Navigating Uncertain Times

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FEBRUARY

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“The first Superfund law, passed in 1980, barely made a dent in cleaning up the nation’s hazardous waste sites. Now there’s a new program.”

HISPANIC POPULATION GROWING AT TWICE NATIONAL RATE
“A new report from the Census Bureau indicates that the Hispanic population, at 18 million, is now 7 percent of the total.”

BUSSES & BELTS
“Accidents involving school buses have sparked an emotional, nationwide debate about whether buses should be equipped with seat belts.”

Delaware, on Dec. 7, 1787, became the first state to join the Union. It gets its name from Sir Thomas West, Baron De La Warr, an Englishman and first colonial governor of Virginia. It is the only state to have a rounded boundary—an arc formed by drawing a 12-mile radius from the old courthouse in New Castle. Its long, straight western boundary became part of the Mason-Dixon Line that divided slave states from the others. Only Rhode Island is smaller.

—From National Geographic’s “Our Fifty States”
A MEASURE OF POVERTY

The official poverty rate in 2010 was 15.1 percent, or 46.2 million people, according to the Census Bureau. That’s the largest number of people since 1959, when estimates began, but 7.3 percentage points lower than in 1959.

The Census Bureau has used “thresholds” developed in 1963 to determine poverty rates. A family is poor if its before-tax income is less than the threshold. Except for being adjusted for inflation, thresholds haven’t changed much over the years. They are not adjusted for geographical differences, nor do they include capital gains or other noncash benefits. In 1963, the poverty threshold for a family of four was $3,000. Today it’s $22,113.

There are several concerns, however, that the Census Bureau’s method does not accurately measure poverty in America. Critics argue the method fails to reflect that:

- Public assistance provides many benefits.
- Significant cost-of-living differences exist among regions.
- The elderly often own their homes and have large savings accounts.
- Cultural changes—such as the relative costs of food, housing, energy and health care as well as new costs, such as child care and transportation—have occurred in 50 years.
- Many consumer products now owned by the poor were previously considered luxuries, such as computers and cable TV.
- The definition of what constitutes a “family” (more singles, unmarried couples and single parents) has changed over time.

To address these concerns, the Census Bureau now calculates a “Supplemental Poverty Measure” that adjusts for geographical differences and public benefits, among other things. Using this method, in 2010, 16 percent of Americans were poor.

Did You Know?

- In 2010, 22 percent of American children were living in poverty.
- Children are 24 percent of the total population, but make up 36 percent of the poor.
- The number of students receiving free school meals rose 17 percent from 2007 to 2011.
- Over the course of one year, 4 percent of the poor become homeless.
- 42 percent of the poor own their own homes.
- Poverty rates for single mothers—at 31.6 percent—are the highest of any subgroup.
- Half the poor have a computer; 43 percent have Internet access.
- One-third own a wide-screen TV.
- Median household income declined to $49,445 in 2010, down 2.3 percent from 2009.
- The 5 percent lowest-income Americans are richer than 68 percent of the world.

Sources: The Heritage Foundation; Kids Count from the Annie B. Casey Foundation; National Poverty Center, University of Michigan; Institute for Research on Poverty, University of Wisconsin-Madison; National Center for Children in Poverty, Columbia University; Branko Milanovic, author of “The Haves and the Have-Nots.”

Where Are the Poor?

Poverty rates in 2010 varied from 8.3 percent in New Hampshire and 9.9 percent in Alaska and Maryland, to 22.4 percent in Mississippi and 20.4 percent in New Mexico.

Who makes up the poor?

<table>
<thead>
<tr>
<th>OFFICIAL RATE</th>
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<tr>
<td>Over Age 64</td>
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<tr>
<td>18 to 64</td>
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<tr>
<td>7.6</td>
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<tr>
<th>OFFICIAL THRESHOLD</th>
<th>SUPPLEMENTAL THRESHOLDS</th>
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<tr>
<td>$22,113</td>
<td>Home owners with mortgage</td>
</tr>
<tr>
<td>$25,018</td>
<td>$25,018</td>
</tr>
<tr>
<td>$20,590</td>
<td>Home owners without mortgage</td>
</tr>
<tr>
<td>$24,391</td>
<td>Renters</td>
</tr>
<tr>
<td>$24,343</td>
<td>Housing not considered</td>
</tr>
</tbody>
</table>

The official poverty threshold compared with the new supplemental method figured four ways for a family of four.

OFFICIAL THRESHOLD

SUPPLEMENTAL THRESHOLDS

Home owners with mortgage

Home owners without mortgage

Renters

Housing not considered

16% or more

13% to 15.9%

11% to 12.9%

Less than 11%
Representative Philip Gunn became Mississippi’s first Republican speaker in 140 years when he was elected by acclamation in January. The GOP took control of the House for the first time since Reconstruction following the November election. Democrats had a 68-54 advantage going into the election, but Republicans ended up with a 64-58 margin. Representative Greg Snowden is the new speaker pro tem. Terry Brown is the new president pro tem in the Senate where the GOP increased its majority from 27-25 to 31-21.

Former Utah House Speaker David Clark resigned from the Legislature in January. Clark has indicated he plans to run for Congress, and Utah prohibits sitting lawmakers from raising funds while the Legislature is in session. Clark has served in the House since 2001, and was elected majority leader in 2006 and speaker in 2008. Senator Dan Liljenquist, who won national recognition for his legislation reforming Utah’s pension system, resigned in the middle of his first term and is mounting a challenge to Senator Orin Hatch.

Maine’s First Maliseet Indian Legislator. David Slagger, was sworn in by the governor and seated in the House. He joins two representatives of the Penobscot and Passamaquoddy tribes. Indian representation in the Maine Legislature dates back to 1823, three years after statehood. Indian representatives are chosen by their tribes and have limited legislative authority. They cannot vote, because they are represented by other legislators, but they can sponsor bills related to Indians and Indian land issues, serve on legislative committees, sit in the House chamber and speak on the floor. Slagger is a University of Maine Ph.D. candidate.

Nebraska Senator Tom Carlson is sponsoring a resolution easing the state’s term limit laws. If passed, voters will decide whether to approve a constitutional amendment allowing lawmakers in the state’s unicameral legislature to serve up to three consecutive terms. Currently, there is a limit of two terms. Nebraska is one of 15 states with term limits. But the idea already has prompted opposition from the president of Nebraska Taxpayers for Freedom who pledged to lead the fight against it.

Former Senator Wilbur Faiss spent eight years in the Nevada Senate some 30 years ago (Faiss is shown with sons Bob, left, and Don, right). Today he has the distinction of being, at 100, the oldest living former legislator in that state—and perhaps the whole country. His two major accomplishments were laws that allowed pharmacists to dispense generic drugs in place of name brands and gave seniors free admission to state parks. He has a middle school named for him and has been married for 78 years. He also has this advice: “Always look on the good side of people. Don’t believe what everyone else says about them. I never dealt on the negative side of politicians, whether they were Democrat, Republican or independent.” And he has something to say about today’s political climate: “The nastiness is not statewide, or national—it is worldwide … the federal government is a joke. Try to get along. Too many people want to turn everything negative when they should be positive.”

When Indiana lawmakers returned to work this session, they faced what Senate President Pro Tem David Long called “the thousand pound gorilla.” On the first day of session, Democrats did not come to the floor to once again deny the GOP a quorum to deal with the so-called “right to work” bill that Long, House Speaker Brian Bosma and Governor Mitch Daniels say is their top legislative priority. Last year the bill prompted 39 of 40 House Democrats to flee to Illinois when it came up. They stayed away for five weeks until the bill died. House Minority Leader B. Patrick Bauer said Democrats will “continue to weigh our options” when the bill comes up. But the stakes, financially at least, are tougher this time around. Republicans passed a new “anti-bolting” law in the budget that calls for fines of $1,000 a day for those who leave the chamber. The GOP has a 60-40 majority in the House and wants Indiana to be the 23rd state to pass “right to work.” Oklahoma was the last state to pass it in 2001.

Proposition 13—the California Initiative That Lowered Property Taxes and requires a two-thirds majority to pass any new taxes—changed life in the state forever. Or maybe not. Now that conventional wisdom is being challenged by a serious and highly regarded duo: Charles Young, former UCLA chancellor, and retired U.S. Court of Appeals Judge William Norris. They question whether the proposition was an “amendment,” which requires only a majority vote of the people, or a “revision,” which is considered a “change in the basic plan of California government” that affects the power of any branch of government. If it is a revision, as Norris thinks, it requires a supermajority in both chambers and a vote of the public. Norris says the two-thirds requirement “upsets the bedrock principle of lawmaking by majority rule upon which the California Constitution was founded.” The suit, filed in a Los Angeles state appeals court, also says Prop. 13 “restructured California’s basic governmental plan by granting a minority in either house of the Legislature veto power over the majority’s exercise of the core legislative power to raise revenue by taxation.” If the suit is successful, the property tax provisions of Prop. 13 would remain intact, but the supermajority would be struck down.
Copper, aluminum and other nonferrous metals are increasingly in high demand as prices rise. Fetching about $3.50 per pound, copper is particularly precious to thieves who are willing to risk their lives to get it. They remove wiring and piping from homes, utility properties and electrical lines, occasionally causing power outages, expensive repairs and, in some cases, electrocution. In 2008, utilities reported 13 death resulting from copper theft, according to the U.S. Department of Energy.

