Legally Green

INSIDE:

Health Exchanges
Energy Efficiency
Environmental Health
Reliable Electricity & Clean Air

How can we generate more low-carbon electricity that is affordable while creating more American jobs?

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.
14 **LEGALLY GREEN**  
*By Suzanne Weiss*  
The nation is watching closely as Colorado and Washington put new pot laws in place.

20 **IT'S GO TIME FOR HEALTH EXCHANGES**  
*By Martha Salazar*  
States have only a few months to get their health insurance exchanges up and running.

24 **THE POWER OF EFFICIENCY**  
*By Glen Andersen*  
You may not notice it, yet it’s the nation’s most abundant energy resource.

28 **WHAT YOU SHOULD KNOW ABOUT ENVIRONMENTAL HEALTH**  
*By Doug Farquhar*  
Salmonella and Listeria and E. coli—oh my!

31 **SHORT ANSWERS TO LONG LINES**  
*By Wendy Underhill*  
Lawmakers are working now to improve voters’ experiences at the polls.
The Kansas State Capitol in Topeka was a work in progress for a long time—and still is. Construction began in 1866 and after having to replace the foundation, the predominantly French Renaissance building was completed in sections spanning 37 years. The central, domed section was added in 1903, connecting the east and west wings. In 2002, Richard Bergen’s bronze sculpture of a Kansas warrior shooting his arrow toward the North Star was placed on top of the dome. Called Ad Astra from the state motto, “Ad astra per aspera” (“to the stars through difficulties”), the statue was selected to honor the state’s American Indian heritage. Fun facts: There are 11 fireplaces on the second floor, a hand-operated “cage” elevator in the east wing and several movies were filmed at the Capitol, including HBO’s “Truman.” The capitol is currently undergoing a costly and sometimes controversial renovation, but work is expected to be complete in early 2014.

—From “A Celebration of State Capitols” by Richard R. Gibson, the Kansas Historical Society and Kansas.com
It’s a “Weakovery” This Time Around

We’ve heard it time and again: The Great Recession was the longest and worst economic downturn since the Great Depression. But what about its recovery? Unlike previous ones, which experienced robust upturns, the post-Great Recession period feels like a slow recuperation—a “weakovery.”

One way to compare recoveries is to look at how long it takes for state general fund revenue collections to return to pre-recession highs. In contrast to previous recoveries that saw revenues return to peak levels within one or two years, they are only now inching their way closer to the highs experienced in fiscal year 2008. They are projected to finally return to peak levels in FY 2013—five years after they began their precipitous decline.

Another way to demonstrate how sluggish this weakovery has been is to compare the current growth rate of state general fund revenues to past rates. For a majority of states, growth rates since the end of the Great Recession are lower than those from previous recoveries. Similar or higher growth rates experienced in a few states simply may be due to changes states made to their tax rates, or they may reflect the fact that revenue collections had to climb from greater depths after the Great Recession.

—Todd Haggerty

Growth Rate of General Fund Revenues After the Great Recession Compared to Previous Recoveries

Source: NCSL

Discover more NCSL resources on state budgets at www.ncsl.org/magazine.
“Legislatures are the single most important public policy arena at a time when the federal government has been gridlocked.”

Bill Pound, executive director of NSCL, discusses the crucial role of state legislatures and NCCL’s mission to help them succeed.

**State Legislatures:** Voters in November elected some 6,000 state legislators. Why are state legislatures important?

**Bill Pound:** Because they exemplify representative democracy. They are the chief institution in our democratic system and they embody the voice of the people. Beyond that, legislatures are the single most important public policy arena at a time when the federal government has been gridlocked. The bulk of our major public policy issues comes out of the state legislatures and are resolved there.

**SL:** What does NCCL do for legislators and why should they care about it?

**BP:** We provide a wide range of services to the 50 state legislatures and legislative staff. We engage in information sharing on a major scale, so we’re able to prevent the reinvention of the wheel in the 50 states. We run one of the largest and, I think, most high quality websites. We also advocate for state legislatures in Washington, D.C., representing them in the committee process in Congress based on what they want. We work continually to improve the operations of state legislatures in the United States and have even consulted with governments in other parts of the world.

**SL:** Has NCCL’s original vision changed through the years?

**BP:** No, although I think it has probably expanded a bit. We started with the mission to improve state legislatures. We train legislative staff, and to some extent legislators, in how best to be effective in their jobs. We develop and embody the state voice in our federal system. It’s changed somewhat in this era of social media, and with the much greater demands placed on state legislatures today than 38 years ago when NCCL was founded. We’ve had to remain nimble and responsive.

**SL:** Why is NCCL located in Denver?

**BP:** The decision was made when the organization was created that it wouldn’t be inside the beltway in Washington, D.C. Denver was chosen largely because it was a capital city that had a good transportation and communications infrastructure.

**SL:** With partisanship so strong, do you see any hope for the parties to come together and find solutions—at least at the state level—and can NCCL play a role in that?

**BP:** The parties come together more often at the state level than at the federal level. Every state enacts a budget every year—something we don’t always see at the federal level. The middle ground can be found much more in state legislatures than in our national politics, especially in recent years. What happens at the national level regarding partisanship is hard to determine, but I do believe state legislatures will still be able to govern and to develop good public policy. If you look at what’s happened in the last biennium, you can find example after example of that in states with divided government, where the houses are controlled by opposing parties or the legislature and the governor may be from different parties. You would see even in those instances that, by and large, there is very successful governing going on.

**SL:** NCSL advocates for states in Washington, D.C. How effective has the organization been?

**BP:** We’ve had a good a number of successes and some failures. We tend to oppose federal preemption of state authority and we’ve had varied success in that over the years. We also oppose unfunded federal mandates; in particular, mandates that require the expenditure of money but are not accompanied by the needed resources.

**SL:** Is NCCL a politically partisan organization?

**BP:** NCSL is a bipartisan organization. Our members are the elected legislators and appointed staff. Legislators are elected for the most part as either Democrats or Republicans, so they are partisans. But the organization itself is bipartisan; our bylaws assure us that. The presidency rotates between the two parties yearly, and we have a balance between the parties on our governing board at all times. We strive very hard to be a bipartisan organization.

**SL:** Does NCSL write model legislation?

**BP:** Generally we do not. We take policy positions primarily on federal-state issues. We do occasionally develop model legislation. Probably the most dramatic example in recent years has been the Marketplace Fairness Act now being considered in Congress. It has two pieces: One is getting Congress to grant states the authority to collect taxes on Internet and electronic sales under the commerce clause of the U.S. Constitution. The second piece involves removing obstacles for the private sector by creating a collection mechanism that would be relatively uniform in the states that decide to join the model.
**SL:** What’s the role of legislative staff in NCSL?

**BP:** NCSL is a unique organization in that staff play a major role in its governance. Our executive committee has a two-to-one legislator-to-staff ratio. We serve as the professional organization for legislative staff, who are organized by the functions they perform, like bill drafting, fiscal analysis, research, auditing and the like. We do a lot of training in those areas and by the same token, staff play a very important role in helping us develop our services and providing direction to us.

**SL:** What advice would you give new legislators?

**BP:** The first piece of advice is to learn the rules. That always serves well. I think a second, very valuable piece of advice is to keep your word. Beyond that, lawmakers should look at the resources available to them, and not just in their own states—resources like legislative staff, the executive branch, the lobby and organizations like NCSL. In particular, I believe we are the premier organization in providing information and assistance to legislators, and they will be better at their jobs by taking advantage of that.

**SL:** What’s a recent book you have enjoyed?

**BP:** Actually, I’ve read a couple of books that sound like a busman’s holiday here. The most recent one is Minnesota Miracle, which covers Minnesota in the 1970s when the Legislature enacted many pieces of legislation still effective today that have shaped the state. It takes place in the context of the relationship between the national and state governments, and I think there are a good number of lessons that may be drawn from it.

**SL:** When did you develop your interest in state-level politics?

**BP:** I’ve always been interested in politics. I majored in political science. I taught it at one time, and I’ve always been particularly interested in the legislative branch.

**SL:** What’s the big glass case filled with baseballs on the wall of your office all about?

**BP:** Each year NCSL hosts a legislative summit, the largest gathering of legislators and staff in the country. Several years ago members of the staff—unbeknownst to me—got in the habit of having every prominent speaker sign a baseball. There are all sorts of people, ranging from Newt Gingrich and Nancy Pelosi to Doris Kearns Goodwin and Bill Gates.

---

**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.
IDaho RepublicanS ouSTed Their pOwerpUL Three-term SpeaKer
during a closed caucus meeting in December. Representative Lawrence Denney became the first leader in 30 years to be unseated by his own party. The caucus elected Representative Scott Bedke, who was assistant majority leader. Denney wielded his power to try defeat six caucus incumbents with PAC money contributed by his members, including caucus chair Ken Roberts. In one case, he stripped a GOP colleague from his committee vice chairmanship after he filed an ethics complaint about another member. Two other members were removed as committee chairs for reportedly voting too independently.

Vermont Representative greg Clark (R), praised for his passion for education, politics and his sense of humor, was struck and killed by a passing car after he stopped to clear his windshield. He was 65, and had just been re-elected to his sixth term in the House. Clark taught high school social studies and was on his way to school when the accident occurred. Clark had a long career as a public servant, serving on the school board and as deputy mayor of his hometown, in addition to his legislative service and teaching occupation. “He will be missed, especially his humor, which he used adroitly to diffuse difficult situations, but also to heap coals of fire on fools,” said his colleague on the Education Committee, Representative Duncan Kilmartin (R). Flags flew at half mast at his high school.

Michigan Representative Fred durHal (D), a member of the House Appropriations Committee, became the second legislator to announce a run for mayor of Detroit. Representative Lisa Howze (D) declared her intentions earlier last year. Durhal was an aide to former Detroit Mayor Coleman Young and U.S. Representative Barbara Rose Collins, who also served in the Michigan House. The two lawmakers join a field of five people hoping to unseat former NBA legend Dave Bing.

