.

Fast forward a few weeks, and boom! It's all gone in a flash with the arrival of the coronavirus. Heading into fiscal year 2021, states face an economic downturn of unprecedented magnitude and a dismal fiscal outlook.

Efforts to curb the spread of COVID-19 with stay-at-home orders have wreaked havoc on state budgets. Not only did state revenues come to a screeching halt as economic activity paused, but the legislative process itself was interrupted. Most states suspended legislative sessions in mid-March, leaving about half the states without enacted budgets.

Since then, lawmakers have scrambled to ensure continued funding because state laws require balanced budgets prior to the

MANY STATES WILL NEED TO RECONVENE TO RECONCILE PREVIOUSLY ENACTED FY 2021 BUDGETS WITH THE NEW ECONOMIC REALITY.

new fiscal year, which starts for 46 states on July 1. At the end of April, 30 states had enacted FY 2021 budgets. In some cases, they were modified versions, while other states passed bare-bones budgets that can be filled in later or approved continuing resolutions. Some states took more unusual measures. New Jersey changed the date of its fiscal year, from July 1 to Oct. 1. Kentucky diverted from its regular two-year budget and passed an annual budget because of economic uncertainty.

The landscape has changed. Now, thousands of people are sick and millions more

are out of work. Health care spending and unemployment benefits have skyrocketed, while state tax collections have plunged. As a result, many states will need to reconvene to reconcile previously enacted FY 2021 budgets with the new economic reality.

Yet, what that new reality will look like remains unclear. State economists are struggling to grasp the magnitude of the revenue impact. Sales tax figures for March (the first month of mass closures) are just starting to come in. Income tax collections were delayed by extended filing deadlines, making forecasting more difficult. Early estimates of state revenue losses are ranging from 15% to 20% and increasing the longer the shutdown continues. At least 12 states have already authorized the use of reserve funds to address lost revenues.

### Hints From the Past

It's still too early to know what measures legislators will take to balance state budgets when they convene. However, some insight can be gleaned from looking back at what they did during the last recession to address big shortfalls. In 2009-10, states generally made across-the-board budget reductions first, followed by specific cuts and public employee furloughs. Many tax increases were temporary and often targeted high-income earners. States also raised revenues by broadening income and sales tax bases through reduced exemptions and credits.

Looking ahead, the future for state finances seems bleak. But there is one small glimmer amid the gloom: Most states are better prepared for a downturn now than ever before. Having learned an important lesson during the Great Recession, policymakers took measures over the past decade to build up their rainy day funds. At the beginning of 2020, states, on average, had reserve funds hovering around 10% of general fund spending. This won't last long if business activity doesn't resume quickly, but it will provide a little breathing room as lawmakers grapple with the fallout of the COVID-19 pandemic.

— Mandy Rafool

*Continued from page 30*

exposure. But, for some, workers' compensation may not be the best option. Other benefits, such as paid sick leave or personal health insurance, may provide faster support with less red tape.

In COVID-19 cases resulting in loss of life, however, workers' compensation can provide valuable financial death benefits for a worker's family.

—*Josh Cunningham*

## HOUSING AND HUMAN SERVICES

### Vulnerable populations face heightened risk

The COVID-19 crisis is affecting households at all socioeconomic levels; however, the economic pain is being experienced most acutely by the same populations that were disadvantaged going into the crisis. Race, ethnicity, occupation, social status and the presence of a disability have been historic drivers of economic disparity in the United States, and COVID-19 has laid them bare again.

The shortage of safe, stable and affordable housing in the United States was severe before the coronavirus pandemic, and with millions of workers losing their incomes, many more adults and families are now unable to make rent and mortgage payments. COVID-19 is giving rise to concerns about a potential new wave of homelessness, and to calls for strategies to mitigate the health and safety risks faced by those already experiencing homelessness.

Child welfare and early care and education systems have experienced significant disruptions, putting tremendous strain on children, youth and families, as well as the caseworkers, caregivers, home visitors and early intervention specialists who support the healthy development and well-being of the next generation.

COVID-19 has put the vulnerable populations of children and youth in child welfare systems at heightened risk and is asking more of the already stretched child



COVID-19 IS GIVING RISE TO CONCERNS ABOUT A POTENTIAL NEW WAVE OF HOMELESSNESS, AS WELL AS STRATEGIES FOR MITIGATING THE HEALTH AND SAFETY RISKS FOR THOSE ALREADY EXPERIENCING HOMELESSNESS.

welfare workforce.

Child care may be one of the most pronounced crises within the larger COVID-19 emergency. Advocates are already calling on state and federal lawmakers to address the economically unsustainable pact of families, child care providers and employers at large.

COVID-19 has become a Gordian knot for families bound together by child support or visitation orders. Parents on both sides of the financial equation—noncustodial parents with child support obligations

and custodial parents at risk of not receiving payments—are concerned about the flow of child support payments. Questions and concerns about court-ordered access and visitation amid a pandemic are also on the table.

Lawmakers at all levels are being called on to address the basic needs of millions of Americans, and, in the months ahead, constituents will be looking to their legislators for strategies to rapidly connect people to a brighter, safer future.

—*Wade Fickler*

## CRIMINAL JUSTICE

### Courts, law enforcement see big impacts

COVID-19 is forcing federal, state and local governments to make decisions that will affect the big-picture operation of their criminal and juvenile justice systems.

