THIS SUMMER
GEORGIA ON YOUR MIND
AUG. 12-15, 2013
DECEMBER

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THIS MONTH TO:

◆ Find more details on state legislative elections and ballot measures.
◆ Read more on the current conditions for America’s children.
◆ Follow state actions on online gambling.
◆ Listen to the complete interview with John Engler, president of the Business Roundtable and former governor of Michigan

THEN & NOW

25 YEARS AGO

Articles from the November/December 1987 issue of STATE LEGISLATURES

AMERICA’S CHANGING FACE
“A changing economy and diverse lifestyles mark the current state of the nation. Here’s a look at demographic trends, and what they mean for state legislatures.”

RESPONDING TO THE HOUSING CRISIS
“Affordable housing is becoming increasingly elusive—even for people with jobs. Some state lawmakers are taking action, but they say they can’t do much without help from the federal government.”

SSC: THE BIGGEST PRIZE
“States have competed for job-creating projects before, but the Department of Energy’s proposed superconducting super collider is the king of economic prizes.”

DID YOU KNOW ...

Pennsylvania lawmakers moved around a bit before settling into their state capitol. After meeting in temporary quarters (including taverns) in the late 17th and early 18th centuries, they occupied Independence Hall in Philadelphia, then moved to a courthouse in Lancaster in 1799. Harrisburg was designated the capital in 1812, and 10 years later, legislators moved into their first official state capitol along the Susquehanna River. But it was destroyed by fire in 1897, so a Methodist church sufficed for a while. Finally, in 1906, the current state capitol was built. Often called a “Palace of Art,” it features lavish statues, mosaic tiles, a grand staircase modeled after the Paris Opera House and a dome modeled after St. Peter’s Cathedral in Rome. The dome weighs 52 million pounds and is covered in green-glazed tile. President Theodore Roosevelt dedicated the building, calling it “the handsomest state capitol I have ever seen.” Condé Nast recently ranked it No. 1 on its list of amazing state capitols.
—From “A Celebration of State Capitols” by Richard R. Gibson, the Pennsylvania Capitol Preservation Committee, and conde nast.com

WHOSE CAPITOL IS IT?

To find out, go to: www.ncsl.org/magazine.

CORRECTION

In the article on redistricting in the Oct./Nov. issue, the photo of Texas Senator Kel Seliger (R) was incorrect. This is the real Senator Seliger.
Pauline Eisenstadt didn’t realize she was a trailblazer, the first woman to serve in both chambers of the New Mexico Legislature, until someone pointed it out. “It didn’t seem like much at the time,” she writes, “but I guess everyone likes to be a game changer because it opens up new possibilities for others. It provides an example for others to also follow if they wish.”

Eisenstadt’s memoir of how a citizen legislator found her way to politics is a worthwhile read for someone considering a run for office and for those with a particular interest in New Mexico.

Katie Ziegler is the program manager for the Women’s Legislative Network of NCSL.

Eisenstadt acknowledges that although technology and the Internet have changed the landscape of campaigning and governing since she ran for office in the 1990s, much of her experience still holds true today. Political neophytes would do well to note just how many volunteers Eisenstadt relied upon for her campaigns, and how much time she devoted to making personal contact with voters.

She suggests “walking and talking to the voters” to be the most effective way to deliver your message and to learn about the issues. But the all-consuming nature of campaigning and legislat ing can be particularly challenging for women who also are family caregivers. In a nice, personal touch, Eisenstadt recognizes and thanks the women who assisted her with child care and other tasks while she was in office.

Eisenstadt’s stories from inside the capitol (the Roundhouse, as they call it in Santa Fe) offer real-life examples of the kinds of tips NCSL gives to new legislators on how to be effective lawmakers. The importance of knowing the rules, understanding the budget process, cultivating relationships, being willing to reach across the aisle and listening to constituents are all apparent through Eisenstadt’s experiences. Some of the controversial issues she grappled with will be familiar to any political junkie: allocating capital project money, building new bridges, gambling, energy development, hate crimes and ethics legislation.

Eisenstadt also presents the lighter side of legislating, both in the experience of designating a state cookie and in the descriptions of the many friendships she made over the years.

NCSL features prominently in this book, as the former lawmaker recounts the value of learning from other state experiences during her tenure as a member of the NCSL Executive Committee.

Though readers from outside New Mexico may find some of the who’s-who of state and local politics tedious, Eisenstadt’s dedication to public service shines through as an example for up-and-comers. Her memoir is a valuable resource for those readers, female or male, who may wonder what it is really like to be an elected official.
How Are the Kids?

Anyone following the news has heard that more American children are living in poverty now than in 2000. What they may not know, however, is that although economic conditions have worsened, children are experiencing better health and are doing better in school.

Fewer children lack health insurance, fewer teenagers are abusing alcohol or drugs, and more kids are attending preschool and graduating on time than did 10 years ago.

On the down side, more children have parents who lack secure employment and struggle with high housing costs, and more teenagers are neither in school nor working.

These findings by the Annie E. Casey Foundation are based on 16 indicators in four areas: economic well-being, education, health, and family and community.

—Mary Fairchild

An Up-and-Down World for Kids

Children’s lives have changed over the last decade, for better and for worse. The red arrows indicate conditions that worsened (measured by the percentage increase of children experiencing them), while the green arrows show factors in children’s lives that improved.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lives in high-poverty area</td>
<td>up 22%</td>
</tr>
<tr>
<td>Parents lack secure employment</td>
<td>up 22%</td>
</tr>
<tr>
<td>Lives in poverty</td>
<td>up 16%</td>
</tr>
<tr>
<td>Teens not in school and not working</td>
<td>up 13%</td>
</tr>
<tr>
<td>Family has high housing costs</td>
<td>up 11%</td>
</tr>
<tr>
<td>Lives in single-parent family</td>
<td>up 6%</td>
</tr>
<tr>
<td>Babies born with low birth weights</td>
<td>no change 0%</td>
</tr>
<tr>
<td>Fourth graders not proficient in reading</td>
<td>down 3%</td>
</tr>
<tr>
<td>Teen births per 1,000</td>
<td>down 3%</td>
</tr>
<tr>
<td>Young children not attending preschool</td>
<td>down 5%</td>
</tr>
<tr>
<td>Head of household lacks high school diploma</td>
<td>down 6%</td>
</tr>
<tr>
<td>Eighth graders not proficient in math</td>
<td>down 8%</td>
</tr>
<tr>
<td>High school students not graduating on time</td>
<td>down 11%</td>
</tr>
<tr>
<td>Teens who abuse alcohol or drugs</td>
<td>down 13%</td>
</tr>
<tr>
<td>Child and teen deaths per 100,000</td>
<td>down 16%</td>
</tr>
<tr>
<td>Children without health insurance</td>
<td>down 20%</td>
</tr>
</tbody>
</table>

Note: Indicators of well-being reflect slightly different time spans between the years of 2000 and 2011.

Source: Annie E. Casey Foundation, 2012 KIDS COUNT Data Book

The Top 10 Highest-Ranked States in Overall Children’s Well-Being

New Hampshire
Massachusetts
Vermont
New Jersey
Minnesota
North Dakota
Connecticut
Iowa
Nebraska
Maryland

How States Ranked

(grouped, with one being the highest)

1-13
14-25
26-37
38-50

* Note: Go to www.ncsl.org/magazine for KIDS COUNT data on children in Puerto Rico and the Virgin Islands.

For more details from the 2012 KIDS COUNT Data Book, go to www.ncsl.org/magazine.
IT'S A FAMILY AFFAIR IN DELAWARE. ANDRIA BENNETT, a legislative aide to the Democratic Caucus, won the House seat vacated by her husband in April, and joins her father, Representative John Viola (D), as the only father-daughter duo in the state legislature. Her husband, former Representative Brad Bennett, withdrew from the race after his second drunken driving arrest, a stint in jail and rehab. He was first elected in 2008 to the same seat his father, Ed Bennett, held for 18 years. The newly elected Bennett is the former representative’s second wife. His first was Senator Brian Bushweller’s daughter. Andria Bennett denies allegations that she is a place-holder for her husband. She says she’ll take him on in the primary if he decides to run again.

MARYLAND SENATOR TIFFANY ALSTON (D), CONVICTED of paying $800 to an employee of her law firm with state funds, cannot reclaim her seat, according to the legal counsel to the General Assembly. In a letter to Speaker Michael Busch (D), the counsel said he considers her “permanently removed from elective office.” Prince Georges County Democrats selected businessman Greg Hall to fill out the remainder of Alston’s term through 2014. Governor Martin O’Malley must approve the selection. Hall ran unsuccessfully for the seat in 2010. Alston had hoped to regain her seat after she paid back the General Assembly and completed 300 hours of community service.

IT'S BEEN A FOUL FEST IN THE RACE FOR AN ARKANSAS HOUSE SEAT. FORMER HARLEM GLOVETROTTER FRED SMITH made the winning basket to gain back the seat he resigned from in 2011 following a conviction on theft of property delivered by mistake. The conviction was overturned, allowing him to run again. But he was barred from running in the Democratic primary by party rules because the conviction still showed up on his record. So he joined the Green Party. The key to his comeback was a winning ruling from the court that disqualified any votes for the Democratic incumbent Representative Hudson Hallum. He was convicted of felony conspiracy to commit voter fraud by manipulating absentee ballots in 2011 when he won a special election to the House. He resigned but his name was still on the ballot.

TEXAS SENATOR MARIO GALLEGOS (D), A 22-YEAR VETERAN OF THE STATE LEGISLATURE, died in October from liver disease. He was 62. Gallegos was a strong voice for Hispanics and the working class. In 2006, he announced he was seeking treatment for alcoholism and was diagnosed with cirrhosis of the liver. With about a month to live, he received a liver transplant in 2007. Later that year he was elected president pro tem. Senator Leticia Van de Putte (D) called him a man of “matchless generosity,” adding she has “never known anyone who fought harder for the underdog—for the most vulnerable in the state.”