The cost of repairing damages from metal thieves directly affects ratepayers and far outweighs what the thieves themselves receive when they sell the stolen metal. According to the U.S. Department of Energy, the damage from a theft of just $100 in copper wire can cost a utility more than $5,000 to repair.

Lawmakers have responded. Since January 2010, 18 legislatures have passed laws that increase penalties for metal theft, tighten dealer licensing, or specify identification and payment requirements for buyers and sellers. For example, Iowa now requires salvage dealers to maintain complete, accurate and legible records and receipts of salvaged material purchases. Virginia requires anyone buying secondhand metal to pay by check, if the sale exceeds $1,000. Kansas requires all businesses that purchase regulated scrap metal to be registered. And Virginia requires dealers to obtain documentation that a seller lawfully possesses any metal being sold.

The Institute of Scrap Recycling Industries—a trade organization representing nearly 1,600 recyclers across the country—has developed a Web-based alert system (ScrapTheftAlert.com) that allows subscribers to alert others of a metal theft. Subscribers within a 100-mile radius of where the theft occurred receive the alerts. This free tool is funded entirely by the scrap recycling industry and is available to states, law enforcement agencies and the public.

According to the scrap recycling institute, there are 12,066 registered users; a little less than a third are law enforcement officers. Since its launch in 2008, the database has issued almost 6,000 alerts.

In 2008, Michigan lawmakers enacted a law requiring the use of an alert system, which referenced this new tool as a means of compliance. Colorado enacted legislation last year that specifically requires the use of ScrapTheftAlert.com. Other states, such as Georgia and Minnesota, have developed their own alert systems, and several local jurisdictions also use alert systems.

—Jacquelyn Pless
Private Reading

Long-established privacy laws in all 50 states protect the confidentiality of library circulation records. Federal and some state laws also prohibit video stores from disclosing a customer’s personal information without permission. E-book purchases and records of books read or purchased online, however, are not yet similarly protected—except in California.

Lawmakers from the Golden State passed two bills last year that extend privacy protections to people who browse, read, check out or buy books online. The first law protects readers of online resources in libraries, including text messages, online chat, e-books and email ensuring that, “when we step into the library, virtually or otherwise, our privacy remains protected,” says the bill’s sponsor, Senator Joe Simitian.

“People use libraries to research sensitive and personal topics; their privacy shouldn’t be compromised,” Simitian says.

The other new law protects information about the books Californians browse, read or purchase from electronic services and online booksellers, who may have access to detailed information about readers, such as specific pages browsed.

Although California law already protected the records of library patrons, according to Senator Leland Yee, “California law was completely inadequate when it came to protecting one’s privacy for book purchases, especially for online shopping and electronic books.” Under the bill he sponsored, commercial entities are prohibited from disclosing personal information about readers without a court order.

Some legal analysts are concerned that the law’s definition of “book”—“paginated or similarly organized content … of the type normally published in a volume or finite number of volumes”—may include blog posts or even websites that accept paid advertising. Independent booksellers also objected, saying the law will impose a burden on smaller businesses.

Independent booksellers also objected to the law, saying it imposed a burden on small businesses that could be held liable for releasing customer information.

This new legislation is just one more chapter in the effort to keep pace with the continuing and hard-to-define changes in technology.

—Pam Greenberg
Suicide is the second leading cause of death among Americans between the ages of 25 and 34 and is the third leading cause of death among 15- to 24-year-olds, according to the Centers for Disease Control and Prevention. More than 36,000 people in the United States committed suicide in 2008, and more than 660,000 showed up at emergency rooms for nonfatal, self-inflicted injuries. It is estimated that, with every suicide, there are at least 25 attempts.

Depression, mental illness, feelings of isolation or a family history of suicide can increase one’s risk. Bolstering clinical care for mental, physical, and substance abuse disorders, and supporting community, cultural, religious and family networks can help prevention efforts.

Last year, lawmakers in Arizona, Colorado, New Mexico, North Carolina and North Dakota passed legislation aimed at preventing suicide. Legislators in Arizona and North Carolina focused on those in the military and veterans, while lawmakers in New Mexico and North Dakota addressed Native American communities.

Colorado’s law allows taxpayers to contribute a part of their state income tax refund to the Families in Action for Mental Health Fund, which provides education, advocacy, information and referrals to prevent suicides.

Every state except Mississippi has a comprehensive, statewide suicide prevention plan that includes screening initiatives, public awareness campaigns, and “gatekeeper” training for people who are interested in learning how to intervene and prevent suicides.

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By the Numbers

<table>
<thead>
<tr>
<th>Among U.S. adults each year:</th>
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<tbody>
<tr>
<td>8.3 million</td>
</tr>
<tr>
<td>Have serious suicidal thoughts</td>
</tr>
<tr>
<td>2.2 million</td>
</tr>
<tr>
<td>Make a suicide plan</td>
</tr>
<tr>
<td>1 million</td>
</tr>
<tr>
<td>Attempt suicide</td>
</tr>
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Sources: CDC, American Foundation for Suicide Prevention and National Institute of Mental Health.

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Too Soon to Die

CAYLEE’S LAW

The disappearance and death of 2-year-old Caylee Anthony and the trial and acquittal last summer of her mother Casey by a Florida court outraged many citizens. Casey had waited 31 days before reporting her daughter missing. That anger led many state lawmakers to introduce bills (often dubbed “Caylee’s Law”) to criminalize the failure to report a missing or dead child.

“I’m trying to think if at any other time I’d ever had a higher swell of letters and emails from constituents,” says Senator Pete Pirsch of Nebraska.

By the end of November, 13 states had filed legislation. The bills usually include the qualifying age of a missing or dead child, how long the legal guardian has to report the incident to law enforcement, and how the crime is classified.

“As a mom with two little boys, when I saw the Casey Anthony case, my heart broke,” says Representative Samantha Kerkman of Wisconsin. After determining a new law was needed, Kerkman put together a bipartisan working group of legislators and made a list of things a “Caylee’s Law” should accomplish.

The Wisconsin bill focuses on the amount of time a child’s caregiver has to report a missing child, with more time given for older children. The bill also addresses reporting the death of a child and the hiding or burying of a child’s corpse. “We have to look out for the people who can’t speak for themselves,” Kerkman says.

Pirsch was hesitant to pass unnecessary legislation merely to satisfy public opinion. After conducting an inventory of Nebraska’s laws, however, and as a former prosecutor, he felt the need to define the amount of time allowed before reporting a child missing more specifically than “an unreasonable amount of time.”

Florida’s Select Committee on Protecting Children held hearings with members of the community, law enforcement personnel and victim advocates before deciding not to include reporting requirements. The committee instead chose to increase the penalties for lying to law enforcement when it results in the death or injury of a child. The committee’s work resulted in the final bill introduced by Senator Joe Negron.

Michigan’s version of Caylee’s law has unanimously passed the Senate and is currently in the Michigan House Judiciary Committee. In December, the New Jersey Legislature passed its version of the law and at press time it was awaiting the signature of Governor Chris Christie.

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Percentage of Adults Who Seriously Considered Suicide in 2008

- 5.1% to 6.5%
- 3.6% to 5%
- 2.1% to 3.5%
- Data not available

OUT OF GAS

Odorless and colorless, carbon monoxide can seep into a home from malfunctioning gas stoves, furnaces, fireplaces and generators or when cars are left running in attached garages, catching residents unaware. Mild symptoms can feel like the flu—headache, fatigue, nausea and dizziness—but continued exposure to high levels can kill. Nearly 500 people die each year from the dangerous gas and 15,000 more are exposed to it, according to the Centers for Disease Control and Prevention. Twenty-five states require carbon monoxide detectors in certain residential buildings. In addition, Virginia allows tenants to install carbon monoxide detectors in rental properties; Texas requires detectors in certain day-care centers, group day-care homes, and family homes; and Connecticut requires them in all schools.

A GOLDEN IDEA

The first 1,000 donors of $100 or more to Share in the Care—the Colorado Capitol restoration campaign—received a handcrafted, limited-edition holiday ornament depicting the state’s beautiful, but damaged, Capitol dome built in 1901. It’s the first of four designed to mark the progress of the restoration. In 2010 the General Assembly appropriated $4 million from the State Historical Fund for the project. Share in the Care hopes to raise another $3 million. Beneath a thin layer of gold leaf, the dome’s exterior structure and detailed decoration are made of cast iron, which has been damaged by the common freeze-thaw cycle of Colorado’s sunny winters. The ornament was sponsored by BP America Inc.

