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NEW! SL ONLINE
Be sure to visit the newly redesigned State Legislatures online at www.ncsl.org/magazine for links to audio and video recordings and related websites, relevant reports, expanded graphs and in-depth interviews.
Welcome to all who serve in our state legislatures—including the new lawmakers in Louisiana, Mississippi, New Jersey and Virginia elected last fall—and to the roughly 30,000 legislative staff who keep our institutions running. Given the inertia in Congress, Americans are looking more and more to the states to solve problems. And as the laboratories of democracy, state legislatures deliver. You are the first to tackle tough topics, like those outlined in our cover story about emerging issues. You are the ones who reach across the aisle, negotiate, compromise and collaborate to get things done. You are the innovators.

As you convene in capitols across the country and begin the difficult work of solving some of the nation’s biggest challenges, I’d like to remind you that NCSL is here to help. We provide thorough, unbiased and comprehensive information to help you navigate complex policy issues. Visit ncsl.org regularly and be sure to download our new mobile app from the Apple or Android store.

I’d like to extend my gratitude to those of you who are involved in NCSL, whether by serving on our executive committee or one of our standing committees, sharing your perspective and expertise, using our services or attending our meetings. If you are not involved or are unfamiliar with NCSL, I invite you to participate. Your engagement helps ensure that NCSL, now entering its 42nd year, achieves its mission to strengthen state legislatures by providing support, ideas, connections and a strong voice on Capitol Hill.

We hope each issue of this magazine helps you in your challenging job. Behind the award-winning cover art you’ll discover award-winning stories on people you can relate to, ways to improve your skills, solutions you can adapt to your state, insight to challenge your assumptions, facts to bolster your positions and, we hope, a phrase or cartoon to make you chuckle.

The contributions you make to American democracy cannot be overstated. Remember, through NCSL, you are part of the community of all legislators—Republicans and Democrats—and staff across the country. We are committed to your success. Turn to us often.

By William T. Pound, NCSL Executive Director
SHORT TAKES ON NCSL NEWS

CONNECTIONS

A Busy, Productive Fall for Legislative Staff
In cities across the country last fall, legislative staff could be found honing their skills and networking with colleagues during professional development seminars held by NCSL’s staff sections.

The newest members of the National Legislative Services and Security Association were recognized at a state dinner held in the New Mexico Museum of Art.

Sabrina Lewellen, deputy director and assistant secretary of the Arkansas Senate (left) and Charlotte Carter-Yamauchi, acting director of the Hawaii Legislative Reference Bureau (right), present NCSL’s Jeanne Mejeur with a gift commemorating her 25 years of service with the Research and Committee Staff Section.

After touring the Arizona Capitol Museum, Dennis Yoder from Texas snaps a “selfie” with K’Lynn Sloan Harris from Montana and Cory Stewart from Louisiana. All are officers in the staff section for legislative information and communications staff.

Learning about innovations and challenges in other states is one of the most valuable aspects of the staff seminars. From left, Jesse Saunders from Texas, Elisa Naquin of Louisiana and Melanie Hershman from Texas listen to fellow legislative research librarians discuss their work in the ever-popular “5 Minutes of Fame” session. The librarians met in Austin in conjunction with the Research and Committee Staff Section and Legal Services Staff Section.

Among the nearly 200 staffers discussing everything about IT—from data systems and mobile apps to webcasts and webinars—were, from left, Ellen Donati of California, Terri Clark of Kansas and Mendora Servin of California. They attended the National Association of Legislative Information Technology’s seminar in Sacramento.

“Learning about innovations and challenges in other states is one of the most valuable aspects of the staff seminars.”

Jonathan Griffin on the regulation of fantasy sports, in the Houston Chronicle.

“It’s definitely a very hot topic.”

Laura Rose on a possible downside to low legislative salaries, on TWC News.

“It might foreclose legislative service from those who need to support a family.”


“Over the past three years, we have seen 12 to 20 states introduce legislation every session to allow guns on campus.”

Heather Morton in a Governing article about state ombudsman programs that help mediate disputes between residents and homeowners associations.

“You’re dealing with people and personalities and homes and emotions.”

Jonathan Griffin on the regulation of fantasy sports, in the Houston Chronicle.

“It’s definitely a very hot topic.”

Laura Rose on a possible downside to low legislative salaries, on TWC News.

“It might foreclose legislative service from those who need to support a family.”


“Over the past three years, we have seen 12 to 20 states introduce legislation every session to allow guns on campus.”


Things got interesting for the American Society of Legislative Clerks and Secretaries in Raleigh when the North Carolina General Assembly decided to go back into session during the meeting. North Carolina staff handled the session and the seminar simultaneously with grace and humor. And the approximately 180 attendees had the rare opportunity to see their Tar Heel State colleagues in action as they worked on the budget. Hosting the seminar was Denise Weeks, principal clerk of the North Carolina House of Representatives, pictured above with, from left, Russell Humphrey, chief clerk of the Tennessee Senate, and D. Patrick Harris, secretary of the Alabama Senate.
AMERICANS FOR THE ARTS HONORS AND THANKS THESE ARTS, COMMUNITY, BUSINESS, PHILANTHROPIC, AND ELECTED LEADERS WHO TRANSFORM AMERICA’S COMMUNITIES THROUGH THE ARTS EVERY DAY.

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- Joan and Irwin Jacobs — Philanthropy in the Arts Award
- Lady Gaga — Young Artist Award
- Sophia Loren — Carolyn Clark Powers Lifetime Achievement Award
- Alice Walton — Arts Education Award

BUSINESS COMMITTEE FOR THE ARTS BCA 10 — Honoring the Business Community

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- AutoZone, Inc.
- BNY Mellon
- Corning Incorporated
- Duke Energy
- GE’s FirstBuild
- NV Energy
- NV Energy and the NV Energy Foundation
- Prospective Inc.
- Spec’s Wines, Spirits & Finer Foods
- The Trust Company of Kansas
- U.S. Bank

ANNUAL LEADERSHIP AWARDS — Honoring Arts Community Leaders and Tourism Partners

- Association for Public Art
- Eric Booth — Teaching Artist, Arts Education Award
- Lara Davis — City of Seattle, Office of Arts & Culture, American Express Emerging Leaders Award
- Jeff Hawthorne — Regional Arts and Culture Council, Michael Newton Award for innovative arts funding
- Richard E. Hoff — Irving Arts Center, Selina Roberts Oltman Award for arts leadership
- Ann Marie Miller — Alpaca New Jersey; Alena Vakamas State Arts Advocacy Award
- The City of El Paso Museums and Cultural Affairs Department with Destination El Paso
- Arts Council Napa Valley with Visit Napa Valley
- Xiangyu “Lucy” Wang — NABE Foundation Americans for the Arts Scholarship Award

PUBLIC LEADERSHIP IN THE ARTS AWARDS — Honoring Elected Officials and Artist Advocates

- Florida State Senator Don Gaetz — Public Leadership in the Arts Award for State Arts Leadership
- Governor John Hickenlooper — Public Leadership in the Arts Award for Governors Arts Leadership
- Mayor of Nashua, NH Donnaile Lozeau — Public Leadership in the Arts Award for Local Arts Leadership
- Lt. Gov. Matt Michels (SD) — Public Leadership in the Arts Award for State Arts Leadership
- Mayor of Houston, TX Annise Parker — Public Leadership in the Arts Award for Local Arts Leadership
- Riverside County, CA Mayor of the Arts Award for County Arts Leadership

AMERICANS FOR THE ARTS THANKS ALL WHO SUPPORT THE ARTS AND ARTS EDUCATION IN AMERICA.

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Where Are the Government Jobs?

The national unemployment rate, which lingered at 5.1 percent from the end of August 2015 through September, dropped to 5 percent in October. But a Bloomberg analysis of Bureau of Labor Statistics data shows that much of the national job recovery since the Great Recession has missed the public sector. That makes this recovery a little different; traditionally, government spending and payrolls have led the way out of recessions.

Nationwide, total nonfarm payrolls hit a post-recession low of 129.6 million workers at the beginning of 2010, but have since risen 9.8 percent, to 142.3 million. The lion’s share of total employment gains have been in the private sector, which has enjoyed 66 consecutive months of job growth. Since this streak began in February 2010, private payrolls have improved 12.2 percent, from a low of 107.2 million workers to a current level of 120.3 million.

Private employment gains over the last five and a half years contrast starkly with public figures. After a spike in census workers in 2010, total federal payrolls shrank by 5.1 percent between October 2010 and October 2014, bottoming out at 2.7 million workers. That’s the smallest the payrolls had been in a decade. Local and state government payrolls peaked in July and August 2008, respectively, then hit eight-year lows in June and July 2013—local payrolls dropping 4.1 percent, state payrolls 3.6 percent.

Although they trail their private sector counterparts, public workers are growing in number, albeit slowly. Since hitting their recent lows, federal payrolls have grown 0.5 percent, while state and local payrolls are up 1.8 percent and 1.2 percent, respectively.