It’S a coup or a coaliTion, depending on your perspective, but New York’s new Senate leadership arrangement has taken a surprising turn. Democrats won control of the Senate in November by a three-seat margin, but they’re in a functional minority. Six Democrats aligned with the Republicans in a power-sharing agreement that makes GOP Senator Dean Skelos and Democratic Senator Jeffrey Klein joint leaders, alternating as Senate president every two weeks. Klein was the second in command in his Democratic caucus before he left to form the breakaway Independent Democratic Conference two years ago. The Republicans got the agreement rolling when they convinced newly elected Democrat Representative Simcha Felder to side with them.

Representative will weatherford (R) was sworn in as the youngest speaker of the House in recent Florida history. The 33-year-old new speaker is the son-in-law of former Speaker Allan Bense, and will preside over a chamber where the GOP dominates 76-44. But Republicans lost five seats and with them their veto-proof majority and the man chosen to succeed Weatherford in 2014, Representative Chris Dorworth. Weatherford is a former defensive end at Jacksonville University with a reputation for bipartisanship.

Two openly gay lawmakERS have been eLecTed SpeaKERS. Both are Democrats. Oregon Representative Tina Kotek and Colorado Representative Mark Ferrandino will wield the speakers’ gavels in their states. Democrats won the previously tied Oregon chamber, and Kotek is the first openly lesbian lawmaker to lead any chamber, according to the Gay and Lesbian Victory Fund. Rhode Island Speaker Gordon Fox and California Speaker John Perez are also openly gay.

Representative Paul Thissen (DFL) is the new speaker of the House in Minnesota. First elected in 2002, Thissen served as minority leader before the DLF won back the House from Republicans in November.
Traumatic injuries—from incidents like car accidents, gunshot wounds and falls—are the No. 1 killer of Americans under age 45. Receiving timely treatment at a trauma center—hospitals designated to treat severe physical injuries with specially trained staff and appropriate diagnostic and treatment tools—increases survival rates by 25 percent.

There exists a major imbalance in Americans’ access to trauma care, according to the latest study reported in the Journal of the American Medical Association. In 2005, although 42 million Americans had a choice among 20 or more high-level trauma centers within an hour of where they were injured, more than 46 million Americans could not have reached even one within an hour.

Policymakers are learning, however, that building more centers does not necessarily lead to better access or better care. In fact, research shows the cost of care can rise and quality can fall when trauma centers are located too close to each other. Competition among nearby trauma centers can result in fewer patients per center, making it more difficult to recoup high fixed costs. It also limits the number of opportunities for surgeons to gain experiences with specific types of injuries.

An over-saturation of trauma centers, mostly in large cities, has led to an accelerating rate of closings in recent years, disproportionately affecting African-American communities and the uninsured, according to a 2011 study in Health Affairs.

Trauma centers also cost much more to operate than conventional hospitals. Level I trauma centers require general surgeons to be on the premises 24 hours a day and specialists to be promptly available, while other hospitals require fewer highly specialized staff and equipment. These high costs have resulted in centers having to close in rural areas, where they already are scarce. In fact, some Americans actually had to travel farther to the nearest trauma center in 2007 than they did in 2001.

This is one area where there are no regulations or funding from the federal government, which gives state legislators the opportunity to create efficient and effective trauma systems themselves.

The Louisiana Legislature, for example, created an Emergency Response Network in 2004 to develop a statewide system of coordinated care for trauma patients. In 2012, lawmakers established a trauma registry to help the network achieve its goal of preventing unnecessary deaths from trauma, time-sensitive illnesses, large-scale emergencies and natural disasters.

In 36 states, the legislature has given a government agency, such as the department of health, the statutory authority to designate trauma centers. The trauma system as a whole, however, varies greatly among states.

In another 11 states, trauma centers are designated through administrative or regulatory code or by some other means. Hawaii, Idaho, Rhode Island and Vermont are the only states without a process to designate trauma centers officially.

—Hollie Hendrikson

For more information about trauma centers, go to www.ncsl.org/magazine.
B eing unemployed may make a person unemployable, according to a recent survey of 1,500 hiring managers by Bullhorn, a recruiting software and services company. Thirty-one percent of the recruiters surveyed said being unemployed for more than a year was the greatest impediment to finding a job, and 17 percent said being jobless for even six months would hurt a person’s chances of being hired.

The Bureau of Labor Statistics reports that more than 12 million people are looking for jobs, and close to 5 million have been unemployed for 27 weeks or more, which classifies them as long-term unemployed. With a glut of candidates on the job hunt, many employers resort to thinning the applicant pool by refusing to consider anyone who is unemployed. It’s become common practice in job postings to require applicants to either have a job or have left one only recently.

About a third of the states have considered legislation to outlaw that practice, according to NCSL. Most bills seek greater fairness for out-of-work job seekers by prohibiting help wanted ads from listing current or recent employment as a requirement for applying.

New Jersey in 2011 became the first state to pass a law prohibiting discrimination against the unemployed, banning job advertisements that include current or recent employment as a job qualification. California, Oregon and the District of Columbia followed in 2012 by passing similar laws. California’s legislation was ultimately vetoed by Governor Edmund G. Brown (D), who said the bill’s language became confusing as it progressed through the legislative process.

In all, 17 states and the District of Columbia considered bills in the last two years to prohibit discrimination against the unemployed in either hiring practices or in advertising job openings.

Opponents argue such laws could hamper employers from being able to legitimately inquire about an applicant’s employment history.

—Jeanne Mejeur

Hiring Discrimination Legislation in 2011 and 2012

| States that enacted anti-discrimination legislation |
| States that considered anti-discrimination legislation |
| Vetted by governor |

To find out more about trends in unemployment, go to www.ncsl.org/magazine
BY THE NUMBERS

A Storied Holiday

The third Monday of February is not actually “Presidents Day.” It is still officially George Washington’s Birthday, which is Feb. 22 and became an official holiday in 1880. Congress tried to add Abraham Lincoln’s Feb. 12 birthday and rename it Presidents Day while debating the Uniform Monday Holiday Bill nearly a century later. Washington fans cried foul, and the name was never officially changed when the new law moved several federal holidays to Mondays in 1971. As is the American way, the retail industry embraced the Presidents Day moniker in an effort to make it a shopping holiday as well. In celebration, here is a numerical look at some interesting facts about a few of our 44 presidents.

15
Number of children fathered by John Tyler

20
Number of cigars Ulysses S. Grant smoked a day, before dying of lung cancer in 1877

6’ 4”
Height of Abraham Lincoln

300 lbs
Weight of William Taft

14
Shoe size of Warren G. Harding

133
Words in George Washington’s inaugural address, the shortest ever

8,578
Words in William Henry Harrison’s inaugural address, the longest

8
Presidents who never attended college

69
Age of Ronald Reagan, the oldest president inaugurated

42
Age of Theodore Roosevelt, the youngest

8
Presidents who died while in office

3
Presidents who died on July 4th
(Thomas Jefferson, John Adams and James Monroe)

1
President born on July 4th, Calvin Coolidge

Sources: whitehouse.gov, national-geographic.com, nps.gov, facts.randomhistory.com, mtstandard.com, stonescryout.org and littleknownfactsshow.com

Politically Charged Plates

Americans enjoy expressing themselves through their cars, and specialty license plates offer one way to voice support for a particular organization or interest. Renderings of a moose and fish adorn the “Support Wildlife” plate in Maine, for example, while an image of a bicyclist illustrates the “Same Roads, Same Rights” message on a Missouri plate.

State lawmakers have generally been supportive of the practice. All states allow some type of specialty plate, from seven in Nebraska to 700 in Maryland. But the states vary in their approaches to approving the plates. Washington has a special review board, while Ohio requires the director of the Department of Motor Vehicles and the legislature to decide. Most states require some kind of show of support, along with a fee, for a specialty license plate to be issued.

Profits from the plates typically go to the organization or interest they represent. Colorado’s “Share the Road” plates, for example, raise money to educate cyclists and motorcyclists about the rules of the road and safe riding. California’s “CalAg” plates support future farmers. Plate fees can raise significant amounts of money for nonprofits. Specialty plates raised $33 million in one year in Florida, including approximately $300,000 for the Hubbs Florida Ocean Fund from the “Discover Florida’s Oceans” plate. Since 1999, specialty plates featuring a black bear have raised more than $3 million to support the Great Smoky Mountains National Park in North Carolina.

As specialty plates have become more popular, they also have become more political—even contentious—in a few states. In North Carolina last December, a federal judge ruled that issuing “Choose Life” plates without a pro-choice alternative “constitutes viewpoint discrimination in violation of the First Amendment.”

In Indiana, policymakers are in their fifth year of grappling with the constitutionality of the state producing plates with messages ranging from “In God We Trust” to rainbow-colored hands supporting the gay-lesbian-bisexual-transgender Indiana Youth Group. The debate has expanded to whether it is a legitimate role of the state to raise funds for organizations, and whether it should subsidize those organizations when fees don’t fully cover the costs of the plates.

To avoid such controversies, lawmakers in Arizona and New Jersey have considered, but not yet passed, legislation restricting the number or types of specialty license plates.

—Jason Klippert and Anne Teigen
TEACHER PROTECTION

Students who bully teachers online are committing a crime under North Carolina’s School Violence Prevention Act of 2012. The law—which adds to a 2009 law protecting students—makes it a misdemeanor for students to post items online “with the intent to intimidate or torment a school employee.” The law is believed to be the first in the country to make student-on-teacher cyberbullying a crime. “Certainly if you put something in print that could damage the reputation and character of a teacher then there should be some sort of penalty,” the bill’s sponsor, Senator Tommy Tucker (R), told The News & Observer. Critics, including the American Civil Liberties Union of North Carolina, are concerned the law is unclear on what constitutes cyberbullying or intimidation, and that it could stifle free speech.

