HEALTH REFORM TWO YEARS LATER
THE POLICY, POLITICS AND PROBLEMS

INSIDE:
FUELING THE FUTURE
LAWMAKERS’ ODD JOBS
TAPPING INTO ONLINE
Facts About NCSL:

- NCSL advocates solely for states’ interests in Washington, D.C.
- NCSL is the only organization that serves both legislators and legislative staff.
- NCSL is bipartisan, with leadership and participation from both sides of the aisle.
- NCSL presents all sides of the issues with research based on facts, not politics.
- NCSL works to make the legislative institution stronger and more efficient.
- NCSL conducts the annual Legislative Summit, the largest, most important gathering of legislators and legislative staff in the nation.

Make plans to be in Chicago, Aug. 6-9, for this year’s Summit! Learn more at www.ncsl.org/summit
MARCH

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THEN & NOW
25 YEARS AGO
Children In Jail

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CHILDREN IN JAIL
“In jail, children and adults don’t mix. States are acting to ensure that when kids have to be locked up, they are kept apart from adult prisoners.”

WHAT IT TAKES TO COMPETE
“In terms of economic competitiveness and international trade, it’s no secret that the United States has been losing ground to Japan.”

GOING PRIVATE ... PAYING LESS?
“Many state and local governments are handing over services to private firms. Privatization may save money, but it raises enough concerns and criticisms that public officials are taking a cautious approach.”

DID YOU KNOW ...

THE WYOMING TERRITORY in 1869 (and later the state in 1890) was the first to grant all women the right to vote. (Women who owned property in New Jersey, however, were allowed to vote from 1790 to 1807.) Esther Morris led the successful effort in Wyoming, and a year later became the first female justice of the peace. Some have suggested lawmakers from the “Equality State” merely wanted to attract more women to the Wild West. Even so, Wyoming boasts the first woman governor and to the Wild West. Even so, Wyoming boasts the first woman governor and the first town in America to be governed entirely by women. Neighboring Colorado, however, boasts having the first woman elected to a legislature, and still maintains the highest percentage of female lawmakers.

WHOSE CAPITOL IS IT?

CORRECTION
Oregon’s Senate districts consist of more than 127,700 people. The state should have been colored a deeper red (100,000–199,999) on the “Constituents per State Senate District” map on page 5 of the January issue.

ESTHER MORRIS
A MAXIMUM LOOK AT MINIMUM WAGES

Of the 72.9 million American workers paid by the hour, 4.4 million, or 6 percent, earned the federal minimum wage or less in 2010. About 60 percent of service jobs and nearly half in leisure and hospitality pay the minimum wage, with part-time workers more likely than full-time ones to earn minimum wages. Alabama, Mississippi, Texas and West Virginia have the largest portion, at 10 percent, of minimum wage workers, while Alaska, California, Oregon and Washington have the smallest, at less than 2 percent each.

Forty-four states set their own minimum wages; in 23 states they are the same as the federal one. In the other 21 states with wages different than the federal one, employees receive the higher rate.

New Hampshire lawmakers repealed their state’s minimum wage last year. It was largely considered a symbolic move, as the federal minimum wage (which was the same) still applies. Representative Carol McGuire, the bill’s sponsor, told the Associated Press she’d rather let the free market dictate wages, reflective of a trend toward less regulation of business. The Republican-controlled legislature overrode the bill’s veto by Democratic Governor John Lynch.

Minimum rates rose in 10 states on Jan. 1, 2012, through automatic ties to the cost of living. — Jeanne Mejeur

By the Numbers:

$7.25
The federal minimum wage, set in July 2009.

23
States (and Guam, V.I.) with the same wage as the federal one.

17
States (and D.C.) with higher wages than the federal one.

6
States with no state minimum wage, so the federal one applies.

4
States (and P.R.) with lower minimum wages, so the federal one applies.

10
States with automatic cost-of-living adjustments.

11
States (and D.C.) with automatic increases tied to federal ones.

Who earns minimum wage?

Young people have the highest percentage of hourly workers paid at or below the minimum wage.

Between age 16 and 24: 15.2%
Older than 24: 3.8%
Men: 4.5%
Women: 7.3%
Full-time: 3.1%
Part-time: 13.6%
White: 5.9%
African American: 6.9%
Asian American: 4.8%
Hispanic/Latino: 6.3%
No High School Diploma: 13.2%
High School Diploma: 5.2%
College Degree: 2.7%

ONE OF NORTH CAROLINA’S LONGEST SERVING AND MOST DISTINGUISHED LAWMAKERS has announced he will not seek re-election after 32 years in the House of Representatives. Representative Joe Hackney, who during his 16 terms was speaker pro temp, majority leader and speaker of the House before the GOP took control in 2010, will leave the legislature at the end on 2012. “I enjoyed all of it immensely and gave it my all. I think I made a contribution,” he said. Hackney, who was president of the National Conference of State Legislatures in 2008-2009, was lauded as a principled speaker and outstanding lawmaker who will be sorely missed. “Joe Hackney never wavered from the principles that brought him to public service,” said Governor Beverly Perdue. Speaker Thom Tillis called Hackney “a true public servant” who has “led a distinguished career in the legislature.” Tillis said Hackney’s “respect for the traditions and integrity of the House has had a significant impact on my first year as speaker.” Hackney said he will actively work for a Democratic majority in the upcoming election.

NORTH DAKOTA’S LONGEST SERVING LEGISLATOR will not seek re-election this year, but the state’s oldest lawmaker will. Senator David Nething, who first won his seat in 1966 and is the architect of the state plan giving colleges broad authority to make their own decisions on spending, announced he is leaving the legislature at the end of his term. Nething served as majority leader and appropriations chair during his 45-year career and was also president of the National Conference of State Legislatures. Currently the longest-serving Republican state senator in the country, Nething is 78. His 80-year old colleague, Senator John Andrist, says he will run for another four year term to work on oil and gas issues. A retired newspaper publisher, Andrist was first elected to the Senate in 1992.

DR. MATT HEINZ, AN OPENLY GAY ARIZONA STATE LAWMAKER, has announced he plans to run for former Congresswoman Gabrielle Giffords’ U.S. House seat. A special primary has been set for April 17, with the general election on June 12. Heinz, 34, has not yet decided whether he will resign his seat in the House during the race.

NEW JERSEY REPUBLICAN ASSEMBLY LEADER ALEX DECROCE collapsed and died in the Statehouse moments after the Legislature concluded its final voting session on the night of January 9. Assemblyman Herb Conaway, a physician, tried in vain to revive DeCroce. His death stunned lawmakers and staff who had worked with him late into the night at the end of the lame duck session. DeCroce, who was 75, had served in the Assembly for 23 years and was widely liked and respected on both sides of the aisle. Governor Chris Christie, who considered DeCroce “a dear friend, colleague and mentor,” rushed to the Capitol around midnight and embraced Assembly Speaker Sheila Oliver. Christie, who was scheduled to deliver his state of the state address hours later, instead gave a poignant eulogy for his long-time friend the next day. He quoted the words DeCroce intended to deliver on the opening day of session. “We will solve more problems working together than apart,” the governor quoted him. “Alex had planned to tell us to ‘reach across the aisle to work cooperatively toward solving our biggest problems.’ His closing words were to be ‘We owe our constituents nothing less.’” Three former governors stood near DeCroce’s empty desk. “Democrats and Republicans alike are crying,” said Assemblyman Jon M. Brannick. “He was like the father figure of the family.” More than 1,000 people attended DeCroce’s funeral Mass.

THE OPENING SESSION OF THE NEW MEXICO HOUSE took on a somber tone when Speaker Ben Lujan announced he has stage IV lung cancer and will not seek re-election. Lujan was diagnosed in 2009 and underwent chemotherapy and radiation since then. He apologized for keeping his condition a secret and said that criticism of his leadership during his quiet fight against cancer “sadly took a tremendous toll on me and my family…” Lujan was first elected to the New Mexico House in 1974 and has served as speaker since 2001. Lujan was praised by the governor, U.S. Senator Tom Udall and members of the Legislature on both sides of the aisle. “Today is a day we will remember as a day of a heroic statesman that fights for his state,” said Majority Leader Ken Martinez. And Lujan had words of inspiration: “Let’s make this session a work of art.”

FORMER LOUISIANA SENATE PRESIDENT SAMMY NUNEZ was “a tireless, dedicated public servant who loved Louisiana and wanted nothing more than to see Louisiana and its people succeed,” according to John Alario, the incoming president of the Senate. Nunez, who was first elected to the Legislature in 1964, died in January. He was 81. He served as Senate president twice, the first time from 1982 to 1988, and then from 1990 to 1996. He was also president of the National Conference of State Legislatures in 1988-89. Nunez lost his leadership position when Governor Buddy Roemer was elected on a reform campaign. But two years later, Nunez was back and continued leading the Senate until he lost his seat in 1995. His defeat came on the heels of criticism for handing out campaign contribution checks from the Star Casino to members on the floor. “Somebody has to do it,” he said.
Are the state statutes or bills you find online trustworthy, authentic or official? Printed versions of legislative documents are still the official version in most states. But digital versions of statutes, administrative rules and other legal and legislative documents are gaining broad use in the legal and legislative community, and in some cases, may be the only version.

To address concerns about online-only legal resources, the Uniform Law Commission (also known as the National Conference of Commissioners on Uniform State Laws) in July 2011 approved the Uniform Electronic Legal Material Act. It provides guidelines for states on how to manage electronic government information in a way that guarantees trustworthiness and continued access.

The act requires that official electronic legal material be:

◆ Authenticated, by providing a method to determine that it is unaltered.
◆ Preserved, either in electronic or print form.
◆ Accessible, for use by the public on a permanent basis.

State lawmakers interested in introducing the legislation may choose which categories of legal material will be covered. The model legislation does not promote any specific technology, uses flexible language, and has alternative provisions to allow state legislatures to adapt it to fit their unique circumstances and needs.