TWO LOUISIANA HOUSE MEMBERS, OUSTED from the powerful Appropriations Committee, say their dismissal by Speaker Chuck Kleckley (R) is a result of their opposition to some of Governor Bobby Jindahl’s fiscal policies. Republican Representatives Joe Harrison and Cameron Henry have broken ranks with the governor on fiscal issues and other matters and claim he will not tolerate an independent Legislature. Part of a group called the “hawks,” Harrison and Cameron wanted a special session to roll back cuts made by the administration. Their effort failed. The administration denies it had anything to do with the two men’s dismissal.

DAVID WILLIAMS (R), THE POWERFUL KENTUCKY SENATE PRESIDENT who was the bane of Democrats and governors, has resigned his seat to accept a judgeship offered by the governor whom he ran against. Williams spent 27 years in the General Assembly, the last 13 as Senate president. While Democrats dubbed Williams the “Bully from Burkesville,” his fellow Republicans called him a brilliant strategist who effectively advanced Republican policies in the state and obstructed many of the governor’s priorities. Williams ran against current Governor Steve Beshear, who crushed him in the election, in November 2011. Beshear appointed Williams circuit judge for three counties, a job Williams said he intended to run for in the future. U.S. Senator Mitch McConnell said Williams’ service in the legislature is “one of the most accomplished tenures in the history of the commonwealth.”

ON NOVEMBER 6, THE NUMBER OF STATE LEGISLATORS in the nation increased by one—from 7,382 lawmakers to 7,383. The new seat, in a district just north of Albany, N.Y., was created by Senate Republicans during redistricting in an effort to shore up their majority and eliminate any possibility of a tie vote by increasing the 62-member body to 63 members. But the race between Democrat Cecilia Tkaczek and Republican Assemblyman George Amedore was too close to call at press time.
A new federal policy allowing certain young illegal immigrants to remain in the country temporarily is stirring up debate—and action—in the states. Called “Deferred Action for Childhood Arrivals” (DACA), it could shield up to 1.7 million young people under age 31 from being deported and allow them to work for two years, after which they would be allowed to reapply for the deferred status.

The U.S. Citizenship and Immigration Service began accepting applications in mid-August from people who meet the following criteria.

◆ They entered the United States before the age of 16.
◆ That as of June 15, 2012, they were under the age of 31 and had continuously resided in the country for at least five years.
◆ They are either in school, have graduated from high school, have earned a GED or have been honorably discharged from military service.
◆ They have not been convicted of a felony, a significant misdemeanor or several misdemeanors.

Meeting the criteria does not necessarily mean deferred status will be granted, as the federal government is making decisions on a case-by-case basis. From Aug. 15 to Sept. 13, the U.S. Citizenship and Immigration Service had accepted 82,361 requests for review and had completed 29 of them. Deferred action does not provide lawful status or a path to citizenship, according to the U.S. Department of Homeland Security.

In addition, the Department of Health and Human Services advised states that the policy does not make young immigrants eligible for the federal Children’s Health Insurance Program or Medicaid, nor will they be able to purchase insurance in the health exchanges mandated by the Affordable Care Act.

Since the federal policy was announced last June, state legislators, governors and other public officials have been grappling with how to handle the new policy—whether to update their laws and rules to either provide or deny benefits such as in-state tuition, identification cards and driver’s licenses to immigrants who are granted this deferred action status.

In the dozen states with laws prior to the new federal policy allowing illegal immigrant students to be eligible for in-state tuition, those granted deferred status will still be eligible. Other states are reviewing their policies to see whether deferred action would permit or deny in-state tuition.

Governors in Arizona and Nebraska have stated they will not allow driver’s licenses or state public benefits to be issued to deferred action recipients. On the other hand, the California Legislature passed a law to allow deferred action immigrants without Social Security numbers to obtain driver’s licenses. And state agencies in Alabama, Colorado, Florida, Illinois, Indiana, Michigan, Ohio, Texas, Virginia and Wisconsin have announced plans to offer recipients driver’s licenses.

New Mexico and Utah are the only states that do not require proof of legal immigration status to obtain a driver’s license, and Utah offers a driving privilege card to those who cannot prove lawful status.

—Ann Morse
Newborns across the country are routinely screened for all sorts of health problems. Eight state legislatures have recently added a test for congenital heart defects to the list, and others are considering doing so.

Problems with the walls, valves, arteries or veins of the heart are some of the most common types of birth defects, affecting up to nine of every 1,000 births. Of the approximately 4 million babies born in the United States each year, more than 4,800 have a critical heart defect, putting them at higher risk for disabilities and early death. Early treatment is crucial, but often these babies appear healthy and go home before problems are detected. Critical heart disease is responsible for more deaths in the first year of life than any other birth defect.

All states screen for some genetic disorders and hearing problems. The U.S. Department of Health and Human Services’ advisory committee on heritable disorders recommends screenings for 31 core disorders and 26 secondary disorders. The committee added a recommendation for congenital heart disease screening—known as pulse oximetry—in September 2011, which was endorsed by the American Academy of Pediatrics, the American College of Cardiology Foundation and the American Heart Association.

The pulse oximetry test measures the oxygen saturation in the blood; a low level can indicate additional testing is needed to look for heart problems. The screening detects about 77 percent of all congenital heart defects and is more effective than a basic clinical exam and prenatal tests.

Diagnosing heart problems early may eliminate future health care costs, such as emergency room visits, and may reduce the risk of medical malpractice suits against providers for failing to detect heart problems at birth. Supporters point out that many hospitals already have pulse oximeter machines, and that the test costs only $5 to $10 and takes about three minutes.

There are downsides, however. Smaller hospitals may not have the proper equipment or specialists to conduct follow-up tests, and false positives may require additional costly tests and cause unnecessary stress on parents. A recent study in the United Kingdom, however, found that false positive rates are low, occurring approximately one in 1,000 times.

Connecticut, Indiana, Maryland, New Hampshire, New Jersey, Tennessee and West Virginia passed laws requiring—and California requires offering—pulse oximetry screening of newborns. Another nine states have considered legislation, and two had bills pending at press time. And some states, even without legislation, require the test and are studying the issue. In Minnesota, a group of medical professionals, state officials and administrators developed a pilot program to conduct screenings. The Colorado General Assembly adopted a resolution requesting that the Department of Public Health and Environment develop a screening system, while an Alabama resolution commends the health department for requiring screening. In addition, six states have adopted resolutions to raise awareness about congenital heart defects.

—Jennifer B. Saunders
Blowing the Whistle on Child Abusers

By the time former Penn State University assistant football coach Jerry Sandusky was convicted of child abuse in October, many state lawmakers already had responded to the scandal by introducing legislation either to tighten existing mandatory reporting laws or establish new ones. This year alone, state lawmakers in at least 30 states and the District of Columbia introduced 107 bills, of which 32 have passed in 17 states.

Most of the legislation: 1) Adds to the list of who is required to report known or suspected child abuse, such as higher education staff and coaches; 2) Sets penalties for failing to report abuse or neglect; 3) Requires training for mandatory reporters; or 4) Requires reporting child abuse or neglect to law enforcement officers.

Florida’s new law, considered by some to be the toughest in the nation, imposes a $1 million fine on colleges and universities that “knowingly and willfully” fail to report known or suspected child abuse or prevent another person from doing so. In addition, anyone suspecting abuse must call a Florida Department of Children and Families hotline or face third-degree felony charges and a $5,000 fine.

All states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands have laws on who must report abuse, and 48 of them penalize those who knowingly fail to do so. At least 18 states require anyone suspecting child abuse to report it.

—Nina Williams-Mbengue

Recent State Action on Mandatory Reporting of Child Abuse and Neglect

Source: NCCL, October 2012

Happy Anniversary

America celebrated the 225th anniversary of the signing of the U.S. Constitution on Sept. 17, 2012. Here’s a look at the historic document by the numbers.

39
Number of delegates who signed the U.S. Constitution at the Constitutional Convention in Philadelphia.

3
Number of delegates who refused to sign it without a bill of rights.

12
Number of states represented by the delegates.

42
Average age of signer.

81 & 26
Age of Benjamin Franklin, the oldest signer, and Jonathan Dayton, the youngest.

Less than 100
Number of working days it took to draft it.

4,543
Number of words in it, including signatures.

$30
What Jacob Shallus, a Pennsylvania General Assembly clerk, was paid for hand writing it.

4 million & 314 million
U.S. population, then and now.

Sources: National Constitution Center, archives.gov, U.S. Census Bureau, constitutionfacts.com
Sales Tax Holidays: Help or Hindrance?

Looking to give retailers and consumers a break, 18 states offer annual sales tax holidays—usually two or three days to a week when specific goods are exempt from state and sometimes local sales taxes. The products range from clothing and school supplies to guns and ammunition.

Sales tax holidays are popular with consumers and have broad support among lawmakers, who have supported them to improve sales for retailers, help low-income consumers save money and promote economic growth. But a recent report from the Tax Foundation, a non-partisan tax research group based in Washington, D.C., asserts that the tax breaks only distract policymakers from making more substantive and permanent tax changes.

New York established the first sales tax holiday in 1997, when the Legislature instituted a tax-free week for clothing and shoes originally priced under $500. Other states followed, reaching a peak in 2010, when 19 states and Puerto Rico allowed some sort of tax holiday. Some states have allowed holidays in the past, but have repealed them because of declining revenues during the recent economic downturn.

Which products go on holiday varies greatly, according to the Federation of Tax Administrators. Clothing, however, is most often exempted; Puerto Rico and 17 of the 18 states that conducted a sales tax holiday this year exempted clothes. Thirteen states exempted clothing purchases up to $100; Connecticut exempted up to $300; Florida, up to $75; and South Carolina had no limit. Many states also include school supplies in the holiday. Other products exempted include Energy Star products in Georgia, Maryland, Missouri, North Carolina and Virginia, for example, and hurricane supplies in Alabama, Louisiana and Virginia. Massachusetts exempts most personal property purchases under $2,500.

