6 WAYS TO PAY
States keep on truckin’ with new ideas for transportation.

Inside:
- Helping Teens
- Curbing Health Costs
- Managing Medicaid
With 23 statewide partnerships using ACT testing and instructional improvement programs, we are helping states improve the college and career readiness of their students.

Visit us at Booth #603 to discuss your state’s condition of college and career readiness and to learn more about the next generation of ACT’s assessments at the NCSL Legislative Summit in Chicago, August 6–9, 2012.

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**SURROGATE MOTHERHOOD BILLS**

Legislation on surrogate motherhood is pending in 12 state legislatures.

**DECLINE IN FEDERAL SHARE**

The federal share of public school funding declined for the fifth straight year to about 6 percent.

Before 1702, there was East Jersey Province and West Jersey Province. And each had its own capital city—Perth Amboy (photo) in the east and Burlington in the west. And even though the united New Jersey joined the union in 1787, it wasn’t until 1790 that Trenton become the capital. It had served a two-year stint in 1783-84 as the U.S. capital when the Second Continental Congress met there, and might have become the national capital if it weren’t for George Washington’s preference for the District of Colombia. The original capitol building was completed in Trenton in 1792.

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_In part from “A Celebration of State Capitols,” by Richard R. Gibson_
Dilemma Over Dual Eligibles

ifteen percent of the nearly 60 million Americans covered by Medicaid in 2008 also were enrolled in Medicare. This percentage varied among states, however, from a high of 26 percent in Maine to only about 10 percent in Arizona and Utah.

These “dual eligibles” tend to be sicker and poorer than other Medicare patients. They are more likely to have several chronic diseases, abuse drugs or alcohol, need mental health treatment, have limited mobility and live in a nursing home. About 77 percent meet state income tests to qualify for full Medicaid benefits and cost-sharing assistance.

Medicare covers basic health services, such as physician office visits and hospital care, while Medicaid covers Medicare premiums, deductibles, copayments and, for those who qualify for full Medicaid benefits, prescription drugs and long-term care.

Almost 40 percent of all Medicaid spending in 2008 was on dual eligibles, mostly for their long term care. Because of this disproportionate spending, state and federal governments are working on coordinating care between Medicaid and Medicare to improve quality and reduce costs.

The Patient Protection and Affordable Care Act created new initiatives and an office to study the issue. And states are experimenting with increasing the use of home and community-based services, coordinating care for patients with several chronic diseases, and using medical homes, managed care and other payment alternatives.

―Laura Tobler

Sources: Urban Institute estimates based on data from the Medicaid Statistical Information System (MSIS) and Medicaid Financial Management Reports (CMS Form 64) prepared for the Kaiser Commission on Medicaid and the Uninsured.
JIMMY NAIFEH, THE LONGEST SERVING SPEAKER in Tennessee history, is retiring from the General Assembly after 38 years. Naifeh was first elected to the House in 1974, and served as speaker for 18 years—from 1991 until 2009 when Republicans won control of the Tennessee House. He was honored with the title House speaker emeritus, and has won numerous awards recognizing his leadership, including the prestigious William M. Bulger Award, given by NCSL and the Leaders’ Foundation, in 2006. The award goes to the lawmaker “who has worked to preserve and build public trust in the institution of the state legislature and whose career embodies the highest principles of leadership—integrity, compassion, vision and courage.” Naifeh, 72, said the time had come to “pass the torch to the next generation of leaders.”

AFTER NEARLY 32 YEARS WORKING FOR THE ARKANSAS GENERAL ASSEMBLY, David Ferguson is resigning as director of the Bureau of Legislative Research. “I am very proud of the bureau and its long history of service to the General Assembly,” Ferguson said. He announced his plan to leave at the end of the legislature’s fiscal session.

THEY WOULD BE ONLY THE THIRD COUPLE in Colorado to do it: serve together in the state Capitol. Terry Todd is his wife Nancy Todd’s campaign manager. She is a term-limited member of the House who is running for the Senate. He is taking a run for her House seat in a three-way Democratic primary. Married for 40 years, they are both enthusiastic about serving together. “Marriages that grow together stay together, Terry said. “And we’ve grown together through campaigning and, hopefully, through eventually governing together.” The Todds are Democrats. The other two Colorado lawmaker couples were Republicans. Representative Bob Burford served in the House from 1975 to 1980 and his wife, Ann McGill Gorsuch Burford, was in the House from 1972 to 1980. Ben Lewis Alexander was a senator from 1995 to 1998. His wife, Kay Alexander, served in the House from 1997 to 2002.

JOYCE BIGBEE MAY BE GONE, BUT SHE IS CERTAINLY NOT FORGOTTEN. The former director of the Alabama Legislative Fiscal Office retired at the end of 2011, bringing to a close a 33-year career at the agency. “Joyce set the gold standard in Alabama for how to manage a team and operate a state agency,” House Speaker Mike Hubbard said at the time. Bigbee was “impervious to partisan politics” in her focus to present the facts about the state’s fiscal conditions in good times and bad. In recognition of her contributions, the Legislature recently named a committee room in her honor and held a ceremony and reception to mark the occasion. Bigbee began her career in the Fiscal Office in 1978 and was named director in 1987. She also served as chair of the National Association of Legislative Fiscal Officers.

TED STRICKLAND, FORMER COLORADO SENATE PRESIDENT, lieutenant governor and one of the state’s most revered Republicans, died in March at 79. “This is a tremendous loss for Colorado—he served with distinction,” said former U.S. Senator Hank Brown, Strickland’s running mate in his campaign for governor in 1986. “A lot of people see problems, but Ted also saw solutions.” Strickland was elected to the Colorado House in 1968 and the Senate in 1970, where he was president from 1983 to 1992. He served as president of NCSL from 1987 to 1988. Strickland was lieutenant governor from 1973 to 1975, when then-Governor John Love became the first director of the Office of Energy Policy in the Nixon administration and was succeed by John Vanderhoof. Strickland lost gubernatorial elections in 1978 and 1986. “Ted was a friend of mine before I ran against him, and he was a friend of mine after I ran against him,” said former Governor Roy Romer, his 1986 opponent. “I cared about him because he was a tremendously good human being who always tried to do the right thing.”

FORMER PENNSYLVANIA HOUSE SPEAKER BILL DEWEES was sentenced to two-and-a-half to five years in prison for his involvement in the so-called Bonnusgate political corruption scandal that involved paying bonuses to legislative employees for campaign work. Twenty-five defendants have been implicated in the scandal, including legislators and staffers from both parties. DeWeese and five others have been convicted; 15 have pleaded guilty, two were acquitted and charges were dropped against one. Former Representative Steve Stetler, who became state revenue secretary, is going on trial later this year. DeWeese, the only sitting lawmaker to be convicted, ran unopposed for his seat in the April primary, and is appealing his conviction.

FORMER CALIFORNIA LAWMAKER DAN BOATWRIGHT, who served in the Legislature for 24 years, died in April at 82. He was elected to the Assembly in 1972, where he chaired the Ways and Means Committee, and moved to the Senate in 1980 and became chairman of the Senate Appropriations Committee. He was the son of Arkansas sharecroppers, a combat infantryman in the Korean War, mayor of Concord, Calif., and a graduate of the Boalt Hall School of Law at the University of California at Berkeley. His proudest legislative accomplishment was his success in making California the first state in the nation to require protocols in cases of sudden infant death syndrome.
Can You Hear Me Now? Stop Calling!

In response to a growing number of consumer complaints about unsolicited and unwanted marketing calls, Congress passed the Telephone Consumer Protection Act in 1991, restricting the use of automatic dialing and prerecorded voice messages. Over the next decade, state legislatures also enacted do-not-call lists. Yet, between 1991 and 2002, these marketing calls increased nearly 600 percent, which some attribute to new telemarketing technologies and lower long-distance rates.

Congress responded again in 2003 with its own do-not-call law similar to the ones already passed in many states at the time. The national list makes it illegal for commercial telemarketers to call registered personal phone numbers, and unlike some states, includes cell phones. The law exempts political organizations, polling business, charities and companies with an existing business relationship with the phone number’s owner. Federal rules require telemarketers to search the list every 31 days for newly added numbers.

Many states integrated their lists and laws with the national ones, but since the federal law does not preempt state laws, telemarketers must adhere to both. State laws often require owners to renew their registrations every few years, and some restrict more kinds of solicitation technology than does the federal law.