—Jackson Brainerd

Private Possibilities

Wages showed signs of recovery in fall 2015, but the bulk of private sector job growth since the recession has been in low- to moderate-paying fields. Percent change in employment in select industries, December 2007 to September 2015.

TIM RICE, EXECUTIVE DIRECTOR OF THE ILLINOIS LEGISLATIVE INFORMATION SYSTEM, retired in December after a career spanning 36 years. Rice started with LIS as a messenger in 1979, working his way up the ladder from computer operator to network manager. In 1998, he was named project manager, the de facto head of the agency, and over five years completely rewrote all of Illinois’ legislative information systems. He became executive director in 2004. Rice was head of NCSL’s National Association of Legislative Information Technology staff association in 2002 and won the group’s staff achievement award in 2005. He served as NCSL staff chair in 2010-11. Since 1998, Rice has provided IT and other support to the International Health and Development Network in Ghana.

“Lessons taught today will result in safer campuses and communities tomorrow.”

California Senator Kevin de León (D) on the state’s new sex education requirements, which include a mandate to teach about affirmative sexual consent, in The Los Angeles Times.

THE KANSAS HEALTH AND HUMAN SERVICES COMMITTEE has three new faces going into the new session—members who oppose expansion of Medicaid in the state. Kansas House Speaker Ray Merrick replaced Republican Representatives Barbara Bollier, Susan Concannon and Don Hill who supported the expansion. “Kansans oppose expanding Obambacare, a program that has busted budget after budget in states that have expanded it,” said Merrick. The new members on the committee are Republican Representatives Willie Dove, Brett Hildabrand and John Whitmer. Kansas and 19 other states have not expanded Medicaid under the Affordable Care Act.

AS THE GAVEL COMES DOWN THIS MONTH to signal the start of legislative sessions around the country, Republican majorities are stronger in several states, thanks in part to off-year elections and party switches. In Kentucky, Representative Denny Butler (D) changed his registration to Republican and put the GOP within four seats of control. In Mississippi, Speaker Philip Gunn is presiding over 73 members—one vote shy of a supermajority at press time. A GOP election tide and a party switch appeared to give the GOP the requisite 74 votes, but a tied race decided by drawing lots went to the Democratic incumbent, Representative Bo Eaton. Republican Mark Tullos said he would challenge the election results.
WEST VIRGINIA’S TWO TOP LEADERS WERE HONORED by the U.S. Chamber of Commerce’s Institute for Legal Reform. Senate President Bill Cole (R) and House Speaker Tim Armstead (R) received the institute’s State Legislative Achievement Award for their work passing legal reform measures, including a cap on punitive damages in civil action, a distribution method for assigning fault in lawsuits, and safeguards for property owners against civil actions by trespassers. “We’re hopeful the work we began last session will encourage existing businesses in our state to grow, and encourage new ones to come here,” Cole said.

NEW JERSEY SPEAKER VINCENT PRIETO (D) is wielding the gavel for a second term. The Cuban-born Prieto presides over the largest Democratic majority in the New Jersey house since 1979. Prieto came to the United States when he was 10, and was elected to the Assembly in 2004. A construction code official and former plumber who owned a plumbing supply company with his brother, Prieto was elected speaker the first time in 2014. He served as budget chair before that. Congressman Albio Sires is the only other Cuban-American to serve as speaker in New Jersey. He held the rostrum from 2002 to 2005.

OHIO TERM LIMITS ARE ENDING THE SENATE CAREERS OF THE TOP TWO LEADERS in the upper chamber, but both former House members don’t plan to leave the General Assembly. Senate President Keith Faber (R) announced that he wants to return to the place where his political career began—the Ohio House. And so does Senate Majority Leader Tom Patton (R). Faber is running for the seat currently held by retiring Representative Jim Buchy (R). “I want to continue to serve, and I’ve been asked by the people to continue so that I can lend stability at a time of rapid change,” Faber said. First elected to the House in 2000, Faber was appointed to the Senate seat in 2007. He became Senate president in 2013. Patton hopes to flip seats with Representative Mike Dovilla, who’s running for Patton’s Senate seat. Patton was elected to the House in 2003, and moved to the Senate in 2008.

“President Obama gets it. He’s been a state legislator. As long as there’s not a federal law that supersedes a state law, we can act.”

Alabama Senator Vivian Figures (D) on the president’s effort to rally Democratic state lawmakers to act where Congress hasn’t, in USA Today.

“For years and years and years, Medicaid has been considered the budget Pac-Man that eats up all the dollars that people in this chamber would like to see spent on many, many other things.”

North Carolina Representative Bert Jones (R) during House debate over a Medicaid overhaul bill, in Kaiser Health News.
Coming to the Supreme Court

After a year of controversial rulings with a direct state impact—with same-sex marriage and health care subsidies grabbing the headlines in 2015—the U.S. Supreme Court is hearing another group of cases on controversial topics this year. Adding to the intrigue, many of the court’s decisions are likely to be discussed by the 2016 presidential candidates. Below are some of the most significant cases for the states.

**Redistricting:** The one-person, one-vote principle, under the U.S. Constitution’s Equal Protection Clause, requires that voting districts have similar population numbers so that votes in each district count equally. But two questions remain, Who do you count—total population or eligible voting population—and who gets to decide? The court will answer these questions in *Evenwel v. Abbott*, a case from Texas.

**Public Sector Collective Bargaining:** If public employees choose not to join a union—that is, opt out—they are required to pay their “fair share” of collective bargaining costs. In *Friedrichs v. California Teachers Association*, the court will decide whether to flip the order and allow employees to opt in, instead of requiring them to opt out. Overturning either fair share or opt out would substantially weaken public sector unions.

**Affirmative Action:** For the second time, the court will hear the argument of a white Texas woman who was denied admission to the University of Texas at Austin. Abigail Fisher claims the school’s race-conscious admissions policy, which uses race among a range of factors in filling about one-quarter of incoming freshman classes, is unconstitutional. The court will decide, in *Fisher v. University of Texas at Austin*.

**Juvenile Life in Prison:** In *Miller v. Alabama*, the Supreme Court ruled that states could not sentence juvenile offenders to life in prison with no chance of parole. The Louisiana Supreme Court has since found that Miller does not apply to those convicted before the 2012 ruling. In *Montgomery v. Louisiana*, the court will decide whether Miller is retroactive, potentially affecting more than 2,000 prisoners.

**Asset Forfeiture:** In *Luis v. United States*, the court will determine whether, in cases of fraud, assets not traceable to the alleged fraud can be frozen to provide restitution to the victims if the defendant is convicted. The case involves a Medicare fraud scheme amounting to upwards of $45 million, most of which has been spent. The defendant, Sila Luis, argues that if all of her assets, including those not connected to the case, are frozen, she cannot hire an attorney to defend her case. Some states have similar laws requiring the freezing and forfeiture of assets so the government can recover the fruits of criminal activities, such as human trafficking, drug crime and identity theft. If the federal statute requiring such freezing is deemed unconstitutional in the Luis case, similar state laws may be deemed unconstitutional if they freeze assets against any type of use, including hiring an attorney.

**Suing Across Borders:** In *Franchise Tax Board of California v. Hyatt*, the court will hear the case of Gilbert Hyatt, a computer expert who moved from California to Nevada shortly before receiving some $40 million in patent licensing fees. California’s tax agency says Hyatt needs to pay up; Hyatt argues the state invaded his privacy by checking his residency status. The justices will decide whether Nevada courts must follow California’s law, which provides the tax board immunity and would prevent the lawsuit. Dozens of states signed an amicus brief in support of California’s case.

**ERISA Pre-emption:** Vermont and at least 16 other states collect health care claims data. The federal Employee Retirement Income Security Act applies to most health insurance plans and requires them to report detailed financial and actuarial information to the U.S. Department of Labor. ERISA pre-empts state laws if they “relate to” an ERISA plan. In *Gobeille v. Liberty Mutual Insurance Co.*, the court will decide whether ERISA preempts Vermont’s law, which a lower court found to be “burdensome.”

**Energy:** In *FERC v. Electric Power Supply Association*, the court will decide whether the Federal Energy Regulatory Commission has the authority to require electric power generators to make “demand response” payments as an incentive to get their customers to reduce electricity use during periods of high demand. FERC says it has the authority because it regulates the wholesale electricity market. But the Electric Power Supply Association argued, and the D.C. Circuit Court of Appeals agreed, that the program encroaches on the regulatory authority of the states, which regulate the retail market. The justices will decide who’s right.

—Lisa Soronen and Susan Parnas Frederick
Credit Scores and Insurance

Most drivers know that a couple of traffic accidents or a long commute will cause their auto insurance rates to go up. But not as many know that a bad credit report can cost them, too.

All states, except New Hampshire, require drivers to buy a minimum amount of auto insurance. State law allows insurance companies to use a variety of information to determine the price of that coverage, including the driver’s age and gender, the type of vehicle being insured and how much it’s driven, the level of vandalism and number of car thefts in the driver’s neighborhood, and even the climate and weather trends where the driver lives.