“The opportunity to provide goods and services to consumers without the added cost of the state sales tax for one weekend a year creates an economic boost welcomed by the commonwealth’s small businesses,” says Massachusetts Senator Gale Candaras (D). “Not only do tax holidays benefit residents of the state who can enjoy a substantial reduction in actual cost for big ticket purchases they might not have otherwise made, these holidays also serve to bring in consumers from outside Massachusetts.”

The Tax Foundation report, however, argues that sales tax holidays do little to stimulate new sales, because consumers often wait for tax holiday periods to buy goods they would normally purchase anyway. In addition, the tax holidays force some low-income consumers to decide between purchasing goods at a discounted rate or paying important bills. Businesses are burdened with operating under more than one set of sales tax laws a year, which may require the added costs of reprogramming cash registers and computers for a short period of time.

The report suggests that a voucher or rebate system would be a more effective tax tool for low-income consumers, making benefits available to them regardless of when they shop.

Because of their popularity among consumers and lawmakers, the report concludes that sales tax holidays are likely to remain for the foreseeable future. “The sales tax holiday serves as a $20 million stimulus for consumers and businesses,” says Massachusetts Senator Michael Knapik (R). “I am in favor of a permanent sales tax holiday in Massachusetts because I think the citizens deserve the relief and every store deserves the uptick in business.”

— Aron Snyder
GOVERNMENT TRUST

What a difference a few years make. Trust in state government is up almost 15 percent since a low of 51 percent in 2009. Nearly 65 percent of Americans said they have a great or fair amount of trust in their state government, according to a recent Gallup poll. Respondents from Southern states—71 percent of them—trusted their state governments the most; Westerners, at 57 percent, were the least trustful. Seventy-one percent of Republicans said they had trust and confidence in state government, while 65 percent of independents and 61 percent of Democrats did. Local government consistently fares well, never having dropped below 68 percent since polling began. This year, 74 percent expressed high levels of trust.

THESE DOGS CAN’T HUNT

Canines no longer will be able to go hunting with their humans for bears and bobcats under a new law in California. “There is nothing sporting in shooting an exhausted bear clinging to a tree limb or a cornered bobcat,” says the bill’s sponsor, Senator Ted Lieu (D). Hunters descended on the Capitol to complain the bill infringed on their rights. “NRA members and all other hunters must continue to be as active as possible in opposition to this ban ... we’ve all got a dog in this fight,” says Darren La Sorte, NRA-ILA manager of hunting policy, on the group’s website. Seventeen of the 32 states that allow bear hunting permit hounds to participate.

ARCHIVES: CLOSED!

Citizens in Georgia will be hard-pressed to access records after budget cuts reduced the staff of the Georgia Archives to three, one of whom is the maintenance man. All states have archives, but Georgia will become the first to not have one regularly open to the public. Professional archivists see big changes in their industry. Budget cuts and technological changes—whereby everything from government tweets to official documents are being produced electronically—create uncertainty in how well records will be kept in the future.

HEAVY METAL

Metal theft is a growing problem, and Florida became one of the most recent states to pass legislation designed to stop it. The new law requires second-hand dealers to obtain signed statements, thumbprints and photographs from sellers; purchase metals with checks or bank transfers; and send transaction records to law enforcement officials. A new North Carolina law requires recyclers to take digital photos or videotape customers posing with the metal items they are selling. The National Insurance Crime Bureau reports that metal theft claims have increased 8 percent from 2009 to 2011. States generating the most claims were California, Illinois, Georgia, Ohio and Texas. Rising prices for base metals, especially copper, are driving the increase in thefts, according to the bureau.

IRREPLACEABLE

Replacement referees would not be allowed in professional football arenas in New Jersey if Senate President Stephen Sweeney (D) has his way. He was prompted to introduce the legislation after a particularly painful start to the National Football League season, during which the less-experienced referees made several controversial calls, including one that may have cost the Green Bay Packers a win against the Seattle Seahawks. Even Wisconsin Governor Scott Walker (R), who eliminated most collective bargaining rights for state employees last year, tweeted the morning after the game that the NFL should bring back union officials. (His office later clarified that the tweet “has nothing to do with unions and everything to do with a blown call,” according to Yahoo! News.)
**OUTLAW THERAPY**

California became the first state last fall to ban psychotherapy intended to make gay teenagers straight. The law prohibits licensed mental health professionals from using what is known as reparative or conversion therapies with clients under age 18. The Pacific Justice Institute and Liberty Counsel plan to sue to stop the law from taking effect Jan. 1. Two New Jersey lawmakers are drafting similar legislation.

**TAXING HAZARDS**

Washington’s hazardous substances tax is constitutional, the state Supreme Court has ruled. Approved by voters in 1988, the 0.7 percent tax—which raises approximately $125 million a year from oil products, pesticides and other chemicals—is used for environmental cleanup. Proponents had argued the tax violates the state constitution’s 18th amendment, which directs motor fuel taxes to be used for highway purposes. But the court disagreed, writing that “nothing in the constitutional provision indicates that any new tax similar to a gas tax would require the Legislature to use the funds for highway purposes.” Assistant Attorney General Laura Watson told the Associated Press that “The Legislature has very broad taxing authority.”

**ENERGY EFFICIENT**

The American Council for an Energy-Efficient Economy named Massachusetts (in its second year atop the rankings), California, New York, Oregon, Vermont, Connecticut, Rhode Island, Washington, Maryland and Minnesota as the top 10 energy-efficient states in 2012. The nonprofit organization, which promotes energy-efficiency policies, rated the states in its sixth annual “State Energy Efficiency Scorecard.” The report examines six of the primary policy areas in which states typically pursue energy efficiency: utility and “public benefits” programs and policies; transportation policies; building energy codes; combined heat and power policies; state government-led initiatives around energy efficiency; and appliance and equipment standards.

**A SOBERING APPLICATION**

In an effort to reduce the number of fatalities caused by people driving while impaired (DWI), New Mexico has introduced a smartphone app called “ENDWI.” The free app offers a variety of features designed to reduce DWI-related deaths. Users can estimate their blood alcohol content based on the number and types of drinks they consumed, or play games that test their response times so they can determine their impairment levels. They also can find rides through contact lists of family and friends or by instantly locating and calling the nearest cab company. They can even report other erratic drivers with the press of a button. The state created the app in response to a recent state Department of Transportation study showing that almost 60 percent of DWI fatalities on state roads in 2011 involved repeat offenders.

**A RICH ROUND OF BENEFITS**

The Congressional Research Service reports that nearly 2,400 people who received unemployment insurance in 2009 lived in households with annual incomes of $1 million or more. The report said the millionaires represent 0.02 percent of the 11.3 million U.S. tax filers who reported unemployment insurance income in 2009, and that another 954,000 households earning more than $100,000 also reported receiving the benefits. The payments may have been received by people living with spouses or dependents who earned high incomes, or before the recipients got high-paying jobs. The government does not require means testing for people receiving unemployment benefits.
Democrats Bounce Back

Democrats gained back some chambers lost in 2010, but both parties had reasons to be pleased with the election results.

BY TIM STOREY

After getting shellacked by Republicans two years ago, Democrats rebounded in the 2012 election, gaining about 150 seats and taking back eight chambers they lost in 2010. Presidential coattails made a difference, as they often do. Since 1900, the party winning the White House has gained seats in legislatures in 21 of 29 elections.

Republicans scored a few wins as well, including gaining majorities in both chambers of the Arkansas Legislature for the first time since Reconstruction. With Arkansas in their column, Republicans now control every legislature in the former Democratic “solid South” of a mere 20 years ago.

Before and After

After wresting a stunning 24 chambers from the hands of Democrats in the past two years, Republicans entered this election season in control of an historic number of legislatures. The GOP held both legislative chambers in 26 states, Democrats held 15, and eight state legislatures were split, including Virginia because its Senate is tied. It is functionally the GOP’s, however, since the tie-breaker—the lieutenant governor—is Republican. Nebraska is left out of the count because its Legislature is not only unicameral, but also nonpartisan.

Leaders from both parties had reasons to be pleased with the results of the elections when 6,034 out of 7,383 seats were up for grabs in the 44 states holding regular elections. Democrats won control of eight chambers (all ones they had lost to Republicans in 2010), while Republicans took over in four. Those changes leave the tally heading into 2013 legislative sessions at 26 GOP state legislatures, 19 Democratic and four split.

In terms of chambers, Republicans control 56, Democrats hold 41, and only the Virginia Senate is tied. A handful of recounts and late ballots could change the final tallies in a couple of chambers with razor-thin differences, including the Arkansas House where Republicans hold a two-seat lead.

Tim Storey is NCSL’s expert on state legislative elections.
Democrats Celebrate Coattails

On average, winning presidents bring in about 200 additional seats. The 150 seats gained by Democrats in November fell a bit short of that average and were not exactly widespread. A net of nearly 120 seats by Democrats in the New Hampshire House alone accounted for most of the gains. New Hampshire’s 400-seat House is by far the largest legislative body in the United States.

Democrats gained seats in 38 of the nation’s 98 partisan state legislative chambers, while Republicans added seats in 36. In the other chambers, it was a draw. The net gain in seats for Democrats left them holding 47.5 percent of all partisan legislative seats in the country, with Republicans still claiming a majority, at 52.1 percent. Third party legislators (not counting nonpartisan Nebraskan lawmakers) nudged up slightly to 29, or 0.4 percent of all the nation’s legislators.