Still, calls have continued to increase, and complaints to the Federal Trade Commission reached a high of more than 2 million in 2011. Advances in technology also have brought unwelcome text messages to cell phones, eating up minutes for those with limited plans, and gaining the attention of state legislators. California, Colorado, Indiana, Louisiana, North Dakota, Ohio, Oklahoma, Rhode Island, Texas, Vermont, West Virginia and Wisconsin now ban unsolicited text messages. Missouri lawmakers introduced similar legislation this year.

Political calls are excluded from the FTC definition of telemarketing, and during this presidential election season, voters have been assailed with automated political robocalls, dialed any time of the day to deliver a pre-recorded message. Forty-one states prohibit commercial robocalls, and now 14 restrict political ones, to some degree. Arkansas and Wyoming prohibit any kind of automated political robocalls, while Indiana, Minnesota, Montana, North Carolina and North Dakota, for example, allow political robocalls if a real person receives consent to play the message.

New Hampshire prohibits robocalls to numbers on the national do-not-call list only, and Mississippi lawmakers considered, but did not pass, similar restrictions this year.

As technology advances, so do commercial opportunities to reach consumers, challenging lawmakers to define what is an acceptable marketing practice and what is an excessive violation of privacy.

—Cassandra Kirsch

FTC Reinforces Robocall Restrictions

Unwanted telemarketing calls and texts were consistently in the top three consumer complaints to the Federal Trade Commission in 2011, which approved the following changes earlier this year.

1. Requiring telemarketers to obtain written consent before placing a robocall.
2. Removing the exception for an “established business relationship.”
3. Requiring telemarketers to provide a way to “opt out” during the robocall.
4. Limiting the number of “dead air” or abandoned calls that end before any message is delivered to 3 percent over a 30-day calling campaign.
Before the days of social media, when people died, funerals or wakes were the only way for family and friends to remember them. Now, however, we have digital memories of loved ones through their email and social networking accounts, but often have little say over what happens to those accounts when owners die.

Terms of service agreements and privacy policies govern who can use social media and email accounts, and most expire when a user dies. Gmail and Yahoo! email accounts, for example, are closed after a period of inactivity. If the terms of service are violated—even by a family member with the password—the account may be shut down. That’s what happened recently to one mother two hours after she requested access to her son’s Facebook page after his death, according to news accounts. Yet, closing people’s accounts after they die protects them from being hacked, spammed or abused.

Family members can close a Yahoo! email account by providing a death certificate, but if someone wants access to the account, it requires a court order. Google may provide access to a deceased person’s Gmail account, if specific documentation, including a death certificate, is provided. Otherwise, the account will be deleted nine months after the last login.

Facebook allows family members to remove a loved one’s account or memorialize it, which changes the privacy setting so only confirmed friends are allowed access to view past comments, post memories or leave condolences. Twitter allows family members to deactivate the account with documentation, but no one is allowed to login, regardless of his or her relationship to the deceased.

The Uniform Law Commission created a study committee early this year to address the growing concerns about digital assets and to make recommendations concerning the rights of a fiduciary to obtain digital information when a person is incapacitated or dies.

Legislators in Connecticut, Idaho, Indiana, Oklahoma and Rhode Island passed laws several years ago addressing some of these concerns. The Connecticut and Rhode Island laws address only email accounts. Idaho, Indiana and Oklahoma laws also address microblogging, short message services and social networking accounts.

Idaho gives a personal representative or executor the right to take control of a deceased person’s accounts. Connecticut, Indiana and Rhode Island require a death certificate and documentation of the executor’s appointment before the estate’s representative can see the deceased person’s emails or social networking accounts.

Oklahoma allows provisions in a will or a formal order to govern access. In Idaho, a will or court order can restrict access to accounts. Bills pending in Nebraska and New York are similar to Idaho’s law.

Social media sites, emails and digital records are replacing the photo albums, letters and papers of the past and should be considered in estate planning. The Library of Congress, among others, provides tips on how to preserve digital memories. State laws can clarify how digital assets are treated.

—Pam Greenberg
Parents Want More Power

California’s so-called “parent trigger law,” which gives parents authority to intervene in the management of their children’s schools, has inspired similar legislation in 20 other states. In California, if enough parents agree, the school can be converted to a charter, principals and teachers can be replaced, or the school can be shut down.

These trigger laws are aimed at making schools more responsive by letting parents take a more active role in how their child’s school is managed. The laws aim to speed up traditionally slow procedures for turning around poorly performing schools that also must consider the interests of the community, teachers and school administrators in addition to students and parents.

Opponents of the laws say parents already can voice their concerns through school accountability committees and local school boards.

Of the 20 states considering them, Connecticut, Indiana, Louisiana, Mississippi, Ohio (pilot program) and Texas, as of March, have enacted a trigger law, in addition to California. Each law is slightly different, but there are common elements: Six states allow parents to sign a petition, five states allow the state education agency to play a role, and four states allow school districts to appeal.

Some are concerned that corporate charter school operators may use the law to expand their business. For this reason, California has prohibited them from funding petition campaigns and other states are considering legislation to do the same.

There have been only two attempts so far to pull the trigger. Both were in California, and both resulted in prolonged legal fights between organized parent groups and school districts.

—Josh Cunningham

Needed: More Parents

Michigan wants to encourage parents to be more involved in their children’s education. A 2001 law encourages schools to develop a contract in which parents agree to review and help with homework, get their children to school on time, attend school activities and show up for parent-teacher conferences. Utah lawmakers this year created an online school survey as a pilot project so students, parents and teachers can evaluate schools. Tennessee lawmakers have passed one bill to develop Michigan-like contracts, and are considering another requiring teachers to grade parents on the quality of their involvement.

—Josh Cunningham

Parent Trigger Legislation
(as of April 15, 2012)

Jobs, Jobs, Jobs

Here’s a bit of good news as states continue the long slog out of the Great Recession: Job numbers are up in all but four states. These “nonfarm” jobs include everything from construction work to the leisure and hospitality industry. The largest over-the-year percentage increase occurred in North Dakota (6.5 percent), followed by Oklahoma and Utah (2.4 percent each). —Todd Haggerty

Percent change in total nonfarm employment
(March 2011 to March 2012)

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Source: Bureau of Labor Statistics, Employees on nonfarm payrolls by state and selected industry sector, seasonally adjusted.

Source: NCSL
WHEN HOUSING HURTS

Nearly a quarter of all working households spend more than half their income on housing. That rate increased significantly between 2008 and 2010, according to the Center for Housing Policy, which looked at census data. Despite falling home prices and values, incomes declined even more. Renters fared even worse, with higher rents and lower incomes. The five states in 2010 with the largest share of working households carrying a “severe housing cost burden” (monthly housing costs exceeding 50 percent of income) were: California (34 percent), Florida (33 percent), New Jersey (32 percent), Hawaii (30 percent) and Nevada (29 percent). Maine was the only state that experienced a decrease in this rate during the same time frame.

FANTASY KICKS OFF

Just think, football season is right around the corner, and that includes the much-loved fantasy football contests. But fans beware! In some states, these competitions are a crime, although that may be changing. Currently, Arizona, Iowa, Louisiana, Maryland, Montana and Vermont outlaw fantasy competitions. Lawmakers in Maryland and Louisiana, however, have considered bills that would exempt fantasy competitions from certain gambling crimes and criminal punishment. Maryland’s bill is still working its way through the legislative process. Louisiana’s bill never made it out of the House of Representatives in 2010. According to Fantasy Sports Business.com and U.S. News & World Report, more than 27 million Americans play fantasy sports, making it a $1 billion a year business.

MAINTAIN YOUR BOUNDARIES

Modern surveyors, using equipment George II of England could not have imagined in 1735, have discovered errors in the boundary line drawn back then that divided Carolina in two. The king had specific orders for the surveyors: Start 30 miles south of the mouth of the Cape Fear River, move northwest to 35 degrees latitude, then head west until they hit the Pacific. …Well, that didn’t work, so the line over the years twisted and turned a bit as surveyors used stakes, chains, the sun and the stars. It all seems rather amusing, except to the 93 property owners who could lose their South Carolina identity—and maybe even their livelihoods. Gas prices are 30 cents higher and fireworks are illegal in North Carolina, driving business south to stores in the “questionable” region. The states set up a Joint Boundary Commission years ago, which is working to address the property owners’ concerns. When finished, it will submit a new state line to the South Carolina Legislature and the North Carolina Council of State for their approval, according to the Associated Press.

FRACKING FACTS

FracFocus, a website on the chemicals used in hydraulic fracturing (fracking), recently celebrated its first birthday. Hydraulic fracturing is a process of injecting water, sand and chemicals into the cracks in rocks to release the natural gas and oil. The chemicals used in the procedure have been the focus of growing concern among the public and environmentalists. After one year, 150 participating companies have provided information on 13,000 wells in 20 states. The website depends on companies voluntarily following the disclosure guidelines for each state in which they operate. Colorado, Louisiana, Montana, North Dakota, Pennsylvania and Texas, according to Politico, require companies to provide information to the website. Arkansas and Wyoming don’t name the website in regulations, but many companies fulfill those states’ reporting requirements by providing information to the site. The registry is a joint project of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission.

