Rewards and risks of a natural gas bonanza

INSIDE:

Rethinking Bail
Rural Rx
A Medical Neighborhood
How can we generate more low-carbon electricity that is affordable while creating more American jobs?

Reliable nuclear power plants in 31 states supply one-fifth of America’s electricity. The nuclear energy industry plays an important role in job creation and economic growth, providing both near-term and career-long employment.

Worldwide, more than 150 nuclear energy projects are in the licensing and advanced planning stage, with 63 reactors under construction. This means more demand for U.S. nuclear energy expertise and components for the $740 billion global market over the next 10 years.

With demand for electricity also growing here in the United States, the nuclear energy industry will create tens of thousands of jobs for American workers while providing global customers with the safest technology in the marketplace.
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“What did the framers of the U.S. Constitution really intend? Should it be revised?”

DRUG TESTING: A CONSTITUTIONAL QUESTION
“Proposals to test employees for drug use are gaining momentum nationwide.”

WARNING FOR STATES: YOUR DOCUMENTS ARE DETERIORATING
“Unless steps are taken to preserve them properly, many of the 2.5 billion historical records stored in state archives will crumble to dust.”

A woman designed Idaho’s state seal. Emma Edwards Green, an art teacher who fell in love with Boise, entered the $100 contest in 1890, and was the unanimous winner. It’s the only state seal designed by a woman. In 1957, the Legislature authorized an update to emphasize the state’s industries.

—From “A Celebration of State Capitals,” by Richard R. Gibson and the Idaho Secretary of State website.
Right-To-Work Laws

It’s up to state legislatures to decide whether workers must join a union to get or keep a job. So far, 23 states—along with Guam—have decided workers should have a “right to work” without having to join a union.

A renewed focus on collective bargaining rights in the last two years has rekindled interest in these laws. Sixteen states considered right-to-work bills last year, although none passed. So far this year, lawmakers in 12 states have introduced bills; Indiana’s legislation passed in February.

Proponents of right-to-work laws argue they attract more businesses and create more jobs. Opponents counter that workers in right-to-work states earn lower wages, thereby decreasing consumer demand, resulting in fewer jobs. Right-to-work states tend to have much lower rates of union membership.

The first right-to-work laws were passed in the 1940s and 1950s in response to the growth of unions. There was a surge of interest in the 1970s and again in the 1990s, but only a handful of states have enacted right-to-work laws since that initial wave. — Jeanne Mejeur

Right-to-Work States

States with right-to-work statutes
States with both a right-to-work statute and a constitutional amendment
State with only a constitutional amendment

Source: U.S. Department of Labor, April 1, 2012.

The Pros and Cons

The Heritage Foundation Says (Pro)
◆ Right-to-work states attract more business investment.
◆ Foreign investment in Oklahoma, for example, increased after the state passed a right-to-work law.
◆ States that attract more investment create more jobs.
◆ Unionized firms earn lower profits.
◆ Right-to-work states have lower unemployment rates.

The Center for American Progress Says (Con)
◆ Workers in right-to-work laws earn lower wages.
◆ Lower wages decrease consumer demand, resulting in fewer jobs.
◆ Oklahoma, for example, lost one-third of its manufacturing jobs after the state passed a right-to-work law.
◆ Workers in right-to-work states are less likely to have health insurance.
◆ Right-to-work laws undermine unions.

Union Membership

Right-to-work states, in red, tend to have smaller percentages of workers who are members of labor unions or similar types of employee associations.

Alabama 10.0%
Alaska 22.1
Arizona 6.0
Arkansas 4.2
California 17.1
Colorado 8.2
Connecticut 16.8
Delaware 10.5
Florida 6.3
Georgia 3.9
Hawaii 21.5
Idaho 5.1
Illinois 16.2
Indiana 11.3
Iowa 11.2
Kansas 7.6
Kentucky 8.9
Louisiana 4.5
Maine 11.3
Maryland 12.4
Massachusetts 14.6
Michigan 17.5
Minnesota 15.1
Mississippi 5.0
Missouri 10.9
Montana 13.0
Nebraska 7.9
Nevada 14.6
New Hampshire 11.1
New Jersey 16.1
New Mexico 6.8
New York 24.1
North Carolina 2.9
North Dakota 6.3
Ohio 13.4
Oklahoma 6.4
Oregon 17.1
Pennsylvania 14.6
Rhode Island 17.4
South Carolina 3.4
South Dakota 5.1
Tennessee 4.6
Texas 5.2
Utah 5.8
Vermont 12.0
Virginia 4.6
Washington 19.0
West Virginia 13.8
Wisconsin 13.3
Wyoming 7.2
District of Columbia 8.3