President Barack Obama’s coattails were perhaps no stronger than in New Hampshire where his party made huge gains and pulled off a surprising upset by taking back the Granite State House with a 222 to 178 majority. Republicans also lost seats in

2012 State Elections
By the Numbers

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6,034</td>
<td>Legislative seats up for grabs on Nov. 6</td>
</tr>
<tr>
<td>12</td>
<td>Legislative chambers that switched party control</td>
</tr>
<tr>
<td>About 150</td>
<td>Seats gained by Democrats</td>
</tr>
<tr>
<td>26</td>
<td>States in which Republicans control both chambers</td>
</tr>
<tr>
<td>19</td>
<td>States in which Democrats control both chambers</td>
</tr>
<tr>
<td>25</td>
<td>Chambers in which Republicans hold 2/3 majorities</td>
</tr>
<tr>
<td>12</td>
<td>Chambers in which Democrats hold 2/3 majorities</td>
</tr>
<tr>
<td>1</td>
<td>Legislative seat added in 2012 (in New York Senate)</td>
</tr>
<tr>
<td>7,383</td>
<td>Total state legislators</td>
</tr>
<tr>
<td>1,781</td>
<td>Female state legislators</td>
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</table>

Note: These numbers are based on preliminary data.
the New Hampshire Senate yet managed to hang on to a much narrower 13 to 11 majority.

New England was fertile ground for Democrats this year. New Hampshire’s neighbor, Maine, saw Democrats make their second biggest gains ever, netting more than 20 seats and winning back both chambers—with a 25-seat advantage in the House and nearly a 10-seat majority in the Senate. Maine is one of 15 states with term limits.

Another big win for Democrats was in New York, where they look likely to gain back a majority in the Senate by winning 32 seats compared to 30 for Republicans. At press time, one New York Senate race was still undecided and at least one other was headed for a recount, so it is far from settled. With New York Senate Republican Leader Dean Skelos hinting at a possible coalition with dissident Democratic senators to maintain Republican control, it could be weeks, if not months, before New Yorkers know who will be in charge in Albany.

Even though the Democrats picked up 32 seats in the Midwest, Minnesota was the only state in the region where Democrats gained chambers, netting 20 seats and retaking majorities they lost in 2010 in both chambers. In the Senate, Democrats, who were down seven seats going into the election were up by nine afterward. In the House, they went from a 10-seat minority to a 12-seat majority.

In Colorado, Democrats needed to win back only one seat to re-gain the House, and they did that easily. Democrats now hold the House, Senate and governorship in the Rocky Mountain state. The Colorado House has changed hands 18 times in the last 112 years, making it one of the most competitive chambers in the country, trailing only the houses in Delaware, Indiana and New Jersey and the Senate in Connecticut, none of which changed hands in this election.

The Oregon Legislative Assembly entered this election as the country’s most evenly divided. The House was tied at 30-30, and the Senate had only a two-seat difference. Democrats gained four seats to break the tie in the House and clung to their 16-14 advantage in the Senate to take full control in Oregon.

The Democratic wins in 2012 were the product of old-fashioned retail politics, says Michael Sargeant, executive director of the Democratic Legislative Campaign Committee, which coordinated many of the Democratic campaigns around the country.
“From Maine to Oregon, Democratic candidates and volunteers spent countless hours talking to their neighbors about their ideas to improve their communities, attract quality jobs, fund education, and build vital infrastructure,” he says.

**Republicans Take South**

Republicans, however, were far from shut out coming off their biggest election gains in more than 80 years in 2010. The GOP succeeded in taking over four legislative chambers, including the notable feat in Arkansas. Determined to make history, Republicans pulled off a twofer in the Natural State by taking a 22 to 13 majority in the Senate and a 51 to 49 majority in the House.

In the past two years, Republicans have added 113 legislative seats in the South, which has become the most Republican part of the nation, and was the only region of the country where the GOP gained seats in 2012. Twenty years ago Republicans did not hold a single legislative chamber in the South. They now control every one.

Republicans also gained the previously tied Alaska Senate and won back the Wisconsin Senate, which Democrats controlled for only a few months following several recall elections last summer.

Republican party leaders were buoyed by their wins in states even though they lost at the top of the ticket. “While Democrats were able to make gains in some of the bluest states,” says Republican State Leadership Committee President Chris Jankowski, “Republicans defended the majority of chambers we won in 2010, retook the Wisconsin Senate and gained control of the Arkansas House and Senate.”

**Time to Govern**

The first election following the redrawing of legislative districts always results in a spike in turnover in legislatures, and this year will be no exception. It looks like turnover will be around 30 percent of all seats. That’s on top of the nearly 25 percent turnover rate of 2010. All these new legislators will bring a wealth of new ideas into the legislative process. That may be just what the country needs as it continues to emerge from the economic doldrums.

Americans have expressed one clear message this year: They’re fed up with gridlock and expect their elected representatives to work together to solve some of the country’s problems. There are plenty of concerns to tackle, from stubbornly high unemployment rates to consistently underperforming schools. Next year’s freshman class of state lawmakers, along with their veteran colleagues, have their work cut out for them.

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**The Undivided States of America**

One of the most interesting results from this year’s election was the decline in the number of split legislatures and states with divided party control. There are now only three truly split state legislatures, where neither party has both chambers: Iowa, Kentucky and New Hampshire. That is the lowest number since 1944, when there were also three. To find a year with even fewer, one has to go back to 1928 when there were only two.

When governors are factored in, there are only 12 state governments with divided partisan control. It’s been 50 years since there were these few states with divided government.

The striking decline of split legislatures and divided state governments was puzzling to most observers of state politics. Reid Wilson, editor in chief of National Journal’s Hotline, theorized that Americans’ “voting habits are starting to resemble a parliamentary democracy. We vote for the party instead of the individual, and that’s happening more often—even in races where it didn’t used to be the case, like in legislatures.” At a time when the two parties are at relative parity nationally, it appears that states are becoming more one-sided and increasingly polarized.

**One-Party Control of State Government**

The number of states with the same party in control of the governorship and both legislative chambers is at the highest level since 1944.
Social Issues Score Big

Voters made history—and surprised many political observers—when they approved legalizing marijuana and same-sex marriages.

BY JENNIE DRAGE BOWSER

On Election Day, Americans voiced their opinions on more than 170 ballot measures in 38 states. They said no to most, but passed some groundbreaking ones, reversing course by slim margins on issues such as gay marriage and recreational marijuana use and even approved of increasing taxes and rejecting cuts in a few states. In some cases, they stood up to their legislatures, defeating laws already in place.

Voters in Maine and Maryland said yes to gay marriages. Citizens in Colorado approved of legalizing marijuana. And residents of Washington said yes to both.

Over the last 14 years, voters have approved 32 out of 33 statewide bans on gay marriage, but that changed this year. Voters in Maine approved the statewide measure on same-sex marriage with 52.6 percent of the vote. Referenda on gay-marriage laws passed by legislatures in Maryland and Washington also were approved, with 51.9 percent and 52 percent of the votes, respectively.

A constitutional amendment in Minnesota defining marriage as a union between one man and one woman was defeated by 51 percent of the voters. Minnesota now joins Arizona as the only states that have rejected bans on same-sex marriage. Arizona did so in 2006; however, in 2008, voters reversed course and approved one.

On the marijuana front, Colorado and Washington (again) made history when voters approved measures to legalize and control recreational marijuana for the first time. A little more than 55 percent of Washington voters and 54.8 percent in Colorado approved of the initiatives.

Voters in Oregon rejected a similar measure. Colorado’s amendment allows adults over 21 to possess up to an ounce of marijuana, as long as they don’t use the drug publicly. It also allows people to privately grow up to six marijuana plants. The Colorado proposal does not impose a specific tax, but instead directs the state legislature to determine the tax, although it cannot require lawmakers to do so. If a tax is imposed, the first $40 million raised each year must go toward the construction of public schools. The issue now rests in the hands of the Colorado General Assembly, which will convene in January.

Bans on Gay Marriage

Averages don’t reflect the large variations in voting patterns among states. For example, in 2006, 74.4 percent of Southern voters approved of bans, compared with 55.6 percent in the rest of the country.

Jennie Drage Bowser is NCSL’s expert on statewide ballot issues.
Ballot Bulge

In 38 states, citizens faced 174 different ballot measures, of which 42 were citizen initiatives. Of those, voters approved only 17. That’s slightly lower than the average during the past decade, when voters approved about 45 percent of all initiatives on the ballot. Voters in Alabama, California and Florida faced a daunting 11 statewide measures each, ranging from freedom of religion to health care reform to budget and revenue caps.

There were 12 popular referenda on the ballot this year, the highest number since 1920, and half of them passed. Of the 115 measures referred by state legislatures, voters approved 85 and rejected 30. That is fairly typical. Voters approved an average of 74.2 percent of the legislative referenda appearing on statewide ballots between 2000 and 2010.

Affordable Care Act

The Patient Protection and Affordable Care Act didn’t do as well as the president on election night. Voters in Alabama, Missouri, Montana and Wyoming approved legislative measures blocking some part of the law, joining voters in Arizona, Ohio and Oklahoma who have approved similar measures during the past two years. Although these measures differ in their details, most of the proposals are similar in that they generally amend the state constitution to prohibit requiring participation in a specific health care system or the purchase of health insurance.

Missouri voters in 2010 approved a law by the General Assembly prohibiting government from penalizing citizens for refusing to buy health insurance. This year, the state’s voters approved a law prohibiting the state from setting up a health insurance exchange.

Florida went the other direction, however. They voted against exempting their state from the federal health law, as Colorado voters had done in 2010.

Education Passes Test

Maryland passed a DREAM Act that allows in-state tuition rates for unauthorized immigrants who graduate from a high school within the state. It’s the first state to do so by a popular vote and joins 13 other states with some type of a DREAM Act. Maryland’s passed with 59 percent of the vote.

Voters in Idaho and South Dakota rejected attempts by their lawmakers to reduce the influence of teachers’ unions. These questions came in the form of four popular referenda—the mechanism for voters to veto actions by the legislature.

A charter school measure was approved in Georgia that changes the way they are authorized. California voters approved of temporarily raising both the state sales and income taxes on high-income earners to help fund K-12 education and community colleges as well as help balance the state budget.

Oregon voters approved the idea of redirecting the corporate “kicker”—a refund for corporate income tax revenue that is collected in excess of a state-imposed cap—from corporate taxpayers to education.