STATE EXAMPLE

The Massachusetts Taxpayers Foundation found only a modest increase in costs for the state’s taxpayers since the legislature passed the health care reform law in 2006. The study, according to the Associated Press, reported direct state spending attributable to the law grew from a little more than $1 billion in FY 2006 to more than $1.9 billion in FY 2011. Federal reimbursements brought the state spending down to about 1.4 percent of the total state budget in FY 2011. The foundation found the law has been funded largely by shifting money away from the state’s old free care pool and other supplemental payments and into traditional health insurance for the uninsured.
UNDUE BURDEN UNDOES LAW

A federal court has thrown out Colorado’s law, passed in 2010, encouraging online out-of-state retailers to collect sales taxes from Colorado customers. Failing to do so would have resulted in a heap of paperwork requirements, including keeping account of the amounts purchased by each customer in the state and notifying them of what they owe. U.S. District Judge Robert Blackburn found the law and its rules “impose an undue burden on interstate commerce,” making them unconstitutional.

A LIFETIME AHEAD

Certain juvenile sex offenders in Ohio (eight, in fact) no longer face a lifetime requirement to register with law enforcement agencies, have their photos, addresses and criminal histories distributed to neighbors and schools, and be listed in a searchable state database of sex offenders. The Ohio Supreme Court ruled in early April that the requirement was disproportionate to the crime and thus amounted to cruel and unusual punishment. The court cited a growing national consensus against imposing lifetime registration mandates on juveniles. This requirement was part of Ohio’s law passed to comply with the Adam Walsh Act, a federal law to standardize sex offender registries around the nation. It was the first state, according to the Cleveland Plain Dealer, to do so.

COUNTY-BY-COUNTY

The University of Wisconsin, along with the Robert Wood Johnson Foundation, has released the third annual County Health Rankings. The study assessed a county’s health based on four factors—health behavior, clinical care, social and economic conditions, and physical environment. The report lists statistics for every county in the country on such things as death rates, education levels, air pollution rates, income levels, availability of healthy foods, etc. The rankings included several new measures this year, such as how many fast food restaurants are in the county and the level of physical inactivity among residents. Researchers hope local officials will use the findings to target efforts at improving specific problems prevalent in their communities. The report can be found at www.countyhealthrankings.org.

EVOLVING RULES

Tennessee lawmakers have passed controversial legislation to encourage classroom discussions on “scientific subjects, including, but not limited to, biological evolution, the chemical origins of life, global warming and human cloning.” The law aims “to create an environment within public elementary and secondary schools that encourages students to explore scientific questions, learn about scientific evidence, develop critical thinking skills, and respond appropriately and respectfully to differences of opinion about controversial issues.” The governor allowed the bill to become law without his signature.

NO LONGER NO. 2

A new report by The Tax Foundation ranks the 34 developed countries in the Organization for Economic Co-operation and Development based on their corporate tax rates. According to the research organization, the United States became No. 1 on April 1, with the highest combined federal-state corporate tax rate—39.2 percent—in the developed world. That’s because Japan’s once-higher rate recently dipped to 38.01 percent. The organization’s researchers say that, even after accounting for tax deductions (loopholes), the “U.S. effective tax rate still remains one of the highest among industrialized nations.” The United States and Japan were followed by France (34.4 percent); Belgium (34 percent); Germany (30.2 percent); and Mexico, Spain and Australia (all at 30 percent).
Congress is moving slowly toward a long-term transportation bill while state lawmakers are on a more direct route to pay for roads and bridges.

**Building Bridges With the Private Sector**

States are increasingly turning to the private sector to help move big transportation projects forward. Public-private partnerships allow private companies to assume typically public responsibilities, such as financing and operating roadways—for a return on their investment. Thirty-two states and Puerto Rico now allow these partnerships for roads or bridges, and so far, at least 18 states have considered related bills in 2012 sessions.

**Pennsylvania House Bill 3.** This measure would allow the state, cities and other public bodies to enter into partnerships with private companies to develop, operate or finance transportation facilities. The bill—like enabling statutes in several other states—also provides a broad framework to guide how partnerships would be chosen, approved and carried out.

**Sponsor: Representative Rick Geist (R).** “This bill will enable Pennsylvania to partner with the private sector, and to engage its financial resources and efficiencies to help rebuild our transportation infrastructure, where feasible and beneficial to the commonwealth. While these partnerships alone cannot solve what has become an enormous transportation infrastructure funding problem, they certainly are a critical tool for us to have at our disposal.”

**Traveling an Old Route**

Every state taxes gasoline and diesel, and those taxes are the biggest single source of highway funding in half the states. Yet, many haven’t raised their gas taxes in years, even as the purchasing power of fixed-rate,
cents-per-gallon taxes has plummeted in light of inflation and rising construction costs. As a result, the real value of state gas tax revenues has dropped by $10 billion nationwide each year, according to the Institute on Taxation and Economic Policy. Revenues from the federal gas tax—unchanged since 1993 and the main source of federal transportation funding—are declining for the same reasons.

**Iowa Senate File 2224**: Iowa is one of a handful of state legislatures to consider gas tax increases this year. This bill would raise taxes on gas and diesel by up to 10 cents a gallon over two years—the first increase since 1989. The bill also seeks to improve accountability and efficiency in the transportation system, and to study tax options for alternative fuel, hybrid and fuel-efficient vehicles.

**Sponsor: Senator Tom Rielly (D)**. “Iowa’s total need for transportation investment is $1.6 billion more every year than we are getting right now, and this proposed dime increase in the fuel tax would generate $220 million to meet our most critical needs. This legislation would put people back to work and improve the safety of our roads—and, by charging both in-state and out-of-state drivers, is the most equitable way to come up with additional revenue.”

This legislation was sponsored by the Iowa Senate Transportation Committee, which is chaired by Rielly.

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**The Road Less Traveled**

Given concerns about the long-term sustainability of gas taxes, states are also looking for new options. Under discussion are fees or taxes on alternative fuel vehicles or electric vehicles, or on the alternative fuels themselves, such as natural gas. About half the states now tax some alternative fuels, and nearly all of them use at least some of the revenues for transportation.

**Kansas House Bill 2455**: The original version of this bill made Kansas the first state to propose a fee on electricity sold at vehicle charging stations. As signed into law, the legislation now requires the state Department of Transportation to solicit public input on the long-term feasibility of relying on the gas tax to fund both state and local transportation projects, and to develop policy recommendations by 2014.

**Sponsor: Representative Tom Sloan (R)**. “As fuel efficiency and non-gasoline-fueled vehicles increase, revenues to state highway funds decrease. Some states are exploring vehicle miles traveled fees, higher registration fees or other options. This bill was introduced to require plug-in electric vehicle owners to pay the equivalent of the gas tax; as amended and passed, it calls for the department of transportation to convene stakeholders and determine the best course of action long-term to maintain appropriate highway funding streams.”

This legislation was sponsored by the Kansas House Energy and Utilities Committee, at the request of committee member Sloan.
Closing a Loophole

One widely discussed potential gas tax replacement is a fee drivers could be charged based on the number of miles they drive. Called vehicle miles traveled or VMT fees, they only have been tried in pilot projects to date in the United States, and few related bills have passed in recent years. Still, the idea continues to draw serious interest as a possible solution to funding shortfalls, with the added advantage of being able to charge motorists in proportion to the wear and tear they inflict on the roadway. So far, at least 16 states have planned or implemented pilot projects, according to the Nevada Department of Transportation.

Arizona House Bill 2257: Arizona’s bill was one of a few 2012 proposals that aimed to ensure drivers of electric cars would still contribute to highways—in this case, by creating a penny-per-mile tax for electric vehicles only. The legislation, which did not pass out of committee, also had a unique feature: To maintain the new tax’s purchasing power, the bill would have indexed the tax rate to inflation each year.

Sponsor: Representative Steve Farley (D). “The only way to solve our state’s transportation funding crisis is to create a reasonable system of user fees that does not depend on any one type of fuel, and does reflect real use of the transportation system.

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The Long and Winding Road

In late March, Congress approved the Surface Transportation Extension Act of 2012, a three-month extension of surface transportation authorization, which was scheduled to expire March 31.