THE TUMULT THAT HAS ENGULFED THE WISCONSIN SENATE for more than a year took a left turn when freshman Senator Pam Galloway resigned her seat in March, throwing the chamber into a 16-16 tie. Galloway won in 2010 by defeating former Senate Majority Leader Russ Decker, and a year later became a target of a second round of recalls spurred by GOP legislation sharply limiting collective bargaining for public employees. The legislation sparked a walk-out by Democrats in the Senate, demonstrations by tens of thousands of protesters at the Capitol, and the recall of two Republican senators. Galloway was among four GOP members targeted for another set of recalls, scheduled for May 8, including Senate Majority Leader Scott Fitzgerald and Senators Terry Moulton and Van Wanggaard. Governor Scott Walker and Lieutenant Governor Rebecca Kleefisch are also facing recall at the same time. In the meantime, Fitzgerald and Minority Leader Mark Miller will be co-leaders. Galloway said she resigned because of family health issues and not the recall. Fitzgerald plans to find a candidate for her place on the recall ballot.

LORNE MALKIEWICH, A VETERAN NEVADA STAFFER for more than 30 years, resigned as director of the Legislative Counsel Bureau in April. He is the new chief operating officer for the National Council of Juvenile and Family Court Judges. Malkiewich started as a legislative bill drafter in 1981 after graduating from law school. He was elected as the state’s top administrator since 1994. Malkiewich gave lawmakers of Juvenile and family Court Judges. Malkiewich started as a legislative bill drafter in 1981 after graduating from law school. He then became legislative counsel six years later and has served as the agency’s top administrator since 1994. Malkiewich gave lawmakers two year’s notice, informing them this session was likely his last. “I will miss the people. When you’ve worked with a group of people for 30 years, it’s very difficult to leave.”

MARYLAND SPEAKER MICHAEL BUSCH WAS HONORED by the state Senate in a ceremony that caught him completely by surprise. Senate President Thomas V. Mike Miller Jr. presented Busch with the First Citizen Award, given each year to people who are “dedicated and effective participants in the process of making government work for the benefit of all.” Busch, who has new status as Maryland’s longest serving speaker, was praised for his leadership “brilliancy” by Miller, who said, “This is history being made.”

ARKANSAS REPRESENTATIVE DARRIN WILLIAMS, who attended the high school made famous in 1957 when President Dwight D. Eisenhower sent troops there to protect nine black students during Little Rock’s forced integration, has made history himself. The African American became speaker-designate of the Arkansas House in March, winning the highest elected office ever held by a black person in the state’s history. “I am thrilled beyond measure and am humbled that they think I have the qualifications to necessary to lead this body,” Williams said. But Arkansas voters will have the final say. “If voters make Republicans the majority in November, there should be a Republican speaker,” said former House GOP leader John Burris. Democrats currently have a 54-46 majority.

JOHN COURSON IS THE NEW SENATE PRESIDENT PRO TEM IN SOUTH CAROLINA, after defeating Senate Majority Leader Harvey Peeler by a 27-17 vote. Minority Democrats handed Courson the margin of victory, voting for him 18-1, while Republicans split their votes between Courson and Peeler. The post opened when longtime Senate President Glenn McConnell was sworn in as lieutenant governor, following the resignation of Ken Ard, who was indicted on 99 counts of campaign and ethics violations. Stepping down from the powerful post into a largely ceremonial position, McConnell said the constitution was clear that it was his duty—as Senate president pro tem—to become lieutenant governor. He will preside over the Senate and the Office on Aging. McConnell’s friends in the Senate tried to persuade him to run for his old Senate seat in a special election. They even introduced a resolution to keep his 32 years of seniority intact if he were to win. But he said the constitution prohibits him from running again. “I stayed true to the constitution, and I lost everything. I’m not going to try to perform political acrobatics and lose my conscience, too.”

BETTYLOU DECROCE, WIDOW OF NEW JERSEY’S longtime assembly GOP leader, was sworn in to fill his seat in February. Alex DeCroce died unexpectedly at the Capitol in January on the last day of a lame duck session. He had been the Republican leader since 2003. BettyLou DeCroce must win the GOP nomination and November election to fill out her late husband’s term.