Courts at every level have postponed or canceled proceedings. Many jurisdictions have converted to virtual court proceedings when possible. The U.S. Supreme Court building is closed but will remain open for official business. The justices postponed March and April oral arguments but will continue to hold conferences and issue scheduled orders, with some participating by phone.

The daily work of law enforcement officers also has been greatly affected by the coronavirus. Many departments have expanded citation in lieu of arrest policies or limited arrests within already established statutory limits. Arrest rates and jail bookings have decreased significantly, and jail populations have fallen in local jurisdictions by as much as 70% in some cases.

The federal Bureau of Prisons, state corrections departments, local jail administrators and juvenile justice agencies all have taken steps to prevent the spread of COVID-19 in adult correctional and juvenile detention facilities. For example, facilities are releasing vulnerable people and low-level offenders from jails and prisons when possible and reducing or suspending visitation.

—*Sarah Brown*

# TOOLS FOR THE STAFFER'S TOTE BAG

Your job isn't easy. We get it. But with the right tools, any legislative staffer can be effective. NCSL is here to help as you get ready for the next session. From e-learning to our award-winning publications, we've got the resources you can rely on to do your very best. Most are available for free on our website, [www.ncsl.org](http://www.ncsl.org), or by emailing us at [getinvolved@ncsl.org](mailto:getinvolved@ncsl.org).

## NCSL.ORG

Databases, research reports, webinars, videos, podcasts and blogs will help you do your job better—and will keep you informed about state legislatures, politics and policy.

## STATE LEGISLATURES MAGAZINE

Get inspired, gain insight, discover new perspectives. NCSL's magazine of policy and politics shines the spotlight on you and your colleagues and the work you do like no other publication.

## MASON'S MANUAL

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

## LEGISBRIEFS

Short briefs will get you up to speed on legislative issues—the problems, possible solutions, the experiences of other states, and the federal role.

## ISSUE SPECIALISTS

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





"Local news allows us to not only know what's going on in government and in meetings we can't possibly attend, but it tells us the story of who we are and who makes up our community," says Massachusetts Representative Lori Ehrlich.

## CORONAVIRUS

# No News Is Bad News

Fading local news coverage leaves the public unformed.

BY MARK WOLF

The numbers were staggering. New Jersey newspapers were hemorrhaging red ink and shedding journalists since the beginning of the Great Recession. With those reporters and editors went much of the stellar coverage of local and state governments, long a hallmark of the state's newspapers. Readers followed. "We saw a dramatic decline locally," said New Jersey Assembly Majority Leader Louis Greenwald (D). "We saw 400 jobs lost at a local newspaper [The Bergen Record, which broke the infamous "Bridge-

gate" story], the Asbury Park Press lost 58% of its subscribers, the [Newark] Star Ledger lost 55%. The community felt disconnected from local government and what they were doing."

Hurricane Sandy, which devastated the East Coast in 2012, revealed another effect of the loss. Because of a lack of access to local news, "most of us tracked the storm's impact on South Jersey from then-mayor Michael Nutter in Philadelphia, who gave updates on the South Jersey communities," Greenwald said.

Legislative and statehouse coverage dwindled sharply. David Chen, the last

chief of The New York Times' Trenton bureau, which closed in 2008, wrote that during his tenure "as many as 30 newspaper, wire service, television and radio journalists would be working on press row" at the New Jersey statehouse. On a return visit in 2017, "I counted six: two Bloomberg reporters, three for The Record and one from New Jersey 101.5 FM."

New Jersey Senator Robert Singer (R) adds that full-time statehouse reporters understood the legislature. "They would ask the right questions," he said. "They truly became part of the statehouse. When newspapers were having problems, the first person they cut was the dedicated statehouse reporter."

Now, he added, "The public is totally unaware of many of the things we're doing."

Both Singer and Greenwald said a dearth of local news outlets makes it more challenging for public policy arguments to be heard and to provide the needed checks and balances on public officials.

## A Unique Partnership

In the wake of this dwindling coverage was born the New Jersey Civic Information Consortium, a first-in-the-nation initiative to provide public funding to meet the news and information needs of local communities. The consortium was conceived by the press advocacy group Free Press Action and sponsored by Greenwald and Senate Majority Leader Loretta Weinberg (D). Singer is a co-sponsor.

Funded at \$2 million—currently frozen because of the COVID-19 pandemic's ruinous effect on the state's budget—the consortium is a partnership with five state universities that will award grants to projects intended to buttress local news coverage in a variety of innovative ways.

"I thought it created a unique partnership centered in five of our universities, which are the teaching ground for the next generation," Greenwald said.

While the consortium was being formulated, backers held community meetings around the state to solicit ideas about what kind of efforts should be funded, said

Mike Rispoli, New Jersey state director for Free Press Action and a former statehouse reporter for Gannett's newspapers in the state.

"We heard [interest in] targeting money to underserved communities, in particular communities of color and immigrant communities and rural parts of the state that are currently undeserved by the existing media ecosystem," Rispoli said. Among other areas of interest were "training programs so community members can learn to do documentary filmmaking, podcasting, training in news gathering, opening data portals for greater access to government data, a right-to-know institute, [and] investigative funds where newsrooms could request grants for investigative journalism or to collaborate on investigative projects."

Greenwald is hopeful the consortium can create a template that other states might follow.