PAY RAISE

Minimum-wage workers in New Jersey are scheduled to get a raise under legislation sponsored by Assembly Speaker Sheila Oliver (D), but lawmakers expected Governor Chris Christie (R) to veto it. The wrinkle is that the bill not only raises the hourly minimum wage from $7.25 to $8.50, it includes annual cost-of-living increases, which the governor said he might not support. If the bill is vetoed, the Democratic-led Legislature plans to put the wage increase on the ballot in November. If it passes, at $8.50, New Jersey’s minimum wage would be the nation’s third highest, behind Washington at $9.19, and Oregon at $8.95. New Jersey is currently among 22 states that match the federal minimum wage of $7.25. At least half the states considered raising their minimum wages in 2012, and 10 states did so (Arizona, Colorado, Florida, Missouri, Montana, Ohio, Oregon, Rhode Island, Vermont and Washington).

BEWARE OF HACKERS

“For $25,000, we wouldn’t be here,” South Carolina Senator Kevin Bryant (R) said after learning a dual password system costing that much might have prevented hackers from stealing tax data. The state Department of Revenue breach, which affected nearly 6.5 million people and businesses, is believed to be the largest hacking incident at a state agency. After the breach, the department installed a dual password system—required by the Internal Revenue Service for state agencies that access federal tax records remotely. Meanwhile in Utah, in response to a hacking incident last year, Senator Stuart Reid (R) introduced a bill that would require health care providers to disclose on privacy notices how they share patients’ personal information. The information of some 780,000 patients was stolen—along with about 250,000 Social Security numbers—when hackers broke into a state Medicaid server. The bill does not limit providers’ access to the server, but is meant to educate people about where their personal information is stored.

EITHER WAY, STATES PAY

States grappling with whether to expand their Medicaid programs under the Patient Protection and Affordable Care Act (since the U.S. Supreme Court ruled last year that they have the option) will end up paying more for Medicaid either way. According to a report conducted by the Urban Institute and sponsored by the Kaiser Commission on Medicaid and the Uninsured, state spending will increase by $76 billion, or nearly 3 percent, over the next decade if all 50 states expand Medicaid to people with incomes up to 133 percent of the federal poverty level. In the same scenario, federal spending on Medicaid would increase by 26 percent. The report also says states will receive more than $9 in federal money for every $1 they spend to cover low-income residents. Even if no state expands, state spending would increase by about $68 billion due to the fact that, as simpler enrollment methods become available, people who already qualify, but are not enrolled, will register for the program.

MORE CLASS TIME

Nearly 20,000 students at 40 schools in Colorado, Connecticut, Massachusetts, New York and Tennessee, will be spending more time in school this year. The three-year pilot program will add 300 hours to school calendars in an effort to boost student achievement. Schools will decide whether to lengthen the school day or add days to the school year. States participating in the TIME (Time for Innovation Matters in Education) Collaborative are receiving technical and financial support from the National Center for Time & Learning and the Ford Foundation, and have all received waivers from the No Child Left Behind Act. U.S. Education Secretary Arne Duncan supports more classroom time, but a report from the National School Boards Association’s Center for Public Education points out that students in some high-performing countries spend less time in the classroom than their U.S. counterparts.
SECU RING STUDEN T LOAN PAYBACK

Federal student loan payments would be deducted from borrowers’ salaries under legislation championed by U.S. Representative Tom Petri (R). The Wisconsin lawmaker wants to ensure that former students with jobs repay their loans as overall student loan debt has reached close to $1 trillion. The bill would apply to loans secured after the law takes effect and would require employers to withhold money from borrowers’ paychecks, like they do income tax. A formula based on income would determine the payments, starting with 15 percent of the employee’s gross income, with adjustments made for economic hardships and other circumstances.

DOWN WITH TRAFFIC DEATHS

Traffic fatalities on America’s roads dropped to 32,367 in 2011, 1.9 percent fewer than in 2010 and the lowest number since 1949. Deaths per vehicle miles traveled was at its lowest level ever, according to the U.S. Department of Transportation. Fatalities fell by 4.6 percent for occupants of passenger cars and light trucks (including SUVs, minivans and pickups) compared to 2010, while deaths in crashes involving drunken drivers dropped 2.5 percent. The DOT’s National Highway Traffic Safety Administration attributed the good news to better technology and education, but cautioned that distracted driving remains a problem. People killed by distracted driving increased by 1.9 percent between 2010 and 2011. In addition, fatalities increased by 20 percent for the occupants of large trucks, 8.7 percent for pedal cyclists, 3 percent for pedestrians and 2.1 percent for motorcyclists.

SUPREME IGNORANCE

They’ve declared the Affordable Care Act constitutional. They are deciding whether to take up the issue of gay marriage. They are the justices of the U.S. Supreme Court, yet two-thirds of Americans can’t name a single one of them, according to a recent survey by FindLaw.com, a legal information website. Thirty-five percent of respondents could name one member, and 20 percent could name Chief Justice John Roberts. Only 1 percent could correctly name all nine sitting justices. Antonin Scalia and Clarence Thomas tied for second most recognized, named by 16 percent of respondents. It’s not just justices Americans are ignorant about. Newsweek asked 1,000 Americans to take the official citizenship test last year. While more than 60 percent passed, 29 percent couldn’t name the vice president and 6 percent couldn’t identify Independence Day on a calendar.

AMMUNITION FOR DEBATE

It seems the entire country is debating gun control measures in the wake of recent mass shootings. State lawmakers are considering everything from arming teachers to banning certain types of guns and ammunition, to increasing services for the mentally ill. Even so, a December survey by the Pew Research Center showed that public opinions about gun control have changed only modestly. Forty-nine percent of respondents said they favor gun control while 42 percent said it is more important to protect the rights of gun owners. Opinions were more evenly divided last July, after the Aurora theater shootings in Colorado, when 47 percent favored controlling gun ownership, and 46 percent said protecting gun rights was more important. Back in 2008, only 37 percent favored gun rights, while 58 percent wanted more gun control.
Got pot? Colorado and Washington do. In the wake of last November’s election, the two states face an enormous and once-unthinkable challenge. They must transform the marijuana black market into an above-ground, regulated and taxed commercial enterprise.

Ballot measures approved by voters in Colorado and Washington create the most permissive pot laws in the nation. They not only explicitly allow citizens to use cannabis for recreational purposes, but demand state involvement in establishing systems for the drug to be sold much like alcohol.

Officials in both states have a number of months to craft and enact a regulatory framework for commercial marijuana cultivation and distribution—provided the U.S. Justice Department does not block them from doing so.

The federal Controlled Substances Act of 1970 classifies marijuana as a Schedule I drug, meaning that it has a high potential for abuse and no acceptable medical use, and thus it prohibits the possession, use, purchase, sale and/or cultivation of marijuana.

The federal government may choose to stymie implementation of the new laws, but it cannot make the two states recriminalize marijuana possession. And the states have no obligation to enforce federal marijuana laws. At press time, the U.S. Department of Justice was still reviewing the new state laws.

“We have no model for how to deal with this,” says Colorado Representative Frank McNulty (R), who served as House Speaker in the past two sessions. “Even when Prohibition was repealed, it involved a product that had previously been legal. In this case, we’re really starting from square one.”

In Colorado, Governor John Hickenlooper (D) has pledged to respect the wishes of voters despite his opposition to legalization. Shortly after the election, he appointed a 24-member task force—comprising legislators, cabinet officials, civic leaders, employers, attorneys and marijuana advocates—to work out a variety of policy, legal and procedural issues associated with establishing a commercial marijuana market. The new law includes language requiring the legislature to address some of those issues during the 2013 session, including:

◆ Amending current laws regarding the possession, sale, distribution or transfer of marijuana.
◆ Clarifying the impact of legalization on workplace drug policies.
◆ Establishing new regulations in areas ranging from product labeling to security requirements for wholesale and retail marijuana establishments.
◆ Deciding whether to set a standard for marijuana impairment while driving, similar to the blood-alcohol standard for drunken driving.
◆ Integrating the existing medical marijuana system into the new commercial market.
◆ Submitting a proposal to voters to impose a 15 percent excise tax on wholesale marijuana sales.

McNulty says he and a number of other legislators remain opposed to legalization, but that there likely will be “broad agreement” on implementing the major provisions of Amendment 64. The most contentious issue will be the provision requiring legislators to refer an excise tax proposal to the voters. Many lawmakers on both sides of the aisle question “whether we can be compelled to cast our vote a certain way,” he says.

By contrast, Washington’s voter-approved marijuana law
leaves the legislative branch largely out of the loop, and gives the State Liquor Control Board responsibility for coming up with a system for licensing, regulating and taxing marijuana growers, processors and retail stores.

Washington Senate Republican Leader Mark Schoesler says he doesn’t expect the issue of marijuana legalization to get much attention during the 2013 session.

Legislative leaders of both parties “have committed ourselves to a narrowly focused agenda—jobs, education and the budget,” Schoesler says. “So we’ve got a lot of work ahead of us, and can’t afford to go off on other issues.”

Besides, he notes, “amending the provisions of an initiative approved by voters requires a two-thirds vote of both chambers. That’s a huge threshold, and I just don’t see it happening.”

Schoesler says the biggest question related to implementation of the new marijuana law “is how much leeway the other Washington is going to give us.”

Groundbreakers

Politically and culturally, Colorado and Washington offered fertile ground for legalization advocates. Both have a history with marijuana law reform; more than a decade ago, they were among the first to approve the use of marijuana for medicinal purposes. Denver was the first major city in the country to legalize adult possession of pot, in 2005, and voters in Seattle several years ago passed a measure urging marijuana cases to be the “lowest law enforcement priority.”