It authorizes the federal government to continue transportation spending at the same level and is the ninth short-term extension approved by Congress since 2009. That’s when the last long-term surface transportation authorization bill expired.

Prospects for the two chambers to agree on a long-term reauthorization bill remain unclear. The Senate approved, 74-22, a two-year reauthorization bill in March, but the House has yet to vote on one. The House did approve a bill allowing them to begin direct negotiations with the Senate, through a conference report, on a long-term bill.

The Senate’s proposal would provide $109 billion in funding over two years, extending surface transportation authorization through the end of FY 2013. The House bill that was not voted on would have provided $260 billion in funding over five years.

Although the approved Senate bill and the initial draft of the House bill contain some of the same program related reforms, differences remain between the two chambers regarding funding provisions for the Highway Trust Fund and environmental provisions regarding new oil and gas drilling and the Keystone XL pipeline. This may set up a contentious conference negotiation with the Senate, pushing the issue into the summer of a major election year. And that’s not good for approval of any long-term legislation.

—Ben Husch, NCSL
This bill proposes a new way of collecting sustainable revenues for transportation by closing a loophole that currently allows drivers of electric vehicles to use our roadways without paying their fair share toward their construction and maintenance."

Farley made his comments before the bill failed to pass out of committee.

Traffic jams as more cars move off congested lanes.

—Jaime Rall and Simon Workman, NCSL

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Traffic jams as more cars move off congested lanes.

—Jaime Rall and Simon Workman, NCSL

Raising new revenues isn’t the only transportation funding issue on the table this year. Some lawmakers want to ensure existing transportation money is actually spent on transportation. Every state except Alaska dedicates certain funds to transportation, and laws in several states prohibit using that money for other purposes. Still, in a 2011 NCSL survey, seven states reported recent diversions of transportation money despite such restrictions. This year, at least four state legislatures have considered bills to protect transportation revenues further.

Alaska House Joint Resolution 4 and House Bills 30 and 31: Alaska is the only state that bans dedication of state revenues to any special purpose. This year, for the second two-year session in a row, a legislative package was considered that would have changed that—for transportation, at least. The measures would have created and supported a new, constitutionally dedicated Alaska Transportation Infrastructure Fund that could be used only to fund transportation projects.

Sponsor: Representative Peggy Wilson (R).

“..."
access valuable natural resources. Also, the dedicated, multimodal Alaska Transportation Infrastructure Fund will support 100-percent state-funded projects, which are cheaper and faster compared to highly prescriptive federal programs.”

Wilson made her comments before the bills failed to pass.

Borrowing With Business in Mind

The trend is growing for states to borrow or leverage existing money to advance transportation projects. States finance transportation using bonds, federal debt financing and credit assistance, and state infrastructure banks, among others. The most common of these is state bonds. Forty-four states, the District of Columbia and Puerto Rico allow bonding, and transportation bond measures are considered every year in statehouses across the country. 

Maine Senate Paper 282. This bill takes an economic development approach to transportation bonding. It would ask voters to approve $62 million in bonds to repair and reconstruct highways and bridges, but with a twist: The bonds would pay for projects that are vital not only to public safety, but also to business expansion in the state, as identified in consultation with the business community.

Sponsor: Representative Bill Diamond (D). “Highway bonding is a critical piece of the overall funding package needed for the construction and surfacing of roads and highways in Maine. This $62 million bond package will only begin to address the critical need for road and bridge repair—a need that has grown significantly in recent years.”

Joung H. Lee, associate director for finance and business development for the American Association of State Highway and Transportation Officials, discusses transportation policy in an interview at www.ncsl.org/magazine
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Making a Difference

When it comes to teens in trouble, girls need a place of their own.

BY ANNE TEIGEN AND SARAH ALICE BROWN

The good news about juvenile crime is that the overall rate has declined in recent years. The bad news is that girls now are the fastest growing segment of the juvenile justice system.

Some states have seen an alarming increase. California’s Alameda County, for example, had a 44.5 percent increase in the number of young women entering its juvenile justice system between 1998 and 2007, and a 49 percent increase in the number of girls who were in the system for nonviolent offenses, such as theft and truancy.

Of the 1.5 million young people under age 18 arrested in 1998, 27 percent were girls. By 2007, they were 29 percent of the 1.2 million arrested. Girls now represent 15 percent of those held in juvenile facilities and as much as 34 percent in some states.

Girls Are Different

More so than boys, girls in trouble have a disturbing history of emotional, physical and sexual abuse. Estimates are that, of incarcerated girls, more than 78 percent have been abused, up to 70 percent have a mental health disorder, and many are pregnant or will become pregnant. Girls, more often than not, enter the juvenile justice system because they are running away from violence or abuse.

“Girls are [arrested] for lesser offenses than boys, are often younger than boys and are three times more likely to have been a victim of sexual abuse,” Leslie Acoca, executive director of the National Girls’ Health and Justice Institute. Most female juvenile offenders get in trouble between 14 and 16 years of age.

Acoca’s research found less at-risk behavior and delinquency in girls who were in good health. In fact, her National Girls Health Screen project discovered girls who received health care in the juvenile justice system were 72 percent less likely to reoffend. And those who received mental health services were 40 percent less likely to reoffend.

Lawmakers Look at Changes

Girls traditionally have been placed in facilities and programs designed for boys, where the emphasis is on security over prevention and treatment. Girls tend to have more serious issues and are held longer in detention than boys.

About 93,000 young people are in juvenile justice facilities across the country, according to the Justice Policy Institute. Seventy percent of them are in state-funded residential facilities. With an average cost per child of $241 a day, states collectively spend about $5.7 billion a year on imprisoning juveniles.

Several states are trying to move away from expensive state institutions into more effective community-based services, which can provide a better continuum of care for girls.

Over the last 10 years, lawmakers in Connecticut, Florida, Hawaii, Minnesota and Oregon have enacted laws that require treatment that is specific to girls’ needs. The laws generally require programs geared toward girls and boys that help with the prevention, treatment and rehabilitation needs of young people served by juvenile justice systems.

In 2010, New Mexico lawmakers passed a measure asking the Department of Children, Youth, and Families to develop a plan for gender-responsive services and programs for girls. The few existing programs just for girls usually address issues such as pregnancy, substance abuse or gang involvement.

The programs, however, often fail to address the many problems most at-risk girls face—physical abuse, drug use, suicidal thoughts and academic problems.

In 2006, Hawaii passed a law directing the Office of Youth Services to collaborate with the human services, health, labor, and education departments to develop a comprehensive care program for girls in the juvenile justice system.

Florida’s Experience

Florida has been a leader in developing programs specifically for girls. In 2004, lawmakers decided to revamp their juvenile justice programs to make sure girls were being treated appropriately and teamed up with the PACE Center for Girls. PACE, founded in 1984, is a nonprofit prevention program for at-risk adolescent girls that operates 17 centers throughout Florida. It receive about three-quarters of its funding from the Department of Juvenile Justice and local school boards. Girls are referred to the program from a variety of agencies.

The girls at PACE—which stands for Practical Academic...
Cultural Education—have had traumatic lives. Many have failed in school, have been victims of physical or sexual abuse, and many have been arrested. The centers provide comprehensive services aimed at helping girls avoid delinquency and stay out of the juvenile justice system.

Teachers and counselors provide an array of programs—academic classes, group therapy, counseling, a life skills course aimed at girls, student volunteer projects, follow-up transition services—that include individual attention and parental involvement.

“PACE is recognized as the most effective program in the nation for keeping adolescent girls out of the juvenile justice system,” says Mary Marx, president and chief executive of the organization. “Its purpose is to intervene and prevent school withdrawal, juvenile delinquency, teen pregnancy, substance abuse and welfare dependency in a safe and nurturing environment.”

Lawmakers Visit

NCSL took a group of 15 legislators from across the country to visit a PACE Center in Orange County, Fla., in November 2011 through its partnership with the John D. and Catherine T. MacArthur Foundation.

“i was very impressed. It is such a new, open concept to be working specifically with girls, which removes a lot of the pressures that adolescents have with peer relationships,” says Kansas Representative Janice Pauls (D). “i was pleased to hear the girls speak positively about the counseling services provided to each of them to help them overcome past and present hardships.”

Individual Focus

Girls are placed in classes of 10 to 12, small enough so everyone receives individual attention.

Every girl sets individual education and social goals that are focused on earning a high school diploma or GED, re-entering public school, attending college, obtaining vocational training, joining the military or entering the private workforce.

“You could see such growth in the girls based on their recitations to us—from the hard places they had come from to where they are now,” says Nebraska Senator Brenda Council (NP). “You could see in each and every girl how positively they responded to the services provided.”