In all but three states, insurers also use credit scores in determining how much drivers should pay. They cite numerous studies showing that credit scores are a statistically valid tool that can help predict the likelihood of a person filing a claim and the likely cost of that claim.

California, Hawaii and Massachusetts ban the practice. And in 2015, lawmakers in Michigan, Minnesota, Missouri, Montana, Ohio, Virginia and West Virginia introduced bills to do so as well. Proponents of these bills argue that using factors like credit scores disproportionately harms low-income drivers and can even price them out of the insurance market. None of the measures passed, but some may carry over into 2016.

Lawmakers are also considering what other kinds of personal information should be protected. In New Jersey, for example, legislation introduced in 2014 would prohibit the use of education and occupation as rating factors. In Minnesota, lawmakers considered a bill last year to prohibit discrimination in auto insurance based on where the driver lives within the Minneapolis-St. Paul metropolitan area, and in New York, lawmakers attempted to prevent insurers from increasing premiums for drivers 60 years of age or older based solely on their age. Maryland has a similar law on the books for people over age 65. A South Carolina measure that failed would have prohibited increasing a driver’s premium until after the driver was convicted of, not just charged with, the violation.

——-Anne Teigen

Yes to Ballot Selfies

Want to take a picture of your marked ballot before you leave the voting booth and post it on social media? Go right ahead.

A federal judge recently overturned a New Hampshire law banning all disclosure of one’s ballot—including the so-called ballot selfie—saying the law violated the First Amendment right to free speech. The decision could spur sweeping changes to many states’ voting laws.

District Judge Paul Barbadoro ruled that the ballot selfie is constitutionally protected political speech that can be restricted only by meeting the highest standard of scrutiny—that is, did the state have a compelling interest in restricting the photos? (When a judge requires strict scrutiny it generally sounds the death knell for the government action being challenged.)

Barbadoro concluded that because New Hampshire could not prove specific instances of vote buying, voter coercion or other fraud linked to ballot selfies, it did not have a compelling interest in restricting the photos. As political speech, ballot selfies command the same constitutional protection as other First Amendment rights.

Elections scholars disagree whether legalizing ballot selfies will result in fraud, but there’s little doubt the court’s decision will lead to significant changes. Every state has laws governing conduct in and immediately around voting booths. The laws generally prohibit photography, with some exceptions for the media. Already, some states are changing their laws to allow voters to legally take and distribute ballot selfies.

In Utah, for example, amended election code now “allows an individual to take, share or publish a photograph of the individual’s ballot.” And in Arizona, a voter who makes an image of his or her own ballot available “by posting on the Internet or in some other electronic medium” is no longer violating election code.

Moreover, because the New Hampshire decision was handed down after most states’ legislative sessions ended for the year, expect more legislation on this topic during the coming sessions.

——Ethan Wilson
Voters said “stay the course” in legislative elections last fall and “yes” to most of the ballot measures. Now it’s time to get to work.

LEGISLATURES: START YOUR ENGINES

BY WENDY UNDERHILL AND DANIEL DIORIO

Voters went to the polls last fall in Louisiana, Mississippi, New Jersey and Virginia to choose their state legislators and in Kentucky, Louisiana and Mississippi to decide on their governors. And in seven states, voters had their say on a wide variety of ballot measures. But the election turned out to be a rather quiet affair, with partisan control across the nation’s legislatures remaining unchanged.

As sessions begin this year, Republicans control both chambers in 30 states, and Democrats control both in 11. In eight states, the parties each control one chamber. Nebraska has a unicameral, nonpartisan legislature. Montana, Nevada, North Dakota and Texas hold biennial sessions and will not convene this year.

Legislative Races Wrap-up

In the Virginia Senate, a 40-member chamber that has changed hands three times in the last three years, Democrats needed to pick up just one seat to regain control. Retiring incumbents—four Republicans and two Democrats—created competitive open seats and exciting races, but in the end, the voters kept things unchanged. Republicans control the Senate in the Old Dominion State with the same 21-19 majority.

Meanwhile, over in the House of Delegates, every seat was up for a vote. Republicans held a 67-33 majority in the 100-member chamber prior to Election Day, and that didn’t change much. The GOP lost one seat but maintained a commanding 66-34 margin.

In Mississippi, Republicans increased their lead in the House of Representatives, but fell short of the 74 seats needed for a supermajority, which would have allowed them to pass spending, taxing and other measures that require a three-fifths vote without Democratic support. Two days after the election, however, Representative Jody Steverson, a Democrat, announced he was switching parties. Still, Republicans had a 73-48 majority with one race officially tied and set to be determined “by lot,” according to state law. In the end, the two candidates drew straws, with Democratic incumbent Bo Eaton coming out on top. Republican challenger Mark Tullos indicated he would contest the decision and has asked the Republican House to vote on the election this month. It’s a large turnaround from 2011, when Republicans captured the Mississippi House for the first time in 130 years.

Republicans also maintained control of the Mississippi Senate by a 32-20 margin.

Louisiana held its “Cajun top-two primary” in October, with all candidates running on the same primary ballot regardless of party. Under this system, candidates with more than 50 percent of the votes win, but if no one receives more than 50 percent, the top two vote-getters meet in a runoff election.

Wendy Underhill and Daniel Diorio are election experts in NCSL’s Legislative Management Program.
Although all 39 state Senate seats and 105 House seats were up for election, more than half of the seats were uncontested, leaving only 70 seats for the primary—18 Senate and 52 House. When all was said and done, Republicans maintained their majority in both chambers (61-42-2 in the House, 25-14 in the Senate).

And in New Jersey, Democrats increased their majority in the Assembly by three, to control the chamber 51-29. The Garden State has multimember districts in which voters select two candidates to represent them in the Assembly. Democrats took one seat in a formerly split district and both seats in another district formerly held by Republicans.

**Governor Races**

Of the gubernatorial races, Louisiana’s was the one to watch. A tight contest between U.S. Senator David Vitter (R) and State Representative John Bel Edwards (D) went down to the wire in the Nov. 21 runoff, which had Edwards pulling out a surprising upset over Vitter. The GOP gained Kentucky when Republican Matt Bevin defeated Democrat Jack Conway to replace term-limited Steve Beshear. The Bluegrass State remains in the split column because Democrats hold the majority in the House. In Mississippi, incumbent Governor Phil Bryant (R) easily won re-election over Robert Gray (D).

That leaves the final count of governors at 31 Republicans, 18 Democrats and one independent, with another two Republicans, one Democrat and two independents in the territories and commonwealths—unchanged from before the election.

**Statewide Ballot Measures**

Voters in seven states decided on a total of 26 ballot questions last fall. This was a smaller number than usual, even for an odd-year election. But the slim crop covered a surprising range of issues, from education, marijuana and transportation to redistricting, taxes and more. The big trend was voters saying yes to virtually all of the measures, with one notable exception.

 Voters in Washington overwhelmingly said yes to restricting trade in ivory and other animal products from a list that includes elephants, rhinos, tigers, lions, leopards, cheetahs, pangolins, marine turtles, sharks and rays. It is the first state to do so, though California, New Jersey and New York also ban trading in ivory products. Evergreen State voters also said yes to a restriction on the Legislature’s ability to raise taxes. It requires the state sales tax rate to decrease by a penny if the Legislature fails to send voters a constitutional amendment requiring any tax increase to get either a two-thirds vote in the Legislature or voter approval. The state does not have an income tax.

The electorate in Maine approved increased public funding for campaigns. Connecticut and Arizona have similar programs. Texans approved measures on highway funding, the right to hunt, fish and harvest wildlife, sports raffles and more. They also changed the constitution to no longer require state officials to live in the capital.

Coloradans voted to allow the state to keep the marijuana taxes collected since recreational pot went on sale in 2014. Which brings us to Ohio, where 64 percent of the voters trounced a measure to legalize marijuana. But it’s unclear whether Ohioans were opposed to legalized marijuana, per se, or instead opposed to how the measure was designed. The plan specified 10 commercial operators, which led the Legislature to put a separate measure on the ballot to prohibit the citizen’s initiative process from being used for personal economic benefit. That anti-monopoly measure received a thumbs-up, with 52 percent of the vote.

Ohio voters also approved a bipartisan commission for legislative redistricting.

What’s the upshot of the 2015 contests? The status quo ruled the legislative and gubernatorial elections, while voters approved a variety of ballot measures and rejected ones that tried to use the system to benefit a few. It’s tough to tell what this may mean for this year’s pivotal elections, when voters will decide on more than 6,000 legislative seats and possibly 150 or more ballot measures. But until then, it’s time to get to work. Let the sessions begin!