“This law has the potential to be very important for the long-term preservation of digital legal materials,” says Butch Lazorchak, digital archivist in the National Digital Information Infrastructure and Preservation Program at the Library of Congress. “While not proscribing any particular preservation or authentication method or technology, the law establishes a digital preservation framework for official electronic legal materials.”

Legislatures may find the California Legislative Counsel’s research paper on authentication options along with the Minnesota Revisor’s prototype for authenticating statutes helpful in identifying and applying good authentication methods.

—Pam Greenberg

For more information about authentication and preservation of digital materials go to www.ncsl.org/magazine.
Eating too much sodium can cause high blood pressure, which raises the risk for heart disease and stroke—the first and fourth leading causes of death in this country. A third of American adults have high blood pressure, which generated $76 billion in medical costs and lost productivity in 2010, according to the American Heart Association.

Most of us consume twice the recommended daily amount of sodium. Guidelines generally advise getting no more than 2,300 milligrams of sodium a day. But for half the population—and more than 56 percent of all adults—recommendations are 1,500 milligrams a day. That includes everyone over age 51, all African Americans, and those with diabetes, kidney disease or high blood pressure.

If everyone consumed less than 1,500 milligrams of sodium a day, it’s estimated that 26 percent fewer people would have high blood pressure, and the nation would save $26 billion in health care costs.

Americans get most of their sodium from salt in prepared or processed foods; less is added in home cooking or at the table. Common foods have a range of sodium—for example, an apple has 2 milligrams; a banana 1 milligram; a pepperoni pizza slice 520 milligrams; and a cheeseburger and small fries almost an entire day’s worth—1,360 milligrams.

A variety of laws and legislatively enabled regulations attempt to reduce sodium in the food supply, including lowering the amount of salt in foods served in schools and child care facilities or purchased by state-regulated elder and health care facilities and prisons.

Through incentives to develop grocery vendors in areas without them, at least five states provide more low sodium, high potassium fresh fruits and vegetables for our diets. Many states offer fruit and vegetable programs in schools, and new federal regulations also will improve school produce offerings. At least four states provide regulatory breaks for farm stand sellers of fresh produce; one exempts urban gardens from property tax.

At least 10 states make it easier for recipients of food stamps (SNAP) and federal Women, Infants and Children (WIC) benefits to buy low sodium foods. Other states are focusing on getting the word out through public education campaigns. Manufacturers, encouraged by state actions, are making voluntary reductions as well.

—Amy Winterfeld

### States With Laws or Regulations on Sodium

Twenty-seven states, Washington, D.C. and the Virgin Islands regulate the sodium content of foods served in certain facilities.

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<th>State</th>
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Notes: ■ Law □ Regulation or state agency policy
1. Indiana and Washington regulate sodium in prison meals.
2. Massachusetts (by executive order) and Utah (and New York City) have procurement standards limiting sodium content for foods purchased by government agencies. Utah’s policy is voluntary and applies only to the Department of Health.

Source: NCSL staff legal research, 2011.
Immigration Migration

Where immigrants are coming from and which states they are heading to is changing, according to the Census Bureau’s 2010 American Community Survey. Sixty-five percent of the 40 million foreign-born people in America live (no surprise) in California, New York, Texas, Florida, New Jersey and Illinois; each of these states has more than 1 million. North Dakota and Wyoming have the fewest—17,000 and 16,000, respectively.

Since 2005, however, a greater proportion of immigrants are heading toward Alabama, Kentucky, Louisiana, Mississippi, North Dakota, South Dakota, West Virginia and Wyoming. The largest proportion of these states’ foreign-born population arrived in 2005 or later. Michigan, North Dakota and Vermont are experiencing the greatest influx of immigrants since 2008.

Where they are coming from also is changing. Before 2005, 54 percent of all foreign-born residents came from Latin America (30.4 percent from Mexico). Since 2008, that amount has dropped to 41 percent (19.3 percent from Mexico). The highest percentage of immigrants since 2008 have come from (in order): Mexico, China (all), India, the Philippines, Korea (both), Cuba, the Dominican Republic, Vietnam and El Salvador. Immigrants from these nine countries make up 52.8 percent of all recently arrived immigrants.

A Shift in Direction

More immigrants now are arriving from Africa and Asia than from Latin America.

Guns on Campus

Horrific shootings on college campuses in the last several years prompted heated discussions in state legislatures about whether to permit more guns on college campuses. For some, these events point to the need to ease existing firearm regulations and allow more concealed weapons on campuses. Others see the solution in tightening restrictions to keep guns off campuses.

Twenty-two states ban carrying a concealed weapon on a college campus, while only one state (Utah) currently explicitly allows it. Twenty-five states let each college or university make the decision. In 2011, two state legislatures considered, but did not pass, bills to prohibit concealed weapons on campus.

Lawmakers in 18 states introduced legislation last year to allow concealed-carry weapons on campus. Bills in Mississippi and Wisconsin passed, and an appeals court decision in Oregon greatly reduces the regulation of guns on campuses.

Mississippi now allows those who have taken a firearm safety course from a certified instructor to carry a gun on campus. Because the law is being disputed, colleges currently are upholding their bans until the legal issues are resolved.

In Wisconsin, lawmakers voted to allow guns on campuses, but with a provision that allows colleges to prohibit weapons in campus buildings if signs are posted at every entrance of every building.

An Oregon court of appeals ruling overturned the long-standing university system ban of guns on campus, stating that only the legislature can regulate the use, sale and possession of firearms.

Proponents argue the Second Amendment gives Americans the right to carry guns on campuses and that doing so improves student safety by increasing the chance that someone with a gun would be able to respond to certain emergencies more quickly than campus security.

Opponents argue, however, that additional guns would not deter rare, large-scale campus shootings, could stifle academic debate for fear of retaliation and could cause more accidental shootings.

The debates are sure to continue in legislative sessions. In January, lawmakers in at least five states had introduced new bills to allow guns on campuses in some regard, and four other legislatures will continue to debate bills introduced last year.

—Michelle Camacho Liu
SHARIAH DEBATE RAGES ON

A Circuit Court of Appeals has upheld the injunction against Oklahoma’s constitutional amendment that prohibits state courts from considering international or Shariah (Islamic) law when deciding cases. More than 70 percent of the voters passed it in 2010. The court upheld the injunction because the amendment specifically targets Shariah law, even though supporters “did not know of even a single instance where an Oklahoma court had applied Shariah law...” The First Amendment’s establishment clause prohibits the government from “preferring” one religion over others. Similar legislation is pending in at least 20 states—Alaska, Alabama, Florida, Georgia, Iowa, Indiana, Kansas, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Virginia and West Virginia.

RURAL BOOST

It came as no surprise to attendees at the Legislative Agriculture Chairs Summit, co-hosted by NCSL and the Council of State Governments, that agriculture is one of the few sectors in the country that is running a positive trade balance. The annual summit is the only national meeting dedicated to leaders interested in agriculture and rural policy. Legislative leaders from 47 states and seven Canadian provinces attended. Nebraska Governor Dave Heineman praised agriculture for helping to keep his state’s unemployment rate at a low 4.1 percent. Legislators also met with administration staff to discuss the Farm Bill’s future and challenges such as rural energy, animal welfare, invasive species, food safety and farmland taxation.

PLASTIC OR PAPER

Washington lawmakers are considering legislation that would make the state the first to ban plastic grocery and retail bags. The legislation makes exception for their use with fresh meat, fruits, vegetables, nuts, dairy products, ice and cooked foods. Senator Maralyn Chase introduced the Senate bill to protect sea life. “I want plastic out of the water,” she told The Seattle Times. Mark Daniels, vice president of sustainability and environmental policy for Helix Poly Co., the nation’s largest plastic-bag maker, told the newspaper that plastic bags often are recycled or reused by consumers and that paper bags actually consume more resources than plastics ones and cost more to make and transport. At least four cities in the state have passed their own bans: Seattle, Bellingham, Edmonds and Mukilteo.

GAMBLING ONLINE

The U.S. Justice Department ruled at the end of 2011 that in-state Internet gambling does not violate federal law if it doesn’t involve sports betting. Lawmakers in Illinois and New York had asked for the clarification. New York will add two games online, and Illinois will offer lottery tickets online. The ruling has sparked legislation in other states as well. Legislators in California, Nevada, Iowa, New Jersey and Washington, D.C., are considering various proposals to expand online gambling, including online poker. According to the American Gaming Association, 15 million Americans gambled with $4 billion on the Internet in 2010. The association estimates that legalizing online poker would generate 10,000 jobs and $2 billion in tax revenue a year.
ABORTION LAW STANDS

The 5th Circuit Court ruled that Texas’ law requiring a woman to have a sonogram of her fetus before having an abortion “falls well within the state’s authority to regulate abortions and require informed consent from patients before they undergo an abortion procedure.” The law’s author, Senator Dan Patrick, told the American-Statesman the ruling was “a victory for women’s health and for the protection of the unborn.” The law requires the doctor to describe the fetus, but women may opt out of the verbal explanation in cases of rape or incest or if there are abnormalities. Opponents contend the law is an overreaching government intrusion into the doctor-patient relationship. “This law, and this decision, inserts government directly into a private decision that must be protected from the intrusion of political ideologues,” Nancy Northup, president of the Center for Reproductive Rights, told the Associated Press.

ENERGY EXPLOSION

Move over finite fossil fuels, a new source of renewable energy may be bursting onto the scene soon. Geothermal energy developers plan to pump 24 million gallons of water this summer into the side of Newberry Volcano, 20 miles south of Bend, Ore., according to the Associated Press. If all goes as planned, the water will bounce back to the surface quickly and be hot enough to create cheap, clean electricity. Scientists believe the process won’t cause earthquakes—a concern with current geothermal energy production in Arkansas and Ohio. The U.S. Department of Energy has given the project, by AltaRock Energy of Washington state and Davenport Newberry Holdings of Connecticut, $21.5 million. That amount was matched by private investors, including a $6.3 million chunk from Google. The Department of Energy is monitoring other “enhanced geothermal systems” projects in California, Idaho and Nevada.