After girls graduate, center staff continue to monitor and support each girl’s educational and personal development for three years by keeping in touch with the girls and their families. PACE staff track recidivism, school attendance and employment. In 2011, the center reported that, over a three-year period, only 5 percent of girls were in trouble with the law again after they completed the program.

The organization plans to expand to other states. Georgia Senator John Crosby (R) hopes to see similar programming in his state. “The good news is PACE may come to my state to help serve our girls in Georgia,” he says. “What a wonderful opportunity it was to visit and hear the first-hand success stories of these young ladies. I have a lot of ammunition to take home.”

As more states explore programs geared specifically toward girls, Acoca suggests creating a commission to study the needs of girls in each state and collaborating with organizations that have experience in the issue.

This type of approach “can be most effective if policies are based on current, real and individualized needs of girls, along with proper medical and psychological treatment,” Acoca says. “This can curb the tide of the rising female juvenile population.”
Cierrah is like a lot of 16-year-old girls. She’s quick to giggle, loves dancing and hip-hop, and is a self-described “social butterfly.” She looks forward to teen nights at local dance clubs with her friends.

When she graduates from high school next year—she’s earning As and Bs—she wants to go to cosmetology school, and then work styling hair and doing make-up.

In many ways, her future is full of promise. Yet her past was full of pain. Cierrah, like many of the young women at the 17 locations operated by the PACE Center for Girls in Florida, has lived a life marked by tragedy.

“I never met my real dad, so I don’t know what he even looks like,” she says.

When she was 5, her mother married a man who beat her and a younger brother and sister.

“My mom left him for about a year but he found us,” she says. “He came to our trailer and found my mom with her new boyfriend, who was black, and my stepdad was racist. Before I knew it, gunshots were fired.”

No one was hurt, and Cierrah’s mom ended up back with the stepfather. A year later, he died of a heart attack. Soon her mom was working late shifts at a bar, and Cierrah was left to care for her brother and sister.

“It didn’t really bother me, though, because I had been doing that since I was 7,” she says.

Cierrah made it through the eighth grade with Cs and Ds but barely passed ninth grade after missing 32 days of school. “I stayed at home with my mom a lot of times so I could spend time with her,” she says. “I never told her I smoked weed or had sex, but I think she probably knew. We were very close, best friends.”

Five days after Cierrah turned 16, a police officer came to the door with news of another tragic turn in her family’s life. Her mother and her boyfriend had been out drinking the night before and were killed in a drunken driving crash. Cierrah had to identify her mother by her ankle tattoo; she and her mom had matching tattoos.

Cierrah and her siblings went to live with the parents of a close friend. Soon after, she was caught for truancy. When she was offered an opportunity to attend the PACE Center in Orlando, she decided it was her best chance to avoid ending up in more trouble or jail.

More than 21,000 Florida girls have attended PACE schools since the program was founded in 1983. It’s recognized as a national prevention model for girls by the Annie E. Casey Foundation, Children’s Defense Fund, National Mental Health Association, the National Council on Crime and Delinquency and the Office of Juvenile Justice and Delinquency Prevention.

One of the great features of PACE, Cierrah says, is the availability of counselors. They’re always there to talk with the girls. She also likes the small class sizes.

While Cierrah has her heart set on cosmetology, she also sees community service in her future.

“I’m looking for ways to speak at AA meetings to help other alcoholics, like my mom,” she says. “I want to let them know that what they do impacts others, but they can overcome it.”

Cierrah often feels she has the world on her shoulders and doesn’t want to let anyone down. “Especially my siblings, I can’t let them down,” she says. “I’m like their mom now.”

But since attending PACE, she knows she doesn’t have to take on the world by herself.

“There are days I want to give up but I don’t, because I know I have a family at home and a family at PACE that cares for me and that’s what that keeps me going.”

Anne Teigen tracks juvenile justice issues for NCJSL.
Facts About NCSL:

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

Make plans to be in Chicago, Aug. 6-9, for this year’s Summit! Learn more at www.ncsl.org/summit
Three leaders on pragmatism and partisanship

**Senator Mike Flood (NP)**
Nebraska Speaker of the Legislature

**State Legislatures:** What were your biggest challenges this session?
**Flood:** The budget, of course, and our state economy remained priorities. Other priorities included finding solutions to our state’s child welfare reform efforts, maintaining needed funding for roads, ending an ongoing funding dispute among community colleges, and deciding how to implement the Patient Protection and Affordable Care Act while we await the Supreme Court’s decision.

**SL:** What was your top priority for the FY 2013 budget?
**Flood:** I think our top priority was retaining the necessary cuts that were made last session. There will be some pressure to take another look at the decisions we made, but I think our focus has to be on rebuilding the state’s savings account or cash reserve, which allowed us to weather the storm of the recent years without increasing taxes.

**SL:** How do you work with the other party?
**Flood:** Nebraska is unique with its nonpartisan unicameral Legislature. As speaker, in our institution I deal directly with the membership and not with party caucuses. A one-house model probably could not work everywhere, but it has served our state well and allowed a collaborative approach to issues that many times bridges party lines.

**SL:** What advice would you give to the next leader?
**Flood:** Let others lead and become leaders. Committees and their chairs have tremendous expertise in their subject matter. Listen to them, work with them.

**SL:** What time wish you had more time for?
**Flood:** It’s a constant effort to balance legislative duties, especially the evening and weekend engagements, and family. Without a doubt, it has been a privilege to serve in the Legislature. There really is no such thing as a part-time legislator, though, so I’ve really come to appreciate the time that I do get to spend with my wife and our two young boys.

**Representative Christopher G. Donovan (D)**
Connecticut Speaker of the House

**State Legislatures:** What were your top priorities this session?
**Donovan:** No. 1 was jobs—keeping those we have and creating new opportunities in growth areas. We passed a sweeping jobs bill last fall. We want to build on that to help small businesses and entrepreneurs and create new jobs. We need to raise our minimum wage. Those earning the minimum wage can’t meet their most basic needs. That’s not right. We’re also tackling education reform. We need to close a huge achievement gap to give young people hope and the chance for meaningful jobs. Finally, we need to balance our budget to provide the stability necessary to accomplish other goals.

**SL:** How do you work with the other party?
**Donovan:** The answer is respect and communication. It says something that I’ve twice been unanimously elected speaker. The minority leader and I have a good relationship. We’re miles apart philosophically, but we respect each other, talk a lot and get things done. Last year’s bipartisan jobs bill gave the people in our state a chance to see us work-

“Our greatest achievements happen when citizens, legislators from both parties, the administration and advocates work together for initiatives that help people.”

—HOUSE SPEAKER CHRISTOPHER G. DONOVAN (D), CONNECTICUT

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Three leaders on pragmatism and partisanship, taxes and teamwork

ing together for their benefit, in contrast to what’s going on in Washington.

**SL:** What’s the greatest asset you bring to the job?
**Donovan:** I believe in what’s possible, and I learned early in my professional life the power of people working together. Success then came from collaboration and negotiation. Those are valuable principles in the legislature, especially for leaders. Our greatest achievements happen when citizens, legislators from both parties, the administration and advocates work together for initiatives that help people.

**SL:** What advice would you give to the next leader?
**Donovan:** Be a great listener, use your skills to bring people together, and work towards an economic recovery. Find ways to spend time outside of the Capitol where you can talk with everyday citizens about their concerns and ideas for fixing some of the problems we face.

**SL:** What would you be doing if you weren’t in the legislature?
**Donovan:** I’d likely be organizing people who need a voice. Before I ran for office, I was fighting for better wages, affordable housing and access to the political system that can make a difference in their lives. Or I’d probably be playing guitar in a rock ‘n’ roll band. I still play—in a group called the Bad Reps—but not as much as I’d like.

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"Low taxes, less regulation and an efficient state government will attract businesses and spur entrepreneurship in Tennessee."

—HOUSE SPEAKER BETH HARWELL (R), TENNESSEE

**Representative Beth Harwell (R)**
Tennessee Speaker of the House

**State Legislatures:** What were your goals for this session?
**Harwell:** My No. 1 priority was ensuring that Tennessee remains one of the most business-friendly states in the country. Low taxes, less regulation and an efficient state government will attract businesses and spur entrepreneurship in Tennessee, helping to create jobs. We also must balance our state budget while keeping taxes low and putting money aside for a rainy day.

**SL:** What was your top priority for the FY 2013 budget?
**Harwell:** We are required by our state constitution to balance our budget every year. Tennessee has fared well throughout the economic recession because of responsible and conservative fiscal management, and we must continue this practice. We have one of the lowest debt ratios in the United States, and our bond rating is excellent. As we craft a budget, we must be mindful of these issues.