In Massachusetts, Representative Lori Ehrlich (D) is sponsoring a bill to establish a commission of 17 industry members, lawmakers and academics to produce a report on the state of local journalism, including models of sustainability for private, public and nonprofit institutions. Among its charges, the commission would examine "news deserts" of underserved populations and the effect of social media on journalism.

The bill, she said, hit a snag in the committee process, but both the committee chairman and the speaker of the House are committed to getting it passed.

"Even in the short time since I filed the bill [in January 2019]," she said, "so much has changed in journalism and none of it for the better."

She said the newspapers in her district northeast of Boston are "hanging on," but that across the state, "we have news deserts with no coverage and others with papers that have been eviscerated."



Ehrlich



Greenwald



Singer

"Local news allows us to not only know what's going on in government and in meetings we can't possibly attend, but it tells us the story of who we are and who makes up our community," Ehrlich said. "The loss of a newspaper is a tear in the fabric of our community. We lose a piece of what we've come to know as civil society. There's something to be said about applying journalistic integrity to issues as they arise as an important moderating factor on our politics."

### A Loss of Important Coverage

Statehouse coverage by local media has been dwindling for years and the current pandemic is certain to add to the snowballing. Recent reports in *The New York Times* and from the Poynter Institute detail some of the newsroom cutbacks in the wake of the pandemic, much of it attributable to a drastic drop in advertising.

Scott Greenberger, executive editor of Stateline, the daily news service of The Pew Charitable Trusts, oversees a news staff of 10, plus five freelancers, who cover state issues and aggregate a daily "What We're Reading" feed of top state stories from across the nation culled from newspapers, wire services and nonprofit news entities.

"We're seeing more outlets, but in the traditional for-profit newspapers there's less of the kind of policy-oriented coverage we're interested in," he said. "There are exceptions but it's pretty obvious in checking those papers every day that they don't have as many people at the statehouse and therefore you don't see as many stories."

"A lot of these nonprofit entities are doing a terrific job," he added. "The Texas

Tribune comes to mind. There is a recognition out there that statehouse coverage is incredibly important and there isn't enough of it right now. This crisis has highlighted the importance of state and local government as opposed to the stuff the national papers cover in Washington."

Craig Sandler remembers the scene in the press gallery at the Massachusetts statehouse when he was a young reporter for State House News Service, fresh out of the University of Massachusetts Amherst in 1988.

"It was hard, sometimes impossible, to get a seat in there and now it's a sea of empty desks," he said. Sandler now owns the subscription-based wire service, which was established in 1894 and whose staff of seven produces robust gavel-to-gavel coverage of the Massachusetts General Court as part of its local and state government reporting.

The shrinking of legislative coverage is "appalling and heartbreaking," he said. "It's terrible to see friends not doing what they are trained to do."

### The Future of News?

Bobby Harrison, a former reporter for the North Mississippi Daily Journal in Tupelo, is now the senior capitol reporter for Mississippi Today, a nonprofit whose staff of 18 makes it one of the biggest newsrooms in the state, covering state government, health, education, justice, culture and sports. Its funding comes from private contributions, corporations and foundations. Mississippi Today is among the 215 nonprofit news sites, some of them staffed with reporters, editors and photographers who previously worked at legacy publications, tracked by the Institute for Nonprofit News.

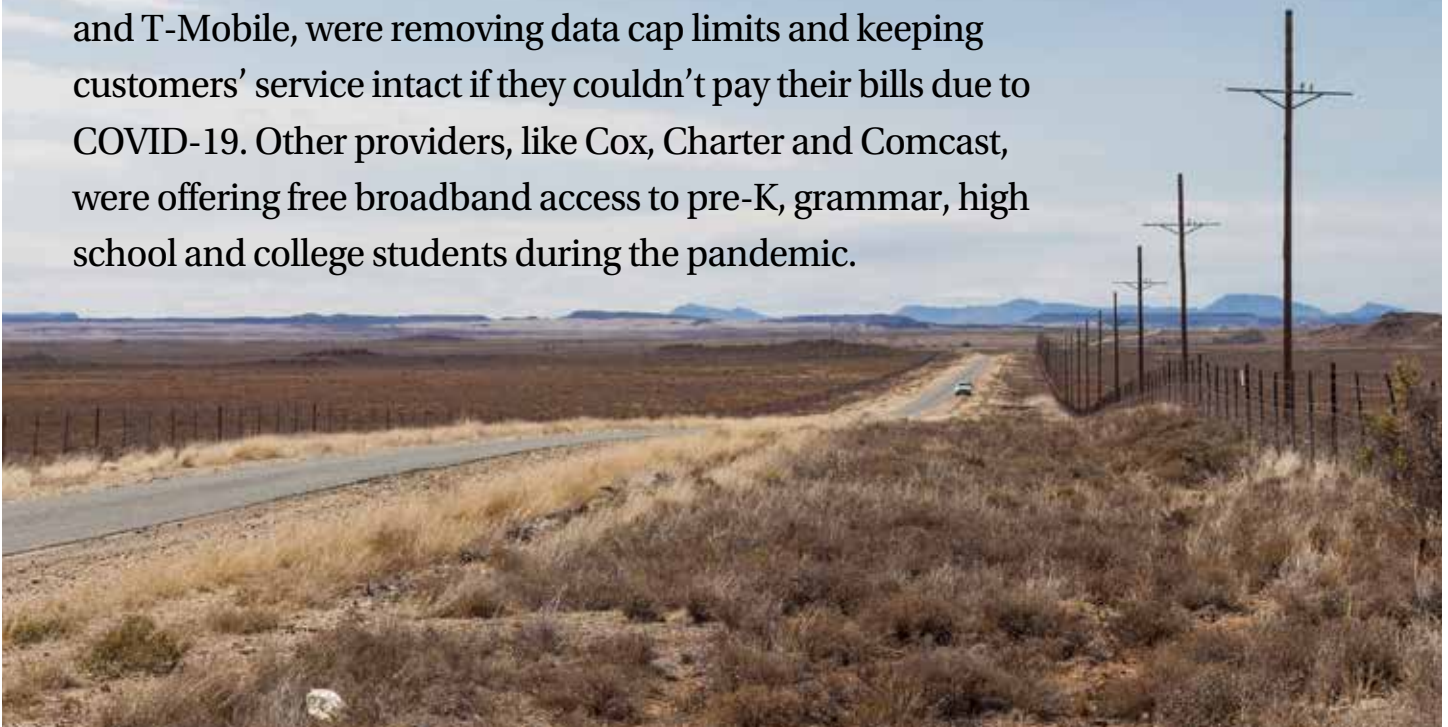
"State government has much more impact on a lot of important issues than does the federal government," said Harrison, who is president of the Mississippi Capitol Press Corps Association. "The lack of coverage is disheartening, bad for democracy and not good for the citizens of the state."