THE ASSET TEST

Pennsylvania will begin taking into account the assets applicants possess before granting food stamps. Anne Bale, from the Department of Public Welfare, told the Philadelphia Inquirer that the change was to ensure “people with resources are not taking advantage of the food-stamp program.” The proposed change surprised many, the paper reported, because federal statistics show the state, at 0.1 percent, has one of the lowest food-stamp fraud rates in the country. As of May 1, people under age 60 with more than $2,000 in savings and people over 60 with more than $3,250 no longer will be eligible. At least 35 states have eliminated asset tests, four recently raised their minimums to $5,000 and 10 states—Alaska, Arkansas, Indiana, Kansas, Missouri, South Dakota, Tennessee, Utah, Virginia and Wyoming—have a low threshold of $2,000 in assets, according to the Pittsburgh Post-Gazette.

A CORPORATE PERSON

In Citizens United v. Federal Election Commission, the Supreme Court lifted restrictions on independent corporate spending in political campaigns on the grounds that political speech by a business should receive similar First Amendment protections as political speech from people. In response, several cities have passed resolutions distinguishing the differences between corporations and citizens. Some have taken up the fight at the state level against what they call “corporate personhood.” California legislators are looking at a bill to require the disclosure of political corporate sponsors. Montana’s Supreme Court upheld a ban on unlimited corporate spending on political campaigns. Lawmakers elsewhere are considering calling on Congress to support a U.S. constitutional amendment separating the rights of individuals from the rights of corporations. Opponents characterize these efforts as misguided.

LOYALTY OATH

Virginia’s Republican Party will require voters in this month’s presidential primary on March 6 to sign a loyalty oath stating, “I, the undersigned, pledge that I intend to support the nominee of the Republican Party for president.” Virginia’s law allows the party holding the primary to determine the requirements for voting in it, including “the signing of a pledge by the voter of his intention to support the party’s candidate when offering to vote in the primary.” Virginians do not register to vote by party, allowing anyone to vote in any primary. Republican Delegate Robert Marshall disagrees with his party’s decision. He told Fox News, “For the Republican Party to depart so far from what the founders wanted, I think, is a mistake.”
After passage of the Affordable Care Act, the work—and the criticisms—persist.

NCSL tracks state actions on federal health reform closely. You can learn more about federal regulations, state legislation, Medicaid, insurance reform and more at www.ncsl.org/healthreform. Several NCSL health staff contributed to this package of stories related to the two-year anniversary of the Affordable Care Act.
Health reform passed by Congress in 2010 is probably the most controversial domestic legislation of the Obama administration to date.

As the Affordable Care Act marks its second anniversary this month, opponents continue to vilify its complex—and feared costly—provisions, while backers praise its groundbreaking attempt to extend health coverage to nearly all Americans.

The U.S. Supreme Court will hear arguments this month challenging the law’s requirements that everyone carry insurance and that states expand their Medicaid programs. Rulings are expected by summer.

State lawmakers, meanwhile, have their hands full trying to comply with the law’s various provisions. Legislatures considered more than 900 bills related to the act in 2011, and more than 200 have been introduced so far in 2012.

The cost of implementing federal health reform concerns state lawmakers who have had to deal with unprecedented budget shortfalls in the last four years. They are keenly aware of the millions of Americans who currently qualify for Medicaid but are not yet enrolled, and who will seek coverage once the individual mandate kicks in. Unlike the newly eligible, these millions will not qualify for the law’s generous federal match.

The Supreme Court’s pending action “casts a dark cloud over dozens of state legislatures, which will adjourn prior to the decisions on key provisions of the law,” says Alabama Representative Greg Wren (R), co-chair of NCSL’s Health Reform Implementation Task Force. “Clarity has been sought, yet the maze of lawsuits, elections, session schedules, and deep political divides cast dark clouds over all the implementation mandates.”

“The ACA has already brought us positive results, such as coverage for young adults and those with pre-existing conditions, health insurance tax credits for small business and relief for seniors reaching the coverage gap under Medicare Part D.”

—Assemblyman Herb Conaway (D), New Jersey

“Clarity has been sought, yet the maze of lawsuits, elections, session schedules, and deep political divides cast dark clouds over all the implementation mandates.”

—Representative Greg Wren (R), Alabama

Health Reform by the Numbers

$4 billion
Federal money given to states to implement the law, as of December 2011.

49.9 million
Americans uninsured, as of the 2010 census.

24.2 million
People who received Medicare preventive health screenings with no co-payment, including a wellness exam, in 2011.

20 million
Additional patients anticipated by community health centers by 2019.

16 million
Additional Americans who may qualify for Medicaid in 2014.

2.5 million
Young adults up to age 26 recently covered by parents’ plans.

44,852
People with pre-existing health conditions newly insured through high-risk pools, as of Nov. 30, 2011.

28
State attorneys general or executives who have joined the suits now before the U.S. Supreme Court against certain provisions in the law.

28
States that have received federal funds to establish insurance exchanges, as of Jan. 15, 2012.

19
States that have passed legislation opposing parts of the act.

12
States that enacted legislation to create health exchanges.
Exchanges: Job No.1

Health insurance exchanges, often likened to travel websites such as Expedia or Travelocity but for insurance plans, are the most pressing piece of federal health reform state lawmakers will deal with this year.

These insurance marketplaces must be up and running by the start of 2014. By 2020, an estimated 24 million Americans will be using them to shop for health insurance.

Creating them is no easy task. They require complex technology systems, and must operate in concert with state Medicaid programs. In addition, exchanges must be able to help people determine whether or not they qualify for a federal subsidy to make insurance more affordable.

“Exchanges dominated meetings throughout 2011, yet the vast majority of state legislatures must deal with the federal establishment mandates this year,” says Alabama Representative Greg Wren (R).

“Legislatures continue to wrangle through the policies and politics of exchanges, and constitutional uncertainties loom at every step along the way,” he says.

Massachusetts and Utah created insurance exchanges even before federal health reform. As of Jan. 1, 10 additional states have passed legislation to create their own, and many others are still planning or studying options. Louisiana officials chose to let the federal government run their exchange, and a few other states may follow suit.

“The ACA gives states some flexibility to craft the insurance exchanges in ways that make sense to them,” says Colorado Senator Betty Boyd (D), who chairs the Senate Health and Human Services Committee and co-chairs NCSL’s Health Committee.

“We wanted to make sure we retained control, for example, over whether to have a state agency run it or establish an independent nonprofit entity.”

Four territories and every state but Alaska received federal money (although Florida, Louisiana and New Hampshire returned theirs) to use in planning an exchange. At least 28 states and the District of Columbia have received additional federal funding to move beyond initial planning. The ACA also allows for a state-federal partnership and for multi-state partnerships to establish exchanges.

Some lawmakers in Wyoming would prefer to combine their efforts with other small states to increase the size of their insurance pool and share the costs of the technology.

“We oppose the ACA, but don’t want the federal government to run our exchange, so we are moving forward with planning,” says Wyoming Representative Elaine Harvey (R), who chairs the House Health Committee. “Wyoming was already on track to pro-pose partnerships with other states related to health insurance compacts, but the ACA diverted everyone’s attention.”

―Colorado Senator
Betty Boyd (D), Colorado

―Martha Salazar
Representative
Elaine Harvey (R), Wyoming

Big Changes for Insurers

A casual observer might be excused for thinking the Affordable Care Act has more to do with reforming insurance than with health care. Indeed, during its first two years, the act’s most visible features have been aimed at the commercial insurance market.

Many states are currently implementing more than a dozen major new requirements. Most of these provisions are based on long-standing practices in the states, which for decades have led efforts to regulate health insurance, affecting who and what is covered, how much it costs, and how consumers will navigate the often complicated systems.

The new pace of change has been daunting, and the effects far-reaching. One of the first changes noticed by the public occurred in July 2010 with the launch of the Pre-Existing Condition Insurance Plan for people denied insurance because of their serious health condition or chronic disease. Twenty-seven states chose to run these high-risk pools, while the others and the District of Columbia opted to have the federal government handle it.

Another high-profile provision requires insurers to offer the option for young adults through age 25 to stay on their parents’ plans. Since September 2010, 2.5 million young adults have done so.

The most frequently used new benefit is Medicare preventive screenings with no co-pay, including an annual wellness exam, which about 24.2 million people took advantage of in 2011.

Other key provisions affecting insurance providers include:

◆ Drug coverage. After Medicare patients spend more than $2,810 a year on medications, they now receive a 50 percent discount on most of their drugs. In 2011, this saved 3.6 million people at least $2.1 billion. This shrinks the Medicare Part D coverage gap, the so-called donut hole, each year and eliminates it by 2020.

◆ Rate review. All states must now review or approve insurance rate increases greater than 10 percent, a practice about 20 states had already pioneered.

◆ Required spending. Insurance companies, starting in 2011 must spend at least 80 percent of premium revenues directly on medical care and quality improvement. If they don’t, they are required to return the extra money. Starting in 2012, insurance companies may be required to return up to $1.4 billion to the purchasers of several million policies, according to the U.S. Department of Health and Human Services. Six states have received waivers that exempt certain insurance companies from this so-called medical loss requirement.

◆ Limits on coverage. In 2011, insurance plans were not allowed to limit annual coverage of essential benefits to less than $750,000. The limits increase to $1.25 million this year, $2 million next year, and are prohibited altogether starting in 2014. An optional waiver allows some existing partial coverage plans to retain their limits.