**SL:** How do you work with the other party?
**Harwell:** In Tennessee, we work well with Democratic leadership. On tough issues, there is always legislative debate, but unlike the partisan sniping in Washington, D.C., it is constructive. When it comes to the most important issues, we may disagree, but we always work together to accomplish what’s best for Tennessee.

**SL:** What do you wish you had known before you became a leader?
**Harwell:** I did not realize how much the members of my caucus would want to help me succeed. We work as a team, and they understand that, when their leadership team succeeds, everyone in the state benefits. It’s humbling to have the support of my colleagues, a group of true public servants.

**SL:** What advice would you give to the next leader?
**Harwell:** The honor of serving as speaker of the House comes with a huge time commitment and a lot of responsibility to view how policy might affect the state as a whole. However, it is important to remember that you still serve your district as their state representative, and you must weigh their thoughts and concerns with your added task of governing the House.
Improving the Bottom Line

Lawmakers, businesses and health care providers are trying an array of approaches to curb the long-term costs of health care.

Next month: Six more strategies to manage the rising cost of health care.

BY RICHARD CAUCHI, KARA HINKLEY AND BARBARA YONDORF

Spiraling health costs grab headlines, create budget shortfalls and plunge families into bankruptcy.

America spends $2.6 trillion annually on health care and costs seem to rise inexorably. Every year, state lawmakers face tough choices as health costs eat up 25 percent to 30 percent of total budgets. Costs hit households, too, with family health insurance coverage now averaging $15,073 a year.

At the same time, policymakers are teaming up with innovative local providers, business leaders and consumer advocates to find new and sustainable ways to hold down the cost of health care for the long term.

“Moving away from compensating the volume of care to providing better value is the way to cut costs without harming access or quality,” says Massachusetts Senator Richard Moore (D), chair of the legislature’s Joint Committee on Health Care Financing. “Promoting prevention and wellness, along with improving quality and safety, are fundamental to cutting health care costs.”

In a nutshell, most medical experts agree medical care that does the right thing at the right time to the right people will help save money and improve Americans’ health. These actions, coupled with promoting prevention and personal responsibility, should help curb health costs.

“Taming rising health costs is one area where state governments have been out front and where reaching across the aisle has saved real money,” says Senate President Steve Morris (R) of Kansas, NCSL’s current president. “I am pleased that NCSL and state legislators across the country are tackling this complicated issue.”

No magic bullet exists. What works in one locale may not fit another. Yet, lawmakers continue to press for cost-effective strategies—in the individual home and at the state policy level.

Health Systems That Work

Group Health Cooperative in Seattle, Rocky Mountain Health in Grand Junction, Colo., and Geisinger Health System in Pennsylvania have paved the way for documented cost savings.

Group Health houses its providers, clinics and hospitals under...
one roof. The group receives a monthly capped payment from insurers to manage each patient’s care. Its methods include physician consultation by phone and secure email for patients. Washington analysts writing for the health policy journal Health Affairs have estimated that Group Health has saved more than $10 per client per month within this model of care.

In Grand Junction, the average per capita Medicare spending was 24 percent lower than the national average in 2007. Since it was founded in 1974, the Rocky Mountain Health communitywide system has expanded preventive care, including free prenatal care, and treated diabetes and asthma with a comprehensive case management approach. It also provides in-home follow-up by nurses and other health professionals. Observers have suggested the cooperative spirit shown by providers, hospitals and health plans helps lower costs.

These promising methods include a payment system that involves equal reimbursement for care of Medicare, Medicaid and private insurance patients; limits on expensive resources, such as hospital beds and specialists; and comprehensive end-of-life care, which has led to 50 percent fewer deaths occurring in hospitals by emphasizing hospice and at-home services.

Pennsylvania’s Geisinger Health System is widely celebrated for focusing on coordinating care among providers, peer-review and easy access for patients to routine care. Geisinger motivates providers to use only health care approaches that research has demonstrated are effective, such as team work and peer review. Patients’ ability to schedule same-day appointments has increased from 50 percent to 95 percent since 2002. Using a medical home model, Geisinger has reduced overall medical costs by 4 percent—while costs have risen in most plans—

“Taming rising health costs is one area where state governments have been out front and where reaching across the aisle has saved real money.”
—SENATE PRESIDENT STEVE MORRIS (R), KANSAS
and has seen a 29 percent reduction in hospital readmissions overall. For diabetic patients, the system has reduced hospital admissions by 25 percent and days spent in the hospital by 43 percent.

Medical Homes

Poor coordination of health care services can lead to serious problems. A person who needs a specialist doesn’t know how to find one. Another patient must undergo unnecessary medical tests because a specialist doesn’t have access to her medical records. A man who can’t get an appointment to see his primary care physician goes to the emergency room instead.

Medical homes can avoid many of these problems, while also avoiding unnecessary costs and improving patients’ health.

Medical homes, especially for those with complex medical needs, are a way of organizing and delivering health care that is coordinated, comprehensive, efficient and personalized. A medical home provides patient education, resources and referral assistance, while integrating the individual’s needs whether medical-surgical, rehabilitative, psychological or supportive services. As of July 2010, at least 29 states had enacted medical home legislation addressing such things as certification, authorization for Medicaid pilot programs, appropriations for care coordination fees, the creation of advisory panels and anti-trust protections.

Initial results from pilot projects indicate they can save money. Community Care of North Carolina covers more than 950,000 Medicaid enrollees. Between 2007 and 2010, preventable hospital admissions declined by 12.5 percent among the 71 percent of patients who were enrolled in the pilot program, but increased by 25.9 percent among patients who were not. A 2011 report calculated that Community Care saved Medicaid nearly $1.5 billion over three years.

Medical home pilot programs sponsored by WellPoint, a health benefits company and licensee of the Blue Cross and Blue Shield Association, have experienced as much as an 18 percent decrease in acute inpatient admissions and a 15 percent decrease in emergency room visits.

Health Savings Accounts

Health savings accounts can help reduce health costs and give people greater engagement in and control over their health issues, according to backers of the accounts.

“A health savings account provides consumers and employers a practical alternative to combat high-cost medical coverage,” says Wisconsin Senator Mary Lazich (R), chair of the legislature’s Committee on Public Health, Human Services, and Revenue. “During an era of skyrocketing medical expenses, HSAs allow and encourage cost-conscious consumers to seek pricing information and shop for competitive services.”

The accounts are similar to personal savings accounts, but account holders can use the money only for health expenses. Most also enroll in high-deductible plans paid for with pretax dollars from employers. This allows them to pay for routine health care from the account, but provides them with insurance in the event of a major illness. Most reports of their success come from insurance industry sources.

An Aetna study found members with the accounts used the emergency room less frequently and had 9 percent lower annual medical costs than those without the savings accounts. In 2010, Cigna found its health savings account enrollees reported better control of and engagement in treatment of their health issues than did non-HSA enrollees, such as a 21 percent higher likelihood of participating in disease management programs. A 2010 study by the University of Illinois School of Public Health reported those with HSAs spent 5 percent to 7 percent less than enrollees without them.

Critics argue the plans are successful because they enlist people who are younger, healthier, better educated and wealthier than the general population.

Prescription Drug Purchasing

More than one-half of Americans take prescription drugs regularly, at a total cost of $260 billion, or just under 10 percent of overall health spending in 2010.

In 2005, the annual increase for all U.S. drug spending was the highest of any health service or product—10.6 percent. Yet, by 2010 this increase had slowed dramatically, to a record low of just 1.2 percent.

Why? In January, actuaries at the Centers for Medicare and Medicaid Services reported “a continued increase in the use of generic medications and an increase in Medicaid prescription drug rebates” as leading causes of slowed spending. Eighty percent of all dispensed prescriptions in 2011 were FDA-certified generic drugs—up from just 67 percent in 2007. In 13 states, pharmacists are required to dispense the generic equivalent when available. In every state, physicians have the authority to order use of brand name drugs—and block a generic substitution—when beneficial to a particular patient.

Preferred drug lists, now used by 48 states for Medicaid and many state-run plans, allow public programs to dispense both generic and brand products and also allow physician discretion to meet individual needs. Especially for the most serious illnesses, unique brand-name or “innovator” drugs remain a key treatment choice, accounting for $200 billion—77 percent—of U.S. market sales.