**Where Legislatures Stand**

Following the elections in 2015, party control of state legislatures remained unchanged. Both chambers in 30 states have Republican majorities and in 11 states have Democratic majorities. In the remaining eight states, the two parties each hold one chamber. Nebraska is officially nonpartisan and has only one chamber.
1 **Battling Opioids**
Across the country, deaths from abuse of opioids, primarily heroin, are on the rise, but nowhere more so than in Chicago and its suburbs, which had more heroin-related hospital visits than any major metropolitan region in 2010, Yahoo News reports. To raise awareness among Illinois residents, and parents in particular, about the dangers of heroin, lawmakers have designated Nov. 4 Heroin Abuse Awareness Day. In addition, the bipartisan Heroin Crisis Act will expand the state’s drug courts and equip police officers, firefighters, EMTs and other first responders with the opioid antidote naloxone. It also allows for naloxone to be administered in schools, and requires that the state’s Medicaid program cover the cost of heroin addiction treatment. The measure is pending.

2 **Campaigns Cost**
On average, Republicans spent less on political ads during last fall’s elections than did Democrats. According to the Center for Public Integrity, which analyzes political TV ads tracked by the media monitoring firm Kantar Media, total spending in state-level races topped $73 million—on TV airtime alone. Per race, Democratic supporters spent on average about $155,000 on political ads, while Republican supporters averaged $85,000.

3 **Part-Time Affair**
A recent poll of activists attending a Michigan Republican leadership conference found that nearly 43 percent would support a constitutional amendment to create a part-time legislature, end term limits and cut legislative pay. About 40 percent objected, and 17 percent were undecided. Michigan is among 10 states with either a full-time or a nearly full-time legislature. Past amendment efforts, in 2008 and 2014, failed before reaching a statewide vote. Critics say the possible advantages—reduced costs, members spending more time in their communities—are outweighed by the risks of tipping the balance of power to bureaucrats in the executive branch, and of citizen legislators facing conflicts of interest by working other jobs, reports The Detroit News, which co-sponsored the poll.

4 **No Classroom Coercion**
Former Louisiana Governor Bobby Jindal’s lawsuit against the Common Core education standards failed to make the grade. Jindal (R) argued the U.S. Department of Education was coercing states to use the standards, which spell out what students should know in math and English at each grade level, by penalizing those that failed to adopt them. The federal judge rejected the suit, saying there was “no evidence” that Louisiana was forced to adopt the standards or faced consequences for not doing so. The Common Core State Standards were launched in 2009 by state leaders, including governors and state commissioners of education from 48 states, two territories and the District of Columbia.

5 **It Takes a Community**
Oregon is the second state (after Tennessee) to offer free community college. The state pays the balance of tuition for students who receive federal grants. There are restrictions, and it’s not totally free—each student must pay at least $50 per term—but it’s a win-win for students and the state, supporters say. It costs about $14,000 a year in social services and indirect costs to support each of the 70,000 Oregonians ages 18 to 24 who are unemployed and have no education beyond high school, the Willamette Weekly reports. “A lifetime of food stamps is much more expensive than the annual community college tuition of $3,000,” said Senator Mark Hass (D), a co-sponsor of the bill, which passed with bipartisan support.
6

Affordable Cities
Paychecks in Birmingham, Alabama, go further than they do in any of America’s 100 largest Metropolitan Statistical Areas, according to Forbes magazine’s Most Affordable Cities list for 2015. The median family income of $61,000 is below the national average ($63,900), but so are prices for just about everything. The median sales price for a home was $130,000 during the fourth quarter of 2014, and about 81.5 percent of homes were affordable to families earning the median pay. Groceries cost about 5.4 percent less in Birmingham than the national average, transportation about 13.2 percent less and health care 16.6 percent less. Others in the top five: Knoxville, Tennessee; Buffalo, New York; Oklahoma City and Cincinnati.

7

Back to Work
The fact that nearly a quarter of working mothers return to their jobs within two weeks of giving birth might lead you to believe that modern medicine has made childbearing an easy, routine procedure. Think again. Although the federal Family Medical Leave Act requires workplaces with 50 or more employees to offer up to 12 weeks of unpaid leave a year to care for a newborn, adopted or foster child, many mothers can’t afford to stay away from work that long. According to the U.S. Labor Department, 13 percent of U.S. workers have access to paid leave. Three states—California, New Jersey and Rhode Island—offer paid family and medical leave, funded through employee payroll taxes.

8

Less Lethal Weapon
In their search for ways to subdue criminal suspects without causing lethal injury, police are looking at the “blunt impact projectile,” or BIP. It’s a type of ammunition that’s much larger than a rubber bullet and has a gel-filled nose that flattens against a person’s body on impact. It is said to cause excruciating pain, but is unlikely to kill. At least 16 U.S. law enforcement agencies and six in Canada have bought the BIP, The Associated Press reports. Critics argue that holding police accountable is a better way to reduce potentially deadly encounters between officers and suspects.

9

Cooperating on Public Lands
Among the Western states seeking greater control of federal public lands within their borders, Colorado continues to tread a cooperative path, as State Legislatures reported in its July/August issue. Legislation enacted in May is helping county officials to work more cooperatively with federal land managers—taking advantage of a requirement in federal law that local officials’ wishes be generally respected. The law, co-sponsored by Representatives Bob Rankin (R) and KC Becker (D), makes grant funding available to counties to use in hiring consultants to gather and evaluate data and to attend Bureau of Land Management meetings. The first grant went to Gunnison County, which has challenged the U.S. Fish and Wildlife Service’s decision to put the Gunnison sage-grouse on its endangered species list. The county says its own conservation efforts are sufficient.

10

Private Party
A federal judge ruled that Utah cannot force political parties to open their primaries to unaffiliated voters, the Salt Lake Tribune reports. In a recent bill, lawmakers sought to increase voter participation by forcing parties to let the state’s 610,000 unaffiliated voters cast ballots in the primary elections. But, as his counterparts in other districts repeatedly have done, U.S. District Judge David Nuffer struck down the measure’s open-primary provision, saying it encroaches on the parties’ First Amendment right to association.
Thank You for Supporting America’s Greatest Support System: Family Caregivers

To recognize their work to support family caregivers, AARP honors 76 state legislators by naming them to the 2015 class of Capitol Caregivers—a bipartisan group from 25 states. Specifically, these elected officials advanced policies to support the spouses, adult children, friends and others who make it possible for older Americans to live independently in their homes and communities—where they want to be.

Today, about 40 million family caregivers provide assistance for their older loved ones, helping with bathing and dressing, meal preparation, managing finances, grocery shopping and more—even medical tasks like wound care, injections and complex medication management. This unpaid care is valued at $470 billion a year, surpassing total Medicaid spending.
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Congratulations and thank you to the state legislators in AARP’s 2015 class of Capitol Caregivers:

**California**
- Sen. Carol Liu
- Sen. Lois Wolk

**Connecticut**
- Senate President Martin Looney
- Senate Majority Leader Bob Duff
- Sen. Eric D. Coleman
- Sen. Mae Flexer
- Sen. Kevin Kelly
- Rep. Mitch Bolinsky
- Rep. David A. Baram
- Rep. Rosa Rebimbas
- Rep. William Tong

**Delaware**
- Sen. Bethany A. Hall-Long

**Florida**
- Sen. Denise Grimsley
- Sen. Eleanor Sobel
- Sen. Kathleen C. Passidomo

**Illinois**
- Sen. Chapin Rose
- Sen. Heather Steans
- Rep. Jerry Costello, II
- Rep. Sara Feigenholtz

**Indiana**
- Sen. Ed Charbonneau
- Sen. Patricia Miller
- Sen. Mark Stoops
- Sen. Vaneta Becker
- Rep. Ed Clere
- Rep. Karlee Macer
- Rep. Dennis Zent

**Maine**
- Rep. Drew Gattine

**Maryland**
- Del. Bonnie L. Cullison

**Mississippi**
- Sen. Terry C. Burton
- Rep. Toby Barker
- Rep. Sam C. Mims, V

**Nebraska**
- Sen. Kate Bolz
- Sen. Sue Crawford

**Nevada**
- Sen. Joe P. Hardy
- Sen. Debbie Smith
- Asm. James Oscarson

**New Hampshire**
- Sen. Nancy F. Stiles
- Rep. Susan Emerson

**New Jersey**
- Asm. Nancy F. Muñoz

**New Mexico**
- Sen. Michael Padilla
- Rep. Deborah A. Armstrong
- Rep. Tomás E. Salazar

**New York**
- Sen. Kemp Hannon
- Asm. Linda B. Rosenthal

**North Dakota**
- Sen. Erin Oban
- Rep. George J. Keiser

**Oklahoma**
- Sen. Patrick Anderson
- Rep. Wade Rousselot

**Oregon**
- Sen. Laurie Monnes Anderson
- Sen. Elizabeth Steiner Hayward
- Sen. Tim Knopp
- Rep. Mitch Greenlick
- Rep. Nancy Nathanson

**Puerto Rico**
- Sen. José Luis Dalmau Santiago
- Sen. Ramón Luis Nieves
- Sen. Luis Daniel Rivera
- Rep. Ángel N. Matos García
- Rep. Lydia Méndez Silva

**Rhode Island**
- Sen. Gayle L. Goldin
- Sen. Joshua Miller
- House Speaker Nicholas A. Mattiello
- Rep. Joseph M. McNamara
- Rep. Eileen S. Naughton

**South Carolina**
- Rep. Bill Herbkersman

**Virginia**
- Sen. Barbara A. Favola
- Del. Eileen Filler-Corn

**Washington**
- Sen. Karen Keiser
- Rep. Eileen Cody

**West Virginia**
- Sen. Mitch Carmichael
- Sen. Ryan Ferns
- Del. Daryl Cowles
- Del. Joe Ellington

**Wyoming**
- Sen. Bernardine Craft
- Rep. Allen Jaggi

In 2016, across the states, AARP will continue fighting for family caregivers, and the loved ones who count on them: for more support, help at home, workplace flexibility, training, financial protection and more. Learn more at aarp.org/SupportCaregivers
From opioid addiction to fantasy sports, state lawmakers will have plenty on their plates this year—no matter who occupies the White House.