◆ Consumer rights. The federal law now requires independent appeals of denied payments for services or treatments. Forty states already required appeals, but only for some state regulated policies. This change covers about 100 million more people. —Richard Cauchi
Sharp Divisions Persist Over Law’s Future

Changing the nation’s health system has become a lightning rod for partisan disagreement, although state legislatures have seen far less paralysis and, at times, more thoughtful debate than has Congress.

Within hours of the president’s signature, 14 states had filed federal court challenges to the new law. By January 2011, 28 state attorneys general or governors were pursuing repeal efforts.

Legislators stepped into the arena as well. There are now 19 state laws, including three constitutional amendments, opposing certain provisions. Typically, they ban state government involvement in requirements to purchase health insurance. Similar legislation failed in 27 states.

These high-visibility opposition or “opt-out” moves reflect the strong partisan divide on the new federal law, critically labeled “Obamacare” by opponents in press releases and floor debates.

The change Arizona lawmakers approved in their constitution—“no law or rule shall compel any person or employer to participate in any health care system”—became a model for bills proposed in more than 40 states.

“The majority in Arizona’s Legislature has little faith that the federal health reform law will benefit our citizens’ health or lower health care costs,” says Senator Nancy Barto (R), the lead sponsor. “Instead, we expect to advance health reforms that lower the high cost of care and allow more insurance options whether or not the Supreme Court upholds the federal law.”

New Jersey Assemblyman Herb Conaway (D) supports the law but is not surprised by the opposition to it. “Reform often comes in fits and starts,” he says. “A reform of this scale and magnitude will not proceed without challenges and difficulties.”

For 2012, all eyes are on the U.S. Supreme Court, which has scheduled an unusual three-day oral argument for March 26-28. Constitutional experts predict a ruling by June. Supreme Court justices will deliberate over the key legal question of whether a federal law can require almost everyone to purchase or otherwise obtain health insurance and if that mandate can be removed from the rest of the act. The justices also will decide if Congress can require states to expand Medicaid coverage and withhold all funding from states that don’t comply. Lawmakers who back the law are speaking out as well. The Working Group of State Legislators for Health Reform filed a “friend of the court” brief on behalf of 518 members from 50 states with the Supreme Court, defending the constitutionality of the new law.

“As legislators, we are on the front lines to implement this law,” says Washington Senator Karen Keiser (D), a leader of the effort. “With legislators from all 50 states signing the brief, it’s evident there is nationwide support for reform, even in states that are challenging the law. Those of us in state legislatures must act with confidence, knowing our implementation efforts will not be delayed or derailed by groundless constitutional challenges. We simply cannot wait any longer to take action on this bill; there is no time to lose.”

—Richard Cauchi

State Actions Opposing Elements of Federal Health Reform
2009-2011

Source: NCSL, 2012
Transforming Medicaid

The nation’s Medicaid program, which covers about 50 million people, faces a significant overhaul under the Affordable Care Act. The $400-billion-a-year, joint state-federal program will be expanded in 2014 to cover all Americans under age 65 with family incomes at or below 133 percent of federal poverty guidelines—$14,856 for an individual and $30,657 for a family of four in 2012.

Currently, the program covers low-income children, pregnant women, the elderly, people with disabilities, and adults with dependent children, but largely excludes childless adults. They will make up a large percentage of the newly eligible population—estimated to total about 16 million—in 2014. Additionally, a change in how eligibility will be calculated, called “modified adjusted gross income,” will effectively raise the eligibility level to 138 percent of the poverty level for most applicants. Another provision, the maintenance-of-effort requirement, forces each state to maintain the same Medicaid eligibility level that was in place on March 23, 2010.

These changes, however, will add strain to Medicaid budgets that, for the last several years, have been feeling the compound effect of decreases in state revenues and increases in enrollments—13.6 percent hike in enrollment between 2007 and 2009, and 7.2 percent between 2009 and 2010. These increased enrollments, coupled with the ACA-required expansions in 2014, will swell the cost of Medicaid, making it more important than ever for states to improve the program’s effectiveness and efficiency.

In 2011, 47 states implemented at least one new policy to control Medicaid costs—such as reducing benefits and provider reimbursement rates—and 50 states plan to do so this year, according to the Kaiser Family Foundation. States are also experimenting with more long-term reforms, such as attaching provider payments to patients’ health results, creating medical homes or streamlining services for those eligible for both Medicaid and Medicare.

Some policymakers see the Medicaid changes in federal health reform as an opportunity for states to improve the health care system and expand coverage to more people. New Jersey Assemblyman Herb Conaway (D) thinks the law will help states stabilize the financial health of hospitals and safety-net providers, which are currently required to provide some services without compensation. He acknowledges the fiscal challenges the expansion poses for states, but says, “As a physician, I think we need to ensure access to health insurance to hard-working people and their families.”

Many lawmakers want flexibility from the federal government to make changes in the rules for Medicaid, including those for eligibility. “State legislatures allocate massive amounts of state funds to Medicaid,” says Alabama Representative Greg Wren (R). “We must be included in forming benefit, reimbursement, eligibility and enrollment policy. We can no longer be sent the invoice while being excluded from the discussion.”

—Melissa Hansen

States Decide Essential Benefits

States have long required insurance companies to offer certain benefits. More than 1,500 state laws mandate coverage, although they apply to different types of insurance. Idaho, for example, has only seven mandated services, Iowa has 20, while Florida has 40 and Maryland 55. By 2014, policies sold through exchanges, and most new plans sold to individuals and small employers, will have to cover the minimum or “essential” benefits approved by the federal government.

The federal law calls for states to pay consumers’ costs for any state-mandated benefits not deemed essential by the new law and under rules to be issued by the U.S. Department of Health and Human Services (HHS).

Most observers expected a national, one-size-fits-all definition of essential benefits.

But last December, the HHS proposed giving states unexpected flexibility in deciding which of several existing insurance plans—small group plans, state and federal employee health plans, HMOs—to use as a benchmark for required coverage in their own states.

Under the proposed new rules, state officials will be able to choose among several plans that already cover their state-mandated benefits and have one such plan designated the HHS-approved standard. Essential benefits will then vary among states but states won’t have to pay extra for consumers to purchase services required under state mandated benefits. The standards will apply to policies bought through exchanges as well as those sold outside of exchanges. The proposed rules may help states avoid incurring some new costs.

Although the increased flexibility is widely popular among many legislators, contentious issues remain. Lawmakers may be asked to reconcile differences among comprehensive coverage packages, or select a benefit package with fewer services at reduced premiums. Discussions of what is fair, what is affordable and what is medically necessary will likely keep this issue high on state legislative agendas.

—Richard Cauchi

What Insurers Must Cover
◆ Ambulance services.
◆ Emergency services.
◆ Hospitalization.
◆ Maternity and newborn care.
◆ Mental health and substance abuse services.
◆ Prescription drugs.
◆ Rehabilitative and self-help services and devices.
◆ Laboratory tests.
◆ Preventive wellness services and chronic disease management.
◆ Pediatric services, including dental and vision care.
◆ Other services determined by state mandates in state-selected benchmark plans.

Note: Federal rules require coverage for a range of women’s preventive health services in new policies as of Aug. 1, 2012.
Prevention: More Than an Ounce

“As an ER physician, I see many patients who have problems that, with preventive care, would not land them in the ER. As an elected official, I see the huge cost preventable illness causes taxpayers.”

—Representative Doug Cox (R), Oklahoma

One aim of federal health reform is to shift the health system’s focus from treating sickness to keeping people healthy. The goal is to “move from a culture of sick care to a culture of prevention,” says U.S. Surgeon General Regina Benjamin. By doing so, states may reap both immediate and long-term savings.

Addressing many root causes of chronic diseases—poor diet, physical inactivity and smoking, for example—may lessen their huge burden on government budgets. Treating chronic diseases accounts for 75 percent of all health spending in the country.

“As an ER physician, I see many patients who have problems that, with preventive care, would not land them in the ER,” says Oklahoma Representative Doug Cox (R), chair of the House Appropriations and Budget Subcommittee on Public Health and Social Services. “As an elected official, I see the huge cost preventable illness causes taxpayers.”

Several provisions of the federal health care law support preventive efforts. The National Prevention Strategy designed by the U.S. Department of Health and Human Services aims at increasing the number of Americans who are healthy at every stage of life by creating community environments that help people make healthy choices and ensuring access to preventive care. Another effort, the Childhood Obesity Demonstration Project, promotes healthy eating and physical activity to combat childhood obesity. The project will target low-income children enrolled in the Children’s Health Insurance Program, who generally have a high rate of obesity, with a program that combines preventive care doctor visits with changes at schools, day care, community food stores and parks.

Congress appropriated $1 billion for 2012 for public health programs under the Prevention and Public Health Fund. Sixty-one state, tribal and community chronic disease prevention and health promotion projects received grants from the fund in 2011.

The law also requires:
- All new health insurance plans to cover routine immunizations, evidence-based screenings and counseling, and specific additional preventive services for children, youth and women with no out-of-pocket costs to patients.
- Businesses to provide reasonable time and a private place other than a bathroom for mothers to express breast milk, with some exceptions for small employers.
- Money for new school-based health centers and to operate existing ones.
- Nutritional labeling on restaurant menus and vending machines, once final federal rules become effective.

In addition, states can seek grants to offer Medicaid beneficiaries financial incentives for losing weight, lowering cholesterol, improving blood pressure and quitting smoking.

—Amy Winterfeld

Help Wanted: Doctors and Nurses

The Affordable Care Act will allow about 32 million more Americans to have health coverage by 2019, according to the Obama administration. Who will treat them?

Even before federal health reform, experts were predicting that, by 2025, the country would face a shortage of as many as 45,000 primary care providers—physicians, nurses, physician’s assistants, nurse practitioners and others. With that in mind, the law included provisions to strengthen the current primary care workforce and increase the number of providers in the future. The law:
- Increases payments for primary care services under Medicaid and Medicare.
- Provides grants to expand nursing education and training.
- Provided the money for clinics run by nurse practitioners.
- Provides financial incentives to physician’s assistants to work in primary care.
- Creates new payment models that provide financial incentives to primary care providers.
- Adds medical residency slots to train 500 more primary care physicians by 2015.
- Increases funding to community health centers by $1 billion (although $604 million was cut in 2011) over five years to expand primary care services.