Elsewhere, voters rejected increasing taxes to fund education. Arizonans said no to making a temporary sales tax increase permanent to fund education programs. South Dakota voters rejected a sales tax increase intended for K-12 education and Medicaid. And Missouri voters decided against increasing taxes on tobacco to benefit education.

Death, Taxes and Lawmaking

Myriad other issues were presented to citizens to consider. In Massachusetts, voters rejected an assisted suicide measure that would have allowed a doctor to legally prescribe medication at the request of a terminally ill patient.

Voters rejected several tax proposals, including limiting state revenue in Florida, and requiring a two-thirds legislative vote for tax increases in Michigan.

Other measures approved were symbolic, such as a prohibition on taxing real estate transfers in Oregon, even though the state currently does not tax real estate transfers.

In Michigan, voters rejected a law that has allowed state-appointed emergency managers to terminate public employee contracts and collective bargaining agreements.

Nebraskans voted down two measures proposed by their nonpartisan, unicameral Legislature. One would have allowed members to serve an extra term beyond the current limit of two consecutive four-year terms, and another would have increased legislators’ annual compensation from $12,000 to $22,500.

Alabamans also voted on lawmakers’ pay, supporting a measure tying the basic compensation plan for the Legislature to the median household income in the state. It also restricts lawmakers from voting to raise their own compensation.

Minnesota defeated a constitutional amendment requiring voters to show photo identification when they go to the polls. This is a change in direction for this issue, with voters having approved voter ID measures in Mississippi in 2011 and in Oklahoma in 2010. Eleven state legislatures have approved new voter ID laws over the past two years.

Last but not least, voters turned down all three proposed constitutional conventions.
How to lower the cost of Medicaid is about as hot an issue as any. So it is appropriate that one of the most promising new techniques designed to save some taxpayers money is called hotspotting.

New technology allows Medicaid programs to map expenditures geographically and identify areas (hotspots) with unusually high numbers of very costly patients. Officials then use that information to focus on why these patients are costing more and what can be done about it.

The 5 Percent

About 5 percent of the enrollees accounts for a little more than 50 percent of all Medicaid expenses. Some of these high-cost patients are called “high utilizers” by hotspotters, meaning they are admitted to the hospital three or more times a year or go to the emergency room more than six times every two years.

“If you want to contain the costs of Medicaid,” says Dr. Jeffrey Brenner of the Camden Coalition of Healthcare Providers, a pioneer in hotspotting, “you have to follow the money and invest in very targeted interventions.”

Once an area is identified, such as a housing unit or an assisted living community, officials can focus on finding out why costs run high there. The idea is to lower expenses by providing these neediest patients with more directed, and possibly different, care to address their overuse of expensive emergency services, while maintaining or even improving the quality of care they receive.

The answers to why these patients are frequenting emergency rooms are often surprisingly simple: An elderly patient’s medicine cabinet is overflowing with prescriptions he no longer remembers how to take safely. A woman has a heart condition exacerbated by the heat, but not enough money to buy an air conditioner. A city dweller with no regular primary care doctor uses the emergency department for every ailment.

The solutions to these problems are relatively easy to identify, but much harder to achieve. To reduce their use of unnecessary expensive health care, these patients may need non-medical services. The problem is, Medicaid has historically declined to pay for these types of services.

“Providers and patients want to do the correct thing, but Medicaid is designed to pay for the average patient, not complex patients,” says Brenner. “Medicaid is wasting a lot of money on expensive care when all we need to do is spend a little money to visit them at home and to help them stabilize.”

Some evidence from pilot projects focused on providing more coordinated care support his opinion.

The Pioneers

Hoping to capitalize on the promise of hotspotting, the Robert Wood Johnson Foundation granted $2.1 million to 16 communities to develop pilot programs. Their charge: Identify patients who make the most frequent hospital visits and improve the care they receive outside of the hospital.

The foundation hopes to create a sustainable model for other communities and other states to follow.

An interesting example of the use of hotspotting comes from Camden, N.J. In 2002, a small group of primary care doctors began meeting over breakfast to discuss concerns they faced in their practices, and it didn’t take long to figure out most problems were shared by all. The meetings grew, attracting a diverse group of providers who eventually formed the Camden Coalition of Healthcare Providers.

In discussing ways to make the health care system more efficient, the coalition began creating graphical pictures—or hotspots—from data collected on patients’ insurance claims. These pictures illustrated an often fragmented, episodic, uncoordinated and extremely inefficient health care delivery system.

The graphics illuminated the fact that half the city’s residents were using emergency departments or hospitals for head colds, viral infections, ear infections and sore throats—all conditions easily and inexpensively handled in primary care settings.

The coalition then worked with New Jersey lawmakers in 2010 to pass legislation that established the Medicaid Accountable Care Organization Demonstration Project. It supports a new
A Snapshot of a Hotspot

Hotspotting is a job for geeks. It requires taking a large amount of data and organizing it in a mathematical way to create a graphic or picture. The resulting illustration—like the one below from Camden, N.J.—show doctors and Medicaid officials exactly where they need to target their efforts.


Receipts (deciles in dollars)

- $1,000,000 – $16,720,000
- $813,900 – $1,000,000
- $559,900 – $813,800
- $397,900 – $559,800
- $290,800 – $397,800
- $206,200 – $290,700
- $122,400 – $206,100
- $53,630 – $122,300
- $11,090 – $53,620
- $421 – $11,080
- $0

Map includes only blocks with at least one visit.

The median block in Camden had $290,800 in hospital receipts over a six-and-a-half-year period. During the same period, Northgate II and Abigail House, the two most expensive addresses, had $12 million and $15 million in receipts respectively.

Source: The Camden Health database, an all-payer, all-hospital database of longitudinal claims data for Camden City residents managed by the Camden Coalition of Healthcare Providers

business model for Medicaid that promotes better coordinated care for patients.

The new model rewards providers for how well they coordinate care, control disease and contain costs instead of how many patients they treat, and tests and procedures they perform. Providers are rewarded for working together to contain costs by helping patients avoid expensive care that results from complications when chronic diseases are not controlled.

Before this legislation, “we paid more money for less than stellar results,” says New Jersey Senator Joseph Vitale (D), sponsor of the bill. “It was time we moved away from the existing system that put vulnerable New Jerseys at a disadvantage to receiving high-quality care and began to invest state resources in a smarter, cost-effective model of health care for Medicaid enrollees,” he says.

So far the results are encouraging. Case studies show that people’s health is improving and costs are being contained. More formal evaluations will produce a final verdict, but hotspots are not waiting to fine tune their programs. They use data regularly to identify areas where they can improve how they meet the needs of the Medicaid patients they serve.

Colorado Senator Ellen Roberts (R) supports this new concept, but with reservations. Because of the diversity among states and their Medicaid programs, she believes one model may not be right for every state.

“Any change we make to the Medicaid program has to add value, but one size doesn’t fit all,” she says. “It is about what works in each state and in each community.”
States are venturing into the new frontier of online gambling.

BY JONATHAN GRIFFIN

Online gambling proponents received an early Christmas present last year. It came wrapped in an opinion from the U.S. Department of Justice on Dec. 23, 2011, giving states the thumbs up to sell lottery tickets and allow gambling over the Internet.

The department clarified that the ban on interstate betting in the Wire Act of 1961 applies only to a “sporting event or contest” and that all other gambling operations are outside the purview of the act.

The decision opened the door to any form of gaming over the Internet, provided it isn’t on sports. A state may sell lottery tickets online and authorize online poker, roulette, blackjack and other casino games, as long as the actual betting takes place within their boundaries, even if out-of-state credit cards are used by the gamblers.

But like the proverbial tacky sweater, this gift hasn’t been universally welcomed. There are a variety of concerns surrounding online gambling—from moral objections to state/federal control issues.

States’ rights advocates and NCSL believe the control should stay in the states. They oppose a bill currently being debated in Congress that would severely limit state control of Internet gambling.

Those on both sides of the issue feel obligated to protect minors from gambling illegally and adults from gambling irresponsibly. Others are concerned that equipment manufacturers and local gaming operators, like the neighborhood 7-Eleven, may not be able to compete against big online gambling businesses, potentially resulting in job losses.

There is also concern about the costs involved in making sure online bets take place within state boundaries, which typically requires buying geo-locating software and staff time and expertise to track each online gambler’s unique IP (Internet Protocol) number.
All Bets Are On

Nevertheless, some states—seeing the potential for millions of dollars in additional revenue from taxes and licensing fees—are jumping on the cyber-gambling bandwagon. There’s a reason for their optimism. In 2011, according to the American Gaming Association, casinos across the country together brought in $35.64 billion and returned $7.93 billion in gambling taxes to states and localities, a 4.5 percent increase over 2010. The association also reports that the industry employs almost 340,000 people, who earned $12.9 billion in wages, benefits and tips in 2011.

Nevada was ready to roll when the justice department ruling arrived. Anticipating the federal opinion, lawmakers passed a law on June 10, 2011, making the state the first to authorize any form of Internet gambling—in this case, poker.

The legislation assigned the state Gaming Commission the job of regulating the licensing of online or interactive poker when and if either a federal law was passed or a rule was issued by the Department of Justice allowing interactive poker. The December ruling gave the state’s gambling officials the green light to get Internet gambling websites up and running. They issued the first permit in August, and poker sites are expected to open soon.

Nevada regulators studied Internet gambling markets, timing and feasibility for nearly three years before adopting regulations. Their experience and attention to detail, according to Senate Judiciary Chair Valerie Wiener (D), will allow Nevada to maintain its position as the world’s “platinum standard” for regulating the gambling industry. Further, Wiener believes the state’s gambling laws and regulations successfully balance Nevada’s support of the emerging online gambling industry with protections for local manufacturers, operators and consumers.

In March, Illinois became the first state to allow the sale of lottery tickets online, followed in June by Delaware, which became the first state to authorize full casino gambling over the Internet. In addition to poker, Delaware offers blackjack, roulette and other games, and, like Illinois, now also sells lottery tickets online.