*Mark Wolf is the editor of the NCSL Blog.*

## INTERNET ACCESS

# Remote Work? Not in a Digital Desert

As stay-at-home orders spread and millions of workers and students went online to do their jobs or homework assignments, it became clear that the digital playing field was far from level. Digital deserts, where residents have poor or little internet access, are holding rural areas back, educationally and economically. In the long term, advocates hope state lawmakers will push providers to build out their rural networks. Meanwhile, some ISPs, like AT&T, CenturyLink and T-Mobile, were removing data cap limits and keeping customers' service intact if they couldn't pay their bills due to COVID-19. Other providers, like Cox, Charter and Comcast, were offering free broadband access to pre-K, grammar, high school and college students during the pandemic.



**HIGHWAY SAFETY****Fewer but Deadlier Crashes**

With many Americans parked at home, health professionals, delivery drivers and other essential workers have had the roadways mostly to themselves. But just because traffic was scanty (down by two-thirds nationally from March 1 to April 10, according to the analytics company StreetLight Data), the roads weren't necessarily safer. Police in several states reported spikes in fatalities they linked to speeding or reckless driving, despite an overall drop in highway crashes during the pandemic compared with last year. Some drivers might think police are too busy dealing with the coronavirus to chase speeders, according to the Governors Highway Safety Association, which represents state highway safety offices. In response, many agencies have sent out public reminders that they are, in fact, still enforcing speed laws.

**BUSINESS INTERRUPTUS  
Coverage for Work  
Stoppages, Disasters**

Lawmakers in at least eight states and Puerto Rico have introduced measures to require business interruption insurance to cover mandatory work stoppages resulting from the coronavirus emergency.



The sign outside a synagogue in Babylon, N.Y. Many houses of worship moved regular services to the web.

**RELIGION****DOJ Watching for Unlawful Restrictions**

The U.S. Justice Department has cast a wary eye on social-distancing orders that prevent in-person religious gatherings in any form. Such restrictions are in place in at least 10 states. Two federal prosecutors are now in charge of an effort “to monitor state and local policies and, if necessary, take action to correct them,” according to a letter U.S. Attorney General William Barr sent in late April to all U.S. attorneys offices. Barr’s concern is with restrictions that could violate religious, free speech or economic rights protected by the Constitution. “We do not want to unduly interfere with the important efforts of state and local officials to protect the public” from the virus, Barr wrote. “But the Constitution is not suspended in times of crisis.” Lawsuits challenging restrictions on religious institutions are mounting even as some states begin to loosen their stay-at-home orders.

Depending on the property insurance policy, business interruption coverage may protect companies from loss of income after a disaster,

whether the loss results from a mandated closing or having to physically rebuild. But insurers point out that such policies do not typically cover losses

related to viruses. As of mid-April, business interruption bills were pending in Louisiana, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, South Carolina and Puerto Rico.

**DRUG TREATMENTS****Vaccine on Fast Track  
but Still Needs Time**

As the number of COVID-19 cases rises across the United States, development of treatments and vaccines is high priority. To move new treatments to patients as quickly as possible, the U.S. Food and Drug Administration created CTAP (the Coronavirus Treatment Acceleration Program). As part of the emergency effort, the FDA currently has 284 clinical trials underway, with 10 therapeutic agents in active trials and another 15 in planning stages. The agency says it will take a minimum of 18 to 24 months before approval of a COVID-19 vaccine—but that timeline is significantly shorter than past vaccine developments. In 2003, for example, it took 20 months from sequencing the SARS virus to the first human vaccine study. Today, less than four months elapsed from sequencing COVID-19 to the first human study. The reality is that just 5% to 10% of the trials will succeed. The high failure rate means, as an FDA official put it in a recent NCSL webinar, “We need lots of shots on goal.”

LABOR

Lawmakers hope telework opportunities can revive rural economies.

# Workers Fit for the Future



States are helping workers evolve with technology.