LIONS AND TIGERS AND BEARS … OH MY

Debate will likely be fierce in Ohio as lawmakers consider whether to ban the ownership of exotic animals, and what to do with dangerous ones already in the state. The lack of any exotic animal regulations in Ohio concerned many after last fall’s tragic incident that resulted in the deaths of dozens of lions, bears and rare tigers freed by their suicidal owner. In response, Representative Debbie Phillips introduced a bill to prohibit the acquisition of dangerous exotic animals, including large cats, primates, constricting and venomous snakes, crocodiles and alligators. It also would require current owners to register their animals with the Division of Wildlife.

TIME OUT

The Indiana General Assembly will be taking a short time out for the Super Bowl. It’s not every day you have the out-of-control event in your own backyard. Out-of-town lawmakers must make room for the expected rush of 100,000 visitors, and parking and traffic may cause gridlock. Julie Halbig, chief of staff for House Speaker Brian Bosma, told the Associated Press that lawmakers met during several Fridays in January to avoid any delay of game for a mid-March sine die. State employees who work at the Capitol and nearby buildings will stay in formation, fielding any work issues.

NOT FOR SALE

Human trafficking is a lucrative and fast-growing criminal enterprise worldwide, according to the United Nation’s Office on Drugs and Crime. It is defined by the office as “an act of recruiting, transporting, transferring, harboring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them.” Sexual exploitation is its most common form (79 percent), followed by forced labor (18 percent). And states are not doing enough to protect the many children who get traded for sex and domestic work, according to a new study by the advocacy group Shared Hope International. Former U.S. Representative Linda Smith of Washington founded the nonprofit “to help women and children enslaved in the sex trade” through education, public awareness and working with local organizations, according to the group’s website. It looked at each state’s laws to protect children and punish the abusers and graded states based on their findings. No state received an A and more than half received Ds or Fs. Texas scored the highest, followed by Missouri, Illinois and Washington—the only states to receive Bs.
**PARENT POWER**

Idaho teachers are working under several new rules passed by lawmakers last year, one being a new merit system to reward teachers that go above and beyond. The new law required districts to come up with a system to rate teachers, using a variety of criteria, from student test scores to student graduation and attendance rates. At least 29 school districts, according to the Associated Press, have included involvement with parents as one criterion. For example, the Challis district set a goal that every teacher contact their students’ parents at least twice every three months. In Gooding, 25 percent of teachers’ bonuses will be based on whether they can get their students’ parents to at least three conferences during the school year. Critics question some of the changes. “Idaho teachers know that parents are very, very important in the education of their child,” said Penni Cyr, president of the Idaho Education Association. “But there also factors that are outside of a teacher’s control. So is it reasonable for holding teachers responsible for getting parents to a conference or to withhold pay because parents can’t attend conferences for whatever reason?”

**NOT QUITE A QUARTER**

After last fall’s elections in Louisiana, Mississippi, New Jersey and Virginia, female lawmakers—now at 1,740—make up 23.6 percent of all state legislators. That’s down 68 seats from the peak year of 2010. The states with the highest percentage of female lawmakers are: Colorado (41 percent), Vermont (38.3 percent), Arizona (34.4 percent), Hawaii (34.2 percent) and Washington (32 percent). Of all the women serving in legislatures, 60 percent are Democrats, 39 percent are Republicans and 1 percent are third party members or nonpartisan lawmakers from Nebraska.

**IS BUTTER BETTER?**

In Wisconsin, serving colored oleo or margarine in place of butter at a restaurant, school or even in a prison, is prohibited by law, unless it is at the request of the customer (or student or prisoner). It carries a fine and jail time. According to the Milwaukee Journal Sentinel, it goes back to 1895, when the Dairy State—currently the No. 2 producer of butter—banned butter-colored margarine altogether. That prohibition sent Wisconsin “housewives packing boxes of colored margarine into car trunks, often at liquor stores that were part of the oleo black market.” That law was repealed in 1967, but the substituting one slipped through and stayed on the books, although it has never been enforced. Calling the restriction “silly, antiquated and anti-free market,” Representative Dale Kooyenga is co-sponsoring a bill to repeal it. The cow lobby is herding. Butter prices have gone up in the last few years, even though consumption, currently at five pounds per capita, is a far cry from the 18 pounds consumed by every American in 1910. And the average weight back then was what?

**LEGAL AND LEGIT**

Colorado became the first state, in late October, to issue business licenses to medical marijuana dispensaries. Advocates say the state’s regulations for the new businesses are very comprehensive, and will protect owners from federal raids, since federal law does not recognize any legal use of the plant. Patients pay $35 to get on the medical-marijuana registry. The next hurdle? Dispensary owners are looking for banks that will accept their money. Fearing federal charges of money laundering and drug trafficking, banks are hesitant to open accounts for this new industry. There are currently 16 states that allow some form of legalized medical marijuana.
with four years of a brutal economy behind them and a rising tide of revenues, you might think state lawmakers would be breathing a sigh of relief as they work on their fiscal year 2013 budgets.

But they’re not.

Instead, the worst recession since the 1930s has given way to something else—call it the Great Uncertainty—that has left lawmakers playing a guessing game about what money they can expect from the federal government, fearful about the economic ripples from the debt crisis in Europe, and frustrated by a stubbornly high unemployment rate that was in the double digits in eight states as of November.

Legislative budget officials are concerned “about the fragility of the economic recovery,” says Arturo Pérez, director of the fiscal program at the National Conference of State Legislatures.

“They expect to end FY 2012 with reserves equal to 5.5 percent of general fund appropriations, which Pérez says is an indication that those accounts are stabilizing.

For its latest “State Budget Update,” NCSL surveyed legislative fiscal officers and found “the deterioration that dominated state finances in recent years has eased.” Revenues are increasing, expenditures are stable in most states and newly opened budget gaps are rare.

“We went through one of the worst financial crises since World War II. We’re going to see many years of subpar growth.”

—Beth Ann Bovino, deputy chief economist for Standard & Poor’s

Now the good news. For the first time in four years, lawmakers will not be spending the early part of their legislative sessions addressing current budget shortfalls. The cumulative new budget gap for FY 2012 as of November was $4.4 billion, compared with $26.7 billion for FY 2011 in November 2010.

Year-end balances—the combined amount of closing general fund and rainy day fund balances—are a key indicator of state fiscal health. State officials expect to end FY 2012 with reserves equal to 5.5 percent of general fund appropriations, which Pérez says is an indication that those accounts are stabilizing.

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“The revenue growth states have experienced has helped to mitigate budget shortfalls,” says William Pound, executive director of NCSL. “It could help stave off some of the deep cuts lawmakers have made in previous sessions.”

Despite these developments, “the effects of the Great Recession continue to linger,” the reports states. The current fiscal year marks the fourth consecutive year states have faced a significant mismatch between revenue and spending. During that period, states have faced cumulative budget gaps of more than $200 billion. Three of the nation’s largest states—California, Florida and New York—all saw revenues fall short of projections only a few months into FY 2012.
Add to still weak revenues a higher demand for state services, especially Medicaid, a rising poverty rate, a continuing problem with foreclosures and a national unemployment rate of 8.6 percent.

It’s only reasonable to expect the recovery to come slowly, says Beth Ann Bovino, deputy chief economist for Standard & Poor’s.

“We went through one of the worst financial crises since World War II,” she says. “We’re going to see many years of subpar growth” that is largely tied to households, businesses and the government shedding debt.

**Recession Lingers**

Most states expect revenue to meet or exceed estimates in FY 2012, according to NCSL’s latest report.

Seventeen states reported collections of personal income taxes exceeded estimates, and 16 said their collections were on target. Collections are falling short of estimates in nine states and Puerto Rico. Seven states have no personal income tax and two tax only income from interest and dividends.

General sales tax revenues also are stronger, with 18 states reporting collections higher than estimated, 17 states and Puerto Rico on target, and 10 states under estimates. Five states do not tax retail sales.

Corporate incomes taxes, which amount to only about 5 percent of all state revenue in those states that collect them, also are relatively strong, with 37 states reporting collections either at or above projections. Six states do not levy a corporate income tax.

When legislative fiscal directors were asked about their overall outlook for the remainder of FY 2012, most soundly more upbeat than they have in years. In seven states, officials were “positive” about the future. In 23 states, they were “cautiously optimistic,” and in 20 others they were “concerned,” a bit more downbeat assessment. None, however, said they were “pessimistic” about the outlook for the remainder of the fiscal year.

**Stubborn Unemployment**

Unemployment continues to be the anchor weighing down the U.S. economy, and no one projects a spurt in job growth.

“There is no V-shaped recovery in the works,” says Bovino. “The unemployment rate will likely stay high. I’m not expecting something below 8 percent for the next few years.”

She notes that 9 million jobs were lost during the recession (December 2007 through June 2009), and 2 million have been added since.

In states especially hard-hit by the housing crisis—California, Florida and Nevada—the jobs situation in construction is especially grim.

Construction unemployment is in the double digits in those states, says Bovino.

“Among people without a high school education, the unemployment rate is more than 14 percent.”

Nevada Assemblywoman Debbie Smith, chair of the Ways and Means Committee and speaker pro tem, says that with the highest unemployment rate in the nation—13.4 percent—the jobs picture in her state is not likely to improve soon.