BY JULIE LAYS

A few things we know for sure. In 2016, political pundits and pollsters will focus Americans’ attention on presidential politics. The candidates—whoever they turn out to be—will tell us what “the American people” want before we know ourselves. The race indeed is extremely important. Who occupies the White House can have a huge effect on the states. But beyond all the hyper-analysis and grandiose claims that accompany a bid for the White House are 7,383 state lawmakers, most of whom face elections in the fall as well. Before the election, they will be working, making the hard policy decisions that matter most to “the American people,” searching for solutions outside the box, finding ways to streamline and save, and getting things done.

What can lawmakers expect? This year, 46 legislatures will convene, and as in most years, lawmakers will search for ways to balance the budget (constitutionally required in two states but practiced in 49), stimulate the economy, create new jobs, improve governmental efficiency, cut costs and maintain the infrastructure with fewer revenues. They will discuss how to improve the quality of our nation’s K-12 education system, recruit and keep good teachers and control the costs of college. Pensions, corrections and energy will come up as well.

And finally, there’s health care. Medicaid eats up more than a quarter of state budgets and continues to be a perennial topic of legislative debate.

The new president may change the tone or direction of these evergreen policy topics, but all have a reserved seat at most legislative tables.

For the last few years, our list has focused on the top 10 emerging issues, and it will again in 2016. These are the issues, according to NCSL’s policy analysts, that are gaining steam—some prompted by upcoming federal deadlines, but not all. Emerging issues can become big quickly. In fact, most topics on our list from last year remain hot, including marijuana, community/police relations and e-cigarettes.

1. Clean Power Plan

The Environmental Protection Agency’s new rules require states to reduce carbon dioxide emissions from power plants by an average of 32 percent nationally by 2030. The rules, created under 111(d) of the Clean Air Act, are likely to require legislative action. States can choose to reduce emissions however they see fit, and have the option to comply individually or in coordination with other states. Their compliance plans are due in September; that is, if the federal law survives legal challenges filed by more than half the states. They claim the EPA over-reached its authority and that the plan would harm the many states that depend on coal to power their economies. Several states are requiring legislative approval of the state plan or a report or study of the potential impact the regulations could have on affordable power, reliability and consumers, as well as the feasibility of compliance. Whether working toward its goals or challenging its requirements, state lawmakers will come up against 111(d) sometime this year.

Julie Lays, the magazine’s editor, compiled this story with contributions from NCSL policy experts Glen Andersen, Dick Cauchi, Amanda Essex, Rochelle Finzell, Jon Griffin, Karmen Hanson, Kristy Hartman, Alison Lawrence, Donna Lyons, Kevin Pula, Wendy Underhill and Amber Widgery.
2. Opioid Addiction

Heroin-related deaths nearly quadrupled between 2002 and 2013, while prescription opioid overdoses now kill more Americans than all other drugs combined. Opioids include heroin and some prescription painkillers like morphine, methadone, hydrocodone and oxycodone. Every state has enacted legislation addressing opioid abuse. They have focused on addiction prevention, treatment and recovery options, good Samaritan immunity, medication-assisted treatment, diversion of low-level drug offenders, and access to opioid antagonists, including naloxone, which can reverse deadly overdoses. But the problem continues to grow, forcing policymakers to continue their search for solutions that curb abuse while protecting the legitimate use of prescription pain medicine. This issue involves many areas of law beyond the criminal justice system, including those related to children and families, emergency responders, health care and schools.

3. Electric Vehicle Fees

Thirty-seven states offer incentives to drive electric vehicles, such as tax credits and rebates, HOV-lane access and free parking. The widespread adoption of electric vehicles, however, could result in lower gasoline tax revenues. This has some state policymakers looking for new ways to maintain funding for transportation infrastructure projects. Georgia, Idaho, Michigan and Wyoming enacted fees on certain hybrid and electric vehicles last year, the most in one year to date. In total, nine states have imposed fees as a way to recapture lost gas tax revenue. More states are likely to consider adding fees in 2016, and Kentucky is leading the way. Legislation to put a fee on electric vehicles has already been prefixed there. But placing special fees on alternative fuels, such as electricity, is just one way states are looking to boost needed revenue. Oregon recently began a program that other states are watching. It separates transportation revenues from gasoline consumption by allowing drivers to pay a fee based on miles driven rather than gallons of fuel purchased.

4. Child Sex Trafficking

The federal 2014 Preventing Sex Trafficking and Strengthening Families Act contains many state requirements, some of which have deadlines this year that involve legislative action in areas such as foster parenting and adoption incentive payments. In addition, the law requires states to collect certain data, report sex trafficking and identify children who may be at high risk of becoming victims, particularly current and former foster children. Lawmakers will be searching for efficient ways to meet these new federal requirements.

5. Drones

Unmanned aircraft systems have a host of uses in law enforcement, land surveillance, wildlife tracking, disaster response, border patrol and many other areas. As they continue to fill the skies, the Federal Aviation Administration has proposed regulations for their use and state legislatures are debating whether and how they should be regulated. Taking into account the benefits of their use, privacy concerns and their potential economic impact, 20 states passed legislation in 2015. The bills often define the aircraft and describe acceptable uses by law enforcement or other state agencies, as well as the general public.

6. End of Life

The youngest baby boomers turn 52 and the oldest 70 this year, bringing long-term care and end-of-life issues closer to reality for many. Medicaid is the largest payer of long-term care services, forcing many state policymakers to look for ways to help seniors remain in their homes or in community-based settings, which they tend to prefer, rather than enter more costly facilities. Lawmakers will consider policies to support Medicaid recipients, ensuring they receive appropriate services in the most appropriate setting.

In another area, four states have passed death-with-dignity or right-to-die laws allowing mentally competent, terminally ill
This year Illinois, Oregon and Washington enacted historic laws that help millions of employees look forward to a more secure and independent retirement. These laws improve access to simple payroll-deduction retirement savings for working residents who don’t have an employer retirement plan. Across the country, 55 million workers don’t have access to a workplace retirement plan, and people are 15 times more likely to save for retirement if they can do so at work. These laws also save taxpayers money by helping fewer people rely on government safety net services. That’s why more than two dozen states are considering similar laws and AARP urges them to give small businesses a competitive edge—just like Illinois, Oregon and Washington already did. AARP would like to take this opportunity to thank the following “Super Saver” state leaders whose ongoing support ensured the passage and implementation of this historic legislation.

**Illinois**
- State Senator Daniel Biss
- House Majority Leader Barbara Flynn Currie
- State Treasurer Michael W. Frerichs

**Oregon**
- State Senator Lee Beyer
- State Representative Tobias Read
- State Treasurer Ted Wheeler

**Washington State**
- State Senator Mark Mullet
- State Representative Larry Springer

To learn more visit aarp.org/stateretirement

Paid for by AARP
people to voluntarily request a prescription medication to hasten their death. In addition, more states are creating a centralized database of people’s end-of-life wishes, and many states are actively looking at their role in easing the difficulties that come with end-of-life decisions.

7. Fantasy Sports

Fantasy sports, football in particular, have become wildly popular. From 2014 to 2015, they added 14.3 million participants. But a real battle is brewing between fantasy sports companies and state officials over whether daily fantasy sports website operators should be regulated in a manner similar to gambling. Although traditional fantasy sports have been around for decades, daily fantasy sports sites are relatively new. They have grown quickly to become a multibillion-dollar industry. Recently, New York’s attorney general went on the offense against the two giants of the industry, DraftKings and FanDuel. He sent them cease-and-desist letters and accused them of insider trading, fraud and false advertising. The companies are fighting back. And lawmakers will likely play a greater role than spectator as the matches heat up.