BY SUZANNE HULTIN

The way we work is evolving. Technological advances demand highly skilled workers, and gig jobs require people who can be paid by the task or project, not by the position they hold in a company. The transformation of today's workplace has left businesses, educators and policymakers playing catch-up. COVID-19 has only accelerated the pace of change.

Economists agree that technology and automation will influence nearly all occupations, but in different ways. The effects of automation will differ greatly by place, demographics and occupation, according to the Brookings Institution. New technology, for example, will have the greatest impact on manufacturing and agricultural jobs found mostly in heartland states and rural communities. Big cities and college towns, where service, creative and profes-

sional jobs are prevalent and varied, will remain relatively insulated from increasing automation.

## Future-of-Work Commissions

Even before the coronavirus struck, lawmakers were considering ways to build a more resilient, flexible workforce capable of evolving as technology advances. In 2019, lawmakers in at least five states introduced legislation to create commissions or work groups to study the issue. Lawmakers in California, Hawaii and Washington, for example, passed bills creating commissions specifically to examine the effects that automation and new technology will have on their workforces and economies.

Other states' commissions are focused on finding new ways for students and adults to enter the workforce and continue developing skills needed for success in a changing environment.

New Hampshire's commission is studying career pathways, including service-year programs—full-time, often paid

placements offering hands-on learning—and other educational and employment opportunities.

"We wanted to look at an alternative way for youth to build skills, learn about themselves and develop soft skills that are really applicable to the workforce," says New Hampshire Representative Matt Wilhelm (D), who sponsored the bill creating the commission. "This [bill] establishes a service-year workforce commission to study what we can do to solidify and expand pathways to post-secondary education and careers."

## Rural America's Challenges

Expanding job opportunities in struggling rural communities to keep talent and jobs at home can also help build the entire state's economy. In Vermont, for example, lawmakers created the Remote Worker Grant Program in 2018 to entice individuals to move to the state and work remotely, whether from home or a shared workspace. Last year, more than 4,000 applications were downloaded for the program's





Albrecht



Stonier



Wilhelm

grants, which are available annually on a first-come, first-served basis. That year, the state awarded more than \$320,000 to 84 new remote workers to cover expenses such as computer

hardware and software, broadband access and coworking memberships.

Because the program is so new, there isn't much data on how the grants have influenced rural economies. But last year, along with the 84 new workers, 90 adult family members and 44 children moved to the state, bringing the total number of new, grant-related Vermont residents to 218.

Lawmakers in Colorado, Kansas, Missouri, Nebraska and Utah are offering incentives to encourage businesses to create jobs in rural areas.

Utah, for example, enacted its Rural Economic Development Incentive program in 2018. REDI, as the program is known, awards grants to businesses that create new positions, including online remote jobs, in counties with populations of fewer than 31,000. The program joins two existing rural-jobs efforts, the Rural Online Initiative and the Rural Coworking and Innovation Center.

"The REDI program is really one part of what I call the three-legged stool for economic development in Utah," says Representative Carl Albrecht (R), who sponsored the legislation. "We're finding all these programs are great for rural Utah. Household incomes in the rural areas have increased between 13% and 21%

in the 15 rural counties the programs are currently in."

Albrecht is currently seeking additional funding to expand the programs to six more rural counties.

### The Gig Economy

Technology is fueling a growth in part-time gig-economy jobs. Independent workers—those doing temp, contract, on-call, freelance or gig jobs—currently number about 36 million, roughly a quarter of the American workforce. That portion could grow to half in the next 10 years, according to research by the Rockefeller Foundation.

Some of these workers do gig work by choice, enjoying the flexibility it offers over employment within a company structure. Others, however, may do gig jobs out of necessity, because full-time employment is harder to find in certain occupations. This market shift, with employers using relatively fewer full-timers and more contractors, leaves many workers at risk of going without employer-sponsored health insurance, retirement plans or the benefits of collective bargaining. These concerns led California lawmakers to enact legislation last year that limits the number of gig or independent workers in the state.

Lawmakers in Massachusetts and Washington, among other states, have proposed supporting such workers with "portable benefits"—health care, retirement plans, workers' compensation—that move with the worker rather than a company.

"Making sure people have access to benefits is a priority in Washington state," says Representative Monica Jurado Stonier (D), who introduced portable-benefits legislation in 2017 and 2019. She says that a lack of workers' compensation or health benefits "can really send a worker into a downward trajectory." Although neither bill was successful, Stonier plans to keep the conversation going and introduce another bill in January 2021.

Technology and automation will continue to alter American work life in ways economists have yet to imagine. As law-

### COVID-19 and Work Life

Some states were prepared to respond to the shelter-in-place orders associated with the coronavirus. Nebraska, Tennessee, Utah and Washington have tested teleworking in recent years due to natural disasters and the rural nature of the states. All could agree that remote work requires shifting focus to:

- Communicating and team-building.
- Managing performance, not hours worked.
- Creating web training for managers.

### Employee or Contractor?

California's Assembly Bill 5, enacted last year, classifies workers as employees or independent contractors based on a three-part test. Independent contractors must be:

- Free from the company's "control and direction" in their work.
- Engaged in work outside "the usual course" of the company's line of business.
- Engaged independently doing work that's similar to what they do for the company.

If any of the conditions is not satisfied, the worker must be considered an employee. Uber and Postmates have challenged the law in court.