Global Payments

Global payment systems allow insurers to pay a fixed amount to a group of providers or a health care system to cover most or all of a patient’s care during a specified time period.
In 2009, the largest insurer in Massachusetts, Blue Cross Blue Shield, established a program called the Alternative Quality Contract, which combined global payments with sizeable quality bonuses for medical groups. The groups agreed to an annual budget that included financial incentives if there were improvements in the quality of patient care. Within the first two years, the program included more than a quarter of the primary care physicians practicing in Boston. Together, these practices cared for more than 470,000 Blue Cross Blue Shield patients. Stuart Altman, a professor of health policy at Brandeis University, and colleagues wrote in 2009 that “global payment has the greatest potential for encouraging shifts in health care resource use from low-value to high-value services.”

Other examples of successfully integrated systems include the Cleveland Clinic in Ohio and Kaiser Permanente, which is based in California and operates in Colorado, Georgia, Hawaii, Maryland, Ohio, Oregon, Virginia, Washington and the District of Colombia.

Thirty states operate Programs for All-Inclusive Care for the Elderly, which pay a capped rate to provide total care to frail patients covered by Medicare and Medicaid. California, Kansas, Massachusetts, Rhode Island and Vermont are among the states that have or are considering applying for federal waivers to allow global payments. Health economists and others are increasingly promoting global payments as an important strategy to slow growth of health care expenditures. Using global payments in conjunction with performance-based pay, medical homes and accountable care organizations may help control costs better than using a single strategy.

### Early Detection and Treatment

What you don’t know can hurt you.

When it comes to your health, early detection and treatment can save your life and reduce your health care costs substantially.

Numerous health problems benefit from early intervention: From counseling for problem drinking to tuberculosis screening in high-risk populations, from smoking cessation counseling to STD screening for teens.

Promising new methods of diagnosing and treating early Alzheimer’s disease alone could save Medicare and Medicaid a substantial amount of money, in part by delaying nursing home placements. “The future of this disease is to intervene decades before someone becomes symptomatic,” says Dr. Mark Sager, director of the Wisconsin Alzheimer’s Institute. “This analysis says you can save literally billions of dollars in long-term care costs if you can intervene at an earlier stage.”

Early detection and treatment rates improve when insurance coverage is required, public education campaigns are employed and public providers are given incentives. Experts disagree about the frequency and usefulness of certain screenings, such as breast, prostate and cervical cancer. But most other screenings have broad support among health care practitioners.

The federal Patient Protection and Affordable Care Act requires health plans to cover certain screenings—high blood pressure, alcohol misuse, colorectal cancer—with no deductibles or copayments. At least 14 states require insurance coverage for osteoporosis-related diagnostic and treatment services.

Primary care providers who participate in the Illinois Primary Care Case Management Program are eligible for an annual bonus based, in part, on meeting or exceeding benchmark screening rates for developmental disabilities, breast cancer and lead. Utah’s colorectal cancer social marketing campaign warns the physical symptoms of colon cancer don’t appear early on and that people age 50 and older should be tested regularly.

*Editor’s note: This is the first of a two-part story on efforts in the states to hold down health care costs while improving quality. The second part of the story, to appear in the July/August issue of State Legislatures, will include information about patient safety, drug monitoring programs, medical malpractice reform, wellness in the workplace, and approaches to help patients make healthy choices and good medical decisions.*

Learn more about state efforts to curb health costs at [www.ncsl.org/magazine](http://www.ncsl.org/magazine).
Confronting Costs

Medicaid spending is at the top of many legislative agendas.

BY MELISSA HANSEN

Even in this era of partisan deadlock over many issues, there is one thing almost all legislators can agree on: Medicaid is overwhelming state budgets.

The state’s share of the joint state-federal program accounts for an average of 15 percent of state general funds and about 21 percent of total state spending when federal funds are added to the mix. In 2009, the states’ share of the Medicaid tab reached $123 billion, a hefty expenditure, given that states faced $117.6 billion in budget gaps that year.

The fiscal situation is brighter now, but budgets remain under pressure, and Medicaid costs continue to grow.

“We need to be looking at Medicaid,” says Oklahoma Representative Mark McCullough (R). “We’ve added more than 204,000 people to our Medicaid program over the past five years and have more than doubled our state share of Medicaid expenditures in the last 10 years. This current trajectory is totally unsustainable. Our costs on a chart are at a 45 degree angle.”

Ten states—California, Colorado, Louisiana, Maine, Maryland, North Carolina, Pennsylvania, Tennessee, Washington and West Virginia—were forced to make mid-year revisions to close 2012 Medicaid budget gaps. The states’ fiscal situation, coupled with the opportunities and challenges in federal health reform, have pushed Medicaid cost containment to the top of many legislative agendas.

Oklahoma is opposed to the federal health reform law, says McCullough, “but the best thing it did was to get everyone talking about health care and Medicaid.”

No More Low-Hanging Fruit

Cutting benefits, limiting eligibility and reducing provider reimbursements have been the three “usual suspects” used by states for short-term Medicaid cost containment. Federal health reform requires states to maintain their March 2010 Medicaid eligibility levels, however, eliminating a key tool from the legislative arsenal. At least 46 states made a benefit or provider reimbursement change in 2012 to reduce program costs.

The 2014 expansion of Medicaid required by the Patient Protection and Affordable Care Act makes everyone with an income at or below 133 percent of the poverty level—$23,050 for a family of four in 2012—eligible for the program. That expansion could be derailed by a challenge to the federal reform law now being considered by the U.S. Supreme Court. A ruling is expected later this month.

If the expansion is upheld, it will add more than 16 million people to the Medicaid rolls, increasing the total cost of the program by about 8 percent over projections of Medicaid spending without the impact of federal health reform. Almost all of this increase is projected to be paid by the federal government ($434 billion, or about 95 percent). Nevertheless, states will continue to face the dual challenges of carrying out health reform while coping with uncertain fiscal conditions.

As in the private health care market, easy solutions to contain costs are elusive. States are experimenting with some promising approaches, however, in an effort to lower costs over time, including coordinating patient care, changing how providers are paid, focusing on high-cost patients, and reducing fraud and abuse.

Maintain and Contain

Short-term fixes to Medicaid, including cuts in services, won’t do the trick. Lawmakers need to focus on how to bring down the costs of Medicaid for the long term, says Vermont Representative Mike Fisher (D).

“The Medicaid budget and the cost of health care are eating us alive, year after year,” he says. “Vermont had to do something to reduce the rate of growth in Medicaid and in our entire health care system. These costs are overwhelming every budget, from the individual family level to the state level.”

Vermont’s Blueprint for Health—an initiative to transform health care delivery by creating medical homes statewide—focuses on providing the right level of care at the right time in the right setting.

“Having a patient in a hospital bed for too
long or in the emergency room too often or using an ambulance many times is not only costly, it is also poor quality care,” says Fisher. “Containing costs was only one motivator for our reform. An equal motivator was improving the quality of care for all Vermonters.” Vermont is also moving forward establishing Green Mountain Care, which is a state-funded and managed insurance pool that would provide near-universal coverage to residents. The state’s expectation is that it will reduce health care spending over time.

Like Vermont, at least 47 other states are turning to medical homes—an approach in which a team coordinates all aspects of care for a patient—as a way to improve care and reduce the costs in their Medicaid programs.

Bang for the Buck

Overhauling Medicaid is no easy task and requires everyone involved to buy into the solution.

“Start with the steps people can agree on,” says Scott Leitz, Minnesota’s assistant commissioner for health care administration at the Department of Human Services. “It is important to build trust between providers and Medicaid. Providers need to know they are supported, and states need to know they have willing partners and are going to save money.”

Leitz says part of building trust is changing how Medicaid pays providers. Some states are beginning to reward the value, rather than the volume, of health care services. Minnesota, for example, moved away from the common fee-for-service payment model to ones that reward efficient and effective care, such as medical homes and accountable care organizations. These are based on the belief that better coordination of care will lead to more logical and efficient use of services and better health for patients.

“By adopting payment approaches that are more rational, states can reduce Medicaid costs over the long run and help stabilize the program,” Leitz says.

Sharing the Risk

In addition to changing how providers are paid, state lawmakers are exploring new ways to work with traditional partners such as managed care organizations. Minnesota, for example, moved to a competitive bidding for contracts with managed care organizations and saved the state $175 million this year. All that was needed, Leitz says, was a more competitive environment to produce the savings.

Most states are considering teaming up with managed care organizations to expand services to more high-cost patients with the hopes of reducing cost of care for these people.

Nationally, about 71 percent of all Medicaid beneficiaries are enrolled in managed care organizations. The most expensive beneficiaries—the elderly and dis-
abled who account for 68 percent of Medicaid spending—are traditionally left out of managed care because of multiple health conditions and needs for long-term care. As a result, payments to managed care organizations account for only about 20 percent of total Medicaid spending on services.