8. Gay Rights, Religious Freedom

Having achieved victory with the U.S. Supreme Court ruling last summer that legalized same-sex marriage nationwide, gay rights advocates are turning their attention to the states, half of which do not have gay rights. Just as with the legal fight for marriage equality, a real battle is brewing. For the LGBT community—feel just as passionate about protecting their right to exercise their religion, even in their places of work. This has come up against anti-discrimination laws when it involves refusing to perform marriage ceremonies, issue marriage licenses or provide products and services to gay or lesbian couples. Currently, 21 states have Religious Freedom Restoration Acts, some modeled after the federal law signed by President Bill Clinton in 1993. Clinton said that the law was needed to hold the federal government to “a very high level of proof” before it interferes with someone’s free exercise of religion.”

9. Online Voter Registration

Voter registration has seen a lot of change in the last few years, and the most interest is in online registration. A total of 26 states plus the District of Columbia now offer the convenience, and another three states recently passed legislation to create systems. Currently, online applications are compared with the would-be voter’s driver’s license or other state-issued identification card. When the information doesn’t match, the application is sent to officials for further review or action. It’s likely more states will offer online registration. And in the states that already do, lawmakers will tweak the systems in a never-ending quest to make them better—offering forms translated into more languages, adapting systems for mobile devices, enhancing security features and permitting citizens who don’t have driver’s licenses to register online.

10. Sentencing Policies

From the president and the pope to political heavyweights (Koch Industries and the ACLU) and cultural icons (Mark Zuckerberg and John Legend), a growing chorus is drawing national attention to corrections and sentencing reforms. A decade ago, rising prison populations and costs seemed to be an uninterruptible trend. The tide appears to be changing, however. The spike in the prison population has leveled off, violent and property crime rates are down and corrections budgets are pretty close to flat. States are leading the charge. Many of these efforts involve bipartisan, multi-branch task forces that collect and analyze information on what drives prison populations and costs. What then emerges are policies that address the costs while holding offenders accountable and protecting the public. Some adopted policies focus on reserving prison space for the most dangerous offenders and safely supervising and treating others in the community. Currently, task forces are developing legislation in Alaska, Maryland, Massachusetts, Montana and Rhode Island.

Plenty to Do

So, there you have it. These are some of the issues legislators are increasingly asked to address. But this could change quickly with an unexpected event or a menacing new threat, which could take lawmakers down an unforeseen path. The terrorist attacks in Paris, which occurred just as we were finishing this list, may force legislatures to renew their focus on immigration and refugee policies and security safeguards.

Because no one knows for sure what lies ahead.
Christopher Thornberg is founding partner of Beacon Economics LLC and one of the nation’s leading economists. He’s an expert in economic forecasting, regional economics, employment and labor markets, economic policy, and industry and real estate analysis. And, he was one of the earliest and most accurate predictors of the subprime mortgage market crash and global economic recession that began in 2007.

STATE LEGISLATURES: What are the biggest drivers of economic growth?
Thornberg: Consumers. There are more jobs out there, so incomes are rising, and consumers are borrowing more—a nice burst of things. The real estate market and construction market are also doing pretty well. Nonresidential and residential spending from a long-term perspective is still pretty far behind, but you’re definitely seeing better numbers. New home sales, for example, are up and overall nonresidential construction is on a pretty good tear right now too.

What role does tax policy play in encouraging economic growth?
Not as much as people think. Some folks argue that tax policy is the single largest determinant of local economic growth, but the data show otherwise. It isn’t to say that there aren’t good taxes and bad taxes. But, in general, tax policy tends to have a limited role in determining which states succeed.

Why do you think states should expand sales taxes to more services?
There’s a basic rule that good taxes are small taxes on a large basis. For a long time that was true for the sales tax; it was very broad-based. But there has been a big shift in consumer spending away from goods toward services. The response has been largely to increase taxes on goods. But that just pushes more people into services because those taxed goods become more expensive relative to services. It’s better to broaden the tax base and reduce the rate on everything to, say, 3 percent. It’s a way of widening and stabilizing what is a very important revenue source for state and local governments.

What do you think about the tax competition among states?
Well, it’s tough. In the long run, it’s not taxes, it’s not a bunch of buzzwords about biotech that drives growth. It’s people. One of the questions lawmakers should ask is, What are we doing to make our state attractive so people want to move here? Another is, How do we keep people from moving away?

It’s all about the quality of life, the quality of education, the quality of infrastructure. If you make those proper investments, people will want to be there. Urban areas are another big attraction. If you want to make your state grow, reinvigorate urban areas, help cities prosper.
Do you view the large U.S. long-term debt as a fiscal crisis?

No, it’s not even close. Look, net federal debt to GDP is about 60 percent, but a good hunk of that is held by the Social Security Administration or the Federal Reserve. That, combined with very low interest rates, means that—even though the amount of debt is higher than it was under the Reagan administration—the actual debt burden equates to lower interest payments on a quarter-to-quarter basis. But that doesn’t mean everything is fine in the federal government. In fact, it’s quite the opposite—things are really worrisome.

We should be worried about the unfunded liabilities—long-term obligations on Medicare, Medicaid and Social Security. There’s no way the federal government can afford to pay for the Medicare and Medicaid services it’s promised in the long term. There are simply not enough workers earning enough money to pay for it all. We need to start paying attention to the unfunded stuff and stop worrying about the funded stuff.

What are the implications of long-term low interest rates?

Interest rates are low today largely because there’s this massive savings glut, not because of fed policy. With more supplies coming from places like China and even here in the United States, both public and private funds must work hard just to catch up. At the same time baby boomers are trying to get ready for retirement. All this capital is trying to find a place to call home; but there aren’t that many places, and that tends to push returns down.

From a long-term standpoint, that means a lot, but it depends if you’re thinking about saving for the future. If so, it means you are going to have to work a little harder. The power of compound interest doesn’t work so well when interest rates are so low. People need to adjust their behavior and save more today in expectation of these lower future returns.

If you’re a borrower, however, it’s a great time to borrow. Despite the increase in prices, for example, the housing market is still pretty affordable because of these low interest rates.

What should pension managers be doing about low interest rates?

Most public pensions today continue to use candidly expected returns that are far outside what they can actually hope to earn. I hear numbers anywhere between 6 and 7 percent, or even 8 percent. Yet, a 10-year treasury is running at only 2 percent. A pension fund in no way, shape or form should be investing in the kind of risky investments necessary to earn four times the rate of a 10-year treasury.

It’s incumbent upon states and cities to start recognizing this and reducing that expected interest rate, but of course, as you know, we are playing this game of ignoring the actual shortfalls that exist. But you can’t play that game forever. At some point in time, you’re going to have to start making these adjustments and candidly, the quicker we do it, the less painful it’s going to be in the long run.

What is a realistic assumed rate of return for a public pension fund?

It probably should be in the 3 percent to 4 percent range, maybe 5 percent on the outside. From a long-term perspective, I think that’s a good, safe number. But, it’s amazing if you go from 7.5 percent to 5.5 percent, how much that changes the calculation of pensions.

If public-sector spending, or the lack thereof, is a real drag on the economy, how will this change, and should it?

There are two kinds of spending: investing in the future and investing in the now. A lot of money is being invested in the now—social programs, employee salaries, employee pensions, things like that. What’s languishing are long-term investments—building new schools and repairing old roads, bridges and various sorts of infrastructure.

One of the things that really made this nation great was heavy investments in the infrastructure that keeps, if you will, the wheels of commerce moving. The fact we’re falling behind on that right now should worry everybody. We need state and local governments, and of course the federal government, to get in there and start reinvesting.

Why aren’t we?

There are two issues here. A lot of folks are angered by what they see as abuse of the current system of pension spending, especially as it pertains to unions. As a result, people vote against any kind of tax increase, believing it’s not going to help them. They think it will just go to union folks who, they believe, receive too much compensation already, and a pension that’s vastly too generous relative to the private sector.

If you’re not making commitments to raise taxes, where is that money going to come from? In many cases, it seems the way to navigate this is for state and local governments to consider creating new taxes that fund very specific uses: roads, bridges, schools and all the things we need to invest in for the future.

Are Americans saving enough for retirement? Is there a coming retirement savings crisis?

Americans have to acknowledge the fact that Medicare/Medicaid is not going to be there the way it was for your parents and your grandparents; it’s as simple as that. We live in a world where we’re becoming more and more responsible for our own financial futures, and that means we as a society have, if you will, a due diligence to make sure people are doing that. We have not seen the government get involved in promoting savings, at least not like it does in places like Australia. If you have a job there, 12 percent of your income automatically goes into a 401K, no matter what. That sort of government effort should be used as a backstop, should other public programs people rely on fail.

What’s the next bubble on the horizon?

I haven’t seen it yet, but there’s always going to be a next bubble, that’s for sure. Right now it doesn’t seem to be out there. The markets seem to be in a pretty good place.

Editor’s note: This interview is part of a series of conversations with national leaders. It has been edited for length and clarity. The opinions expressed herein are not necessarily NCSL’s.
How a quirky former football coach upended the staid world of libraries and changed the role of legislative research forever.

BY MICHAEL GIOIA

STATE LEGISLATURES 25  JANUARY 2016

Michael Gioia, a history student at Stanford University, interned at NCSL last summer. To learn more about Charles McCarthy and the Wisconsin Idea visit www.ncsl.org/magazine.