But when it came to full legalization, pro-pot activists had a harder fight. Colorado voters in 2006 rejected a measure to legalize up to an ounce of marijuana. And just two years ago, reform advocates in Washington weren’t able to make the ballot with a measure that would have removed criminal penalties for marijuana.

What seemed to make the difference this time around were well-orchestrated campaigns with focused messaging that took advantage of wealthy backers and improbable big-name sup-

Colorado’s Amendment 64

Amendment 64 allows anyone over age 21 to purchase up to one ounce of marijuana from specialty marijuana dispensaries. Selling marijuana without a license, purchasing marijuana from a party who is not licensed and public use of marijuana remains illegal.

Unlike the new Washington law, Amendment 64 also allows residents to grow up to six marijuana plants and keep all of the harvest. The grower may give away as much as an ounce at a time to others “without remuneration.” The measure also allows people to join together to grow marijuana, meaning people could form large-scale cooperatives that produce marijuana by the pound without needing a license as long as none of the marijuana is sold.

The Colorado Department of Revenue, which currently regulates the state’s medical marijuana dispensaries, is tasked with writing regulations for marijuana retailers by July 2013, to begin processing license applications by October 2013 and to start issuing licenses by January 2014.

Amendment 64 requires the state to ask voters to approve a 15 percent excise tax on wholesale marijuana sales, with the first $40 million in revenue every year earmarked for building public schools.

“In Even when Prohibition was repealed, it involved a product that had previously been legal. In this case, we’re really starting from square one.”

COLORADO REPRESENTATIVE FRANK MCNULTY (R)
A Growing Tolerance for Pot

A survey by Public Policy Polling several weeks after the Nov. 6 election suggests that other states may be ready to follow Washington and Colorado’s example. It found that 58 percent of registered voters favor legalizing pot, the highest level of support ever recorded in a national poll. And a strong plurality (47 percent) of respondents said they think the Obama administration should allow Colorado and Washington to establish the ballot measures approved by voters to regulate and tax marijuana like alcohol.

The change in opinion about legalizing marijuana has followed a slow but steady course, rising from 12 percent in a 1969 Gallup poll to a record 50 percent in 2011. While support for legalization dipped a bit during the anti-pot backlash of the “Just Say No” era in the 1980s, it began rising again in the 1990s.

Generational differences in opinions about marijuana legalization reflect generational differences in its use. According to the 2011 National Survey on Drug Use and Health, most Americans between the ages of 12 and 60 have tried marijuana, while most Americans in their 60s or older have not.

Shifts in public opinion are increasingly at odds with the longstanding prohibition on marijuana at the federal and state levels. Of the 1.5 million drug-related arrests in the United States in 2011, 43 percent were for marijuana possession, according to the FBI’s annual Uniform Crime Report. The vast majority of those arrested for simple possession end up paying misdemeanor fines or, in some cases, serving a sentence in county jail, the Marijuana Policy Project has reported.

porters, ranging from travel-show host Rick Steves to veteran law enforcement officials to conservative politicians like former Colorado Congressman Tom Tancredo.

Television ads featured a middle-aged mom saying she didn’t like marijuana, but that taxing it would bring in much-needed money for schools and health care and free up police resources.

“What we figured out is that your average person doesn’t necessarily favor using marijuana, but there’s this untapped desire by voters to end the drug war,” says Brian Vicente, a Denver lawyer who helped write Colorado’s amendment.

Of the $8.5 million raised by legalization advocates, more than half came from billionaire George Soros, a longtime beneficiary of liberal causes, and Peter Lewis, the founder of Progressive Insurance, whose support stems from his use of cannabis for pain relief after the partial amputation of his leg in 1998.

By contrast, opponents of legalization in Washington raised just $16,000. In Colorado, anti-Amendment 64 forces put up a stronger fight, mounting a $690,000 campaign with backing from an evangelical Christian group and businessman Mel Sembler, who runs the Drug Free America Foundation. The major arguments put forth by opponents ranged from the adverse health effects of smoking marijuana to the possibility of the two states becoming “drug meccas.”

Growing Support

“Something is happening, and it’s not just happening in Washington and Colorado,” Andy Ko, who leads the Open Soci-
The biggest question in Washington state “is how much leeway the other Washington is going to give us.”

WASHINGTON SENATOR MARK SCHOESSLER (R)

ety Foundation’s Campaign for a New Drug Policy, told the Associated Press. “Marijuana reform is going to happen in this country as older voters fade away and younger voters show up.”

Another national advocacy group, the Marijuana Policy Project, recently predicted that legalization proposals will be taken up by state lawmakers or placed on the ballot through petition drives in a half-dozen states over the next two years.

First out of the block will be Maine, where Representative Diane Russell (D) is leading the charge to place a proposal on the November ballot that would legalize and tax the sale of marijuana.

“I think the people are way ahead of the politicians on this issue,” Russell says. “Legislators can choose to bury their heads in the sand, or they can do the smart thing and recognize that [legalization] is inevitable.”

Russell believes that one way or the other—through legislative action or citizens’ initiative—Maine voters will have the opportunity to decide the issue in the fall. The chief advantage of having the Legislature take the lead, she says, “is that would give us the opportunity to hold public hearings, to work out the details in a responsible and rational way, and put a well-thought-out proposal on the ballot.”

In addition to their victories in Colorado and Washington last Nov. 6, pro-marijuana advocates prevailed in Massachusetts, where 63 percent of voters approved eliminating criminal and civil penalties related to the possession and use of up to a 60-day supply of cannabis for medical purposes. It also requires the state to create and regulate up to 35 facilities to produce and dispense marijuana to approved patients. Massachusetts became the

The Million-Dollar Revenue Question

A key selling point for marijuana legalization in Colorado and Washington was the potential for a major new stream of revenue in the form of licensing fees and taxes on the cultivation, processing and sale of cannabis. But estimates of the revenues likely to flow into state and local government coffers vary widely.

In Colorado, estimates range from between $5 million and $20 million a year (according to the nonpartisan voter guide prepared by the Colorado Legislative Council) to a high of between $40 million and $60 million (according to a study done by the Colorado Center on Law and Policy, a Denver think tank).

Those revenues would come from two sources: state and local sales taxes that patrons of marijuana stores would pay on their purchases, and a 15 percent excise tax that store owners would pay when buying marijuana from licensed wholesale growers.

Under the provisions of Amendment 64, the first $40 million collected each year from the excise tax would be put toward public-school construction. Any revenues above that would go into the state’s general fund.

Revenue projections are considerably higher in Washington, where marijuana will be subject to a hefty 25 percent tax at every stage—cultivation, processing and sale. A study by legalization advocates during the campaign estimated those taxes would generate up to $500 million a year.

The new Washington law calls for 40 percent of the revenues to go to the state general fund and local budgets, and the remainder to education, health care and substance-abuse programs.

But how much revenue will be generated in the two states depends on a variety of factors, says Beau Kilmer, co-director of the Rand Drug Policy Research Center: the demand for legal marijuana; the price of marijuana, which could plummet with legalization; the number of people who choose to stay in the two states’ medical-marijuana system, where cannabis isn’t taxed at such high rates; and the number of marijuana dealers who decide to stay underground and avoid taxes.

“If the taxes are set too high, you still have to worry about a black market,” Kilmer says.

On the other hand, some factors could boost revenue numbers, according to Carnegie Mellon professor and drug-policy expert Jonathan Caulkins. For instance, if Colorado and Washington become hubs for marijuana tourism, demand at marijuana stores would not only increase, but those tourists would also spend money on hotels, restaurants and rental cars.

“It’s possible that could have a bigger impact than excise and sales taxes,” Caulkins says.

Pot Policies

- Has legalized medical marijuana
- Has eliminated jail time for possessing small amounts of marijuana
- Has legalized medical marijuana and eliminated jail time for possessing small amounts of marijuana
- Has legalized medical marijuana and marijuana for adults

Note: Maryland has a limited medical marijuana defense for possession only. Courts in Alaska have ruled the state constitution’s right to privacy covers possession of a modest amount of marijuana in one’s home.

Source: Marijuana Policy Project
18th state since 1996 to authorize the physician-recommended use of cannabis. (The District of Columbia also has a medical marijuana law.)

In Arkansas, a statewide ballot measure to legalize the therapeutic use of cannabis failed, but only by a narrow margin, 49 percent to 51 percent. And in Oregon, where pro-pot activists didn’t wage much of a campaign, a proposal that would have allowed the state-licensed production and retail sale of cannabis to adults garnered 47 percent of the vote.

The Medical Marijuana Model

As more and more states take up the issue of marijuana reform, the prevailing view among legalization advocates is that Colorado will be the leader in developing model policies and practices.

“The thing that Colorado really has going for it is that there is already a high level of comfort and familiarity with the state licensing, taxing and regulating the above-ground distribution of marijuana,” says Ethan Nadelmann, executive director of the Drug Policy Alliance. “People have become accustomed to the notion that this can be a source of tax revenue, and that police can play a role in ensuring effective regulation rather than just arresting anyone they can.”

Vicente, who helped write Amendment 64, says he is hopeful that the federal government will hold off and allow Colorado to build on its existing medical marijuana regulations. “The state has a very strict level of oversight that we call seed-to-sale tracking, and this system has worked quite well,” he says.

Currently, nearly 110,000 Coloradans are enrolled in the state’s medical-marijuana registry, which issues “red cards” to qualified patients. The vast majority of enrollees list severe pain, nausea or muscle spasms as their primary ailment. Men account for about 68 percent of the registry, with the average age hovering around 41.

Over the past several years, more than 500 medical-marijuana dispensaries—which are required to obtain both state and local licenses—have sprung up across Colorado, along with dozens of authorized growers.