“I think the projections are that we’ll have a long, slow climb” out of high unemployment, she says. “As the fastest growing state for more than 20 years, you can imagine how many of our residents were employed in the construction industry. That unemployment rate is difficult to mitigate.”

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**By the Numbers**

$514.9 billion
Total cumulative budget gaps closed by states from FY 2009-FY 2013

15.8%
Average amount of state general funds spent on Medicaid for FY 2010

35.3%
Average amount of state general funds spent on K-12 education for FY 2010

11.6%
Average amount of state general funds spent on higher education for FY 2010

Source: NCSL, National Association of State Budget Officers.

“Job losses in the public sector in Michigan since the recovery started have lowered the gain in employment by more than 21 percent.”

—Michigan Senator Roger Kahn

Assemblywoman Debbie Smith
Nevada
Smith sees signs, however, that Nevada’s economy is starting to recover.

“Our state is heavily dependent on tourism, and those numbers are coming back,” she says. “Convention bookings are looking really good, which is great news. The cab industry in Las Vegas, for example, just experienced its biggest month ever at the airport, with more than 300,000 cabs picking up passengers. That’s really good news.”

Public sector job losses also are a drag on the economy. While job creation in the private sector perked up in the last half of 2011, state and local governments have shed about 650,000 jobs since 2008.

Michigan public employees took an especially hard hit, according to Senator Roger Kahn, chair of the Appropriations Committee. He points out the state saw a net increase of 94,500 jobs since employment bottomed out in December 2009, but in the same period the public sector cut 25,400 jobs.

“Job losses in the public sector in Michigan since the ‘recovery’ started have lowered the gain in employment by more than 21 percent,” Kahn says. And the University of Michigan has forecast even more government job losses this year.

Alabama Senator Arthur Orr, who chairs the Finance and Taxation General Fund Committee, says state government is “just beginning layoffs but more are likely in the future.”

“We’ve had a hiring and pay freeze in effect for several years now. If anything, it’s morale that is suffering right now among state employees and public educators in Alabama.”

Struggling With Medicaid

A bad economy with millions of people out of work inevitably puts pressure on safety net programs, particularly Medicaid. Compared to any other social program, it’s the one that sucks all the air—and money—out of the room.

The state-federal program costs nearly $400 billion a year, more than 15 cents out of every state general fund dollar. Although the program often is seen as health care for the poor, nearly 67 percent of all Medicaid spending goes to care for the severely disabled and the elderly who need long-term care. Enrollment varies as people move in and out of the program, but in the past three years has risen from an average of about 54 million to about 60 million.

Lawmakers are concerned about the impact on Medicaid when provisions of federal health reform go into effect in 2014. The cost of the program is expected to increase to about $840 billion by FY 2019 and average enrollment

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**Setting Fiscal Priorities**

NCSL asked legislative fiscal directors to identify the top three fiscal issues lawmakers in their states will address in the 2012 legislative sessions.

Numerous uncertainties pose a challenge to state fiscal recovery, so it’s not surprising that, yet again, the budget is anticipated to top legislative agendas in nearly half of the states. Concerns about Medicaid, pensions, education, revenues and transportation also loom large.

- Addressing the budget will be the top fiscal priority in 2012 sessions. Concerns about structural gaps, spending pressures, budget reductions and the absence of one-time funds are expected to capture the most attention.
- Medicaid and health care costs are a particular concern. Issues to be addressed include the growth in enrollment and use of the program; reduction in the amount the federal government pays for the program; and implementation of federal health reform.
- Pensions, retirement systems and other state employee issues also will receive significant attention. Addressing unfunded liabilities, increasing employee contributions and enacting major reforms may lie in the year ahead for state lawmakers.
- Education will be another top fiscal priority. Discussions will center on adequate funding levels, school finance formulas and increased student enrollment.
- Other top fiscal issues include state taxes and revenues, transportation and other infrastructure projects, uncertainties surrounding federal deficit reduction and efforts to spark job creation.

Although positive revenue developments have helped ease some pressure on state budgets, significant challenges await lawmakers in 2012 legislative sessions.

—Todd Haggerty, NCSL

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**Tax Forecast, FY 2012**

Forty-one states expect total tax collections in FY 2012 to be higher than they were in FY 2011.

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Source: NCSL, 2011
“Medicaid is a significant burden in our state. The cost generally runs about 15 percent to 20 percent of the general fund.”

—Wyoming Representative Rosie Berger

is expected to reach 78 million, according to the Centers for Medicare & Medicaid Services.

States are trying a variety of approaches to control costs, but that’s tough, given the program growth and the loss of federal stimulus funds that helped pay for Medicaid through FY 2011.

“Medicaid spending was the fastest growing program in FY 2012 budgets” in at least 34 states, Pérez says. “Most of the growth was attributed to ‘back filling’ for lost federal stimulus funds.”

Smith says her state also has seen a spike in Medicaid enrollees, which is not surprising, given Nevada’s unemployment rate.

“Our cost per eligible person is actually down some, but the enrollment numbers continue to rise,” Smith says. “They aren’t going up as fast as they were two years ago, at the peak of the recession, but it’s still climbing. I wouldn’t expect we’ll see any relief this year.”

Medicaid benefits vary by state, although all must offer a basic level. Even in those states that provide the fewest services, there is plenty of fiscal pain.

“Though Alabama has close to a minimum level of services in its Medicaid system, we still see significant increases in costs due to additional enrollees and, to a lesser extent, medical costs,” says Orr, who expects Medicaid expenditures to continue growing during the economic downtown. “Without more flexibility from the federal government, we will continue to be restricted in our options and, consequently, cost containment strategies.”

It’s not only states such as Alabama and Nevada that are finding Medicaid a larger burden. Wyoming, with an unemployment rate below 6 percent and more solid fiscal footing than many states, also has challenges.

“Medicaid is a significant burden in our state. The cost generally runs about 15 percent to 20 percent of the general fund,” says Wyoming Representative Rosie Berger, who chairs the House Appropriations Committee. “Recipients have gone up in number, and costs per individual continue to rise.

And she sees “no indication yet that the burden is easing. I hope we can manage the unknown. This is one of the reasons that we continue to build our reserve account, to be capable of managing the unexpected in 2013.”

The 2011 session of the 112th Congress provided some clarity, much uncertainty, little predictability and a dose of opportunity for states.

State lawmakers are discovering that for the current fiscal year, funds for state-federal discretionary programs are averaging 2.7 percent less because of provisions in the Budget Control Act passed last August and congressional decisions made at the end of last year. Bearing the brunt of these reductions are energy, environment, housing, justice, labor and transportation programs. Legislators should view this news as a warning of deeper reductions to come. Local government programs heavily reliant on federal money also are vulnerable.

The congressional super committee’s inability to reach consensus on a comprehensive federal deficit reduction agreement means states can expect funding for discretionary and some mandatory state-federal grant programs to decline 8 percent to 9 percent in FY 2013. There are exemptions, primarily for low-income and transportation programs, but the low-income home energy assistance program and social services block grant are not among them. Education, energy, environment, justice, community development, housing and labor programs will likely bear the brunt of spending reduction efforts.

The super committee’s failure also triggers defense spending cuts of 10 percent for FY 2013. States with economies partially tied to federal employment, procurement and defense contracting could be in for a wake-up call. There are moves afoot in Congress, however, to undo all or some of these promised defense reductions.

The Budget Control Act requires a nine-year decline in discretionary spending. But there is no way for state officials to know what programs federal policymakers will target after FY 2013. Actions taken in 2011, however, provide some insight. Passing a federal budget resolution in both houses and appropriations bills by the beginning of the federal fiscal year is unlikely. Threats to the federal government’s credit worthiness could recur. Tax policy will be fraught with disagreement, especially as 11-year-old tax cuts face sunset or renewal. Some congressmen will seek and plead for fiscal sanity and comprehensive deficit reduction, and are likely to be shouted down by party caucuses or the other chamber.

Increasing the federal debt ceiling, a foregone reality, will ignite a messy debate. Some will call for an end to tax-exempt financing. Others in Congress will label states “irresponsible” and seek legislation allowing bankruptcy and debt obligation protection and pension funding for states, even if they don’t want it.

NCSL’S Federal Deficit Reduction Task Force waded into the middle of the deficit reduction quagmire. The message delivered both in person and in writing: States expect proportionate reductions in discretionary spending and understand mandatory and entitlement programs won’t be spared since both would save the federal government hundreds of billions over a decade.

In exchange, states expect to be spared cost shifts and new unfunded mandates, to be given relief from some requirements in the Medicaid program, and the authority to collect sales tax on out-of-state Internet and catalog sales. The task force’s challenge and opportunity: To boost the position of states in the federal deficit reduction debate from one of virtual invisibility to a key ingredient, and to be an active, constructive part of the solution.

—Michael Bird and Jeff Hurley, NCSL
ough times in Rhode Island may end up helping other states, at least when it comes to pensions. 

Lawmakers in the Ocean State, confronted with one of the worst-funded pension plans in the nation, have gone further than any other state in making significant changes and applying them to almost all current state and local employees.