THE STATE LEGISLATIVE LEADERS FOUNDATION is celebrating its 40th year working with legislative leaders in their efforts to reform the legislative institution. Founded in 1972, the group’s first grant came from the Ford Foundation to develop a project known as The Program for Legislative Improvement. It published “The Sometimes Governments,” which ranked all 50 state legislatures. The book, which caused an uproar, became the catalyst to making many of recommendations from the project. Steven G. Lakis has been president of the foundation since its inception. “I have been a constant student and sometimes teacher to men and women who have one of the toughest jobs imaginable,” Lakis said.
Medicaid for Inmates

Medicaid can save states millions of dollars. Really!

A little-known federal rule, adopted in 1997, allows Medicaid—a jointly funded state-federal health program—to cover some prisoners’ health care costs previously paid by state funds. To be eligible, inmates must be admitted to inpatient facilities—hospitals, nursing homes, intermediate care or juvenile psychiatric hospitals—for more than 24 hours and they must meet the eligibility criteria of the state’s Medicaid program. This rule changes the 1965 law, which dropped Medicaid for anyone entering a state prison or mental health institution, local jail or juvenile detention center.

“At first glance, it’s a hard policy to sell,” says Donna Strugar-Fritsch, a consultant with Health Management Associates, because it can be complicated to set up and “everyone assumes that the Medicaid budget will increase.” The portion of the inmate’s medical costs not paid by the federal Medicaid share, however, is covered by the state’s corrections department or by the county, depending on whether it’s a state- or county-run facility. As a result, there is no additional cost to the state’s share of Medicaid.

The complexity in setting up the program may well be worth it, especially if the population covered by Medicaid expands in 2014 under federal health reform to all Americans with incomes up to 133 percent of federal poverty guidelines.

Since prisoners’ incomes tend to be below that mark, nearly all inpatient health care could be covered by Medicaid. Most of these prisoners will be “newly eligible” for Medicaid, which brings in a federal match that starts at 100 percent of medical costs for the first three years and decreases to 90 percent in 2020 and beyond. “This will be huge for corrections budgets,” Strugar-Fitsch says.

In most states, few inmates currently qualify for Medicaid, but there are still savings to be had. Mississippi’s program has saved about $10 million since 2009, despite a low enrollment of about 1 percent of inmates. In the dozen or so states that currently cover some childless adults, more prisoners qualify for potentially greater savings.

California, where the income eligibility for childless adults is 200 percent of the poverty level, started a program last year that is expected to save millions. The federal government will pick up 50 percent of the tab for eligible inmates, and hospitals will bill the state based on Medicaid rates, which are significantly lower than the state was previously paying.

Other states with similar programs include Delaware, Louisiana, Michigan, Oklahoma and Pennsylvania. Arkansas is starting a program that uses Medicaid to cover hospitalizations for pregnant inmates.

—Laura Tobler
Proof of Service

Active duty servicemen and women have military ID cards to prove their status, but veterans must carry the comparatively large Certificate of Release or Discharge from Active Duty—referred to as a DD214—to prove their military experience.

To make it easier and more convenient for veterans to verify their service, 14 state legislatures have passed measures to allow a military designation on driver’s licenses, and at least 21 legislatures are considering similar legislation. In Massachusetts, the Registry of Motor Vehicles (without legislative action) began issuing licenses this year with a veteran designation.

For the tens of thousands of veterans returning from Iraq and Afghanistan, this new ID on their driver’s license will help when applying for a job, seeking services at the Department of Veterans Affairs, or simply taking advantage of a retailer’s discount.

Arkansas, Colorado, Florida, Georgia, Indiana, Maine, Minnesota, North Carolina, North Dakota, Ohio, Pennsylvania, Tennessee, Texas and Utah allow a military designation on driver’s licenses. Most made the change in the past three years. In Arkansas, for example, a bold, red “VETERAN” appears below the driver’s photo. On Maine licenses, along with the iconic moose, veterans are photographed in front of a blue backdrop with white stars. Although Florida already has a military designation on its driver’s license, the Legislature is considering a bill to provide a temporary “V” sticker, for a $2 fee, for use between renewals.