Under current regulations, every step in the growing process is rigorously overseen and continuously filmed by video cameras monitored by the state’s Medical Marijuana Enforcement Division. No video blind spots are allowed, and truck shipments must detail the total weight of all marijuana products, as well as the times of their arrivals and departures. In addition, every marijuana worker must be licensed.

Vicente doesn’t think legalization will lead to an explosion of new businesses selling pot.

“Probably the only retail marijuana shops will be pre-existing dispensaries that decide to opt in to this new system,” he says. “What we’ve found is that communities across Colorado have strictly limited the number of dispensaries through zoning and other regulations, and they’re not likely to expand much beyond that.”

To date, 86 Colorado communities have banned pot dispensaries, either by popular vote or city council ordinances. But in a dozen other communities, ranging from Denver to Grand Junction to the tiny mountain town of Nederland, commercial strips are dotted with neon green crosses signifying medical marijuana businesses.

On a recent segment of “60 Minutes,” correspondent Steve Kroft visited several of Denver’s 204 medical marijuana dispensaries, noting that they “outnumber Starbucks and McDonald’s combined by nearly threefold.”

With two states blazing the trail by legalizing marijuana, and public acceptance of the drug on an upward trajectory, it’s clear state lawmakers will be grappling with the social, economic and political ramifications of cannabis for some time.
It’s Go Time

States have only a few months to get their health insurance exchanges up and running.

BY MARTHA SALAZAR

Sign in or create an account. Enter email address followed by your password. Browse, search, compare, read reviews or get more details. Add to cart. Check out.

Sound familiar? Then you’ve shopped online and may already be a pro at comparing options and prices through the Internet. Most likely you’ve bought a book or an airline ticket, perhaps even a car, online. Coming soon will be the chance to buy health insurance through a website—courtesy of the Patient Protection and Affordable Care Act—where you can compare prices, benefits and coverage. Never shopped online or don’t have Internet access? That’s OK, you’ll be able to call a toll-free line to talk with someone about your options.

These new services are known as health insurance exchanges, and with a tight deadline required by federal law—eight months remain to get them up and running—it’s “go time” for states and the federal government.

The Basics

Like it or not, and plenty don’t, federal law requires the Internet-based health insurance exchanges to be operational in every state, ready to conduct an “open enrollment period” by Oct. 1 for coverage that will be effective Jan. 1, 2014. The Congressional Budget Office estimates that 25 million people will participate in the exchanges by 2022. Along with offering health insurance options, exchanges also need to be able to let people know if they qualify for federal subsidies or programs such as Medicaid or the Children’s Health Insurance Program. Subsidies to purchase coverage are available to individuals with incomes between 138 percent and 400 percent of federal poverty guidelines.

Decisions, Decisions, Decisions

States may operate their own health insurance exchanges, partner with the federal government or let the federal government run them entirely. There are many functions to running an exchange, from building databases to answering consumers’ questions. Whether to take on these tasks requires big decisions from the states, with deadlines guiding the way. The most significant deadline has come and gone. By last Dec. 14, states had to declare their intentions to run a state-based exchange. Eighteen states and the District of Columbia decided they were up for the challenge. Now they are faced with more decisions, including choosing which carriers will participate, how the exchange will work with Medicaid and other public programs, and how it will be funded after federal money dedicated to the exchanges is no longer available in 2016.

States that chose not to create their own exchanges have just
a few days—until Feb. 15—to decide whether to partner with the federal government to run them. As of Jan. 1, seven states had elected this option and will be responsible for managing the insurance providers and customer service, while the federal government will run the other functions of the exchanges.

The federal government will operate the health insurance exchanges in the remaining 25 states if they choose not to act on the partnership option by Feb. 15.

“The federal timelines were ambitious, but not unreasonable,” says Nebraska Senator Jeremy Nordquist (NP). “From my perspective they were ambitious because the broken health care system needed to be fixed soon. Ultimately, the deadlines weren’t the problem for my state, it was the politics that became an issue.

Nordquist would have preferred “an exchange for Nebraskans by Nebraskans.” But Governor Dave Heineman (R) said that option would cost too much and the state would lack full control when he announced last November that Nebraska would defer to the federal government to run its exchange. Although the federally run exchange is the default option, states can move toward running their own eventually, but with less federal funding to help set them up.

Full Speed Ahead

States creating their own exchanges submitted blueprints for approval by the secretary of the U.S. Department of Health and Human Services by Dec. 14.

Lawmakers in California, Colorado, Connecticut, Hawaii, Maryland, Nevada, Oregon, Vermont, Washington and the District of Columbia decided to establish their own exchanges through enabling legislation that addressed the big issues: the structure, governance and selection of health insurance carriers.

West Virginia passed legislation, but it was not implemented because of financial concerns. The state has since announced plans to partner with the federal government. Governors in Kentucky, New York and Rhode Island established state health exchanges by executive order. Not all governors have the authority to establish an exchange.

That’s not to say support is universal in these states, or that working out the details has come easily. The Colorado law created a legislative committee—with members from both parties and chambers—to oversee some of the governing board’s
actions, including applications for federal grants.

The committee has provided checks and balances to date and “ensures that there is some level of legislative buy-in to the concept and the direction of the exchange,” says Colorado Representative Bob Gardner (R), co-chair of the committee.

Early in the process, Gardner voiced concerns over language in the governing board’s draft application for federal funds that he says would have limited consumers’ options. “This is not the direction that we [Republicans] wanted the state exchange to take. We knew it had to comply with federal regulations, but our vision was that the exchange would remain a free market of many insurers offering many products and would not be limited to a single product or plan.”

Revised language in the grant application won Gardner’s support, but he admits he wishes the state would have had a “different conversation, but it’s not in our cards.” And although he believes the state is positioned as well as it can be as an open marketplace, he knows the recent shift in the Colorado House to Democratic control could change things.

Colorado Senator Irene Aguilar (D), however, thinks the mission of the oversight committee is “unchanged regardless of who is appointed. We want to work to ensure our health exchange provides the best possible service to help Coloradans and businesses gain access to quality, affordable health care.

“Colorado is in a unique position since our exchange was created with bipartisan support and active lobbying by consumers and the business community alike,” she adds.

Different Plans for Different States

Since the federal law passed in March 2010, at least 30 states have considered legislation to create a state exchange, but many of the bills failed. Legislators in those states cite waiting for last summer’s U.S. Supreme Court ruling on the Affordable Care Act (which did not affect the creation of the exchanges) along with the political climate, lack of public support and the failure of guidance from the federal government as the top reasons they chose not to pursue an exchange.

Arkansas was the first to pursue the state-federal partnership option. The state Insurance Department will operate the consumer assistance portion and manage the insurance plans that participate in it. The state will receive federal funds to update its Medicaid eligibility system and integrate it with the exchange. Delaware, Illinois, Iowa, Michigan, North Carolina and West Virginia also are working with the federal government.

Oklahoma created the Joint Committee on the Federal Health Care Law to study the options and make recommendations to the Legislature.

“You can’t make informed decisions without knowing what all of your options are,” says Senator Gary Stanislawski (R), co-chair of the committee. “So we needed to study [the federal] mandates. Hearings were beneficial. The ultimate recommendation was to establish a non-compliant exchange, dealing with small businesses only, giving employers and employees the opportunity to purchase insurance coverage.”

But the bill to do so never made it to the floor. The state eventually deferred to the federal government to run its exchange.

“Since the Supreme Court ruling, the overall consensus is that Oklahoma is not going to establish any exchange, compliant or not,” Stanislawski says. “The citizens of the state disagree with Obamacare so much that we are not going to aid the federal government in implementing any part of the law in the state.”

Who Pays for It?

States have received more than $2 billion in federal funds to plan and establish exchanges since 2010. Forty-nine states received federal planning grants; however, Florida, Louisiana, New Hampshire and Texas returned all or most of theirs. Alaska was the only state that did not apply for the funds. Thirty-four states and the
District of Columbia have moved forward with additional federal grants to establish the exchanges. States can apply for establishment grants through December 2014.

States running their own exchanges face the challenge of paying for their operations after federal funds for planning and building the exchanges expire at the end of 2015. Most states included plans for financial sustainability in their blueprints, but they vary in their willingness to use state funds. Colorado and Hawaii, for example, passed laws prohibiting the use of any state funds to establish or operate the exchanges. And California lawmakers approved loaning the exchange $5 million from the general fund.

Details are still being worked out in many states. Washington’s exchange board, for example, proposed assessing a service charge on the health plans or enrollees or both to pay for operational costs, which the board estimates will total more than $51 million in 2015.

The federal government plans to pay for the exchanges it sets up by imposing a 3.5 percent fee on insurers to cover the operational costs of the federally facilitated exchanges.

Moving On

Get ready. It’s going to be a mad rush for states building their own exchanges to hire the staff, fine tune operational details and be ready for business by October. But it may be even more challenging for the federal government, which must set up exchanges in the remaining states.

Regardless, federal officials say they will work with every state that did not choose to establish an exchange to build something that functions well, so that everyone who uses it will have a positive experience and find the health insurance they want.

“We are here to help states that are not yet ready to run their own marketplaces,” says Gary Cohen, director of Health & Human Services’ Center for Consumer Information and Insurance Oversight. “Progress is well underway to ensure that residents of every state will have access to a health insurance marketplace that will provide choices of affordable, quality coverage in 2014.”

To keep up on state action on health exchanges, go to www.ncsl.org/magazine.
The Power of Efficiency

You may not notice it, yet it’s the nation’s most abundant energy resource.

BY GLEN ANDERSEN

It lacks the visual appeal of a shiny new array of solar panels, a natural gas plant or wind farm. Yet “energy efficiency” is the country’s most reliable, least expensive and cleanest energy resource. And it can be found in abundance in all 50 states.

Energy efficiency describes the technologies, materials and practices that use less energy, providing the same benefits at less than half the cost of generating more energy. It increases energy security, promotes local economic development and lowers energy costs for consumers and business. Efficiency creates no emissions and reduces the number of power plants and power lines that need to be sited and built.