The Accidental Librarian

State politics is teeming with colorful characters and controversies—the stuff of history and legend. By comparison, a central institution of state governance—the legislative staff agency—seems staid. But that’s only if you don’t know the story.

At the beginning of the 20th century, the modern legislative staff agency simply did not exist. The New York State Library would often provide books and other research materials to legislators down the street in Albany, but there was no equivalent help in any other state. As a result, most citizen legislators tackled thorny, esoteric issues on their own, often with disastrous results.

Private individuals and groups often were able to exploit this void of effective reference services. As Samuel Rothstein concluded in one study of legislatures, “Lawmakers, mostly inexperienced and often not well-educated, had to cope with social and technical problems of growing complexity, possessing little more information than that which could be filtered through the partisan propaganda of lobbyists and special interest groups.”

Not surprisingly, state legislatures sank in the eyes of the public, and scholars began to rethink the way laws were made. The situation was indeed problematic, but this reform effort would produce tremendous results.

The Football Star

Charles McCarthy stepped onto the stage nearly by accident. A former college football star turned academic, McCarthy arrived in Madison, Wisconsin, in 1901, freshly graduated and unemployed. A bright student who had risen from poverty, McCarthy had developed an impressive network of friends, including John D. Rockefeller Jr. Through his connections at the University of Wisconsin, McCarthy obtained a job with the Wisconsin Free Library Commission, where he became a state documents librarian.

McCarthy took over a relatively new program, where he managed a small collection of documents recently separated from the library and placed in the Capitol. On paper, his tasks were merely to catalog and preserve the materials in his collection. But his ambitions soon grew far beyond that.

McCarthy dreamed of a much more active program, in which he and his small sub-library served as a direct bridge between legislatures and the information they needed. In a letter to Rockefeller in 1902,
McCarthy claimed he would soon enter “a field between the theoretical work of the University and the practical work of the legislature that has never been touched.”

**A Help Center Is Born**

By the time the Legislature returned to session in 1903, McCarthy had taken a bold step. In addition to caring for the materials in his collection, he had turned the library into a help center of sorts for legislators. In addition to its traditional document collection, the library provided up-to-date materials on pertinent issues—and McCarthy’s expert advice on where any information could be found.

Today’s library visitors might not see this as an innovation, but in 1903, McCarthy’s vision represented nothing short of a rupture. Traditionally, a library mainly housed knowledge; under McCarthy, the Wisconsin library actively disseminated it. This broke the rules in the library business—legislative or otherwise.

What inspired McCarthy to transform his library into the beginnings of the Wisconsin Legislative Reference Bureau? No one really knows. The state library wasn’t even paying him. Some claim McCarthy wanted to do New York’s State Library, led by Melvil Dewey, one better. Others argue the Capitol’s proximity to the university played a role.

Regardless, McCarthy had started something new and exciting. He reached out to legislators, receiving strong support and requests for more services. And he quickly secured a significantly larger budget.

**The Wisconsin Idea**

McCarthy’s library soon began to provide many of the services now associated with the modern legislative staff—he compiled information, shared it with lawmakers and other state governments, and wrote legislation. Over time, McCarthy and his colleagues at the university would incorporate these tasks into a set of ideals that became known as the “Wisconsin Idea.”

Like Wisconsin’s library itself, many of the tenets of the Wisconsin Idea are taken for granted today. Broadly, the Wisconsin Idea stressed the union of the university, with its scholarly resources, and the state’s residents, but especially the state government. This creed carried immense implications for the Legislature. Among other things, it held that a well-trained librarian should lead the legislative reference library, that the library should employ a strictly nonpartisan staff, with some expertise in politics and economics, and that the staff should assist legislators in everything from bill drafting to research.

These ideals and practices were radical for the time. They entailed a very active form of research—McCarthy would compile and analyze materials, then create his own guides on a given subject. Under this model, the role of the legislative librarian shifted from custodian of information to scholar and analyst.

McCarthy further pushed the envelope by insisting that his staffers be responsible for the accuracy of the information they provided. “There was real disagreement among legislative reference libraries at the time about the extent to which legislative reference librarians should be responsible for the validity of the information supplied,” according to a study by Paul Healey. “Generally, legislative reference libraries established as adjuncts of general libraries took the conservative approach that they should not.” But McCarthy pressed on.

The sheer novelty of this approach caused quite the controversy among career librarians, and it’s not hard to imagine why. McCarthy had only recently entered the ancient profession, and yet this former football coach immediately wanted to upend it.

McCarthy’s library didn’t become a modern legislative reference agency overnight, but his reforms would play a pivotal role. Yet at the time, they were nothing short of bizarre—the products of a quirky accidental librarian.

**Spreading the Word**

As the Wisconsin library grew and matured into a reference service, McCarthy set his sights on other states. Popular with his Legislature and armed with a certain celebrity status, McCarthy embarked on an evangelizing mission to spread the Wisconsin Idea.

He wrote a book, traveled extensively across the country and took every opportunity to speak to state governments and associations of librarians about his vision. McCarthy soon boasted a social network of the day’s leading librarians. And he helped organize a course at the University of Wisconsin on legislative reference, ensuring a steady supply of new believers.

It all paid off. When McCarthy started work in 1901, no legislative staff of this sort...

The progressives succeeded in transfiguring American politics. Within a few years, they counted new federal agencies and constitutional amendments among their victories. Though less talked about, the proliferation of Wisconsin-style legislative staff represented another key move toward effective, professional governance.

The Wisconsin Idea played central and successful roles in McCarthy’s campaign for staff services. Within two years of his book’s publication, the U.S. Congress allotted money for reference work, and with each legislative session, more states were doing the same. By 1919, at least 22 states had staff providing assistance with reference work and bill drafting, though their scope varied widely.

Legislative staff agencies continued to proliferate and grew increasingly recognized. Many political scientists lauded the work of staff in Wisconsin and elsewhere, and by the 1930s, the further expansion of staff resources was a fixture in the many calls for legislative reforms.

In 1938, political scientist Edward Witte wrote, “Technical services are universally acknowledged to be very necessary to the reasonably efficient functioning of state legislatures; where established, they function without arousing serious opposition, and legislators do not hesitate to make use of them.” His conclusion: “Services of this kind are worth all the effort that anyone can put into them; and, clearly, such services are very necessary in all states.”

These calls for expanded services were answered. By the time the 1943-44 Book of States hit the press, only Delaware, North Dakota, Tennessee and Utah had no reference services. Finally, by the 1960s, all state legislatures maintained some version of a reference service, and by the 1970s, state auditors and more legislative clerks were joining the ranks of professional legislative staff agencies.

And all because of the vision of a quirky football coach and scholar.
Experience Preferred

Legislative experience can be a plus for governors—but it is hardly a guarantee of success.

BY LOUIS JACOBSON

Stamping a little pig on line-item vetoes for appropriations he felt were wasteful didn’t exactly endear Minnesota’s then-Governor Jesse Ventura to the Legislature. The former professional wrestler was elected in 1998 with zero legislative experience, and it showed. His lack of understanding of and appreciation for the legislative process handicapped his entire governorship, says Carleton College political scientist Steve Schier.

“He viewed legislators as cowards and ... the Legislature returned the favor by ignoring much of his agenda as his single term wore on,” says Schier.

Ventura may be an anomaly, but as legislative sessions start up in most states this month, governors will be there, working with lawmakers to promote their policy goals. Will their legislative experience (or lack of it) matter? Based on interviews with a wide range of political observers, lawmakers and governors, the answer is a qualified “yes.” Legislative experience can help, but it is hardly a guarantee of success, nor is a lack of experience necessarily a barrier to gubernatorial achievement.

For Jim Douglas, a former Republican Vermont governor and House majority leader, “Legislative experience was a plus ... lawmakers knew I had some of the same experiences they were having. I was familiar with the protocols and the committee process. I could relate to their problems, and they knew they couldn’t snow me, either.”

About 50 percent of recent governors from both parties and among all states have previously served in state legislatures. Currently, 21 governors have had experience in the legislature, and many others have previous experience in other statewide elected positions, such as attorney general or secretary of state.

The Skills Advantage

Examples abound of how skills honed in the legislature can make a difference in a governor’s ability to lead effectively.

Former Arkansas Governor Mike Beebe, a Democrat, is a good example. He served two terms until his retirement in 2014. Hal Bass, an Ouachita Baptist University political scientist, points to Beebe’s record on budget negotiations and his ability to work with Republican lawmakers to enact the “private option”—a free-market approach to expanding Medicaid under the Affordable Care Act—as examples of how “state legislative experience was clearly a factor” in Beebe’s success.

The governor’s legislative skills became particularly important in negotiations with junior lawmakers, who made up much of the Republicans’ newly installed legislative majority. Beebe had served 20 years in the Senate before becoming governor, and he believes “it was an invaluable asset for my time in the governor’s office.”