In March, Congress passed the Coronavirus Aid, Relief and Economic Security (CARES) Act, expanding unemployment relief to millions who historically could not collect benefits: furloughed, part-time, contract and gig workers. Could this signal new security for nontraditional workers?

makers strengthen their economies and prepare their workforces for change, they will have a growing number of promising policies and solutions to consider.

*Suzanne Hultin is a program director in NCSL's Employment, Labor and Retirement Program.*

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# Legislative Staff Week: Welcome

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FROM THE STAFF CHAIR

## Up to the Task in Challenging Times

NCSL and legislative staff are facing the COVID-19 crisis together.

BY MARTHA WIGTON

This year is not quite what I expected it would be. By early April, the Georgia legislature normally would have passed our state's budget and adjourned for the year, and I would have turned my attention to the other important tasks we address during the interim—including recognizing my staff for the high-quality services and support they provide to the House and their exceptional commitment to the legislative institution.

Instead, as I write this in mid-April, the General Assembly has suspended session indefinitely. My team, along with the many other Georgia staffers, is now working behind the scenes to analyze the economic impact of the COVID-19 crisis in order to recraft the fiscal year 2021 budget, draft legislation to address this new reality, support members as they communicate with their constituents and help run the institution from afar.

While this time of year is not what I envisioned, I do know one thing: Georgia legislative staff have stepped up to meet the challenge. Every day, my peers and colleagues are innovating, collaborating and practicing resilience. They stand ready to meet unprecedented daily demands. I have no doubt that legislative staff across the country are also stepping up to this challenge and shining a positive light on legislative service and the power



When the nearly empty Georgia House, above, was adjourned on March 13, NCSL Staff Chair Martha Wigton tweeted, "Staff are still on duty—remote and ready!"

of the legislative branch.

During Legislative Staff Week, NCSL spotlights you. Now, more than ever, your work matters. So, take a moment to give yourself and your colleagues a round of applause. Because of you, legislatures across our nation are stronger than ever!

Finally, remember that NCSL stands ready to assist you. From providing analysis and briefings about the impact of the



Wigton

"NOW, MORE THAN EVER,  
YOUR WORK MATTERS."

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coronavirus on states to convening webinars and videoconference calls to discuss how legislatures continue to get their work done, NCSL is here for you. We'll get through this, together.

*NCSL Staff Chair Martha Wigton is director of Georgia's House Budget and Research Office.*

# Legislative Staff Week: Focus



Displaying political messages in one's yard is not an option for many nonpartisan staffers.

## FREE SPEECH

# Staff Have a Right to Political Expression

But states may limit certain activities.

Legislatures have an interest in ensuring that nonpartisan staff refrain from overt political activities that may diminish their credibility and effectiveness. But staff also have an “inviolable” right to express themselves politically.

This conflict has led to a robust body of case law. Several courts have found that prohibiting public employees from engaging in certain political activities does not violate the First Amendment if the state can show there is a “sufficiently compelling interest” in doing so. Compelling interests include protecting institutional integrity; maintaining efficient operations, discipline and employee morale; and discouraging improper influences, abuses of

position and the appearance of bias.

States, however, do not have limitless authority to penalize employees for expressing partisan sentiment. Courts have rejected restrictions they consider overbroad or too vague. Limits on political activity also must not infringe on a staffer's state constitutional rights, which may extend beyond those established under federal law.

The First Amendment, state constitutions, statutes, chamber rules, administrative regulations, policies, employee manuals and employment contracts all dictate rules of conduct, some of which may limit partisan political activities by staff.

Agency policies may prohibit nonpartisan staff from signing a petition involving a matter before the legislature, for example, unless an applicable statute or state

LIMITS ON POLITICAL ACTIVITY  
MUST NOT INFRINGE ON STATE  
CONSTITUTIONAL RIGHTS.



constitutional provision protects the employee's right to do so.

Eighteen states have laws protecting the right of staff to participate in political activities, such as signing petitions, voting or running for office. And three states allow employees to hold an elective position if their supervising authority approves.

But staff in eight states who run for office must take a leave of absence or quit, and staff in three states cannot serve on a party committee or in a leadership position. Two states go even further, prohibiting any state employee from attending political meetings or participating in politics beyond voting.

In 26 states, laws prohibit employees from using state resources for partisan political purposes while at work. In another 23 states, chamber rules, rather than state laws, prohibit staff from attempting to influence an issue before the legislature or from using state resources for campaign purposes.

No state restricts the right to vote or register with a party, though four states forbid employees from belonging to groups that advocate for the violent overthrow of the government.

Legislative staff policy manuals should include a description of prohibited political activity. Read those closely when in doubt.

*This article is based on the report “Limiting Political Activity for Nonpartisan Staff,” by Nicholas Birdsong, a policy specialist with NCSL's Center for Ethics in Government.*

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# Legislative Staff Week: Snapshots

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## VIRGINIA

### Steve Pike

*Chief of Police, Division of Capitol Police*

**What's your role in the legislature?**

My division is responsible for the public safety services to state agencies, state employees and elected officials.

**How are you staying resilient during the COVID-19 pandemic?** I feel my resiliency pales in comparison to the people battling against this virus, as well as the doctors and nurses on the front lines saving lives. They're the resilient ones.

**What do you find most rewarding about your job?** I have the honor and privilege to meet hundreds of visitors each year at our Capitol. And, I'm responsible for leading the nation's oldest police force.

**When you're not working, what might we find you doing?** I enjoy photography and visiting the spectacular national parks across the United States.