—Anne Teigen

States With Military Designations on Driver’s Licenses (as of March 15, 2012)

Too High to Drive

Thirty percent of all drivers who were killed in car crashes in California in 2010 tested positive for drugs.

In the same year, state police in Michigan reported drunken driving deaths decreased slightly, but drugged driving deaths increased. (The state police, however, believe increased testing for drugs in recent years affected the results.)

Nationally, about 68 percent of drivers killed in accidents are tested for drugs, according to the National Highway Traffic Safety Administration.

State lawmakers are increasingly aware of and concerned about the issue, leading to more interest in legislation affecting drugged driving and testing requirements.

Under implied consent laws, police are allowed to test suspected impaired drivers for the presence of alcohol or drugs at some point in the investigation. All states allow testing of a suspect’s blood, and all but nine states allow testing urine. Fourteen states also allow police to test drivers’ saliva or “other bodily substances” to determine the presence of drugs.

Proponents of swabbing drivers for their saliva or oral fluids believe the test is easier, cheaper and less intrusive to administer than blood testing.

On the other side, opponents argue that these tests often are inaccurate, especially when testing for the presence of marijuana. They also argue that, since drugs do not affect all people to the same degree, a high concentration in one person may not necessarily impair his or her ability to drive.

—Anne Teigen
Employment Credit Checks

Picture yourself in this situation: Laid-off two years ago, you have used all your savings to pay bills and are starting to fall behind on some. Finally, a job interview looks promising until they question your credit rating. Should that matter?

Legislators in seven states—California, Connecticut, Hawaii, Illinois, Maryland, Oregon and Washington—say no, unless an employee’s or job candidate’s credit information is integral to the potential job. Washington lawmakers were the first to limit the use of credit information in employment decisions in 2007. Hawaii passed similar legislation in 2009. Illinois and Oregon followed in 2010, and California, Connecticut and Maryland followed in 2011. Similar bills are pending in more than 15 states and the District of Columbia.

Supporters of these laws to limit the use of credit reports argue that consumer reports are not good predictors of job performance and employability, and do not provide employers with the information to determine a job candidate’s ability to effectively perform a job. They point out that consumer reports can contain errors, and that reliance on credit information may disproportionately harm female and minority job applicants. They emphasize the U.S. Equal Employment Opportunity Commission’s longstanding concern that using credit information in employment may violate Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex or national origin.

Opponents believe credit information can provide an employer with valuable information regarding a candidate’s character, such as responsibility, reliability and integrity. They argue state legislation is unnecessary, since the Fair Credit Reporting Act already protects employees and job applicants. It requires employers to notify employees and obtain their written consent before requesting credit reports. The law also requires employers to disclose to job candidates any negative actions they take against them based on the reports. Finally, opponents assert these laws prevent employers from performing their due diligence by reducing the availability of accurate and relevant information about job applicants.

—Heather Morton

Pedal Pushers

As gas prices rise and waistlines expand, a few states are making it easier for state employees and visitors to arrive at state buildings on pedal power alone.

Wisconsin set the pace in 1981 when lawmakers required new bicycle racks near state office buildings, including the Capitol. Now “more people ride their bikes to work,” says Larry Corsi of the Wisconsin Bureau of Transportation Safety.

Last year, Vermont lawmakers recommended the state consider bike parking when designing state buildings and required the Vermont Bicycle and Pedestrian Coalition to assess bicycle parking at existing state buildings. The study found a lack of sheltered bicycle parking the greatest concern and recommended the Legislature appropriate money for covered bike racks near the State House. Legislation introduced this year urges quick action on bike parking projects at state buildings and asks for cost estimates.

In New York, lawmakers are considering two bills to conduct an inventory of bicycle parking and to expand parking and storage for employees and visitors to state buildings. The bills would establish a temporary task force to study the issue and make recommendations, including outreach efforts and possible partnerships to develop bike parking.

In other efforts, Rhode Island legislation in 2008 created a committee to study alternative methods for state employees to travel to work. Last year, California legislators passed a bill to establish a task force on improving bike use, but the governor put the brakes on it, saying the task force was unnecessary.