With all these advantages, why is it so seldom fully embraced?

“Energy efficiency is largely invisible, and its benefits can be challenging to convey,” says Senator Marc Pacheco (D) of Massachusetts, who promoted legislation making his state a national leader in efficiency.

Pacheco adds that many people confuse efficiency with conservation and “simply don’t understand it doesn’t require them to change their energy consumption habits at all.”

Energy efficiency and conservation both help reduce energy consumption, but in very different ways. Wearing a sweater and turning down the heat, or raising the temperature of an air-conditioned house from 76 to 80 degrees in the summer, is conservation. Installing an efficient furnace or air conditioner and increasing building insulation is energy efficiency. A modern efficient refrigerator, for example, uses one-fourth as much energy as the average mid-’70s refrigerator, while providing more space, better temperature control, cold water and crushed ice.

Energy efficiency cannot be seen, but its results can. Massachusetts saved 610 gigawatt-hours in 2010 after the legislature passed a law in 2008 requiring state utilities to boost energy efficiency. That’s equal to the annual energy used by nearly 85,000 households. The economic results are just as dramatic. Efficiency investments made from 2010 through 2012 are projected to save $6 billion in energy costs, according to the Energy Efficiency Advisory Council, which helps administer the effort.

Although energy efficiency has broad support among utilities and policymakers, some think there should be stricter efficiency standards for utilities, while others feel the market is operating effectively and merely needs coaxing. Texas Senator John Carona (R) authored an energy efficiency law that changed the regulatory structure to eliminate regulations that discouraged competition.

“I do think the market was using cost-effective energy efficiency methods under the mechanisms previously available to them,” he says. “My bill is meant to broaden market opportunities in areas that were previously not as competitive or consumer friendly.”

Energizing the Economy

Investments in efficiency can be attractive, particularly in a tough economy. Utilities save money because they don’t have to build new plants, for example, and consumers save because they use less energy. By freeing up capital, efficiency programs allow companies, and consumers, to find more productive uses for that money. Decreased energy use increases economic security. Less fluctuation in energy prices protects consumers—and the econ-
omy—from hardships caused by high energy prices.

“When consumers and utilities are able to reduce energy consumption through efficiencies and behavior, the entire electric grid benefits,” says Carona.

Saving a kilowatt-hour through energy efficiency is less than half the cost of producing an additional kilowatt-hour of electricity from a new coal plant, wind farm or natural gas power station. Efficiency efforts reduce demand for energy and natural gas, driving down prices and decreasing the need for utilities to build power plants, which keeps rates down for consumers.

“Any time there are savings because you don’t need to generate a kilowatt, the savings are passed on to consumers,” says Lisa Wood, executive director of the Institute for Electric Efficiency at the Edison Electric Institute. “This makes a lot of sense from a cost-benefit perspective.”

Research by the Tennessee Valley Authority found saving a dollar on utility bills and spending it locally more than doubles the effect of that dollar on local employment and wages.

**The States Step In**

“With no major source of fossil fuels in the area and with a position at the end of the energy pipeline, Massachusetts unfor-
Energy Labeling

Information drives the free market, but when it comes to the largest financial decisions, such as renting or purchasing a home or building, information on operating costs can be hard to come by.

This lack of information distorts the market by hiding costs from consumers—like buying a car without knowing the miles-per-gallon rating.

If an average home’s yearly energy bill is about $2,200, the bill in a highly efficient home might easily be 40 percent lower, around $1,300 a year. The $75 per month savings gained by purchasing the efficient home would be equivalent to a $15,000 reduction in the home’s price if financed at today’s 30-year fixed mortgage rates. When it comes to commercial buildings, the energy costs—and potential savings—can have an even greater effect.

Buyers and renters can overlook the added value of energy efficiency. Benchmarking and disclosure policies aim to address the knowledge gap by requiring an assessment of the energy efficient features of a building or home and telling potential renters or buyers. Similar to an mpg rating for homes, the system is just starting to catch on. California, Kansas, Maine and Washington now have some variation of efficiency disclosure and benchmarking laws, and at least five states considered disclosure laws in 2012. A number of cities already require energy ratings for buildings.

Unfortunately, energy costs have historically had high energy costs,” says Pacheco. “In the interest of promoting a strong economy, the burden has fallen on the legislature and the executive to develop ways to bring down costs.”

With the Green Communities Act, which became law in 2008, Massachusetts became a leader in innovative energy efficiency policy. It makes energy efficiency the state’s “first fuel” with three-year plans that focus on tapping all cost-effective energy efficiency resources before constructing new power plants. The program’s goal is to deliver energy savings, reduce state reliance on imported fuel, create local jobs and reduce pollution.

Utilities are working with lighting manufacturers and distributors to offer discounted high-efficiency lighting to commercial and industrial customers, helping to reduce their energy costs. They also provide energy audits to home and business owners to identify cost-saving measures, along with incentives such as rebates, for sealing air leaks and installing efficient lighting and appliances.

The first of the three-year energy plans required utilities to meet 1.4 percent of their electricity demand through energy efficiency in 2010. The requirement ramped up to 2.4 percent for 2012. The 2013-2015 plan is higher yet, at 2.5 percent for all three years.

Utilities pay for their efficiency efforts by collecting surcharges on utility bills. But even with the surcharges, customers saved money. In 2010, the people of Massachusetts not only saved significantly on electricity bills, but pollution was down. The program also reduced greenhouse gases as much as the yearly emissions from 74,000 cars. In 2011, the average customer received more than $4 in benefits for each dollar spent. Energy-saving projects completed between 2010 and 2012 are expected to provide $6 billion in lifetime benefits.

Texas also has energy efficiency requirements, updated in 2011. The law requires utilities to verify that energy efficiency investments are providing adequate savings.

“Now consumers can feel confident that the energy savings they are promised by using energy efficiency will be evaluated, measured and verified,” says Carona. “Utilities can implement energy efficiency in a more consistent manner” because of the verification process.

The law also allows utilities to expand demand-side management programs to residents and businesses, so more customers can participate in the energy market. Customers are offered discounts for reducing electricity consumption during peak times, like on a hot summer day, when prices are high.

“Capturing more energy and associated economic savings for Texas taxpayers and businesses is a priority—especially with the challenges Texas and Texans face with the economy today,” says Carona, who wrote the legislation.

Twenty states require utilities to provide energy more efficiently, though few have requirements as strong as those in Massachusetts. Advocates believe efficiency requirements send a clear signal to the market and help drive long-term, productive investments in efficiency technology and services.

Reversing Reverse Incentives

With all its promises, one would expect energy efficiency to be first on the list to meet the nation’s growing energy needs. But traditional regulatory structures and a lack of knowledge have prevented utilities, businesses and consumers from fully embracing energy efficiency. Most utilities make money by selling energy, yet aggressive efficiency efforts can lead to a decline in sales—and profits.

Conventional regulatory models allow utilities to make a profit on the energy they sell, and receive a return on their investments building more infrastructure. Providing energy more efficiently does not earn a return on investment. And even though all utilities work to increase efficiency to some extent, large scale efforts are a hard sell.

“Why would utilities want to promote something that reduces cost recovery?” asks Wood. Yet rising energy prices and new technologies make efficiency desirable for a number of economic, energy security and environmental reasons.

“It goes back to how rates were structured historically—it is the legacy of an outdated rate structure that needs to be modified,” Wood says. “If we had to create a regulatory structure from scratch, we would design it a little differently today.”

And some states are doing just that. Lawmakers are looking at alternatives that decouple profits from the amount of energy sold, so utilities can make money by selling less energy, not more.

Massachusetts and nine other states have changed regulations so utilities can recoup costs no matter how much electricity they sell.
The previous utility rate structure created “a disincentive for utilities to promote the widespread use of efficiency,” Pacheco says. “With the decoupling provided by the Green Communities Act, utilities are now working harder than ever to bring these efficiency plans to consumers.”

While decoupling opens the door for utilities to pursue efficiency, some states are adding incentives to save energy. They are allowing utilities to earn a return on their investments in energy efficiency. In Massachusetts, for example, utilities earn a 5 percent return on their investments in meeting energy savings and cost-benefit goals. The goal is to reward utilities with financial incentives for providing least-cost, reliable energy.

“Energy efficiency represents one of the most cost-effective methods to lower our commonwealth’s electricity bill,” Pacheco says. “The least expensive kilowatt-hour is the one you don’t use.”

The lion’s share of electricity in this country, some 65 percent, goes to power buildings. And the price tag for that energy is nothing to sneeze at—about $400 billion per year.

A building erected today will last more than 70 years, so energy efficiency put in place during construction can provide many years of benefits. Energy efficient features are far less costly to integrate during construction than to add later. Buildings can usually be constructed to be 30 percent more efficient than the average new home or building, while adding only 1 percent to 2 percent, or even less, to construction costs. When factored into mortgage payments, the energy savings can far exceed the additional costs.

Features such as improved lighting and ventilation increase worker productivity and comfort, while humidity, drafts, and cold or hot windows are all reduced by improving energy efficiency. Also, energy efficient buildings tend to have higher lease rates, occupancy levels and sale prices.

State incentives to encourage more efficient construction are broad, including enacting efficient energy codes, requiring more efficiency in state-funded buildings, offering tax breaks for green building construction and providing financing that takes into account lower utility bills.

When older buildings are retrofitted with new, energy efficient technologies, payback often ranges between two and 15 years, depending on the range of retrofits. In many cases, however, building and homeowners do not have the money to cover upfront costs and attractive financing may not be available. To promote the retrofits and engage the market, states offer a range of options, including revolving loan funds, grants and utility financing that is incorporated into the customers’ bill.
What You Should Know

Salmonella and Listeria and E. coli—oh my!