*These interviews have been edited for length and clarity. You can find the full-length versions of these and other staff profiles at [nctl.org/magazine](https://nctl.org/magazine).*



## NEVADA

### Megan Comlossy

*Principal Policy Analyst, Research Division, Legislative Counsel Bureau*

**What's your role in the legislature?**

I assist legislators by researching issues, analyzing policy options and helping to develop legislation.

**How are you managing during the pandemic?** It's important to have "work time" and "family time," so I can focus my attention on my boys or my work. Keeping in regular communication with colleagues—through phone and video chats and instant messaging—helps maintain as much "business as usual" as possible.

**What's most enjoyable about your job?** In a time when information is more available than ever, I am excited to be in a position where I get to provide "just the facts" and to have the opportunity to help policymakers filter facts from the noise and make educated decisions based on objective, accurate, nonpartisan information.

**When you're not working, what might we find you doing?** Running, hiking or skiing in the mountains of Lake Tahoe, my home; going to the beach, playing outside or riding bikes with my almost 2-year-old son.



## GEORGIA

### Tara Boockholdt

*Budget and Policy Analyst, House Budget and Research Office*

**What's your role in the legislature?**

I staff several committees and, as non-partisan staff, answer questions from our representatives related to topics in those committees, such as Medicaid, public health and graduate medical education.

**How are you dealing with the pandemic?** The COVID-19 pandemic started two weeks after I gave birth to my second daughter. We would not be surviving without our daily walks, evenings in the backyard, and taking time to cook meals together. We're trying to look on the bright side and appreciate the family time we've been given.

**What has been your greatest work challenge?** It can be frustrating to work hard on collecting research and developing recommendations for an issue that is then either dropped for political reasons or morphed into something different than envisioned.

**When you're not working, what might we find you doing?** Hanging out at home or at a park with my husband and our daughters and three dogs. It can get a little chaotic, but I love it.



## WASHINGTON, D.C.

### Emmanuel Brantley

*Director of Communications, Council of the District of Columbia*

#### What's your role in your job?

My primary duties are to manage my councilmember's social media platforms, foster healthy relations with the local press corps, maintain the official website, and help to coordinate and execute related outreach activities. There is a lot of great work to be done at the local level.

**How are you staying resilient during the pandemic?** I am intentionally eating very healthily, making time to clear my reading/movie lists (topics include media relations, World War I, comedy and black history) and doing 30-minute bike rides in the evening.

**What work are you proud of?** In an outreach capacity, I led our office to adopt a public middle school as part of the D.C. Public Schools' Adopt-a-School Program.

**When you're not working, what might we find you doing?** Working on one of my many creative writing projects, studying an Adobe Creative Cloud program or listening to new (or old) music. I also enjoy serving at my church and hanging with friends and may even try to sneak in a web search for cheap flights!



## OREGON

### Alethia Miller

*Legislative Analyst, Legislative Policy and Research Office*

#### What's your role in the legislature?

I staff legislative committees and provide nonpartisan, objective research for legislators and their staff.

**How have you managed during the pandemic?** Our leadership team has structured optional daily all-staff check-ins that provide another opportunity to connect with my colleagues.

**Why did you choose to work at the legislature?** I knew while working for the Higher Education Coordinating Commission that I wanted to work more directly with legislators. One of my goals was to learn all facets of policy development; the legislature offered the next step.

**When you're not working, what might we find you doing?** Since the legislature requires such an intense time commitment during session, I've really enjoyed taking an annual weeklong vacation exploring a part of the globe I've never seen.



## IDAHO

### Michelle O'Brien

*Special Projects Coordinator, Idaho Legislative Services Office*

#### What's your role in the legislature?

I am responsible for the Capitol Tours Program, coordination of all facilities and security services, and oversight of the gift shop and information center staff and the dining room vendor.

**How have you stayed resilient during the pandemic?** I continue to maintain daily phone conversations with the Capitol building maintenance technicians and security staff. It is imperative to me that these "boots on the ground" staff feel supported and appreciated during the crisis.

**Why did you choose to work at the legislature?** Growing up near the birthplace of Harry Truman and visiting his home as a young child made a huge impression on me. Each day when I left school, I could see our Capitol just down the boulevard and I knew that I wanted to work there one day.

**What's most rewarding about your job?** To hear constituents say "thank you," whether it's for helping them find information or for steering them through the legislative maze.

# Legislative Staff Week: Toolbox

## RESILIENCY

# Mindset Matters in Tough Times

BY CURT STEDRON

How do you respond to feedback? Do you get sensitive, interpreting the comments as attacks on your ability, intelligence or performance? Or do you welcome the remarks as opportunities to grow and improve?

If a critique gets your hackles up, you may have what Stanford psychologist Carol Dweck calls a “fixed mindset”—a belief that your intelligence and talents are static and impervious to change.

But if you relish feedback, you likely have a “growth mindset,” which Dweck defines as a belief that your abilities are dynamic and can develop over time. Her research suggests that our mindset is key to determining how we react to obstacles, criticism and setbacks.

### ‘Fixed’ Versus ‘Growth’

Life in the legislature is filled with challenges. If we face them with a fixed mindset, research shows that we are more likely to ignore useful feedback and to give up more easily when times get tough—as they surely have!

But if we can adopt a growth mindset, we might find that our effort, persistence and acceptance of criticism actually increase when we encounter obstacles, helping us to improve our overall performance.