“It would certainly be a lot easier to walk away from this reform,” Senate President Teresa Paiva Weed said after the vote. “However, it is clear that doing nothing only puts our retirees’ and our active members’ benefits at greater risk. We owe it to them, as well as to all other taxpayers, to attack this challenge head on.”

It’s a move other legislatures are watching as they grapple with their own pension problems.

Of the 41 states that have enacted major state pension reforms in 2010 and 2011, Rhode Island stands alone. No other state has set out to change its plan for state employees and teachers the way Rhode Island has. Legislation passed in November moved current members in the traditional defined benefit plan to what’s called a “hybrid” model that supplements the traditional plan—at a reduced level of benefits and costs—with an individual account similar to the 401(k) plans common in the private sector.

Adopting the hybrid plan was significant but not unprecedented. Indiana has had a hybrid system for more than 60 years, and Michigan and Utah adopted such plans in 2010. The novelty of what Rhode Island lawmakers did lies in moving current members into the new plan.

There are constitutional and legal constraints on states’ ability to change pension plan coverage for people who already are members. The constraints differ greatly from state to state, and few have been tested in courts. Legislatures and governors move cautiously toward these restraints, however, and, until Rhode Island took its action, have never applied major pension plan changes to current employees and retirees. Massachusetts, for example, enacted legislation in November that raises retirement ages and reduces eventual benefit packages. It will apply only to new members of the system.

Policymakers who have been bold in raising current employees’ contribution requirements and changing post-retirement cost-of-living adjustments have encountered legal challenges as a result. States facing actual or threatened lawsuits include Arizona, Colorado, Florida, Minnesota, New Hampshire, New Jersey, New Mexico, South Dakota and Washington.

Big Trouble
Rhode Island lawmakers did not lightly or without good reason move into new territory. The state is awash in troubles. Some of them, like high unemployment and decay of its former manufacturing base, are shared with many other states. Others, however, are more peculiar to the state. Rhode Island’s small population—1.05 million in 2010—is barely growing and is a little older than the U.S. average. Its pension plan, for the size of the state, has been among the worst-funded. Although the legislature has made many changes to shore up its pension plans, a sea of red ink has flooded the balance sheet.

A summary of the enacted legislation states Rhode Island “is struggling to emerge

Ron Snell is a senior fellow at NCSL and an expert on state pension systems.
Chipping Away at the Problem

Before the Rhode Island legislation, state lawmakers around the country had taken a more gradual approach, changing benefits for future hires, reducing cost-of-living adjustments for retirees and increasing employee contributions. Higher employer contributions are always an option, of course, but currently an impractical one in most states.

Six states have reduced the schedule for cost-of-living increases for retirees in the last two years, and six others have done so in ways that will affect current employees when they retire. Since cost-of-living increases are expensive, reducing them provides immediate savings and a long-term reduction in the total liabilities of a pension plan. Is this legal? All three of the states that reduced cost-of-living adjustments in 2010 were sued, and suits over the 2011 legislation certainly are possible. Courts in Colorado and Minnesota ruled in favor of the reductions, although the Colorado decision will be appealed.

Another way to reduce pension system liabilities immediately is to increase contributions. Employers’ ability to contribute more is limited by the dire fiscal conditions of state and local governments, so, not surprisingly, 25 states increased only employees’ contributions in 2010 and 2011. In all but six of these, the increases affect current members of retirement plans. In a few states, such as Iowa, this represents a long-term practice. In others, such as California and Vermont, negotiations with unions have led to an agreement on the contribution increases. Other states—Wisconsin and Wyoming, for example—have ended a long-term practice of employers’ “picking up” the employee contribution and have passed it back to employees. Some of the increases, such as those in Florida, have been challenged based on state law and previous court decisions.

Defining Benefit Plans

Not all the increases in employee contributions will benefit retirement plans, since in at least 10 states, employee increases are merely making up the loss from reductions in employer contributions. Such offsets help state and local government budgets, and they help equalize employee and employer contributions. Some experts believe increasing employees’ stake in the well-being of their retirement plan is a desirable goal.

“As a general rule, public employees should pay at least half the normal cost of their benefits,” says Girard Miller, a pensions expert and senior strategist with the PFM Group.

Most of the changes governors and legislatures have made in state retirement plans in the past decade have preserved the traditional “defined benefit” plan that awards retirees life-long annuities based on their length of service and final salary. Many states have considered shifting to a defined contribution plan—most commonly used in the private sector—in which an employer contributes a fixed annual amount but the final benefits are not guaranteed. In most cases, however, they have chosen not to, in part because such a change does nothing to address any existing unfunded liability and because of employee resistance.

Rhode Island added itself to the relatively short list of states that have moved away from defined benefit plans in recent years. It may not be the last to do so. A joint study commission in Kansas has been considering whether to recommend a new plan structure to the Legislature. California’s Brown has recommended a hybrid plan, and it’s possible a group called California Pension Reform may put a hybrid plan on the California ballot this year.

At least a half-dozen states looked carefully at the costs and implications of moving to defined contribution plans in 2011, and such consideration is likely to continue this year. The subject is far from closed.

“It would certainly be a lot easier to walk away from this reform. However, it is clear that doing nothing only puts our retirees’ and our active members’ benefits at greater risk.”

—Rhode Island Senate President Teresa Paiva Weed
Elections in the Digital World

From registering to vote to finding your polling place, digital solutions are coming online.

BY WENDY UNDERHILL

Everything from paying bills to buying movie tickets to applying for a job can be done digitally these days. But can elections go digital?

The answer is a qualified “yes.” Some states register voters online, distribute election information by email, and use computerized polling places. Beyond these core functions, elections digerati are designing easily navigable websites, and putting Facebook, Twitter, texting and mobile apps to work.

How and when states adopt new technologies vary, depending on their laws and their leaders. North Carolina is a particular hot-bed for elections innovation, thanks in part to Marc Burris, chief information officer for the State Board of Elections. He’s even looking into experimenting with voter check-in kiosks in 2012. “It works for the airlines, doesn’t it?” says Burris.

Elections kiosks are only a concept at this point. There are, however, technologies that have been vetted in real-world applications in at least some states. Here are seven of them.

1. Online Voter Registration

Most folks register to vote at their motor vehicle bureaus when they get or renew their driver’s licenses. But some voters who haven’t taken advantage of this one-stop shopping site for government services still want to register.

For them, all states allow citizens to fill out a paper registration form and submit it to a local elections office. In Arizona, Colorado, Indiana, Kansas, Louisiana, Nevada, Oregon, Utah and Washington, voters are also permitted to register online.

Putting the words “online” and “voter” in the same phrase can raise concerns about security. In practice, though, online registration may be more secure than paper registrations because the data submitted are checked electronically against existing data, and third-party get-out-the-vote campaigners are not involved in the transaction. It also costs much less.

Maryland lawmakers passed a bill last year to permit online voter registration. “I look at it as very nonpartisan,” says Delegate Jon Cardin, the bill’s sponsor. “Online voter registration is about making it more convenient.”

It makes registration much more cost-effective, too. Maricopa County, Ariz., saw the cost drop from 83 cents per paper-based registration to 3 cents for online registrations when the state began offering that option in 2004.

Are there downsides? An initial outlay is required. Washington, the second state to use online registration in 2008, spent $278,000 in upfront costs. While more than 70 percent of Americans have access to the Internet, not everyone does, so states must be sensitive to that “digital divide” and continue to offer paper-based registration.

2. Paper or Online?

Many states, especially those with a strong citizen initiative process, specify in statute what information or educational materials must be provided to voters before each election. Since legal language often can be difficult to read and understand, providing plain language explanations is imperative. In some states, information about candidates, including candidate statements, also must be printed and mailed.

Delegate Jon Cardin
Maryland

Wendy Underhill tracks election issues for NCSL.
That comes at a price. Printing the “blue book,” as the voter information booklet is called in Colorado, costs $100,000 for 1.86 million copies. Mailing those out to every household in Colorado costs an additional $310,000.

In California counties, between 11 percent and 46 percent of the total cost of elections in 2008 went to getting out voter information, according to the Pew Center on the States.

It’s no surprise, then, that states are exploring ways to skip the costs of printing and mailing by providing the required voter information electronically. Step one is to create an online document and a printer-friendly PDF document that citizens can access at the state’s election website.

To save money, though, these e-documents would need to replace mailed documents. Such a big change in tradition is sure to meet with resistance. One solution is to offer voters the choice to “opt out” of a mailed paper copy, and instead receive the document electronically. California authorized counties to provide that choice in January 2011, and many citizens immediately opted for the e-version.

“Our economy and common sense demand that we do more with less. This shift allows counties to save money and reduce waste. Each step in this direction is a victory for all of us,” says California Senator Kevin de León. “L.A. County alone anticipates savings of $5 million to $8 million per election cycle.”

3. Just Google It

When voters search “Virginia polling places” in Google, the first result is the Virginia State Board of Elections, which is exactly what they and the Virginia elections board want. But not all states are so successful at search-engine optimization—getting their websites to show up as the first in a results list.