Illinois Senate President John Cullerton (D) is encouraged by the revenue potential of an online lottery, which earned the state $15,000 on the first day of sales in March. He hopes Internet gambling can help relieve the state’s general budgetary pressures.

Advocates believe Delaware’s broad new law gives the state—which plans to offer an app for gambling on smart phones and tablets—an advantage in what may very well become a crowded online market.

Reasons for supporting the legislation varied. Even though Delaware Representative Michael Ramone (R) isn’t a big fan of gambling, he voted for the bill because it was part of a package that eliminated fees charged to casinos in his and other districts.

Still, he continues to be concerned about the increasing availability around his small state’s borders, “making it very difficult for us to compete. I don’t necessarily believe we need computer-based gambling,” he says. “I was a reluctant supporter because I had an ulterior motive to take care of jobs in my community.”

States Show Their Cards

In addition to Nevada, Illinois and Delaware, lawmakers in seven states have introduced legislation to support some kind of online gambling since the Department of Justice released its opinion. Lawmakers in California, Hawaii, Iowa, Mississippi and New Jersey have introduced bills authorizing specific games.

California’s bill would allow the Gambling Control Commission to offer eligible businesses five-year licenses for Internet poker and, after two years, other authorized games, for an initial fee of $30 million. Qualified businesses include Indian and other casinos, certain horse-racing associations and operators of advanced pari-mutuel wagering sites.

After New Jersey Governor Chris Christie (R) vetoed the
NCSL Defends States’ Autonomy

“Congress should respect the sovereign right of states to determine whether to permit or prohibit online gambling,” NCSL officials said in a letter sent to congressional leaders in March.

“Regardless of how one feels about the issue of online gambling, the decision should be made by the states,” said Alabama Representative Greg Wren (R), co-chair of the NCSL Communications, Financial Services and Interstate Commerce Committee.

Pending federal legislation seeks to reverse the U.S. Department of Justice’s December 2011 ruling that allows states to offer most forms of online gambling, if they choose to. The bill would allow only online poker and ticketed games, such as lotteries, and prohibit other forms, such as slots and table games.

Under the legislation, federal officials would regulate online poker, while states would retain control over their ticketed games.

NCSL members passed a policy resolution at the 2012 Legislative Summit in Chicago opposing acts of federal preemption, such as this proposed bill. In the resolution, NCSL leaders urged Congress to “consider the perspective of the states as it examines this issue.” The letter goes on to ask Congress to “involve state legislators in any federal efforts that seek to reform the regulation of online gambling.”

“State legislatures have long been able to determine whether to allow other forms of gambling, and this should be no different,” said Hawaii Senator Carol Fukunaga (D), the other co-chair of the NCSL committee.

—Alex Fitzsimmons, NCSL

online gambling bill lawmakers had passed with bipartisan support in 2011, legislators reworked it to address his constitutional and structural concerns. Like Illinois, New Jersey’s bill establishes an Office of Internet Gaming within the Division of Gaming Enforcement to recommend regulations.

Some lawmakers are hoping to make New Jersey an attraction for young adults, many of whom already have experience using Internet gambling services. Lawmakers wrote the legislation with an eye toward making the state the premier destination for Internet gambling in the country.

Online gambling advocate William Pascrell III, a lobbyist with Princeton Public Affairs Group, estimates that 600,000 New Jersey residents already play Internet poker off shore, and by bringing that business into casino websites, the state general fund could earn an additional $300 million to $400 million in revenue. Like their counterparts in Delaware, proponents in New Jersey believe Internet gambling will give the state an advantage over its neighbors. As more casinos open in neighboring states like New York, however, business could be siphoned away from New Jersey fairly quickly.

A larger bill that included online gambling passed the Iowa Senate but was not considered by the House. Senator Mark Chelgren (R) voted against it not so much over moral objections, but because he believes gambling just “recycles” money and does not contribute to the gross domestic product. “Gambling—whether on the Internet, in casinos or through lotteries—doesn’t actually generate new wealth,” he says.

Hold ‘em or Fold ‘em

Plenty of lawmakers are not ready to bet on Internet gambling. Legislators in three states have introduced legislation prohibiting some form of online gambling. In Utah, the Legislature passed a bill in March that expanded the state’s existing prohibition on gambling to include online forms in advance of any future federal law to authorize Internet gambling.

In Colorado and Michigan, lawmakers debated bills to prohibit the sale of lottery tickets over the Internet. Colorado’s legislation ultimately failed, but Michigan Senator Mike Green (R) hopes the bill in his state survives. He believes the downside to Internet gambling is that it would hurt brick and mortar businesses in the state. Selling lottery tickets online would cut into their profits, he says, and may keep new businesses from moving into the state. These businesses are “critical to Michigan’s economic comeback,” he says.

“Michigan retailers and small businesses benefit from lottery sales within their establishments, both by bringing customers in and through lottery sales commissions,” he says. If the state offered lottery tickets online, it would defeat its purpose to “serve as an asset and not an obstacle to economic growth,” Green says.

In other actions, lawmakers in Maine amended the state lottery statute to clarify that only “expressly authorized” activities—like selling lottery tickets in stores but not online—are legal. Vermont lawmakers decided to conduct a study on the impact of online lottery ticket sales before authorizing any online lottery sales. And in Pennsylvania, legislation to increase awareness of the risks of Internet gambling has been introduced.

Les Bernal, the national director of the Stop Predatory Gambling Foundation, believes that when states legalize Internet gambling, it’s just as if they were “opening a casino in every home in America, 24/7, 365 days a year.”

He believes the primary target for Internet gambling organi-
zations are teenagers and recent college graduates. “It’s not enough that these young people are saddled with massive college loan debt. Now the government is actively trying to lure them to gamble away whatever money they have left,” he says. The foundation also cites a 2010 study by Fairleigh Dickinson University showing 67 percent of Americans oppose Internet gambling.

Double or Nothing

Frank J. Fahrenkopf, Jr., president and CEO of the American Gambling Association, envisions a hybrid system regarding state and federal law. He believes the federal government should take an active role—but only in certain areas—in expanding online gambling.

He believes a federal law may be necessary to create a framework for regulating, licensing and taxing Native American Internet gambling and could set minimum standards for protecting consumers and irresponsible gamblers.

But, he says, states should maintain the right to regulate, license and tax non-Indian Internet gambling however they see fit and reserve the right to choose the level of participation, if any, the states want with Internet gambling.

With Illinois residents buying lottery tickets online and Internet poker rooms soon to be up and running in Nevada, it is clear that Internet gambling will be debated in state legislative chambers for some time.

The Department of Justice played its hand. State lawmakers are following with their own moves, as is Congress. But we’ll have to wait to see who will win the jackpot.

Can Optometry Help Save the State Money on Healthcare Spending?

Yes! Doctors of optometry are America’s primary eye care providers and embrace their public health mission to ensure patients are served by skilled professionals. Optometrists provide more than two-thirds of all primary eye and vision health care and serve as a gateway for patients entering the new healthcare delivery system. Full integration of optometrists helps ensure that patients are sent to the appropriate healthcare providers for timely intervention, saving money in the long run. In addition, using highly-trained and accessible community-based optometrists results in seamless integration with healthcare partnerships or the medical home to ensure patient compliance on chronic diseases like diabetes, glaucoma and cataracts.

All of these services are within optometrists’ scope of practice. This model allows the state to use existing professionals to execute a very difficult mission. Most importantly, patients receive the care they need while saving the state money.

To learn more about optometry, visit www.aoa.org or contact your local state optometric association.
High-Tech Health Care

Lawmakers are building up telehealth by breaking down barriers.

BY JARED NAJJAR AND JO ANNE BOURQUARD

Long drives and long waits to see a doctor are often a reality for people living with chronic diseases. Increasingly, however, they can monitor their health, ask questions about their medications and consult with specialists from the comfort of their own homes.

After more than 20 years of development, “telehealth” technologies continue to make it easier for doctors to offer better care to their patients.

With two-way, real time interactive communications, health care providers can assess symptoms, diagnose diseases and supervise treatments via videoconference, telephone or a home health monitoring device. Other uses include transmitting data, images, sound or video from one site to another for evaluation by a specialist not available at the patient’s site.

The newest applications involve smartphones and tablets. For the 50 percent of American adults who now own smartphones or tablets, for example, mobile applications can measure their blood pressure, blood glucose levels and other functions and send progress reports to physicians. For patients living far away, this allows doctors to monitor their health more frequently, thoroughly and accurately.

Barriers to Widespread Use

Telehealth’s wide array of new technologies and applications are on state lawmakers’ radars as potential cost—as well as life—savers. The savings just in treating chronic diseases could be substantial. The Centers for Disease Control and Prevention estimates that treating chronic diseases accounts for more than 75 percent of all national health care expenditures. Those costs reached nearly $2.6 trillion in 2010, according to the Centers for Medicare and Medicaid Services.

The focus for lawmakers has been how to eliminate some of the barriers to the widespread use of telehealth, such as patients’ lack of broadband service and health care providers’ frustrations with inconsistent reimbursement policies and difficult licensing regulations.

◆ Lack of Broadband. The full potential of telehealth depends on the availability of advanced broadband, or high-speed Internet service. Patients and doctors must have access to high-speed connections so they can take part in videoconferences and transmit data and images. Although most Americans now have access to fixed broadband networks, 19 million (6 percent) don’t, according to the Federal Communications Commission. And of those 19 million, 76 percent live in rural areas. That equals nearly one in four rural Americans without access. Some states are working to fill in the gaps. The California Telehealth Network, Rural Iowa Telehealth Initiative and Missouri’s MoBroadbandNow initiative, for example, all aim to expand broadband access so more patients can be diagnosed and treated remotely.

◆ Cumbersome Licensing. Telehealth regulations vary greatly by state. Physicians can face complicated and expensive rules to receive licenses and credentials. They may be required to have licenses in each state they practice in remotely, as well as credentials for individual facilities. At least 10 states, according to the Federation of State Medical Boards, have simplified the process by offering a special or streamlined telemedicine license for doctors who treat patients remotely across several state lines.