In a study at the U.S. Military Academy, a growth mindset was found to be far more predictive of cadets’ success than either IQ or physical ability. Cadets with a growth mindset demonstrated greater resiliency and perseverance, or what psychologist Angela Duckworth calls “grit.” A

growth mindset, she says, focuses our attention on process and strategy instead of outcomes and achievements. We come to see setbacks as opportunities rather than disappointments. Improve your processes, and you might find that—voilà!—your performance improves as well, whether you’re crafting a difficult piece of legislation or trying to solve a knotty constituent problem.

So how do we cultivate a growth mindset in our legislative institutions? It starts with you. In the box on the right are three research-approved techniques to help you get going.

### The Power of Yet

A high school in Chicago instituted a strategy where students who were unsuccessful on an assignment received a grade of “not yet.” The point was to shift the focus—the mindset—of teachers and students alike from a fixed measure (score) to a growth measure (process).

Students began to see achievement as changeable over time, and overall grades and scores improved. Dweck calls this “the power of yet.”

The legislature is the ultimate dynamic environment. COVID-19 proved that. Circumstances change constantly, obstacles emerge unexpectedly, criticism is a fact of life. Yet we can unlock the effort, resiliency and grit of legislators and staff by adopting a mindset that thrives in this reality—a growth mindset.

When we do that, we unlock our own legislative power of yet.

*Curt Stedron is NCSL’s director of legislative training.*

## 1 | Assess your current mindset.

Ask yourself how you feel about your ability to perform various aspects of your job—how you write, research, lead the caucus, speak in public. Where is your answer on the spectrum between fixed (“I’m terrible/pretty good at that”) and growth (“I could get better with some help”)? Identifying where you might be fixed is a crucial first step toward growth.

## 2 | Change the way you praise yourself and others.

Dweck’s research shows that we improve more when we praise effort, strategy and process rather than intelligence, talent and results. Struggling math students made significant gains when praised for their approach to problems, rather than their correct answers. In the legislature, focus your praise on the committee or bill drafting process to improve chances of success.

## 3 | Conduct regular postmortems of completed projects.

For legislative staff, make such reviews part of your routine, instead of waiting for a midyear performance appraisal or other formal evaluation. Focus praise or criticism on strategy and process, not on products or results.

—Curt Stedron

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# The Final Word

**Troy Jackson**

President, Maine Senate

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A fifth-generation logger from northern Maine, Troy Jackson (D) served in the state House from 2002 to 2008, when he moved to the Senate. He was chosen by his Senate colleagues to be president in 2018. Jackson is a graduate of the University of Maine at Fort Kent.

## **How has the coronavirus affected the legislature's ability to work?**

We decided to temporarily suspend the legislature until the pandemic has subsided. Before we went home, we worked quickly to pass a bipartisan budget that included funding for public health nursing, the Maine CDC and more. We've launched [www.troyjackson.org/covid19](http://www.troyjackson.org/covid19) and a weekly video series called the "Dirigo Network: Celebrating Mainers Helping Mainers." COVID-19 has definitely posed many challenges to the way our state operates, but we are simply finding new ways to keep things going. [\[Watch Jackson's first Dirigo video.\]](#)

## **What leadership lessons have you learned from government reactions to the virus?**

We've seen how COVID-19 has devastated other cities and states. As leaders, we had a responsibility to take this pandemic seriously and do everything we could to make sure what happened in those states didn't happen here. The other key takeaway is that we have to take care of people affected by COVID-19. The only way we're going to get through this is by working together. It's why my colleagues and I worked hard to expand unemployment benefits and urged Congress to help small-business owners and self-employed Mainers. As someone who has relied on unemployment in the past and who has gone without health insurance for long periods, I know what it feels like to wonder how you are going to make ends meet in the face of uncertainty. I believe the states that take care of working families and small businesses will be better off in the long run.

## **What motivated you to run for office?**

For me it was about labor issues in logging that prompted me to get into it back in '98. I got so frustrated that we ended up



blocking the Canadian border for a week [to protest landowners hiring Canadian loggers instead of Mainers]. All these politicians showed up because it was just before an election. When the election went away, we were nothing to them. That was a really big eye-opener. So what motivated me was anger. At 29 years old, I finally understood that laws are great, but if people don't enforce them, they don't mean anything.

## **How has coming from a rural area influenced your approach to public service?**

I'm the farthest legislator from Augusta, so it's rare that I have constituents who come to testify and see the process. I try and keep that first and foremost in mind—that there's a different belief out there than what I'm probably hearing 24/7 in the Capitol building. I didn't feel like I had a voice, and even though I'm the Senate president, I often still feel like I'm being left behind. And if I feel like that, then God bless all the people I represent who don't have as much of an ability to make change.

## **Who was your biggest role model?**

Obviously, my parents were. I didn't have anyone politically, that's for sure.

## **What would surprise most people to learn about you?**

Maybe that I'm still an active logger. My youngest son is the sixth generation. I'm a member of both the machinists and painters unions. I wear a union pin every day I'm in the legislature.

## **What final words would you like to share?**

There are a lot of people in this country who feel very much left behind and they don't really know where their place is. It's important as legislators to not forget about them. They're out there and they matter. I'm living proof of that. It probably would have been a lot more financially beneficial for me to just shut my mouth. But I didn't want to live like that anymore.

*Beth Hladick conducted this interview, which has been edited for length and clarity.*



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