“Voters expect government services to keep pace” with the rest of the world, says Pew Senior Associate Matthew Morse. When people get their information online, it costs the state less than if they make a phone call for it. Good websites mean “states can both perform better and save money.”

The report identifies what features make a website go from “good” to “great.” These include writing in terms an eighth-grader can understand; logical and easily navigable menus; great look-up tools for address-specific information such as polling place locations; and specific sections for overseas and military voters.

On the up side, the study found the nation is doing better at addressing the needs of military and overseas voters. Out of 51 jurisdictions—the states plus the District of Columbia—50 have dedicated web sections for them.

Not so good is website navigability, where only nine of the 51 received full marks. Overall, though, “election websites are generally improving, and that’s good news,” says Morse.

4. Apps for Voting

Eligible voters need to know where to vote, when to vote and how to vote. Some states mail cards with that information, but errors sometimes occur, requiring mailing a corrected card, which can double the cost.

All this information is probably already online. But what about voters who are on the road? There’s an app for them. Through the Voting Information Project—a collaboration between the Pew Center on the States and Google—election officials, advocacy groups, candidates and others can adopt free tools to provide voters with accurate, personalized voting information, often on Election Day.

So far, 34 states are providing raw data to the voting project. The group creates a piece of computer code that programmers can incorporate in their apps. The more states that use it, the better. It means the same accurate voter information will be available in many locations.

“It was easy to implement and can be used on its own, or to complement existing applications,” says Linda McCulloch, Montana’s secretary of state, one of the early adopters.

For those who aren’t carrying smartphones, there’s still mobile help in some states. In North Carolina, an automated voter lookup function is just a text away. Voters simply text their name to the text address, and it replies with individualized voting.
information such as the polling place location. Both poll workers and voters have used this function.

5. Tweet This

“Today is Election Day. Be sure to vote!” Many tweets such as this have been sent by state election officials.

North Carolina’s Burris hopes to use Twitter to both receive and send information this year. On a trial basis, he plans to post quick response or QR codes, those black and white geometric icons that are showing up in newspapers, on billboards and on product packaging.

Voters with smartphones can take a picture of the icon, which the phone decodes and then connects the user to the state’s Twitter account. Once there, the voter can send a tweet reporting any problems, such as a polling place that isn’t open or that ballots have run out. It’s a short and sweet way to communicate—in two directions.

6. E-Books

Imagine this typical Election Day scenario: A voter shows up at a polling place and says, “I’m Ashley Smith, and I’m here to vote.” A poll worker searches through pages and pages of paper for Smith’s name on a list of the precinct’s registered voters and finds no entry, all while other voters wait in line. The poll worker may eventually determine the correct polling place, but by then it may be too late for Smith to vote.

Now imagine Smith arriving at the wrong polling place, but this time it’s equipped with electronic poll books, probably a laptop linked to a registration database. The poll worker types in her name and address, and within minutes she is directed to the right polling place.

Similar technology works for banks, medical facilities, schools and most large institutions, so why not for elections? Electronic poll books can handle voter look-up, voter identification, polling place location and voting history, and can even make modifications to the voter’s record on the spot.

It’s no surprise, then, that e-poll books are spreading. At least 14 states permit their use: California, Colorado, Georgia, Illinois, Indiana, Kansas, Maryland, Missouri, North Carolina, Ohio, Tennessee, Texas, Virginia and Washington.

Besides reducing waiting and hassles for voters, they also record in real time who has cast a vote, cutting down on the chance of fraud.

Switching to e-poll books has up-front costs. Adding two or three laptops at each
polling place has a significant initial price tag for local elections offices. Those initial costs, though, can lead to big savings. Wendy Noren, the county clerk in Boone County, Mo., expects to hire 25 percent fewer poll workers now that she’s made the transition to e-poll books.

A cautionary note: Computers with inaccurate data are no better than paper lists with outdated information. Maintaining accurate e-poll books must be a high priority.

7. Internet Voting Pilots

Voting over the Internet is one digital idea that is not coming to a precinct near you anytime soon. For a host of security reasons, Internet voting is nobody’s favored solution to running elections. It is, however, a potential solution for military and overseas voters.

Americans living abroad, including members of the military, can’t always find a fax machine, printer or even a mailbox. For them, the only way to communicate may be over the Internet, and experiments in voting that way have begun. For instance, five West Virginia counties piloted Internet voting for overseas citizens in 2010. The pilot received good reviews from some, and cautions from others concerned with the potential for electronic vote stealing.

This year, Alabama Senator Gerald Dial sponsored successful legislation to create an Electronic Overseas Voting Advisory Committee, which will set up an Internet voting system on a trial basis. “We’re a big military state, so we felt like we owed it to those people who are deployed all over the world” to reduce the hurdles they face in trying to vote. “They ought to be the first people to get in line and vote.”

Dial acknowledges “there’s always apprehension about fraud and misuse,” so Alabama will make security a priority for the new program. “Once we prove this works well for our military, we can expand it to other areas.”

Earlier this year, the Department of Defense announced the availability of $16.4 million to help develop electronic options for military and overseas citizens who vote absentee.

Bob Carey, director of the Federal Voting Assistance Program, says his group “continuously researches how to improve ballot transmission rates. One way ... is to research the technology used by the voters. This money gives states a chance to experiment with prod-
The 2010 elections upended legislative control, handing Republicans majorities in 10 additional states. They also set up partisan rifts that played out in 2011 sessions over collective bargaining, voter ID, immigration and pensions.

The battles have continued in states such as Alabama, Arizona, Michigan, Ohio, South Carolina and Wisconsin. Opponents of the new policies—ranging from activists to civil rights groups to the U.S. Justice Department—have used the courts, recall elections and referendums to challenge legislation and legislators.

Nowhere has that been more true than in Wisconsin, the emotional epicenter of the national debate over collective bargaining rights for public employees, and how much they should pay for health care and pensions.

Union and Democratic activists have been going door-to-door and standing outside shopping malls urging voters to sign recall petitions targeting first-term Republican Governor Scott Walker and Lieutenant Governor Rebecca Kleefisch. The activists faced a Jan. 17 deadline to file 540,208 signatures, which even the governor and top Republicans expected would be met.

Wisconsin Democrats also have been gathering signatures to recall four more Republican senators who voted for Walker’s bill, which all but eliminated collective bargaining for most public employees. If enough signatures are gathered, there will be spring recall elections for them as well.

Control of the Wisconsin Senate is at stake. Republicans now have a slim 17-16 margin, narrowed when two GOP senators were recalled in August.

Phil Neuenfeldt, president of the Wisconsin AFL-CIO and treasurer of the pro-recall group We Are Wisconsin, says the recall-Walker movement will grow “until working families have a voice in this economy.”

Walker says he’s being targeted by out-of-state unions and special interest groups only for keeping his campaign promises. “This is not something we brought on,” Walker says. “I did what I said.”

Sparring in Michigan and Ohio

In Ohio and Michigan, where Republicans are in control, legislative battles continue over workers’ issues as well.

“I believe we did the right thing with the passage of SB 5,” says Ohio Senate President Thomas Niehaus, a Republican who is disappointed that voters on Nov. 5 overwhelmingly blocked the law, which would have sharply limited collective bargaining for public employees.

“It’s clear, by any objective measure, that public sector workers have a better total compensation package—when you include pay, benefits and guaranteed retirement—than those in the private sector.”

—Ohio Senate President Thomas Niehaus

It’s not over Yet

Last winter’s tumultuous partisan battles continue to echo in legislative chambers.

BY STEVEN WALTERS

Steven Walters, former Capitol bureau chief for the Milwaukee Journal Sentinel, is a senior producer for WisconsinEye.
Workers would also have the option, however, of choosing a self-directed pension plan, with no employee contribution.

**Opposition Mounts**

The fight in the Michigan Legislature “is a continued attack on the middle class,” says Michigan House Assistant Democratic Leader Kate Segal, citing reductions in workers’ compensation and unemployment insurance benefits.

“If we start taking away tools at the collective bargaining table, you’re not only hurting workers, you’re hurting management as well.”

State employees have made almost $700 million in wage and benefit concessions in the last two years alone, Segal says. And she thinks that’s enough.

The focus on public employees, including teachers, led Michigan Democrats to push a constitutional amendment that would guard “the school-aid funds we have for our kindergarten through 12th grade education,” Segal says.

Education “is our future. That’s what is going to turn Michigan around,” she says.

**Courts Step In**

Elsewhere, legislation affecting immigration and voter ID also has set off fireworks.

Five states—Alabama, Georgia, Indiana, South Carolina and Utah—crafted omnibus immigration laws following the example of Arizona’s 2010 law, which the U.S. Supreme Court soon will review. Federal judges have blocked several provisions in each of the laws.

The laws generally require police officers to try to determine the immigration status of a person involved in a lawful stop; allow state residents to sue state and local agencies for not enforcing immigration laws; require employers to use the E-Verify system for all new hires; prohibit the harboring or transporting of illegal immigrants; and make it a crime not to carry immigration documents.

Alabama’s law also requires schools to verify students’ immigration status, but that provision and one on carrying registration documents were blocked by the U.S. District Court.