BY DOUG FARQUHAR

Threats from the environment surround us. Last year, mosquitoes carrying West Nile Virus killed 283 people during the summer months. Then in September and October, an outbreak of salmonella in peanut butter occurred in 20 states. Listeria from Ricotta cheese led to 20 hospitalizations and four deaths in 14 states. And a bad batch of mangoes and another of cantaloupes led to more than 380 cases of salmonella.

When you add in the fact that every day 10 people drown and 87 are unintentionally poisoned, the world can feel like a very dangerous place.

Public health and safety has always been a focus of lawmakers and it continues to be, as they consider policies and programs that protect citizens from environmental dangers. Called “environmental health,” this umbrella term includes the laws that ensure food is safe and healthy to eat, that chemicals are managed in a safe manner, that vermin and pests do not spread disease. It involves the way we design our houses and communities and the products we use in our daily lives. It includes the standards that protect our drinking water, ensure waste water is clean, and determine “how safe is safe.”

It is the complicated system of rules and policies—interwined among federal, state and local governments—that allows this nation to live in clean, safe and healthy communities. Put simply, “environmental health is about ensuring healthy habitats for humans—where people live, work, learn and play,” says former Oregon Representative Gail Shibley (D), who recently directed the environmental health program in her state’s department of health.

Part of this effort comes from the federal government, through rules established by the Food and Drug Administration, the Consumer Product Safety Commission and the U.S. Environmental Protection Agency. Research and guidance from the Centers for Disease Control and Prevention or the National Institutes of Environmental Health Sciences guides decisions. But the vast majority of work on environmental health comes from state and local governments, who work day in and day out to guarantee that our food and water are safe to consume and our communities and homes are safe to live in.

Here are five things environmental health experts want you to know.

Safety First

Safety is the No. 1 priority of environmental health workers. They ensure that our food is safe, that public and private water systems are free from contaminants, that the air inside buildings is free of radon gas and mold spores, and that the materials used in building homes and businesses do not contain asbestos, lead or other toxic products.

“The U.S. has the safest food supply in the world,” says Joe Reardon of the Food and Drug Administration, “but we must work hard to maintain that safety.” That requires state and local authorities to identify threats, report outbreaks and work with the food industry to protect the public.

Recent outbreaks from Listeria and salmonella in cantaloupes, salmonella in peanuts and E. coli in lettuce were all discovered in state environmental health labs. The same is true with drinking water. The state lab confirmed salmonella in the drinking water of Alamosa, Colo., in 2008, which cost the city $90 million to upgrade its system.

Environmental health programs also inform the public about how to avoid threats in areas not regulated or inspected. For example, private drinking water wells are usually never tested. And homes are often not inspected for hazards from pesticides, chemical cleaners, radon gas, paint with lead, carbon monoxide and mold.

The push for safer chemicals often comes from states as federal laws have not kept pace with the science. Recent legislation adopted in California, Connecticut, Maine, Massachusetts, Minnesota and Washington revised chemical safety laws, making them more in line with international standards and current science than their federal counterparts.

Doug Farquhar covers environmental health for NCSL.
Based on Science

If “state governments are the incubators of environmental health policy,” says Illinois Representative Mike Tryon (R), then “policies need to be based on science.”

And environmental health science requires scientists—toxicologists, epidemiologists, laboratories and inspectors. “Without these people, environmental health cannot do its job,” says Ken Sharp, division director for the Iowa Department of Public Health.

Toxicologists determine at what level an agent is no longer safe but lethal since, as the adage goes, “the dose determines the poison.” Without toxicologists, there is no way to know if food, water and consumer products are safe for the public, making it impossible to set policy. But decisions made based on research and data are “the right decisions to make,” says Tryon. “We can’t let the policy get ahead of the science.”

Epidemiologists study the causes and effects of diseases and identify outbreaks. When Texas had an increase in cases of West Nile Virus this past summer, epidemiologists were the first to determine it was an outbreak, allowing other officials to kill mosquitoes before they could spread the disease further. State environmental health laboratories are essential to the work of these scientists. Lab results confirm whether a hazard exists, if an outbreak is caused by a specific agent, or if other factors are involved. Finally, it takes inspectors on the ground to ensure that harmful products are not being sold in stores, contaminated food is not being served in restaurants, and dangerous chemicals are not being used in buildings and swimming pools.

The Cost Factor

Environmental health agencies receive very little funding from state budgets, comprising about 8 percent on average. Fees and licenses imposed on businesses and individuals provide up to 50 percent of funding for environmental health in some states. Kentucky receives local tax dollars to support its environmental health efforts.

But by far the biggest source of funding for environmental health programs is the federal government. Through grants and contracts from its many agencies—the Food and Drug Administration, the Environmental Protection Agency, Department of Agriculture, Centers for Disease Control and Prevention, and others—it provides over 50 percent, or a little more than $1 billion annually, to states. FDA and USDA fund food safety and meat inspections; EPA funds drinking water and air quality programs, and the CDC funds state labs. Many believe this federal money is essential in maintaining the environmental health infrastructure in this country.

But not everyone is happy with this arrangement. Wyoming Representative Sue Wallis (R) believes the federal government is overreaching its authority. She argues that states already regulate every facet of environmental health—sometimes more than they should—and the federal government is even worse.

“Federal agencies such as the Department of Agriculture and the FDA don’t just regulate trade across
state lines, they regulate everything inside of them,” she says. And because it is so costly for businesses to meet all of these state and federal regulations, it causes a “horrific unnecessary drag on our economy.”

**Top Down Control**

Even though some state laws are more up-to-date in certain areas, most environmental health programs are based on federal requirements. States have little authority to go beyond the federal mandates, which can make it difficult to address local concerns. “We need both the federal rules and the state policies to make environmental health work,” says Representative Tryon.

But currently, the federal rules are ahead in the count. The federal government not only pays for many programs, it directs the standards and decides the policies for most environmental health activities. For example, the Environmental Protection Agency sets the parameters for safe drinking water and indoor air quality. The Food and Drug Administration and Department of Agricultural determine the standards for safe food. States do not have the authority to deviate beyond federal standards of safety, even if doing so could address a local problem or concern.

“EPA sets standards for the nation, which are sometimes pretty ridiculous,” says Pres Allinder, director of Alabama’s Environmental Services in the Department of Health. “There are balances between public health and the state programs that EPA can’t take into account.”

To prevent serious outbreaks, state officials have the difficult job of working within specific federal parameters to insure the safety of their residents. Unfortunately, this results in “many things that we are not doing that we should be doing, and things we do that aren’t necessary,” adds Allinder. EPA sets standards for storm water pollutant discharges into rivers based on national, instead of individual state, needs. “EPA standards are based on laboratory analysis that have no real world applicability.”

**A Focus on Locals**

State environmental health officials must work cooperatively with their local health departments to ensure there are enough resources for these programs. “We work in partnership,” says Oregon’s Shibley. “We have intergovernmental agreements with our counties to perform the front line work in food protection, pool inspections, hotels and motels, and drinking water.”

The states need the local programs as much as the federal government needs the states. State and local agencies work hand-in-hand to make certain that the public is protected from environmental health threats.

Environmental health programs are designed to prevent problems, meaning unless these programs are not doing their job, there are no concerns. That leads to lawmakers cutting programs and limiting resources, until an outbreak occurs. Then they hear from constituents—loudly and clearly. Most citizens do not know all the effort that goes into ensuring only potable water comes out of their faucet, but they know when it’s brown and when it’s flammable.

Knowing more about environmental health efforts already in place, however, will help when that first constituent phone call rings.
During his November acceptance speech, President Obama thanked everyone who voted, particularly those who voted for the very first time or waited in line for a very long time.

“By the way,” he added, “we have to fix that.”

All of a sudden the country was a-twitter with what “fix that” might mean. Never mind that long lines were a local phenomenon, affecting just a handful of jurisdictions in a few states, and that overall, November’s voting went fairly smoothly.

Still, policymakers are reacting. Shortly after the election, Democrats introduced election reform bills in the U.S. House and the U.S. Senate. Both would give the federal government a larger role in establishing election procedures—a job that the U.S. Constitution expressly assigns to state legislatures (see Article 1, Section 4).

Those bills are unlikely to gain traction. The real “deciders” of election laws—state legislators—often see the year after a presidential election as exactly the right time to make adjustments. Some may see reducing waiting times for voters as a worthy goal in 2013, along with ensuring that elections run smoothly from start to finish, from registering to vote-counting.

So what might help? Money. It can’t buy you love, but it can buy shorter voting lines. State law can require more polling places and voting equipment. Yet, in most states, local jurisdictions pay for elections, and they already are squeezing their nickels. The cost of new equipment—$3,000 to $6,000 per machine—is a big expense in small towns.

Adding poll workers can also speed things along. Even though these quasi-volunteers are paid something like minimum wage, the price of poll workers overall is the second-highest expense for most jurisdictions. Since money continues to be tight at both the state and local levels, legislators are looking for ideas that don’t necessarily fit the “more money = shorter lines” equation. Election experts suggest that lawmakers consider:

◆ Better Training for Pollworkers. Would more hands-on practice or online training help? How can the state assist local administrators to ensure consistency?
◆ Technology for Voter Check-in. Some places use “electronic pollbooks” that require just a few clicks on a keyboard to check in voters. If these systems are not well-designed or user-friendly, however, they can slow down the process, as happened in some Virginia polling places.
◆ Ballot Length. Florida voters faced a very long ballot with a dozen statewide constitutional amendments. The longer the ballot, the longer it takes to complete (and the more expensive it is to print). It makes sense that legislators want to bring forward constitutional amendments during a presidential election year, when more citizens come out to vote, but that choice slows down the voting process.
◆ Ballot Design. A user-friendly ballot results in voters spending less time in the booth.