Building on the more than $200 million for health care workforce projects included in the 2009 stimulus act, the Affordable Care Act focuses on getting more doctors into needy communities, mainly small rural towns and big city centers. Along with the federal stimulus law, funding from the ACA has helped triple the number of doctors, nurses and other health care professionals serving these communities through the National Health Service Corps in the last three years.

State lawmakers have been addressing workforce shortages for years with loan repayment funding; programs to create a pipeline for health professionals, such as K-12 outreach initiatives; and efforts to improve health workforce retention, such as regulating mandatory overtime and addressing staff ratio requirements. Finding solutions to this very tricky problem can be difficult, however. By leveraging federal funding with state resources, soliciting participation from everyone involved, and working with medical schools, lawmakers can explore solutions and continue to play an important role in ensuring an adequate number of health providers for their states.

—Laura Tobler
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The oil shocks of the 1970s led to long gas lines, spiraling fuel costs, and an awareness that America’s economic success is highly dependent on affordable oil. Forty years later, oil remains a volatile commodity, rattling the world economy with each price spike.

When fuel prices jump, higher costs ripple through the economy causing instability, and often recession. Experts forecast that ongoing tensions in the Middle East and rising global demand mean the days of cheap oil are likely over forever.

Transporting people and goods affordably is vital to the nation’s economic health. But the country’s exclusive reliance on a single transportation fuel resource runs counter to the advice of any prudent financial adviser: diversify!

New technologies are offering what some say are compelling reasons to develop a variety of transportation fuels, and many policymakers are encouraging this effort.

“Fuel diversity is a driving factor in this. The cost of moving people and goods in our region is overly dependent on oil.”

—Representative Stacey Fitts (R), Maine

Price instability, posing a constant threat to the nation’s energy security and requiring vast military investments in the Middle East.

Although these concerns have been acknowledged for decades, recent hikes in oil prices have given policymakers and manufacturers a new sense of urgency to diversify—and innovative industries the opportunity to help the nation do so.

Although the federal government has often played the greatest role in transportation energy policy, the growth of technologies such as electric vehicles, alternative fuels and new natural gas extraction techniques provide state lawmakers greater opportunities to shape transportation energy policy in their states.

Across the county, lawmakers are looking for ways to tap their own energy assets and protect their governments, citizens and businesses from the economic hardships created by volatile fuel prices.

Their efforts have taken on a variety of approaches, from promoting oil exploration and drilling to creating incentives for alternative fuels and vehicles.

The Price of Fuel Uniformity

The United States is responsible for about 9 percent of the world’s oil production, but it consumes 20 percent of the oil produced globally. That’s more than double the amount China, the second largest oil consumer, uses. Canada, Mexico and Saudi Arabia provide most of our imported oil.

The nation’s oil imports have been declining however, thanks to an increase in domestic oil production, rising vehicle efficiency and biofuels.

Oil imports have been responsible for at least half the U.S. trade deficit since 2007, and contributed approximately $300 billion to the trade deficit last year. This tremendous outflow of wealth does not get recycled back into the U.S. economy. To finance the trade imbalance, the nation borrows money or relies on investments from abroad, adding to external debt.

Businesses and consumers have few alternatives when oil

Glen Andersen directs NCSL’s Energy Program.
prices inevitably spike as a result of political turmoil, natural disasters, or efforts by producing countries to restrict production. Volatility makes it difficult for businesses and industries to plan and budget, driving inefficient investments and creating an unpredictable operating environment. High oil prices also take money from consumer’s pockets. The average American now spends nearly 5 percent of his disposable income on gasoline, up from just 2 percent in 2002.

“The run up [in price] in mid-2008 and again more recently has shown that we need to work in a new direction with more urgency if we’re to remain competitive in the world,” says Fitts.

The growth in U.S. demand for oil is expected to continue, though at a much slower pace, as new cars and trucks become more efficient, while demand for oil in China and India—where just a fraction of the population now owns vehicles compared with the United States—grows rapidly. These countries are becoming the largest drivers of global demand and will keep pushing up oil prices.

Higher oil prices and domestic policy are driving more oil production, which can provide benefits, such as reducing the money flowing into potentially unfriendly nations, increasing energy security, lowering trade deficits and promoting economic development.

Increasing domestic production does not necessarily lower oil prices, however. Local fuel costs depend heavily on global oil prices. Increasing our domestic oil supply has a very small effect on oil prices globally, and what Americans’ pay at the pump.

**Rise of the Alternatives**

Developing other home-grown energy resources—biofuels, natural gas and electricity—may help diversify transportation fuels and stabilize prices. Federal and state policy, higher across-the-board fuel prices, and new technology are helping to make these alternative fuels competitive, though many still need refinement.

Ethanol and biodiesel, so-called biofuels, are now the leading alternative fuels, providing about 5 percent of the nation’s transportation energy. Natural gas, electricity and other alternatives power a small but growing number of the nation’s vehicles. These alternatives share many things in common: they are domestically produced, provide economic development, energy security, diversification and price stability.

State and federal incentives have played the largest role in their development. In 2010, domestic production of ethanol reached approximately 13 billion gallons, the equivalent of 445 million barrels of crude oil. These incentives and advances in technology are expected to propel biofuels to more than 12 percent of the fuel mix within 25 years, according to the Energy Information Administration.

Since ethanol and biodiesel are derived mostly from food crops—soybeans, canola, sunflowers or corn—they
are not without controversy. Their cultivation requires heavy amounts of fertilizers and pesticides, which raises concerns about erosion and runoff, water consumption, and converting forest and grassland to farmland.

Many in government and industry are working to address the food versus fuel conundrum. They are improving the technology so agricultural waste, wood waste, algae and grasses can be used to create what are called cellulosic biofuels. The technology for converting these materials into biofuel remains expensive, but a number of commercial plants will begin operating soon.

One of the strongest drivers of biofuels adoption has been federal and state requirements for their use. The federal renewable fuels standard requires production of 36 billion gallons of biofuels a year by 2022, with at least 16 billion coming from cellulosic ethanol. Since the standard for conventional ethanol production is nearly met, most of the new production will have to come from cellulosic or advanced biofuels. The strong growth in the ethanol industry allowed the tax credit for conventional ethanol to expire at the end of last year, along with the tariff on imported ethanol.

Most states have biofuels incentives, including rebates, state fleet requirements, fuel production mandates and tax credits. Ten state legislatures have passed laws creating renewable fuel standards. Pennsylvania lawmakers enacted a requirement that all gasoline sold in the state must contain 10 percent cellulosic ethanol after state production reaches 350 million gallons. Several laws require states to purchase alternative fuel vehicles. Washington, for example, in 2009, required that all state and local government agencies use 100 percent biofuels or electricity in all publicly owned vehicles by June, 2015. To phase in this requirement, all state agencies must achieve 40 percent biofuel or electricity use by June 1, 2013.

“We have as goals stimulating the development of alternative fuels, reducing pollution and as an emergency management strategy,” says Washington Representative Deborah Eddy (D), who worked on the bill.

Protecting the economy is also high on the list, she says. “Energy security is a concern since we need for public agency fleets to be available without regard to supplies of somewhat volatile—in more ways than one—fuels.”

Natural Gas

Advances in drilling techniques are increasing the supply of domestically produced natural gas, a transportation fuel burns cleaner than gasoline or diesel. While there are few natural gas passenger vehicles in the U.S. market, natural gas buses and delivery trucks are becoming more common, and nearly 18 percent of transit buses run on the fuel. Fleet owners are increasing their use of natural gas since it costs about $1.60 less than a gallon of gasoline and keeps the city air cleaner.

“Converting one waste truck from diesel to natural gas is the equivalent of removing as many as 325 cars from the road,” says Texas Senator Tommy Williams (R), author a bill to promote conversion of vehicles to natural gas.

Range limitations, lack of refueling stations, and higher up-front costs present challenges. There also is concern about the environmental effects of hydraulic fracturing, as well as the release of methane, a potent greenhouse gas, during natural gas extraction.

Most states offer a variety of tax incentives, rebates and financing programs for infrastructure and vehicle purchases. Texas passed a bill last year that diverts money from the state emissions reduction program to help pay for vehicle conversions to natural gas. The state is also looking to create natural gas filling stations on highways connecting Austin, San Antonio, Dallas and Houston.

“In addition to reducing pollution, natural gas vehicles will generate more clean energy jobs, facilitate economic growth and move us closer to energy independence,” Williams says.
Louisiana passed a bill in 2009 creating a 50 percent tax credit for the cost of converting a vehicle to run on alternative fuel or to construct alternative fueling stations. Oregon passed legislation last year providing grants and loans to retrofit school bus fleets to operate on natural gas or other alternatives.

**Electric Vehicles**

Electricity may play a large role in powering the vehicles of the future. It’s domestically produced, relatively inexpensive and has a history of price stability. The electric grid has enough electric capacity available at night to fuel 73 percent of the nation’s light-duty vehicles, according to the Federal Energy Regulatory Commission.

Although electric cars are pricier than their gasoline counterparts, they are far less expensive to fuel. At the national average price of residential electricity, an electric vehicle can travel approximately 30 miles on about 80 cents of electricity—a quarter of the cost of driving a similarly equipped, gasoline-powered car.

Electricity prices fluctuate far less than oil prices, so an increased reliance on electricity for transportation could help make costs more predictable and reduce the economic damage caused by oil price fluctuations.

For electric vehicles to catch on, more charging places—at office buildings, shopping malls and other public places—are needed and driving ranges need to improve.