—Douglas Shinkle
Shine the Light

Sunshine Review, which promotes state and local government transparency, announced 214 winners of its third annual “Sunny Awards.” The awards honor the most open and accessible state and local government websites. The group judged websites on the availability of information on such things as budgets, meetings, audits and lobbying. This year, 10 state websites received an “A” (in order of points earned): Delaware, Indiana, Maryland, New York, California, Massachusetts, Pennsylvania, Wisconsin, Washington and West Virginia. Half the local government awards came in six states: Florida (28), Texas (21), Illinois (19), Virginia (14), Ohio (10) and Pennsylvania (10). The group also generated a list of states that pay public employees the most: California, Florida, Illinois, Michigan, New Jersey, Pennsylvania, Texas and Wisconsin.

Education High Point

More than 30 percent of Americans age 25 and older have earned at least a bachelor’s degree, the highest percentage ever, according to the Census Bureau. From 2001 to 2011, the number of Hispanics with a bachelor’s or higher degree increased by 80 percent, African Americans by 47 percent and whites, 24 percent. Fifty percent of Asians, 34 percent of whites, 20 percent of African Americans and 14 percent of Hispanics now have bachelor’s degrees. Women have seen a surge as well. In 2011, of the 61 million people with bachelor’s degrees, 30 million were men and 31 million were women. For those with bachelor’s degrees, the good news is that their average income in 2010 was $58,000 compared with $31,000 for those with only a high school diploma.

Text Secrets

Parents can easily find out what phone numbers their children are texting to, but they can’t find out what they are texting without a court order. Arizona Senator Rich Crandall (R) wants to change that. He says the issue is important enough to start the discussion and has proposed a bill that would require cell phone companies to release kids’ text messages, but would allow them to charge a fee to do so. The bill, a first, faces some significant opposition. “Why don’t you take a flashlight and go in the closet and read the texts?” Senator Judy Burges (R) told the Arizona Republic after voting against it in committee.

H2O-Canada

Quebec, Canada, is home to the world’s largest producer of hydroelectricity—the Hydro-Quebec power plant. The province contains 3 percent of the world’s fresh water, which it uses as its primary electricity resource. NCSL took a group of U.S. lawmakers to the area last fall to learn more about the policy issues and the technology of this clean, renewable energy. The tour “provided some very good insight into the possibility of expanding hydro power not only in Quebec, but in other parts of North America as well,” says Kansas Senator Stephen Morris (R), NCSL president. “The magnitude of the amount of electricity produced is very impressive.”

Password Unprotected

The Maryland General Assembly has passed a bill to ban employers from asking any employee or job applicant to provide a username, password or other account information in order to gain access to their social networking website. According to a report by MSNBC, more and more government agencies and colleges are doing just that. About 75 percent of scholarship providers are deciding recipients based on the candidates’ social networking pages. They look for references to underage drinking and illegal drug use, provocative pictures, and racial slurs, anything they believe would reflect poorly on the scholarship, according to the San Francisco Chronicle. This has made the difference in several cases—with about one-third of applicants being denied a scholarship and one-fourth receiving one, based on the content of their pages.
THE INCOME GAP

Income inequality has grown 18 percent since 1967, according to the U.S. Census Bureau. Almost half that growth occurred in the 1980s, but has tapered off. Why this has occurred is up for debate. Some argue the Bush-era tax cuts widened the gap between the haves and have-nots, but others say it’s a result of natural economic fluctuations. According to a new report by The Tax Foundation, although income inequality has been attributed to everything from the computer revolution and globalization to immigration and super-sized super-star salaries, the actual reason “might be better described as simply the reasonable outcome of a growing market economy.” Whatever the reason, some areas of the country have larger gaps than others. The five counties with the largest disparities between the rich and the poor are: East Carroll Parish, La.; Edwards, Texas; New York, N.Y.; Mineral, Colo.; and Pitkin, Colo. The counties with the highest level of equality are: Loving, Texas; Kalawao, Hawaii; McPherson, Neb.; San Juan, Colo.; and Logan, Neb.

BACON AND EGGS

Iowa—the nation’s leading pork and egg producer—is the first state to make it a crime to lie on a job application to get into a livestock operation to videotape animal abuse. Supporters felt it was necessary to protect legitimate farming operations. Animal welfare advocates argued against the measure, saying it would stifle efforts to publicize the poor treatment animals receive in certain farming practices. “I feel we did something that was needed,” says Senator Joe Seng (D), sponsor of the bill. “It more than anything sends a message.” At least seven other states have considered similar legislation, according to NCSL.