◆ Inconsistent Reimbursement Policies. Providers may be concerned they will not be reimbursed for the services they deliver remotely, but that isn’t always clear. Medicaid programs in at least 42 states now reimburse for some telehealth services, and by early next year, 16 states will require private
The Practice of Telehealth

Legislators like Representative Rosie Berger (R) of Wyoming are working hard to smooth the transition into the digital world because, as she points out, technology will play an increasingly vital role in serving aging residents, especially in a rural state like her own. “It is critical that we look at telehealth strategies as we face a growing aging population in our state,” she says.

With less than 600,000 people spread over 97,000 square miles, telehealth is critical to Wyoming residents. Policymakers must learn “how to leverage our state resources to advance these technologies,” she adds.

A recent initiative in her state illustrates the value of telehealth. Faced with a shortage of psychiatrists in Wyoming, Dr. Tom Richards, an emergency room physician, in conjunction with the state Department of Health and several technical firms, developed a treatment model using videoconferencing to provide telespsychiatric services to seriously mentally ill patients considered a risk to themselves or others. Psychiatrists evaluate patients and confer with primary care providers about treatment plans through video and use the same technology to monitor and follow up with the primary care providers and patients.

Insurance Coverage Requirements for Telehealth Services

![Insurance Coverage Requirements for Telehealth Services](image)

Source: NCSL, 2012

NCSL’S Partnership on Policy Options

Recognizing that state lawmakers play a crucial role in promoting emerging technologies to improve health care delivery, NCSL formed the Transforming Health Care Through Technology Foundation for State Legislatures Partners Project in 2011.

“Telehealth is an emerging, important and complicated topic,” says Massachusetts Senator Richard T. Moore (D), co-chair of the project. “It’s the wave of the future to improve health care quality and delivery, while containing costs. On issues like these, it’s important for policymakers and experts to come together to share ideas and find solutions.”

State legislators, legislative staff and Foundation for State Legislatures Partners met several times throughout the year. They produced webinars and research reports outlining various legislative and policy options to advance the use of telehealth.

“It’s become clear that telehealth offers a means to provide better care to more patients at lower costs,” says New York Senator Kemp Hannon (R), who also co-chairs the project. “Our work on the project has been very productive in that we’ve been able to generate ideas for making it work in the health care system.”
Although this project focuses on mental illness, Richards says telehealth is a promising option for treating a variety of chronic diseases, which is where the majority of health care money is spent.

**Urban Benefits**

Dr. Daniel Johnson, director of Project ECHO-Chicago, speaking at NCSL’s 2012 Legislative Summit, explained how telehealth can benefit urban residents. The ECHO model originally was developed in 2003 (and later funded by the Legislature) by Dr. Sanjeev Arora, a professor at the University of New Mexico Health Sciences Center in Albuquerque, to treat the growing problem of Hepatitis C in rural parts of the state. Arora used videoconferencing to connect university specialists to rural primary care doctors, who—using skills and techniques they learned from the specialists—could treat patients locally.

The ECHO-Chicago project adapted the New Mexico program to an urban environment. Medical specialists from all across the city hold regular teleconferences with primary care doctors and other health care providers to share their expertise and teach the best and most effective practices.

In one pilot project focused on resistant hypertension, patients had lower blood pressures and fewer referrals to outside specialists than comparable patients not in the program. At the same time, primary care providers reported increasing their knowledge of the disease and how best to treat it.

**Catching up With Technology**

Advances in IT and telecommunications technology clearly are transforming the way patients can receive—and insurers pay for—health care. As the trend continues, policymakers will be challenged to keep up with rapidly changing technologies. Those who are motivated to do so believe that delivering health care electronically promises to save money by preventing repetitive tests and trips to the doctor’s office, while improving the availability of care for many patients, including rural residents, the elderly and people living with chronic diseases.

Maryland Senator Delores G. Kelley (D) is optimistic about how these advances can enhance the quality of life for senior citizens. “With access to electronic monitoring, doctors and patients can manage chronic health conditions remotely,” she says. “This means that millions of seniors, trying to age in place in their homes, can do so safely.”

Learn more about telehealth and listen to the health technology partnership’s webinars at www.ncsl.org/magazine.
From the Campaign to the Capitol

A host of considerations come to light for those making the transition from campaign worker to legislative staffer.

BY NATALIE WOOD

Ethicists love to use the compass as a metaphor for the morals, principles and values we use to guide our decisions. For legislators and staff living in the public eye—a world full of ethical crossroads and detours—a moral compass is integral to their survival.

Nowhere is this need for direction more evident than on the rough and tumble campaign trail, where finding one’s “true north” amid the spin, intrigue, competing loyalties and exhausting schedules can be stressful. For staff who begin or return to careers in the legislature after the campaign, a moral compass can help them adjust from working for a candidate to working for the people.

Not all legislative staff campaign; in fact, for nonpartisan staff, certain types of political activity are prohibited outright. Staff in Colorado’s Office of Legislative Legal Services, for example, are not permitted to fundraise for candidates, make contributions to partisan candidates or political parties, endorse or oppose partisan candidates in any way, be active in a political party or run for partisan office.

Rules in other states are less specific. The Arkansas Bureau of Legislative Research advises employees that it would “be wise to avoid political activities and personal relationships with legislators.” And for staff who work in the Louisiana House, “participation in activities associated with a campaign for legislative office is highly discouraged.”

For many staff, however, campaigning is an allowable form of political self-expression, a protected form of freedom of speech, and a way to support a candidate or cause they believe in.

State legislatures have had their share of trials, tribulations and, unfortunately, indictments and convictions with respect to using public resources for political activity. As with most violations of the public trust, the common response has been to pass rules and laws to clarify what constitutes restricted activities.

Many legislatures have extremely clear guidelines on how staff can spend time campaigning and what type of work is permissible. But, like anything, rules and laws cannot cover every scenario.

What’s an honorable legislative staff member to do? What follows are some tips to consider.

1. KNOW WHAT’S LEGAL

At least 40 states have laws related to staff and political activity, though not all apply to legislative staff. Chamber rules in at least half the states and various staff policy manuals often pick up where statutes leave off.

First, look for definitions. What does “campaigning” mean? Is it working for a candidate, working for an initiative, fundraising, making a campaign contribution or attending an event? Does it involve federal, state, local or all forms of government? Does it involve running for any office, even a school board? Are the rules different for partisan and nonpartisan staff?

Next, get specific examples of what is prohibited and what is permitted. All states prohibit the use of state time or state resources for political purposes. Common provisions include prohibiting the acceptance of contributions on state property, using state computers or email accounts to conduct campaign business, and taking time off to volunteer for a campaign, although most offices allow staff to use their vacation time to campaign.

Natalie O’Donnell Wood is a program principal for the Center for Ethics in Government at NCSL.
2. **TakE TIME TO MAKE TIME**

Many legislative chambers and legislative service offices provide employees with explicit instructions about how staff should account for the time they spend on a campaign trail. This varies from requiring staff to take unpaid leave, which is the case in Florida, to a detailed clocking in and clocking out system for time taken in Wisconsin, where staff must inform the chief clerks in advance of taking their vacation time for political activity, to avoid even the appearance of impropriety.

According to Pat Fuller, the current chief clerk of the Wisconsin Assembly, a scandal a decade ago prompted the Legislature to put “everything in black and white” to protect the institution, the members and the staff.

Tim Mapes, chief of staff to the Illinois House speaker as well as chief clerk to the chamber, has several different legislative duties. In addition, he’s executive director of the state’s Democratic Party. When asked how he balances wearing so many different hats, he stresses the importance of carefully tracking and accounting for your time and paying attention to the work you’re doing, while you’re doing it.

3. **WHEN IN DOUBT, ASK**

Ethics counsel, ethics commissions and supervisors can interpret and clarify the law on political activity based on past opinions and experiences, helping guide staff decisions. Don’t hesitate to use them as appropriate. But when doubts remain on whether a certain activity is appropriate, Naomi Miller, district director for the speaker of the House in Texas, recommends taking the safe path. “It’s always better to err on the side of caution,” she says.

4. **KNOW WHO HAS YOUR BACK**

In addition to knowing the rules and laws that govern political activity, supervisors and legislative counsel can act as pressure valves and sounding boards when formal guidance is lacking. Staff sometimes have to deal with overt or insidious pressure from other staffers or bosses to engage in some type of political activity. This can be awkward and uncomfortable.

In Wisconsin, staff know they can turn to the office of the chief clerk to handle these situations. Fuller spends time educating members and engaging them in frank conversations when needed.

In Illinois, Mapes credits his ability to walk the line between public service and political activity to “a great team of staff.”

If staff are able to hand off important legislative duties to capable and trusted colleagues, it makes it easier to take time off to work on a campaign.

5. **LEARN YOUR LESSONS WELL**

Campaigning can provide lessons for governing, and vice versa. In his book, “Passages to the Presidency, From Campaigning to Governing,” author Charles Jones interviews many White House staff who also worked on presidential campaigns. According to Jones: “Campaigns involve selling ideas, dealing with the press, organizing and managing staff, and interacting with established party organizations.” These activities are great training for “coping with issues and dealing with people” when it comes time to govern, he says.

When a legislative staff member works on a campaign, especially if she is managing it, she can have quite a bit of influence over the candidate, from the schedule to communication strategies to policy positions. If she’s effective, and her candidate wins the election, she joins him in working at the capitol.

After the election, however, the hierarchy changes quickly and dramatically. The candidate-turned-elected official is now the boss or at least one of many within the chamber or caucus. The tone and tenor of the relationship changes as well, as the staffer must listen, compromise and work with all types of elected legislators. It can be a challenging adjustment for the staff member, who’s gone from orchestra director to second violinist.

6. **SERVE YOUR OPPONENTS**

The day after election day, regardless of whether you are new to legislative service, there are some new realities to take into account. In serving the public, you also will be serving your opponent.