Alabama House Speaker Mike Hubbard says he and other Republicans passed the law to “ensure that any person in the
The Alabama Legislature will tweak its law to make it more workable during the February session, Hubbard predicts. But those changes will be in response to concerns from business leaders.

“This law remains very popular in Alabama,” Hubbard says. “I don’t see any chance that we would repeal this law.”

**ID at the Polls**

Ten legislatures either enacted new voter ID laws or toughened current ones last year, according to the National Conference of State Legislatures. Governors in three of those states—Minnesota, New Hampshire and North Carolina—vetoed the changes, however. And Kansas, Rhode Island and Wisconsin enacted their first-ever voter ID laws.

These laws have long been a point of contention between Republicans and Democrats. Republicans say the laws are needed to prevent fraud, while Democrats say they discriminate against minority, elderly and poor voters who may not have the necessary ID.

As with immigration laws, the Justice Department may join the fight. U.S. Attorney General Eric Holder told a Texas audience in
December that “We must remain ever-vigilant in safeguarding our most basic and important right. The reality is that, in jurisdictions across the country, both overt and subtle forms of discrimination remain all too common.”

The contentious stance between the GOP and Democrats over this issue makes recent action by the Rhode Island General Assembly surprising. It became the first legislature led by Democrats to pass a voter ID requirement. The law phases in the new rules over three years. For the next two years, voters will have to provide some form of ID, but not necessarily a photo ID. Those will be required starting with the 2014 elections.

The law has the potential to be a national model because it is “so less restrictive than what I’ve seen in other states,” says House Majority Whip J. Patrick O’Neill.

O’Neill says support from two African-American lawmakers from Providence, Senator Harold Metts and Representative Anastasia Williams, was critical in passing the law.

In Wisconsin and other states, African-American lawmakers have fought voter ID laws, saying they would prevent a disproportionate number of minorities from voting.

Last year, O’Neill says, almost every lawmaker had “a story of some form of voter fraud.” Although they involved only a few votes in each district, in a state as small as Rhode Island, “That could swing one or two seats—and that’s enough to get legislation passed.”

“It’s not like we went out and invented our own immigration laws. We’re just saying, ‘Enforce what is already federal law.’”

—Alabama House Speaker Mike Hubbard
SENATOR STEVEN SWEENEY
New Jersey Senate President

State Legislatures: What are your priorities for the 2012 session?

Sweeney: The state’s economy. New Jersey has had a particularly hard time as a result of the economic downturn. Our unemployment rate is above the national average, and our businesses don’t have the ability to hire or expand. The Senate passed dozens of bills last year that we believe will get things moving again, but certainly there is always more that can be done. We also will look at issues regarding education, but really, our main focus right now is getting people back to work and getting the economy moving.

SL: In working on the budget, what’s your top priority?
Sweeney: The way we fund education in this state has taken a giant step backward. We had a funding formula where the money followed the child, but because the governor in his last budget shortchanged the formula, the courts have now forced us back into the old system where the money is doled out based on ZIP code. We must not only return to a system where education dollars follow the child, but we must have a system that is fully funded.

“We must not only return to a system where education dollars follow the child, but we must have a system that is fully funded.”

—New Jersey House Speaker
Steven Sweeney

SL: What do you wish you had more time for?
Sweeney: Spending time with my daughter and my son. I love what I am doing, but nothing beats spending time with my kids.

SL: How do you think members in your party would describe you? How would the other party describe you?
Sweeney: I think they would both describe me as fair. I never force my members to vote for anything; rather, I ask that they simply vote their conscience. There is no reason to impose your will on people. That is not leadership. We can disagree without being disagreeable.

Steve Oroho, a Republican, were honored together by the New Jersey Chamber of Commerce for our work in making New Jersey a better place to do business. I have co-sponsored legislation with many of my Republican colleagues and believe there is a great working relationship with the minority leader. Do we disagree on some of the key issues of this state? Certainly. But we can always find a way to work with one another for the greater good. That is what being an elected representative should be about.
State Legislatures: What’s the greatest challenge facing you in the 2012 session?

Fischbach: This is a non-budget year, and will be an abbreviated legislative session. We still have many government reforms and other legislative initiatives we want to accomplish, so the challenge will be to make sure we work as efficiently and effectively as possible to accomplish our goals in a shorter time period.

SL: Did the influx of new members to your chamber last session make your job easier or more difficult?

Fischbach: As the first president of the Senate from our party in nearly 40 years, I was a “new” member to a degree as well. Every new job has a learning curve and a few bumps along the way, but working with our newest members was a very rewarding experience, and I still enjoy it today. They are a high-energy group that wanted to immediately take on a lot of the issues and problem areas of our government. With the right intentions and right demeanor, they quickly found ways to work with the senior members and be effective in the legislative process.

SL: Looking back at the 2011 session, were you surprised by the challenges you faced or were they what you expected?

Fischbach: We knew well in advance of the legislative session what our main challenges and opportunities would be: a $5 billion projected budget deficit, a new governor, new majorities in the Legislature, and a public desire for government reform and job creation. Even though the citizens elected a divided government, they still expect us to get the job done and continue the business of the state. The goal was to not view our situation at the outset as a challenge or obstacle, but as an opportunity to achieve meaningful, long-term solutions. We set out immediately to find common ground with the minority caucus and the governor to pass historic government reforms and, ultimately, a budget that reflected the means of our economy.

SL: In working on the budget, what’s most important?

Fischbach: Our No. 1 priority was to balance the budget while maintaining the services and results our citizens expect. We started with government reforms that laid the foundation for short- and long-term costs savings and started to change how state government operates and delivers services. In navigating the legislative session, it was important to have specific dates and deadlines for spending targets, committee budget drafts, passage of initial budgets, conference committee reports and, finally, making sure the governor received the budget for his review on time and by our constitutional deadline. This clearly defined process allowed both parties, legislators, citizens, and the governor to weigh in on our work as it progressed.

SL: How do you work with the other party?

Fischbach: Our party spent nearly 40 years in the minority, and that experience gives you ample time to consider how you would approach majority leadership as a caucus and as an individual legislator. Setting common goals and maintaining open communication and respect for all viewpoints during the process is the surest way to accomplish your work and achieve the outcomes you desire.

State Legislatures: Looking back at the 2011 session, were you surprised by the challenges you faced?

Shaffer: We knew the split in control—House Republican and Senate Democrats—would increase the difficulty in passing our agenda. About 80 percent of all legislation was defeated from the originating chamber in the second chamber.

SL: What advice would you give to the next leader?

Shaffer: Keep your nose everywhere, limit your fingerprints, move decision-making to the lowest level.

SL: How do you think members in your party would describe you? How would the other party describe you?

Shaffer: Competent, tough, loyal. Partisan, ambitious.

SL: How do you work with the other party?

Shaffer: Not as well as we would like. We try through regular meetings to keep communication open.
Donna Brazile has worked in Democratic politics for 30 years. She managed Al Gore’s 2000 presidential campaign, making her the first African-American woman to manage a national campaign for president. Brazile is an adjunct professor at Georgetown University, a syndicated columnist for United Media, and a columnist for Ms. Magazine and O. She also is a contributor to CNN and regularly appears on ABC’s “This Week With Christiane Amanpour.”

**State Legislatures:** What are the most important issues in this presidential election?

**Brazile:** This is a make-or-break point for the middle class. It’s important that the leading contenders focus on creating jobs. Jobs and the economy. Most Americans are still feeling the effects of the greatest national economic crisis since the Great Depression, and they are concerned about job creation. They are concerned about the overall health of the economy, and they are very concerned about their own personal employment status. Jobs and the economy will remain No. 1 throughout the rest of the campaign.

**SL:** How do you rate President Obama’s success in dealing with jobs and the economy?

**Brazile:** When President Obama took office, the economy was hemorrhaging 700,000 jobs a month. In the last 34 months, we’ve seen job growth increase, but not enough to bring overall unemployment down to 6 percent or 7 percent. But what has occurred over the last few years is that President Obama has been able, through the American Recovery Act and other initiatives, to help put the economy on a sound footing. The private sector has created more than 2.5 million jobs. We’ve seen an increase in domestic activity, manufacturing and retail. Again, it’s not enough to pop the champagne bottle. The important thing is that President Obama has put forward policies that will help small businesses.

**SL:** What has the president done to help states?

**Brazile:** The American Recovery Act was responsible for helping to preserve jobs for more than 200,000 teachers, first responders and firefighters. I think it helped state and local governments, not just with these workers, but also with the overall economy, at a time when the country was still on the brink of a major financial disaster. There’s no question that health care, states and local governments also shed hundreds of thousands of jobs. I think President Obama is trying—with some of the initiatives such as the American Jobs Act and other important things—to give state and local governments the foundation they need to rebuild their infrastructure and to help revitalize their local and state economies.

**SL:** Why do you think the president should be reelected?

**Brazile:** I believe President Obama has provided great leadership to this country at a time when there is a lot of partisan gridlock. I think President Obama has provided great leadership to this country at a time when there is a lot of partisan gridlock.”

*Continued on page 32*
“State and local governments ought to be freed from constraints.”