“The challenges with electric vehicles continues to be accessibility to recharging facilities and the high initial cost of these cars,” says Eddy. “I do expect prices to plummet in future years, as battery technology continues to improve.”

Much of the support for electric vehicles is driven by the fact that they have no tailpipes and no emissions. Electric power plants, however, do have emissions, although less than the equivalent of gas-powered vehicles, even in regions where coal is used to produce electricity, based on statistics from the U.S. Environmental Protection Agency.

Manufacturing batteries, however, is energy intensive. In fact, building an electric vehicle creates more emissions than a building a gas-powered one. Over the electric vehicle’s lifetime, however, it more than makes up the difference.

States also have created tax credits, infrastructure development programs, state fleet requirements and other incentives to drive the push for electric vehicles. State rebates or tax credits range from $500 in Montana up to $7,500 in West Virginia. The federal $7,500 tax credit for all fully electric vehicles currently being sold in the United States has also fueled sales. The tax credit expires for each manufacturer after they sell a minimum of 200,000 vehicles—and they have a long way to go before they reach this target.

**Efficiency**

One of the most obvious, and least expensive ways to limit dependency on oil is to use less of it. A number of technologies help make a gallon of fuel, or kilowatt of electricity, go further. Gasoline-electric hybrids, for example, can increase mileage by about 30 percent to 40 percent. Diesel powered engines, which are not especially popular for passenger cars, can get 30 percent better fuel economy than their gasoline powered counterparts. There are also technologies already being used by some large U.S. companies, such as Wal-Mart, that can double truck fleet efficiency.

States are on a path to continue and expand on their alternative fuel policies. As policies work to overcome infrastructure challenges and technologies evolves, it’s likely that some states will finally see true diversification of their transportation energy resources.

“The challenge will be finding the money to keep this moving,” says Fitts. “As with everything, attracting the capital and being in the good favor of the investment community requires some will on the part of policy makers as well—no one likes a shifting target.”

**Online**

Read a new NCSL report on transportation fuels at www.ncsl.org/magazine.

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“*The challenges with electric vehicles continues to be accessibility to recharging facilities and the high initial cost of these cars.*”

—Representative Deborah Eddy (D), Washington
Sometimes, even being among friends—or at least political allies—is not enough.

Consider the legislative leaders in the 33 states where one party controls both chambers of the legislature and the governor’s office. You might assume things would run smoothly, with everyone pulling in the same direction. That’s true in some states, not so much in others.

What appears to make the difference is experience—political experience. In 20 of the 33 states, the governor is a first-term chief executive. Of those, only 10 had state legislative experience before becoming governor. Of those, only six had been committee chairs or on the leadership ladder. Of the other 10 first-termers, two had been in Congress, two had been elected to statewide office, and three had been mayors. Three of the 10 had never before run for office.

Most of the 33 states with undivided control have a significant majority. Only in Arkansas are both the Senate and the House closely divided.

Each of these variables—tenure of the governor, the governor’s experience in elected office, and how closely the chambers are divided—affects the nature of the challenges faced by legislative leaders.

Several leaders in those positions have shared with me—anonymously, of course—some of the unanticipated bumps in the road they have faced. Here are some of them.

◆ Newly elected governors, and particularly those from outside the political process—think Florida’s Rick Scott—tend to come into office thinking they have a “mandate.” They often expect fellow party members in the legislature to fall into line behind whatever they propose.

◆ Members of the majority caucus often expect special treatment from the governor’s office and the executive branch. They assume their legislative leaders have such open access and solid relationships with the governor and staff that they will willingly and successfully put their issues on the front burner.

◆ Governors and their staff expect legislative leaders to crack the whip if there is resistance in the caucus and deliver majorities for whatever legislation the governor considers a priority.

◆ In those states where there are huge legislative majorities—Florida, Georgia and Kansas, for example—divisions in the caucuses tend to emerge more visibly and publicly because individual members know their vote is not necessary to secure passage of any particular bill.

◆ In states where the legislative majorities are razor-thin—the Senate in Washington and Wisconsin and the House in Maine and Mississippi—there is tremendous pressure on leaders to use whatever resources are available to keep members in line on bills that are high gubernatorial priorities.

**Disappointing Artfully**

What does this all mean for a legislative leader? Plenty of opportunity to test my favorite definition of leadership: Disappointing your own people at a rate they can absorb.

Every politician knows it is easy, maybe even fun, to disturb the folks on the other side of the aisle. Upsetting your own caucus is a different story. Doing so requires courage and skill. That’s why it is called leadership.

In two significant respects, legislative leaders must sometimes deliver hard news to two key constituencies: their caucus and the governor. These tasks are complicated when the leader was elected after a hard-fought process, and his hold on the job could be tenuous.

Unlike members of Congress, the political fortunes of most state legislators are not intimately tied to the approval ratings of the governor of their party. Nevertheless, the speaker, Senate president, and the majority leader have some responsibility to shepherd the legislative agenda of their governor through their chamber. They want to avoid the public embarrassment that comes when governors fail to move legislation through chambers controlled by their own party. That means legislative leaders must promote gubernatorial loyalty as yet one more factor that members, already being pushed and pulled in different directions, must consider when deciding how to vote on an issue.

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*Marty Linsky’s column on leadership runs occasionally in State Legislatures. Linsky, who has been teaching leadership and politics for more than 25 years on the faculty of the Harvard Kennedy School, is a former journalist and one-time assistant minority leader of the Massachusetts House. He is cofounder of Cambridge Leadership Associates (www.cambridge-leadership.com), a global consulting practice. Contact him at marty@cambridge-leadership.com.*
Frank Talk

Legislative leaders face the toughest challenge, however, when dealing with a first-term governor with no legislative experience.

Have you ever tried to explain a hard truth to a newly elected governor still pumped up about how brilliant he or she was in the campaign and how “the people” want him or her to lead big change at the capitol? I have. It’s no picnic.

Of all the hard truths legislative leaders must give a new governor, the toughest is to respect the role of the legislature as separate branch of government.

It boils down to providing some basic civics instruction to the newly elected executive who probably ran against the legislature’s inefficiencies and who sees the House and Senate as annoying, barely tolerable, barriers to progress. Helping a new governor understand the legislature’s distinct role, and the many loyalties a legislator must consider when deciding how to vote, is a message not often well-received. It is a prescription for intra-party conflict, strife a legislative leader must sometimes make public. It is no coincidence that, of the six first-term governors without any legislative service, four currently suffer from very negative approval ratings, and one is under recall.

Leaders blame the pressure to support a governor’s aggressive legislative agenda for placing the most stress on them and their members. In several states—Wisconsin comes to mind—where the governor is very unpopular with the public, legislators’ loyalty is constantly being tested. They must evaluate whether they can support the governor’s agenda, still do what is best for their districts, and be consistent with their own values and priorities and electoral prospects.

Most legislative leaders already think of themselves as having one foot on the dock and one foot on the boat. The job involves constant balancing of differing ideologies and political considerations within their caucus. With the mixed blessing of a newly elected governor of their own party who is pursuing a big-time change agenda, the balancing act becomes more complicated and the leadership challenge more dangerous. None of those leaders come with a third foot.

Provisions in the Affordable Care Act are improving the quality and cost of health care for people with cancer and those at risk for cancer. No one will be denied coverage because of their medical history. Cancer screening, treatment and follow-up care will be covered by most insurance plans. The law, while not perfect, will make health care more affordable, more available, and easier to administer for cancer patients, survivors, and their families.

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Many people have several careers over the course of their lives. Senator Curtis Bramble (R) of Utah is having them all at once. He’s a CPA with an active tax practice, vice president of an insurance verification company, managing partner of a home warranty business, a consultant and expert court witness, and the owner of Stars and Stripes, a hot air balloon business. And it’s that last business—the balloons—that really turns heads.

“Ever since seeing ‘The Wizard of Oz’ as a boy, I had thought it would be neat to ride in a balloon,” he says.

So when the city of Provo conjured up the idea in 1983 of hosting a balloon festival as part of its Fourth of July celebration, Bramble seized the opportunity. Within months he’d earned his pilot’s license, balloon rating and instructor’s certification, and incidentally formed a business and learned how to run a festival. Since then the business and his piloting career have “taken off.”

How does this relate to being a legislator? It’s not about the “hot air.” Instead, Bramble says that in a balloon “you can only go where the wind goes, but the skilled pilot will find that one layer of air that will take you where you want to go. Politically, you can do the same thing, notwithstanding the prevailing winds. You can accomplish what you need to do, but only as slow or as fast as the wind will take you. If you’re patient.”

Bramble may be a bit of an overachiever, but many legislators hold several jobs, and some of those jobs are just as unusual as his. We’ve pulled together a few “odd jobs” from around the states, but we’d like to know about others. If you have an offbeat job, please let us know.

Maine Representative Russell Black, maple sugar producer

Representative Russell Black (R) of Maine is one sweet guy. He makes his living producing maple sugar and honey, among other things, on his diversified farm. “Unless you’re a potato farmer or a dairy farmer, there isn’t enough income doing any one thing on a farm in Maine. We do what we have to in order to pay the bills.” He is a fourth generation farmer on the same land.

This year, his first in the Legislature, he doubled his maple sugar production, a bit of a surprise since the Maine Legislature meets from January to April or June, depending on the year—and sugaring is possible only in March.

Black sees maple sugaring through a policy...
Comedy

Unusual occupations give these lawmakers unique perspectives on legislative work.

perspective as well as a business perspective. One question up for debate in Maine is whether maples on public land can be leased out for tapping. While that remains uncertain, one thing is for sure: “You can’t ship maple trees to China. It’s something that’s unique, it’s a niche market, and we can create jobs by promoting it here.”

Michigan Senator Joe Hune, exotic animal farmer

Senator Joe Hune (R) of Michigan is emphatic with his answer: two humps, always. He makes part of his living selling two-humped Bactrian camels, the cold climate kind native to central Asia, to whomever wants one. “Camels are the only one of my investments that has held its value in recent years,” he says, cracking a smile.