◆ Pre-Election Day Voting. If the only goal is to reduce lines on Election Day, then adopting early voting, all-mail elections or no-excuse absentee voting could be solutions. But other goals are important, too. Issues such as voting security, administrative expenses and tradition must be weighed before stretching the voting time frame.

Looking for “fixes” in any of these places may make sense, but changes always bring some amount of discomfort, too. Lawmakers hope to make positive changes that ultimately will ease the voting process—for both elections officials and voters.

Wendy Underhill tracks elections issues for NCSL.
Advice for New Lawmakers

Seasoned legislators offer some words of wisdom for the freshman class.

BY PEGGY KERNS

When you walked through the state capitol doors for the first time as a “servant of the citizenry,” your emotions most likely ran high, with varying degrees of trepidation, excitement, confidence and anxiety all mixed together. “I was awestruck, humbled and honored,” says Wyoming Representative Rosie Berger (R) about her first official day at the Capitol in 2003. “Then I felt energized. I was ready to roll up my sleeves and dig into the people’s work.”

Last November, Americans elected some 1,600 brand new legislators. Though many have served at local levels, a significant number are first-time elected officials. New or experienced, lawmakers are arriving at state capitols to take the oath of office in historic buildings where many have served before them.

At new-member orientations, you may have learned the ropes, ranging from where to park to the particulars of complex policy issues. You met colleagues and started building the relationships that are so crucial to being an effective legislator.

Learning the legislative landscape can be tough, however. It involves an entirely new world of different rules, different people and a somewhat different language. Remembering their roots, several seasoned legislators offer the following “what I know now that I wish I’d known then” advice.

1

Hold on to your values.

Don’t lose sight of who you are. A good legislator is an ethical legislator who comes into office and leaves office with personal values intact. Follow your moral compass. Be honest and maintain your integrity. The legislature operates on truth and trust. Keep your word, it’s your biggest asset. Honor your commitments.

Many new legislators instantly feel more important than they ever thought they were. While fellow lawmakers may treat you as equals, attention from lobbyists and constituents may go to your head. Don’t let it. Remember, this exaltation is temporary and will disappear when you leave office. And keep your ambition in check. Focus on doing your job well, not your next political step.

2

Play by the rules.

Obeying the laws should be a given, yet most major ethics scandals happen because this advice is ignored. Still, being ethical is more than just obeying laws. When facing gray areas, often involving conflicts of interest, ask: Does this cross the ethical line? Find a mentor and seek his or her opinion.

Study your state’s constitution, the foundation of all your laws. Master your chamber’s parliamentary procedures and rules. Get a parliamentary manual, such as Mason’s Manual. Those who know the rules have a strategic advantage over others. House clerks, senate secretaries and seasoned legislators are excellent resources. Use them.

Follow the traditions and decorum of your chamber and the legislature. Keep debates civil. Don’t personalize disagreements. Respect other points of view. Be open to new information. Reach across the aisle. Despite the current wave of partisanship, most policy issues are not partisan. Cavort with the enemy! Remember, you no longer are campaigning, you are now governing.

3

Serve your constituents.

Despite feeling “overwhelmed” during her first session in 2005, Colorado Senator Nancy Todd (D) distinctly remembers being “very aware of my obligation to serve the people.”

Learn early on what you can and cannot do to solve constituents’ problems. Ask them to send emails describing their concerns specifically to help you know where to find solutions. But don’t promise more than you can deliver. Know when to draw the line and where to send them for answers to keep from getting caught in the middle of issues between...
constituents and agencies. And always follow through to make sure they were served.

Look for opportunities to engage citizens, for example, with invitations to a Day at the Capitol, surveys, newsletters and by attending community meetings. Write a column for your weekly newspaper or a blog, and send email blasts when a big vote is coming up. Schedule regular town meetings and coffee klatches at a local restaurant. Pop into local cafes. Keep this in mind: You were elected by a majority of voters, but you represent all citizens.

Get smart.

Develop a specialty in a policy area that interests you and your constituents, or look to fill a void. Then team up with the experts. Give clear instructions to bill drafters, and examine the bills you introduce thoroughly, making sure your facts are correct. Focus on your committee work, since this is where the in-depth work on bills is done. Do your homework, and you’ll build your credibility. Don’t commit too early to other people’s bills.

Understanding state budgeting is vital for all lawmakers, but different than anything you’ve encountered in the private sector.

Avoid freshman traps.

Be aware of first impressions. Fair or not, opinions form early about what kind of legislator you will be. Too many freshmen introduce bills with great ideas of how to spend state money, but with no idea of where the money will come from.

“One of the hardest lessons for new legislators to learn is that long-term vision is the primary mover of policy success,” says Indiana House Speaker Brian C. Bosma (R). “Legislators tend to think in two-year terms and two-year budget cycles, but the greatest gains come when a long-term vision is consistently pursued.”

When taking positions and making decisions, draw a line between the needs of your constituents and personal relationships with colleagues and lobbyists. Avoid a quid-pro-quo mentality. Exchanging votes is banned in all legislatures.

Final Thoughts

Leave the legislature as strong or even stronger than you found it. You are part of a special and distinguished group. Approach the job with humility, openness and an experience to be valued, and you will do well. Most of all, be grateful for the incredible opportunity and honor to serve the public.

“Find some quiet time to collect your thoughts and gain appreciation for your experience as a legislator,” says Berger. She goes early to the capitol and walks the vacant halls. “In the quiet of the morning, I absorb the history of the building. It reinforces why I chose to run and serve.”
AMERICA’S BEVERAGE COMPANIES ARE DELIVERING.

From sodas, fruit juices and iced teas to sports drinks and waters, we offer **MORE CHOICES** for everyone. We’ve added clear calorie labels to the front of our packaging, created **SMALLER PORTIONS**, and replaced full-calorie soft drinks in schools with lower-calorie choices. Offering such a wide range of low- and no-calorie options means on average there are now **23% FEWER CALORIES** per serving. America’s beverage companies are dedicated to helping you choose what’s right for you.

To learn more, visit [DeliveringChoices.org](http://DeliveringChoices.org)
“Florida was the laughingstock of the nation again this year when it came to voting. We ought to be tired of that.”
— Florida Representative Darryl Rouson (D) in The Miami Herald, about his bill to expand early voting in response to long lines at the polls during November’s elections.

“No doubt we must protect our country against the threat of terrorism, but not at the expense of civil liberties.”
— New Jersey Assemblyman Charles Mainor (D), a detective and primary sponsor of legislation requiring out-of-state law enforcement officers to notify New Jersey authorities before crossing the border to conduct counter-terrorism operations, in nj.com.

“I was astonished, amazed, disgusted, sickened, all of the above. Those people were living like animals.”
— Rhode Island Senator John Tassoni Jr. (D) in the Pew Center’s Stateline, about sponsoring his state’s Homeless Bill of Rights law after witnessing appalling conditions at a homeless shelter.

“It just hasn’t become a habit, so I guess we’ll have to make it a habit.”
— North Carolina Representative Craig Horn (R) in the newsobserver.com, about his bill requiring doctors and pharmacists to use a database that tracks patients’ histories with addictive drugs.

“I feel like I’m living in pagan Rome.”
— Dan Kennedy, chief executive officer of the conservative group Human Life of Washington, in The Seattle Times, after voters in Washington approved measures to legalize marijuana and gay marriage.

“Taking a restrictive approach to our Second Amendment rights would be the worst possible decision. Allowing teachers and administrators with concealed-carry permits the ability to have weapons at school events would provide both a measure of security for students and a deterrent against attackers.”
— Oklahoma Senator Ralph Shortey (R) in the Tulsa World, expressing support for legislation to allow educators to carry guns in schools.

“Why would we offer less protection to young people and children—who have less capacity to understand what the consequences are of the decisions that they’re making in terms of their rights as citizens—than we would for adults?”
— Ohio Representative Tracy Maxwell Heard (D) in The Plain Dealer, about a bill she and Representative Ross McGregor (R) sponsored to require children under 18 to be told their rights before being interrogated or charged.

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.
Health care services can be mislabeled too.

Advertising apples as oranges? Such type of misleading advertising occurs with health care services, too. In some states the term “physical therapy” is misrepresented or inappropriately advertised to the public by individuals who are not licensed as physical therapists. This characterization is misleading to the public, illegal in some states, and an issue of public protection for patients who think they are under the care of a licensed physical therapist, but in reality are not.

“Physical therapy” is not a generic term—it describes the care provided by or under the direction of licensed physical therapists. When people seek “physical therapy” they deserve to know their care is in the hands of a licensed physical therapist. Other health care providers might share some of the same treatment techniques or rehabilitative procedures used by physical therapists, but the care should only be described or advertised as “physical therapy” or “physiotherapy” when provided by or under the direction of a licensed physical therapist.

While two health care professions may share common elements, labeling them the same thing is not right—it’s like comparing apples to oranges.
Advertising apples as oranges? Such type of misleading advertising occurs with health care services, too. In some states the term "physical therapy" is misrepresented or inappropriately advertised to the public by individuals who are not licensed as physical therapists. This characterization is misleading to the public, illegal in some states, and an issue of public protection for patients who think they are under the care of a licensed physical therapist, but in reality are not.

"Physical therapy" is not a generic term—it describes the care provided by or under the direction of licensed physical therapists. When people seek "physical therapy" they deserve to know their care is in the hands of a licensed physical therapist. Other health care providers might share some of the same treatment techniques or rehabilitative procedures used by physical therapists, but the care should only be described or advertised as "physical therapy" or "physiotherapy" when provided by or under the direction of a licensed physical therapist.

While two health care professions may share common elements, labeling them the same thing is not right—it's like comparing apples to oranges.

To obtain information about what you can do to ensure your constituents have term protection for "physical therapy" in your state please contact the American Physical Therapy Association State Government Affairs Department at 800/999-2782 ext. 3161.