Karl Rove was deputy chief of staff and senior adviser to President George W. Bush. He is now a Fox News contributor, a columnist for the Wall Street Journal and author of “Courage and Consequence.”

SL: What are the most important issues in this presidential campaign?
Rove: Three issues. Jobs. Jobs. And jobs. It’s a little bit more complicated than that because it is also the state of the economy, the future of the country, the role of government, the size of our debt. It’s the amount of spending and, particularly, the Affordable Care Act—Obamacare as it is colloquially known. All of those will be part of that issue, which is going to be largely based on the economy.

SL: On jobs and the economy, how could a Republican do better than President Obama?
Rove: First, it will be important for the critique of the president to be based on what the president himself has said. There has to be a sensible critique that says, “He said this would happen and it hasn’t.” Republicans have to offer a proactive agenda that says, “Here is what we will do to confront these things.” We must put our fiscal house in order. We must cut unnecessary regulation. We must make our tax code competitive by washing out all the special privileges and lowering the rates. We must do things to encourage American companies to bring their foreign profits back to the United States and invest. We must focus on sustained economic growth and prosperity for the country. Republicans also must lay out an agenda and not simply to repeal Obamacare, but to replace it with sensible legislation—like allowing small businesses to pool their risks or allowing people to purchase health insurance across state lines, reducing junk and frivolous lawsuits, getting more transparency in a price and outcomes, and allowing people to save more money tax free for their out-of-pocket medical expenses. And even going so far as—I believe this strongly—changing the tax codes so the tax advantage of providing health insurance goes to the individual as well as to the company. This makes health insurance truly portable so people can take their benefits with them from job to job and not be stuck in a job they hate for fear of losing their health insurance coverage.

SL: If the next president is Republican, what can states look forward to?
Rove: First, I think there would be a rollback of some federal mandates and regulations. There is a real sense, particularly in Congress today on the Republican side in the House, that the federal government is doing too much dictating to states and localities and that state and local governments ought to be freed from constraints. We would also, in all likelihood, see an end to the Obamacare requirement that states expand Medicaid, which is already drowning state budgets and would simply spike the economic fate of a lot of states if left unchanged.

SL: In a nutshell, why don’t you think the president should be re-elected?
Rove: The president led us to believe he would govern from the center and adopt centrist answers to the question of jobs and the economy and health care, and he has not. He has governed from the left. And it’s been demonstrated over the last three years that we can’t spend our way to prosperity. That turning over health care to the federal government is not going to resolve the problems we have. The president has failed. His policies have not...
or members of Congress to stop progress or to halt job creation. They elected members of Congress and the president to work together to forge a compromise and to try to help the American people during this very terrible economic time. I believe President Obama will be re-elected because the American people voted for change in 2008, and he is delivering many of the items that he promised he would to bring about real lasting change to the economy and to the American people overall.

SL: What do you think are the keys to presidential success?
Brazile: There is no question that at an hour when there is so much partisan gridlock, the American people look for and are hungry for civility. They want leaders who will work together, who will put aside their partisanship to figure out what is best for the country. They want fairness. They want balance. They want shared sacrifice. And I think they are looking for leaders who can force the kind of compromise that will ensure that their kids and their grandkids can have the same kind of life and lifestyle they have. They don’t want leaders who are just out to win elections and keep progress from being made.

SL: In Congress, do you think ideology and politics are putting the nation at risk?
Brazile: I think the hyper partisanship we’ve witnessed over the last few years has had a debilitating impact on the ability of members of Congress to get things done. I think that’s hurting the American economy. Congress has the lowest approval rating in the history of the institution. Congress is as popular as a root canal. The problem is that Washington is dysfunctional. We are not making much progress. Hopefully, the next election will resolve this partisanship, because I think the American people have sent three different messages in 2006, 2008 and 2010. But the bottom line, the connection I’ve seen in all of these election results, is that they want change. They want our political leaders to sit down and work together. They would like to see the economy return to fiscal health so everyone can share in the prosperity of this great country.

ROVE

moved the country forward, and we cannot afford four more years of rapidly spiraling spending and an equally rapidly spiraling debt.

SL: What qualities do you think make a great leader?
Rove: A president has to have a clear vision of what he or she is willing to do and where to take the country. There has to be a willingness to get in and work to get things done, and a willingness to compromise, within reason, to bring people together.

SL: And what makes a great legislative leader?
Rove: Legislators must have the ability, like a president, to do their homework, not only on representing their constituents, but also on the subject matter of their committee assignments. They need to think creatively about the long-term needs of the state, and become experts in those areas. They need to fashion innovative answers to those challenges. They need to be constantly thinking about what the next thing coming along might be, so they can understand it better and be able to fashion policies to meet that challenge.

SL: Do you think ideology and politics in Congress are putting the nation at risk?
Rove: I think ideology is not. I think politics is. We’ve always had strongly ideological figures in Congress. Ted Kennedy and Barry Goldwater are just two examples. People in Congress have been willing to put politics aside for the moment and fashion some reasonable compromise. This happens a lot more than people are willing to give credit for. But particularly in the last three years, the tone the president has taken has made this more difficult. When the president in early 2009 received a delegation of Republicans in Congress who wanted to make recommendations about items to go in the stimulus bill, he cut them off by saying, “I won,” basically, “shut up and sit down.” This set a bad tone. A president has to be open to and legislators have to be open to reasonable compromises, recognizing the ideological constraints of their party and the nature of the system.

Editor’s note: These interviews are part of a series of conversations with opinion leaders. They have been edited for length and clarity. The opinions expressed are those of the interviewees and not of NCSL.
Fresh farm foods, vast open spaces to run and play, and an abundance of fresh air are a few perks of farm life for children and adolescents living on farms across the United States.

These benefits, however, come with risks. Farming is one of the few industries in which families often live on or near the work site, putting kids at risk for agriculture-related injuries, illnesses and deaths.

Young people need not participate in agricultural work to be vulnerable to the risks and hazards of farming. A 2006 Childhood Agricultural Injury Survey estimated that only 25 percent of non-fatal injuries among 15- to-24-year-olds were work related. The remaining 75 percent of children hurt were not actively working when the injury occurred.

The three leading causes of farm and ranch fatalities among young people are farm machinery accidents (25 percent), motor vehicle accidents (17 percent) and drowning (16 percent).

Dangers also arose from exposure to pesticides and poisoning from other chemicals. All contributed to higher rates of injury and death among youth living on farms. Agriculture jobs have the second highest fatal injury rate for working youth, despite steady declines since 1998. The highest rate of fatal injury for young workers is among those employed in the mining industry.

Some states have recognized this as an important public health issue and have taken steps to reduce injuries and deaths among their young farming populations. Hollie Hendrikson tracks injury and violence prevention issues for NCSL.
including operating or assisting in the operation of corn pickers, grain combines, hay movers, potato diggers, trenchers or earth-moving equipment. The ban also applies to power-driven circular, hand or chain saws. Fifteen states—Alaska, Arkansas, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Massachusetts, Michigan, Missouri, New Mexico, Oregon, Utah and Vermont—have more specific restrictions for children or teenagers when it comes to working with certain types of machinery.

♦ Montana children under age 14 or 15 are prohibited from certain agricultural activities, including repairing a building from a ladder or scaffold that is more than 20 feet from the ground; handling or using poisonous agricultural chemicals; and handling a blasting agent such as dynamite or black powder.

♦ Oregon law requires every state and local government agency with jurisdiction over farmworker activities to make “every effort to alleviate unsanitary, unsafe and overcrowded accommodations and special efforts should be directed toward mitigating hazards to families and children.”

♦ Pending New York legislation introduced in 2011 would require farm owners and operators to provide education and information to farm workers and their families about the hazards of exposure to pesticides, and how to avoid exposing children to them.
“The days of balancing Colorado’s budget on the backs of seniors are over.”
—Colorado House Speaker Frank McNulty, referring to past suspensions of the Senior Homestead Exemption, after good fiscal news, in The Denver Post.

“The irony did not escape us. We can’t get a legal pain drug anywhere in the state of Washington. But we can have all the pot we want.”
—Jennifer Passantino, whose husband’s pain medicine was severely restricted by a new state law to control prescription drug abuse, in the Seattle Times.

“That is just absolutely insane.”
—Michigan Representative Shanelle Jackson, about destroying evidence after a certain amount of time. She is drafting legislation to prohibit evidence from being destroyed in unsolved homicides, in the Detroit Free Press.

“We are pleased that financial actions taken last session are working. We are grateful to hear we are not facing another budget deficit.”
—Hawaii Senator David Ige, in reaction to the governor’s announcement that the state won’t need to increase taxes or cut spending to balance the upcoming budget, in The Republic.

“We’re trying to beg, borrow and steal data just to meet our mission.”
—Mark Walton, a National Weather Service hydrologist in Michigan about recent cuts in funding for streamflow gauges used in forecasting floods, in Stateline.org.

“Somebody who’s disturbed or a crook, they’re not going to care.”
—Mississippi Representative Greg Snowden, on the state’s concealed weapons law in USA Today.

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