It’s simple economics. First, the camels are valuable because they are rare; fewer than 500 Bactrian camels live in North America. Second, the animals are difficult to import. And third, camels reproduce slowly and take time to rear their young, so each calf is a welcome one. All in all, they have proved to be a good business venture.

Camels are just the most recent in a long line of exotic livestock for Hune, a line that began when his parents permitted him to bring a pair of rabbits to the farm. The bunnies were followed by zebras, then Scottish Highland cattle and now camels, miniature donkeys—“Mine are all Republican,” Hune says—and cold-loving parrots known as rosellas.

“I spent my whole life working around livestock and crazy animals, so I think it prepared me pretty well to work in the Legislature,” Hune says. While he also has a real estate license, it’s his farm background that made him an excellent choice for his current post, chair of the Senate Agriculture Committee. In this role, he’s a booster for his state’s producers. Michigan ranks second in the nation for the diversity of its agricultural commodities—and his camels are unique in that mix.

Alabama Representative Joseph Mitchell, musician

Representative Joseph Mitchell (D) can be found at the statehouse focusing his energy on the issue that first motivated him to run for public office—education. Before he was elected to the Alabama House of Representatives, Mitchell served on the Mobile school board, but it was through music he found a passion for the issue.

The love of music provided the discipline and motivation at an early age that helped him excel in school. He holds two graduate degrees from public institutions in Alabama and a doctorate in educational administration from Texas A&M University. He also plays more than 200 varieties of flutes and reed instruments, including the concert flute, oboe, bassoons, saxophones and bagpipes. “I simply love to perform for people and make it a point to leave my audience with a better understanding and appreciation for music.”

Mitchell is a classically trained musician and has performed with the Atlanta Symphony, but it’s jazz he loves most. Over his career he has performed with notable musicians, such a Gladys Knight and the Pips. “I love the improvisational aspects of jazz. It is a wonderful feeling to play something different every time.”

As an award-winning music educator, Mitchell has maintained a firm commitment to education both inside and outside
the Legislature. “We all need to play a proactive role in educating the next generation, whether it is through music or something else,” Mitchell says. “I like to think I have made a small difference, both as a legislator and as a musician, here in Alabama.”

Vermont Representative Jason Lorber, stand-up comedian and actor

When Jason Lorber (D) was first elected in 2004, his colleagues quickly pointed out that he was the first comedian to serve in the Vermont House of Representatives. But Lorber clarifies that. “I’m just the first professional comedian to serve in the legislature,” he says.

When Lorber isn’t busy introducing legislation or attending committee meetings, his constituents can find him performing at comedy clubs around the state. Originally an actor, he switched to comedy to get back on stage without the commitment of rehearsing. “I was in graduate school and just didn’t have the time, but I really missed the interaction with the audience.”

After finishing his MBA at Stanford, Lorber returned to acting and comedy. But the roles Lorber plays as a performer and legislator are very different, and it can be challenging to wear both hats effectively. As a comedian, he often finds himself going beyond accepted social boundaries to get a laugh. As a legislator, that is not necessarily the most effective way to get your point across. “Many times when I get up to debate a bill, my colleagues are genuinely disappointed that I didn’t say anything funny.”

Lorber believes his stage experience helped prepare him for his role as a legislator. As soon as he entered politics, he already had a good grasp of many intangibles that often take years to learn. Comedians have to be quick on their feet, know their audiences and get their message across in a way that resonates with people. The same is true in politics.

Lorber teaches business professionals through his improvisational workshops to let go, project a stronger image, embrace uncertainty and feel comfortable even when they don’t have all the answers—skills invaluable both in and out of elected office.
Alaska Senator Donny Olson, pilot, physician and reindeer herder

Born and raised in the remote village of Golovin, Alaska, aviation has played a critical role in Senator Donny Olson’s (D) life ever since he was a child. Olson’s father was a pilot who delivered mail in northern Alaska to communities often accessible only by airplane.

“Where I grew up there were no roads connecting our communities together so we were very dependent on airplanes to provide much-needed communication and supplies throughout the year. I knew from a very early age I wanted to become a pilot like my father.”

Olson received his pilot’s license when he was just 16 years old, but his parents insisted he continue with his professional education and serve his community. Heeding that advice, Olson became a physician who uses his skill as a pilot to provide emergency medical care and deliver babies in some of the most inaccessible places in northern Alaska.

“When I went away to school, I experienced the luxury of electricity and indoor plumbing for the first time. My father always warned me the bright lights of the city can be very alluring, but not to forget where I came from.”

It was in this spirit of public service Olson decided to run for the Legislature. “I spent most of my life flying from one village to another, so I got to know the concerns of my constituents very well. When I first ran for office, I told the voters, ‘I have delivered your mail, your freight and your babies. Now I want to deliver meaningful legislation at the state Capitol.’ ”

With 310,884 square miles of geography and 90 separate villages, Olson represents the largest state legislative district in the country. But that doesn’t slow him down one bit. In his spare time, Olson herds reindeer with a helicopter and responds to calls from the North Slope Borough Search and Rescue Team.

Alaska Senator Donny Olson finds being a physician and a pilot a good fit in Alaska.
Tapping Into Online

States have a $23 billion sales tax loophole and Congress is considering a bill to close it.

BY JON KUHL

With states still struggling from the 2008 financial crisis that ripped through budgets and stunted revenues, an effort to improve the revenue outlook is gaining widespread support.

The Marketplace Fairness Act would allow states to enforce tax laws currently being ignored. It needs the support of Congress, but would cost the federal government nothing.

Backers say the law would generate billions for state budgets—without raising tax rates—to help build roads, improve schools, support small businesses and fight crime.

“This is a chance for the federal government to really help out the states,” says Illinois Senator Pamela Althoff (R). “And it’s not chump change. We’re talking billions of dollars in extra revenue. During good times we may have been able to get by without the revenue, but the recession has changed everything, and states can no longer afford to forgo any sources of revenue.”

In 2008, states lost an estimated $18 billion in uncollected taxes from out-of-state sales, $7.7 billion of which were from online sales. That figure is expected to climb to $23 billion this year, with almost half of that coming from Internet transactions.

Opponents argue the Marketplace Fairness Act is merely a tax hike in disguise and will hit consumers with taxes that, while already owed, are often not collected. Others who oppose the law come from states without sales taxes who feel it will unfairly burden local companies who do business on the Internet.

What the Act Would Do

The bill will allow states to enforce tax laws currently being circumvented. When a company does business with customers in states where it has no physical presence, the customers’ states have the right to impose sales and use taxes on those transactions.

But, as the Supreme Court ruled in two landmark decisions, the states do not have the authority under the Constitution to compel out-of-state merchants to collect the taxes.

This is where Congress comes in: If Congress explicitly grants states the authority to enforce their current tax laws, the loophole would be closed.

This tax-enforcement problem dates back to a 1967 Supreme Court case, National Bellas Hess v. Illinois, in which a mail-order company located in Missouri mailed flyers and catalogs to customers in various states, including Illinois. After clashing with the Illinois Department of Revenue over sales taxes, the catalog company took the state to court. The Illinois Supreme Court ordered National Bellas Hess to collect sales and use taxes from customers who intended to use their products in Illinois.

Appealing to the Supreme Court, Bellas Hess argued that since the company owns no tangible property in Illinois, the state had no right to force it to pay Illinois sales taxes. The Supreme Court agreed, ruling that compelling a merchant to collect sales taxes for a state in which it does not have a physical presence is a violation of the interstate commerce clause, and therefore unconstitutional. In its decision, the Supreme Court established a firm precedent that can only be remedied by an act of Congress.

Twenty-five years after Bellas Hess, North Dakota put the Court’s legal reasoning to the test. The state ordered Quill Corporation, an out-of-state merchant with no offices in North Dakota, to collect sales and use taxes on products sold to North Dakota residents. In Quill v. North Dakota, the Supreme Court
found the case indistinguishable from the Bellas Hess case, and upheld the 1967 precedent.  
If passed, the Marketplace Fairness Act would remove the collection complexity to interstate commerce that concerned the Supreme Court in both Bellas Hess and Quill.

Simplified and Streamlined

But the act is only part of the equation. Knowing it would be difficult to recoup their taxes in full without an effective enforcement mechanism, several states created a program that would comply with the Court’s decisions and convince Congress to act. To this end, the National Conference of State Legislatures helped develop the Streamlined Sales and Use Tax Agreement, a multi-state effort to simplify and modernize the states’ sales and use tax collection systems. To date, 24 states have passed it.

When the agreement went into effect in 2005, it opened an amnesty program in which states would forgive sales taxes owed by companies if the businesses voluntarily registered to collect sales taxes. Although the agreement can’t force companies to collect sales taxes on out-of-state transactions, a company that complies with it does not have to pay the sales taxes owed to states before the company’s registration date. Companies that don’t register run the risk of being compelled to pay back sales taxes when and if Congress passes the Marketplace Fairness Act.

At the start of this year, 1,737 businesses had volunteered to collect and remit previously uncollected sales taxes. That’s a little more than $916 million, not counting the holiday season, from 2011.

Taking on Amazon

Although the Marketplace Fairness Act would provide a comprehensive solution to the challenge of collecting sales tax on out-of-state sales, some states have passed their own so-called Amazon.com laws.

Eight states—Arkansas, California, Connecticut, Illinois, New York, North Carolina, Rhode Island and Vermont—have enacted a version of the law, also referred to as affiliate nexus legislation.

These bills require out-of-state retailers that have contracts with “affiliates”—independent entities within the state who link to an out-of-state business on their website and get a share of revenues from the business—to collect the state’s sales and use tax. Typically, the website in-state owner is not an employee or agent of the vendor and has no information about what purchases, if any, were made.