“Remember that if and when your legislator is elected into office,” says Miller, “all those folks [in the district] will be your constituents and deserve your respect and support, whether or not they voted for your legislator.” Like lawmakers, legislative staffers, particularly those who work for a caucus or an individual member, will have colleagues who were recent adversaries.

Learn how to put the campaign behind you and work with everyone. It will make life at the capitol more pleasant, and perhaps even more productive.

You’ll also need to maintain—and, perhaps recalibrate—your relationships with the press and constituents, as well, moving from making promises about governing to actually doing the business of governing.
7. **HONOR THE INSTITUTION**

If you are a campaign staffer who is new to life at the legislature, seek opportunities to learn about and appreciate the institution. The legislature has a permanence, a presence and an enduring quality, which is much different than a fleeting campaign. Members and staff can come and go with the political tide and, in some states, looming term limits, but the institution endures.

Legislative staff do not shelve their commitment to public service, love of the institution and duty to uphold the public’s trust at the door of campaign headquarters. Even if you are using unpaid leave or vacation time to participate in a political activity, your actions reflect upon the legislature.

8. **BE CIVIL**

Miller feels that staff should take care to always maintain a strong sense of civility with all voters and their legislator’s opponent. Whether you reside on the same side of the aisle or across it, the legislative process requires compromise, collaboration and a different type of communication.

It is vital that staff be able to put political differences and antics on the campaign trail aside in order to do the people’s work. Although legislators and leaders are most often recognized as setting the tone, staff also can lead by example.

9. **GET TRAINED**

Spend time thinking about the gray areas. There are many scenarios and areas of conflict that staff could consider and debate before they become realities or problems. For instance: What happens when work done for the public overlaps with work done for political gain? What if helping a constituent with a request is construed as attempting to influence that constituent to vote for your boss? If you receive a constituent call from someone who has contributed to your boss’ campaign, does that affect, even subtly, how you help them? If your boss made campaign promises she’s unlikely to be able to keep, is it incumbent upon you to discuss it with her? What behavior from your boss would make you re-think your commitment to working for the legislature?

Contemplating your responses to tough dilemmas before they occur can help set your compass in the direction you wish to go when problems arise.

10. **PONDER SOME BIG QUESTIONS**

To whom are you loyal? Do you feel that you work for a member, the caucus, the leader or the body?

“However competent on the campaign trail, [some staff are] selected for a purpose that is weakly related to governing, if at all,” says Jones. “Yet they are loyal, having pledged themselves to this person, folding their future into his.”

The nature of a campaign is frenetic, full of high highs and low lows. It is not the ideal setting for reflection and introspection. But for those campaign staff who find the time and energy to contemplate the deeper questions of ethics, loyalty, commitment and service, the effort will be worthwhile. If they end up working in a legislature, they will be better prepared to navigate the road when it gets a little rough.
“Three million jobs in America today could be filled if people had the right skills.”

John Engler, a former three-term governor of Michigan, is president of the Business Roundtable, an association of chief executive officers of leading U.S. corporations with a combined workforce of more than 13 million employees and nearly $6 trillion in annual revenues. In 1970, at the age of 22, Engler became the youngest person ever elected to the Michigan House of Representatives. He served 20 years in the Legislature before becoming, in 1990, the first sitting legislator to be elected governor in Michigan in more than 100 years.

State Legislatures: What is the most important area government should invest in to create jobs?

John Engler: We need to have the best skills, the smartest engineers, the most highly trained workforce we can have. You can’t do that with dropout rates in some urban centers at 30, 40, 50 percent. You can’t do it if rural kids don’t stay in school. You can’t do it if those who stay in school can’t get a quality education, if they’re not literate, if they can’t compute. Getting a return on that annual $650 billion investment we make as a nation—with nearly all of it overseen by state and local communities—is the primary payoff. Three million jobs in America today could be filled if people had the right skills. So getting that right is a differentiator, I believe. I’ve always said the state with the best schools wins, and I still think that’s true.

SL: What kind of skills do companies want in their workforce?

Engler: The nature of work today is more complex than the basic job of somebody just showing up and working hard doing physical labor. Those kinds of jobs are few and far between, even in sectors like construction. Today we are using materials and processes that are quite sophisticated. Manufacturing facilities are highly sophisticated. The tolerances are virtually nonexistent, so the quality has to be perfect. You can’t have error rates. You may be operating technology that automated a process that years ago was done manually. For a lot of people today, their job’s being done by a robot. But somebody has to program the robot, somebody has to maintain the robot, somebody has to program the robot—all of those are high skills.

SL: As a former governor and state legislator, what would you recommend state officials do to strengthen their economies?

Engler: I’d certainly rely on education. I’d also make sure I had no ticking time bomb in some part of the balance sheet. In this time of an emphasis on debt, we’re certainly going to have to make sure everyone is very credit-worthy, so they can’t hide a problem. You can’t look the other way and leave it for the next person. I also think a smart strategy relative to infrastructure is going to be increasingly important. We’ve under-invested in our own infrastructure for some time, and we’re going to have to figure out how to catch that up. There’s a role there for the national government, as well as the states. It’s very hard for the states to do it all by themselves, but at the same time the states are in a position to do some very creative things.

SL: Did the TARP money the federal government gave to the automobile industry save the Rust-Belt states?

Engler: What saved them are the bankruptcies, sadly. The bankruptcies required very hard decisions. Literally thousands of jobs were lost. There was a great dramatic rightsizing going on where excess capacity was wrung out. It was very hard on some of the dealers who lost their franchises. You had this whole realignment in the industry. The TARP money came at the end of the Bush years and the beginning of the Obama years when there was a credit crisis, a liquidity lock, when nobody had capital available. So that TARP money was very important, but ultimately, that wouldn’t have been enough. The debate is how quickly the bankruptcy occurred and whether it occurred in the right way. Those are good political questions, but now I think whether the industry is saved or not may depend on a regulatory perspective. I don’t believe big national and global industries ought to be regulated differently state by state. Let’s have one standard for the nation so U.S.-based companies are able to go out and compete globally.

SL: Is uncertainty over the fiscal cliff keeping businesses from hiring and expanding?

Engler: I think it’s a bigger drag than has been understood. I hear from people running companies who say, “Look, we don’t know what the tax rates are. We don’t know what the energy policy is. We don’t know when the budget or debt policy is going to get resolved. If we’re in the defense sector, we don’t know what sequestration means. We can’t answer most of the questions that matter about the future of our enterprise, so we’re going to be cautious, we’re going to stockpile cash and resources and hunker down a little bit here and see what happens.” I think 2013 is going to be one of the most important congressional sessions we’ve had in a long time, at least from the standpoint of business. We’ve reached the decision point—we can’t keep putting this off, kicking the can. We’re not kicking cans, we’re kicking 55 gallon drums down the road, and now it’s getting a little harder to do that.

SL: States compete for businesses. What are most of them looking for when making decisions about where to relocate?

Engler: I think it comes down to people. States are going to do about the same things on taxes and somewhat on regulations. You have to be able to recruit your talent. There’s a reason why some of the high-tech companies in this country located or expanded where they did. States need to decide and understand what they’re really good at. It’s very hard even for a very big state to be good at everything. There are going to be some assets that are stronger than others. I’ve always believed you work from strength, and if you do that you’re going to have success and as you have success you’re going to bring other parts up as well.
“I don’t think term limits have worked. I’m prepared to say it was a failed experiment.”

SL: What is your view on term limits?
Engler: I watched term limits implemented in Michigan. What that has done is remove from the Legislature the senior members who have served a long period of time, who have mastery over the complexities of school financing or how Medicaid or public assistance works, how you finance your highways, what you’re doing with your prison system. All of these are very complex, very costly components of state budgets. It is very difficult for someone who’s only going to spend six years in the House of Representatives to come in and be up to speed, or have any institutional memory. You see mistakes being repeated because no one is around to remember that the first and second times that was tried, it was the wrong way to go. So, they’re back at it for a third time. I don’t think term limits have worked. I’m prepared to say it was a failed experiment. Maybe there’s a way to come up with something more reasonable than six or eight years for a House or Senate body. I think it has to be a little longer.

Editor’s note: This interview is part of a series of conversations with opinion leaders. It has been edited for length and clarity. The opinions expressed by the interviewee are not necessarily those held by NCSL.

To listen to the complete interview, go to www.ncsl.org/magazine.
“As a kid who was picked on, called names, to be where I am and have your support to do that is awesome. It’s humbling. I couldn’t dream when I was in elementary school and high school that I’d be standing here doing this.”

—Colorado Representative Mark Ferrandino (D) in The Durango Herald, after Democrats won the state House, setting him up to become the first openly gay person to serve as speaker.

“I do believe we will see more women in politics as we go forward. I really don’t think gender can hold you back.”

—Newly elected South Carolina Representative Raye Felder in the Rock Hill Herald Online, after voters elected a female senator for the first time in four years and more women to the House than at any time since 1975.

“Our advantage was a group of moderate, well-qualified candidates who worked hard to earn every vote.”

—Iowa Senate Majority Leader Mike Gronstal (D) in the Muscatine Journal after Democrats retained control of the Iowa Senate.

“We are very excited about the gains we have made tonight. We are humbled by the confidence the voters have placed in us and look forward to getting down to work on the many issues we face.”

—Tennessee Senate Republican Caucus Chairman Bill Ketron in The Jackson Sun, about the supermajorities the GOP secured in both chambers of the legislature for the first time since Reconstruction.

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Want the latest online news about federal and state public policy issues? Go to www.ncsl.org/magazine and look for the “Grasscatcher,” a collection of the day’s top news clippings.
Nuclear energy produces nearly two-thirds of America's carbon-free electricity. With our electricity needs expected to grow 22% by 2035, advanced nuclear energy plants must be built to meet this rising demand without producing more greenhouse gases.

Nuclear energy facilities have the highest reliability of all electricity sources with production costs that average about 2 cents per kilowatt-hour. Nuclear energy should be expanded as part of a balanced energy portfolio that generates more low-carbon and affordable electricity and reduces our dependence on foreign energy sources.