The shift to managed care for these patients isn’t a silver bullet to contain cost, according to Allan I. Bergman, president and chief executive officer of High Impact Consulting, which provides Medicaid consulting on behalf of people with disabilities.

“States need to develop a plan based on patients’ needs, but it takes time to develop a managed care contract that meets the extensive provider capacity of specialists and subspecialists of the elderly and people with disabilities,” he says. “The risk of moving too fast is that patient care and health status will suffer.”

Bergman is hopeful states can work with managed care companies to develop an approach based on quality care coordination that will prevent expensive health complications and unnecessary hospitalizations for these groups of patients. “Most states spend a considerable amount of money on Medicaid. If states are willing to restructure how they invest Medicaid dollars, states could get a better return on investment in about two years—better health outcomes and quality of life at a reduced cost.”

Even if a state is willing to restructure Medicaid, barriers remain to wide-sweeping changes, McCullough says.

“States and the federal government need to have a much, much more meaningful and serious conversation about the future of this important program,” he says. “Although waivers are allowed, in practice, it is very difficult to get meaningful flexibility from CMS. Medicaid is off-putting to most legislators, who are already swamped with many and varied issues, but states can no longer afford to avoid the complexities of wading into this subject.”

Medicaid Fraud Fighters

States have historically dealt with Medicaid fraud and abuse using the “pay and chase” model. They pay Medicaid claims first and then chase suspected wrongdoers later.

Increasingly, however, states are focusing on preventing and detecting possible fraudulent claims early on. Washington state, for example, passed legislation that tries to anticipate fraud and improve efficiency and cost savings by moving away from the old model.

Kentucky uses a centralized processing system to screen providers against several state and federal databases prior to enrolling them in its Medicaid program.

Florida, Illinois, Kansas, New York, Texas and Utah have established independent offices to lead Medicaid integrity efforts. Michigan’s Legislature is currently considering this option. In 2010, New York’s Medicaid inspector general recovered more than $450 million in inappropriate payments, about 1 percent of the state’s total Medicaid spending. State recovery rates range from less than 0.01 percent to around 1 percent.

The federal government also is getting in on the action to prevent Medicaid fraud and abuse before it occurs. The Patient Protection and Affordable Care Act created new tools and requirements to help states head off fraud.

To prevent fraudulent providers from entering the system, the act requires more rigorous screening, such as license verification, medical site visits and criminal background checks before enrolling certain providers. States are now prohibited from paying providers and suppliers who are under investigation for fraud, and risk losing federal Medicaid matching funds for doing so.

The federal law also has new reporting requirements to help identify providers who defraud Medicaid in multiple states. When a state bans a provider from its Medicaid program, state officials must enter the information into a web database searchable by other states. This database contains data on providers excluded from Medicare as well, and ensures that those guilty of fraud in one state are unable to participate in Medicaid in another state.

Not all efforts required by the law to keep costs down are focused on prevention, however. States must contract with a private entity to regularly audit providers, review claims and identify improper payments after they have been paid.

The act also requires an initial state investment for some programs. Federal matching money is available to help states develop the necessary technology and infrastructure to identify and recover overpayments. For example, a 90 percent federal match is available for the design, development and installation of new claims coding methodologies, and a 75 percent match is offered for system maintenance and operations.

At least 19 states have introduced legislation to fight fraud and abuse in Medicaid, including nine states with wide-ranging bills to comply with various federal health reform requirements. Two states have enacted laws in response to requirements outlined in the Patient Protection and Affordable Care Act.

— Megan Comlossy, NCSL
Simon Johnson, a former chief economist for the International Monetary Fund, currently is a professor at MIT’s Sloan School of Management and a senior fellow at the Peterson Institute for International Economics.


State Legislatures: What do you see as the greatest risks to the economic recovery in the United States?

Johnson: I think the European situation remains fragile, and they could have a big blowup. That would really damage us. That’s the No. 1 risk.

SL: How specifically would the crisis in Europe affect the U.S. economy?

Johnson: It will be through exposure of our banks to their banks primarily. They have some very large banks and our banks don’t have much capital so they’re vulnerable to losses.

SL: What do you see as the single, most important thing Congress could do to get the country on the right fiscal track?

Johnson: I don’t think they should extend the Bush-era tax cuts due to expire at the end of this year. That would provide not all the revenue needed to make fiscal adjustments, but a lot of it. And it’s true the economy might be weak at the end of this year. But you could eliminate the tax cuts and then do a temporary payroll tax cut tied to employment relative to the population. So as the economy recovers that payroll tax cut would fade away. That combination would give you the fiscal adjustment we need to make in the next two decades, combined with enough support for the economy so you don’t have a double dip.

SL: What do you think are the best economic ideas coming out of each party?

Johnson: I don’t see a lot of economic ideas coming from either side. On the one hand, the GOP wants to cut taxes. This is just not a good time to cut taxes. You have budgets and shortfalls projected so you need to strengthen the revenue base. The Democratic side really doesn’t want to engage people on what the government does. The federal government mostly manages Social Security, Medicare and the military. But if you don’t have a lot of engagement with people you can’t explain that cutting discretionary spending is really quite small and not enough to make a difference.

SL: What do you think the unemployment rate will settle over the next several years?

Johnson: I think it’s to be determined. I think we could well go back to the way we were before, but it is true that the longer people are unemployed, the harder it is for them to get and keep a job. You lose skills and you lose a pro-work attitude so. Some of the damage will be lasting.

SL: How can state legislators sustain employment with this economic recovery?

Johnson: I think it is difficult because the states are really much more affected by what happens at the federal level. I think the key thing is to buffer the adjustment. If you feel spending needs to come down or taxes need to go up, do that gradually rather than doing something that is too difficult for the local economy to absorb. At least at the federal level, we think there is time to make a fiscal adjustment. We are saying it isn’t a major crisis. No one should panic, but we should get started and we should make ourselves credible.

SL: Are there lessons we should take from the Great Recession?

Johnson: We should have learned booms are transitory and we shouldn’t overspend. But that’s very hard to tell people when they can get re-elected by cutting taxes or raising spending. I think we have to approach good times with suspicion and bad times with as much buffering as we can.
provide. The idea that somehow we’ve grown away from being cyclical is not right.

SL: State governments face a lot of challenges. Which are the toughest to solve?

Johnson: I think health costs are a problem for all of us. Both the private sector and the government struggle with that. It is hard for any individuals in the government to tackle that conclusively.

SL: What are the real-world effects on government and individuals if the deficit isn’t meaningfully reduced in the next decade?

Johnson: It’s the risk of a fiscal crisis down the road when interest rates go up sharply because investors prefer not to hold as much U.S. Treasury debt as they currently do or they want a higher interest rate for doing so. No one can say when that event might happen. It doesn’t take a lot to get the fiscal house sufficiently in order to dramatically reduce that risk. It’s really a federal-level decision. People at the state level should be lobbying for fiscal responsibility and really bringing the deficit and the debt under control.

Editor’s note: These interviews are part of a series of conversations with opinion leaders. They have been edited for length and clarity. The opinions expressed are those of the interviewees, and not of NCSL.
“We’re very proud of the way government is now functioning in Albany. ...a breath of fresh air to all of us.”
—New York Assembly Speaker Sheldon Silver (D) describing this year’s smooth budget process, in The New York Times.

“The real problem is that Massachusetts has first-colony envy.”
—Virginia Representative Morgan H. Griffith (R), to the Washington Post, questioning the accuracy of Massachusetts’ claim that Salem is the birthplace of the U.S. National Guard.

“It conjured up a lot of things for me that weren’t very comfortable—not fear, but sometimes we get to thinking things are settled.”
—Idaho Representative Cherie Buckner-Webb (D), the state’s only African American lawmaker, after receiving a mailing from the Ku Klux Klan, by the Associated Press in the Idaho Statesman.

“I was that poor minority child growing up. If it weren’t for the threat of being held up, I might not have put that extra effort forward so that I could move on to the next grade.”
—Colorado Representative Robert Ramirez (R) during debate on a bill to require schools to hold back 3rd graders who can’t read, in the Denver Post.

“Has anyone seen North Dakota’s Capitol? It’s like State Farm calling: ‘We want our building back.’ It’s embarrassing.”
—Minnesota Representative Matt Dean (R) referring to his neighbor’s unusual skyscraper Capitol building, by the Associated Press, during a debate on a $221 million bonding bill to fund repairs to the Minnesota Capitol. It failed by one vote.

“Here they are, criticizing, and they can’t even fix their state Capitol.”
—North Dakota Representative Blair Thoreson (R), in response to Dean’s comments above. He joked that his state’s $1.5 billion in reserves could be used to buy the Minnesota Capitol outright.

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