In all of these states, except for New York, little sales taxes have been collected because online vendors, including Amazon.com and Overstock.com, have canceled their in-state affiliate arrangements. Cancellation of such contracts not only means the affiliate nexus law won’t apply, but also that state revenues may drop because of the reduced income of the affiliates. In New York, Amazon.com challenged the constitutionality of the legislation and has been collecting the use tax for the state while in litigation.

Even if successful, the affiliate nexus laws reached only remote vendors with affiliate arrangements, leaving states unable to collect the full amount of sales taxes they are owed.

Bipartisan Support

The Marketplace Fairness Act was introduced in the U.S. Senate last November with bipartisan support. It includes an exception for small businesses with gross revenues under $500,000, over concerns that they might be unfairly burdened by the law.

States, not businesses, will be responsible for the cost of any tax-collecting software needed for online businesses to comply. Not all online retailers support the effort, however. “Overturning the Supreme Court ruling helps big-box retailers with websites, since they already have to collect in nearly all states,” Steve DelBianco, executive director of NetChoice, a trade association representing online businesses, wrote in an op-ed piece in the Wall Street Journal. “It will raise costs for small firms that compete via their online and catalog sales.”

DelBianco explains that big-box retailers already have the advantage of allowing customers to buy products online, then pick them up in stores to avoid shipping costs. He argues that requiring online retailers without stores to collect sales taxes removes one of their primary competitive advantages.

Opposition aside, prospects for the new federal bill are high. “We’ve had legislation introduced in Congress before,” says Neal Osten, director of NCSL State-Federal Relations. “But this time, I think all the stars have aligned. We have always had a strong and bipartisan group of state legislators and governors pushing for this from the state level, but now we have a strong and bipartisan group of senators and representatives in Washington who are working to pass this. And with the cuts in federal dollars about to hit the states, people at the federal level know this is something they can do to help states offset the cuts.”

—Max Behlke
Jacques Chagnon, a member of the Quebec Liberal Party, was elected president of the National Assembly in Quebec in April 2011 after serving as vice president since 2007. He was first elected to the Assembly in 1985 and has been re-elected ever since.

From 1985 to 1994, Chagnon was parliamentary assistant to the minister for administration and public service. In 1994, he was appointed as the minister responsible for education, administration of legislation regarding professions, and application of the charter of the French language.

From 1994 to 2003, when his party was in the opposition, he served in a variety of roles. When his party regained power in 2003, he served as minister of public security.

State Legislatures: Explain what you see as the most meaningful difference between the National Assembly in Quebec and legislatures in the United States.

Chagnon: The executive and legislative powers are not articulated the same way in Quebec’s British-style parliamentary system. The premier and the ministers, who together form the executive, are the foremost elected representatives and sit in the National Assembly with all the other elected members. The premier thus has a direct hand in the legislative process and can introduce legislation, take part in the ensuing deliberations and vote bills into law. In addition, it’s the premier’s prerogative to dissolve the National Assembly and call elections, which aren’t held on fixed dates, although there is a five-year limit on any given legislature.

At every sitting of the Assembly, the premier and the ministers are held to account and must answer the opposition’s questions during Question Period, which is one of the tools available to Parliament to scrutinize the government’s actions.

SL: Describe the role of the president, or speaker, in your parliamentary system.

Chagnon: In the parliamentary arena, the president’s role is to chair the proceedings of the National Assembly in a completely neutral fashion. He opens, suspends and adjourns sittings, preserves order and decorum, and enforces the Standing Orders during debates. He sees that the rights and privileges of the Assembly and its members are upheld so business can be conducted efficiently and without any kind of hindrance. His functions also include deciding who has the floor, calling motions for discussion in the House and announcing the results after a vote is held. To quote the Standing Orders, the president has all such powers as he may require to perform his duties.

SL: How, in your opinion, should the speaker’s role be exercised in the House?

Chagnon: I was called up to the chair to serve as president of the National Assembly of Quebec, one of the world’s oldest legislative assemblies and the only one in North America with French as its working language, on April 5, 2011.

As president, I take care to observe the rules, customs and traditions that are part of our heritage, and I defend the rights and privileges of the Assembly and its members, no matter what the circumstances. I rely on fundamental values such as transparency, openness, tolerance, dignity and respect to arbitrate our deliberations with neutrality, impartiality and discernment. I also make sure that order and decorum are maintained throughout our proceedings.

SL: What are your main functions as speaker.

Chagnon: I have three main functions. The first, as mentioned earlier, is to chair the sittings of the National Assembly. The second is to head up the administration of the Assembly and a staff of 700 or so whose support and collaboration are invaluable to me in seeing that the elected members have access to all the services they need to discharge their office. I prepare the Assembly’s annual budget estimates and chair the Office of the National Assembly, which is the Assembly’s board of directors, as it were. I am also responsible for the security of the buildings and offices where the members and the Assembly staff go about their work.

And last but not least, my third main function is to raise the Assembly’s visibility both in Quebec and on the international stage by developing relations with other parliaments, among other ways.
Promoting democratic values is important to me, and I’m involved in a number of awareness and educational activities to help Quebecers learn about the different aspects of their representatives’ work.

**SL:** How do you assert your authority in the Assembly, particularly during Question Period?

**Chagnon:** By being objective, impartial and fair toward all members, regardless of their political affiliation. I hand down rulings in the same spirit and always try to make the best possible decisions in light of the circumstances, with a humorous twist if it’s appropriate.

**SL:** Tell us about the challenge of maintaining a balance between the government and the opposition.

**Chagnon:** Maintaining that balance requires tact and political acumen. It’s my job to safeguard the rights of all parliamentarians and enforce the Standing Orders. I must make sure the voices of all the people’s representatives are heard in the chamber. I must see that the minority has the opportunity to speak, while allowing the majority to play its proper role in the organization of proceedings. So it’s a delicate role, but one that is of capital importance for our institution in terms of its capacity to run smoothly. The president must have good credibility in the members’ eyes for his rulings to be accepted. That’s why neutrality and impartiality are so vital.

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“As legislators, as policymakers, I truly believe we share a similar desire to find common ground among us for the uncommon challenges before us.”
—Colorado Senate Minority Leader Bill Cadman (R) on opening day of the session, in The Denver Post.

“We can be the Silicon Valley of Internet gaming. It’s the wave of the future. It’s going to come, and we can be in the lead on it.”
—New Jersey Senator Raymond Lesniak (D) to the Associated Press after the U.S. Justice Department announced such games legal.

“When a legislator is under recall and looking down the barrel of a recall election, they’re going to be more sensitive.”
—Wisconsin Senate Majority Leader Scott Fitzgerald (R) to the Associated Press, about recent recall in his state, including one targeting himself.

“We've got taxpayers in my district ... who have asked us to look at ways that we can make government more efficient. It's not a new concept. The evidence is that we're going to save money.”
—Florida Senator John Thrasher (R) about privatizing prisons, in the Huffington Post.

“I realize we have very critical, critical issues at the state level. ...The first time I get on the floor to do anything, I expect to get barked at.”
—Kansas Representative Ed Trimmer (D) about the bill he introduced, on behalf of a constituent, designating the cairn terrier (Toto in the Wizard of Oz) the official dog breed of Kansas, in The Wichita Eagle.

Two hundred and fifty million dollars buys you a lot of teachers. Half a billion dollars buys you even more teachers.”
—California Senator Lou Correa (D) who sponsored a bill to legalize online poker to bring in state revenue, in the New York Times.

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HOW TO FIX YOUR STATE’S TOXIC FILM INCENTIVES.

Movies with smoking, long exploited by the tobacco industry, are a primary recruiter of new young smokers. PG-13 and R-rated films account for a million US teen smokers, 44 percent of the national total.

Through state subsidies, taxpayers now pay hundreds of millions to producers of films with smoking that recruit kids to smoke. These subsidies also undermine states’ vital efforts to prevent adolescents from starting to smoke. No state can now afford that policy conflict and toxic waste of resources.

The fix is unusually straightforward. As the CDC recommended last summer, states can make future media productions with tobacco ineligible for public subsidy (see box).

There’s no First Amendment issue. States already qualify film projects for subsidy based on other content.

Whether or not you think film subsidies make sense as economic development policy, their collateral damage to the health of America’s next generation make them unsupportable. It’s time to mend them or end them.

Learn more at bit.ly/fixsubsidy.

“State and local health departments could work with state policy makers to harmonize their state movie subsidy programs with their tobacco-control programs by limiting eligibility for subsidies to tobacco-free movies.”

US Centers for Disease Control and Prevention (CDC), July 15, 2011

SMOKING IN MOVIES KILLS IN REAL LIFE. Smoke Free Movie policies—the R-rating, certification of no payoffs, anti-tobacco spots, and an end to brand display—are endorsed by the World Health Organization, American Medical Association, American Academy of Pediatrics, American Heart Association, Legacy, American Lung Association, Americans for Nonsmokers’ Rights, American Public Health Association, Campaign for Tobacco-Free Kids, Los Angeles County Dept. of Health Services, New York State Department of Health, New York State PTA, and many others. Visit our web site or write: Smoke Free Movies, UCSF School of Medicine, San Francisco, CA 94143-1390.
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– Albany Mayor Gerald Jennings

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– Iowa Senate Majority Leader Mike Gronstal

“The Free File Alliance makes it possible for hard-working taxpayers to prepare and file both their state and federal taxes online for free. These services help those families eligible for the Earned Income Tax Credit get that credit and help all active duty military file their taxes online quickly and accurately.”

– Former Mississippi Governor Haley Barbour

Free File provides free online tax preparation and e-filing options to 70 percent of all taxpayers. It is a public-private partnership between the IRS and commercial tax software companies. Thus far, twenty-two states have recognized the benefits of Free File and created state Free File programs modeled on the federal partnership, enabling individuals to file their federal AND state tax returns for free at the same time.

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