Legislative experience also aided Michigan’s John Engler, says Bill Ballenger, the founder of Inside Michigan Politics. A three-term Republican governor, Engler had served two decades in the Legislature before making the switch. Some saw him as having an “LBJ-style genius for cracking whips” to get the Legislature to comply with what he wanted—something that wouldn’t have been possible without the time he spent in the Legislature building relationships and gaining respect.

There are plenty of other examples—from Republicans Rick Perry of Texas, Norm Bangerter of Utah and Victor G. Atiyeh of Oregon, to Democrats Lawton Chiles of Florida and David Ige of Hawaii—of how governors benefited from their ability to relate to state legislators, particularly those of the opposite party or in times of economic stress.

Governors who have served in legislatures know the importance of building personal relationships with lawmakers and meeting regularly with leaders from parties. They also know how to do the “little things like offering praise at public events, which not only translate into better relationships but also can help ease the passage of portions of the governor’s agenda,” says Christopher W. Larimer, a University of Northern Iowa political scientist who is writing a book on Iowa governors.

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No Guarantees

There are limits on the importance of experience, however. For starters, a governor’s personal style can play a larger role than legislative work history. In South Carolina, for instance, Mark Sanford “had difficulty getting along with legislators,” says College of Charleston political scientist Jack Bass. His lack of legislative experience was secondary to his well-known prickly style of interacting with lawmakers.

Having legislative experience means having a voting record that’s open to attack by opponents. And, not all experience is equal. Leadership experience is typically much more useful than experience as a rank-and-file legislator. Experience can also grow stale with time, particularly in states with term limits.

How much Ohio’s Republican Governor John Kasich’s legislative service aided his successful run as governor is difficult to determine since so much time passed in between. After leaving the state legislature in the early 1980s, he had a long career in the U.S. House, followed by a stint in the private sector before winning the governorship. Very few of his legislative colleagues hung around that long.

Likewise, in California, former governors Pete Wilson (R) and Gray Davis (D) both had experience in the Legislature, but the lawmakers they had worked with had mostly been term-limited out by the time they held the governorship. Few of his legislative colleagues hung around that long.

“Legislative experience may confer an advantage if members a governor served with are still serving, but I see little evidence that it provides a leg up if the governor was a legislator long before he became governor,” says Garry South, a Democratic strategist in the state. “The issues and internal dynamic of the chambers will have significantly changed.”

Lack of Relationships

Governors who come to the office through some other route—private business or show business, for example—have had mixed success. For some, lack of experience and knowledge of legislative processes have resulted in fumbled legislation and contentious relationships with lawmakers.

Nevada Governor Kenny Guinn (R), for example, failed to pass a large tax increase in 2003, partly, says longtime political journalist Jon Ralston, because he had no relationship with lawmakers. He challenged lawmakers, “lectured them, berated them, even called them ‘irrelevant,’” which served only to “help coalesce the opposition,” Ralston says.

In today’s highly partisan environment, in which the art of corralling bipartisan support is more challenging than it used to be, “having a legislature of the same party has become considerably more significant for a governor than legislative experience,” says Oregon political columnist David Sarasohn.

But not always.

In North Carolina, for instance, Republican Governor Pat McCrory has had “a rocky relationship with the General Assembly,” says Mark Binker, who covers the state Capitol for WRAL-TV in Raleigh. “He recently sued them over how they structured certain boards and commissions, and despite being a Republican dealing with a Republican-led legislature, has seen some of his vetoes overridden over the past three years.” Binker says he suspects that McCrory “would have had a leg up had he spent some time in Raleigh before being elected governor.”

Like McCrory, Florida Governor Rick Scott, a Republican, is working with a Republican Legislature, but Scott also has struggled at times, battling lawmakers over a variety of issues, notably health care budgets.

“I think that Rick Scott not having any real government experience has caused him difficulty with the Legislature,” says University of Central Florida political scientist Aubrey Jewett.

“Even though he had broad bipartisan support in the Legislature, his relationship has been conflicted. Scott has simply not paid attention to worrying about the Legislature or addressing its concerns.”

Experience Not Mandatory

Still, a lack of legislative experience doesn’t necessarily preclude a good working relationship with lawmakers. John Lynch (D) of New Hampshire didn’t have a legislative background, but he had a successful tenure due in part to the management skills he honed in the business world, says Andrew Smith, a University of New Hampshire political scientist.

In California, Arnold Schwarzenegger was a virtual political novice when he became governor. Yet he was able to win over members of the Democratic legislative majority in order to make deals, at least for a portion of his term, says California-based consultant Harvey Englander. “He had a major charm offensive going that enabled him to get quite a bit of his agenda through,” Englander says.

In Montana, recent governors have used a variety of tactics to get around their lack of legislative experience, says former Senator Dave Wanzenried, including using the bully pulpit to eclipse a Legislature that meets only biennially. “Qualities and experiences other than those forged through
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legislative service tend to influence a governor’s success in dealing with the Legislature in Montana,” he says.

In Indiana, Governor Mike Pence (R) has faced significant governing challenges, but working effectively with the legislature hasn’t been one of them. He came from Congress with no state legislative experience and “immediately upon taking office, began meeting in small groups with lawmakers of both parties to get acquainted, get ideas and show them that he ‘gets it’ as to their role in the process,” says Ed Feigenbaum, the publisher of Indiana Legislative Insight.

“He has been extremely respectful of the General Assembly, effectively tossing out broad concepts that suggest what he would like to get accomplished, letting them largely shape it and then working with them toward the end of each session to fine-tune things,” Feigenbaum says. “In his first term he sought a big individual income tax rate reduction, but the legislature came back to him with a broader tax reduction package that he ultimately pronounced to be better than what he had proposed.”

University of Maine political scientist Kenneth Palmer says only one of the governors he considers to be his state’s three most successful—Democrats Ed Muskie and Kenneth Curtis and Independent Angus King—had experience as a legislator. That was Muskie, who served six years as a legislator.

“None of the three had a party majority in the Legislature,” Palmer says. “Still, they brought about significant accomplishments in tax policy, environmental protection and education. The keys to their success included personal political skills, a willingness to compromise, a moderate style of politics with little concern for ideology and a strong emphasis on problem-solving. In short, they worked with much understanding of the Maine political culture.”

And that, more than legislative experience, may have made all the difference.
It was a busy legislative “off-season” for Senator Ellen Roberts. The Republican from the southwestern town of Durango, who starts her 10th legislative session this month, represented NCSL on a U.S. State Department-sponsored trip to India. She’s also been dealing with the aftermath of the Environmental Protection Agency spilling 3 million gallons of wastewater from an abandoned mine into the Animas River, which runs through her district.

Why India?
The point of the trip from the State Department perspective was to create some bridges between legislators in the U.S. and India at the provincial level, rather than the national level. This was NCSL’s first foray into developing that legislative connection in India, and NCSL takes very seriously the value of legislatures in the U.S. and beyond. We had a lot of meetings with legislators to discuss issues they face, electoral politics in general, and what the future might hold between our two countries.

What surprised you most about the Indians and the way they govern?
There are a lot of factions and tension even within their governing class, and so I think trying to find a unified vision for the country is probably one of their biggest challenges. And I think they also need to feel like that’s possible.

How did your visit enhance your perspective on what you do?
It’s a reminder of how every person elected or in public office is challenged daily to meet the needs of the people around them. It doesn’t matter which country you’re in or which state or province you’re in, public service is hard work wherever it’s located around the globe. It really boils down to the basic needs of the people being served.

What are your legislative priorities heading into the 2016 session?
Arriving at a balanced budget on time and making sure rural Colorado doesn’t get left behind. In Colorado, we can take no more than 120 days. So we will be having lots of conversations about how to match up revenue and expenditures in a way that makes sense for our state, but it won’t be easy.

The mine spill in the Animas River made national news. What have you learned?
It was very difficult to see such a treasured asset in our community compromised by the spill. And it’s very complicated because of the many jurisdictions involved. But the Animas River is restoring itself to pre-spill conditions and, if El Nino comes as predicted this winter, there will likely be little spill effects left after spring runoff. As in much of the Rocky Mountain West, addressing mine drainage from abandoned mines from the 1800s is the remaining challenge, and our coalition of community groups and state and local agencies is pulling together to improve our overall watershed health. Because the river is such an integral part of our quality of life here, this is a good thing.

What was one of your first jobs?
Before attending law school at the University of Colorado in Boulder, I was a park ranger at Rocky Mountain National Park and a lift operator at the Winter Park ski area. I grew up in a little town in New York and moved here when I was 21. It’s the classic Colorado story: I came out with two girlfriends on a camping trip and was offered the job at Rocky Mountain. I asked my friends to drop me and my duffel bag off. That was 1981, and I’ve been here ever since.

Any presidential predictions?
I don’t know. But I will tell you, people in India kept asking me to please explain Donald Trump. I said I don’t think there is an explanation, except that his success is a reflection of where a lot of Americans are right now, which is they’re looking for something different from what they’ve had.
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.