LIBRARIES’ LINK

Residents of Hawaii now can visit their local library to watch the Legislature at work in the state capitol via streaming video. Library patrons can plug in their own headphones and watch legislative hearings, meetings and testimony live, through designated computers. The public library system worked with the state government for a year to be able to offer this service statewide. The Hawaii Legislature meets annually for 60 days, starting in mid-January.

PRE-EXISTING EXPENSE

High-risk insurance plans offered under the Affordable Care Act for people with pre-existing conditions have attracted far fewer participants than expected—50,000 instead of 375,000—according to a new report from the U.S. Department of Health and Human Services. Claims costs for each patient are averaging $29,000—more than twice the $13,000 average for those enrolled in traditional state high-risk pools. Why? The report suggests that, since patients in the new program have not had health coverage for at least six months, they tend to have critical needs for immediate, expensive treatments. The state plans, previously established in all but 15 states, generally have higher premiums and require insurance industry contributions. Twenty-seven states operate their own high-risk programs, often in conjunction with previously established state pools; 23 states and Washington, D.C., have a federally run program. At least nine states have asked the federal government for more money to ensure their new high-risk pools don’t run dry before 2014. That’s the year insurers will be prohibited from denying coverage to anyone with a pre-existing condition.

PLEDGE PASS

Utah lawmakers have passed legislation requiring public middle and high school students to recite the Pledge of Allegiance once a week. State law already required elementary school students to make a daily pledge. Students will be allowed to opt out for religious or other reasons. It passed the Senate unanimously and the House 48-25. According to Fox News, the bill drew impassioned speeches from legislators.
The nation is awash in natural gas, driving down prices and giving the economy a boost.

Starting in the 1970s, the nation began building liquefied natural gas terminals to import natural gas. Those now will be used to reach the international market, where natural gas commands a much higher price—$8 in Europe and $14 in Asian markets.

In addition to providing welcome relief to consumers and businesses, the change in energy outlook has many states, utilities and industries reevaluating their energy portfolios.

**Electric Industry Changes**

Compared with coal, natural gas power plants produce fewer emissions, cost less to build and make it much easier for states to meet EPA air regulations. In 2011, coal was used to generate 39 percent of the nation’s electricity, natural gas 26 percent, nuclear energy 22 percent and renewable sources 11 percent, according to the Energy Information Administration.

Recent rules issued by the Environmental Protection Agency are reinforcing the shift from coal to natural gas. The Cross-State Air Pollution Rule, created as a result of court action, would require 28 states in the East and Midwest to reduce power plant emissions that contribute to ozone and particulates. The rule, however, was temporarily halted late last year by a federal appeals court.

For many utilities, it’s cheaper to switch to natural gas than to bring older coal plants into compliance. The Mercury and Air Toxics Standard, which requires reduction in mercury emissions, will also add costs to burning coal. The looming possibility of greenhouse gas regulation adds uncertainty to the long-term costs of operating a coal plant as well.

McGill points out that natural gas is already replacing coal on the basis of price, as well as environmental benefits. According to Bentek Energy, natural gas to power generation is up 24 percent a year to date in 2012 compared to the same period in 2011.

Concerns about coal, combined with the low price for natural gas, have spurred a major expansion in its use to generate electricity. Sunbury Generation LP in Pennsylvania is closing five of six coal plants and replacing them with gas. The same scenario is playing out in states from Texas to Colorado to Oregon.

“Gas well drilling activity in the Barnett Shale has brought enormous economic benefit to our community—and helped provide a reliable, cleaner source of energy for Texas,” says Senator Jane Nelson (R). “If our country is going to achieve independence from foreign sources of energy, I believe our state will be leading the way.”

**Low Prices a Mixed Blessing**

The natural gas boom has not benefited all states equally.
Some that rely on severance taxes—calculated based on the value of natural gas that is extracted—have seen huge drops in revenue. Wyoming’s severance revenues, for example, have dropped more than a $100 million a year.

In addition, the low price has natural gas companies, such as Chesapeake Energy Corporation, slowing production and decreasing investment in gas fields.

Cheaper electricity driven by rock-bottom natural gas prices have been a mixed blessing for renewable energy development. Wind and solar energy are variable and require the support of natural gas plants or other generation sources that can adjust quickly to changes in electricity demand. The abundance of natural gas makes it easier to integrate renewable energy resources into the mix in many parts of the country. The same downward pressure on electricity prices has made it more difficult for renewable energy to compete economically.

Even with all this good news about natural gas, some warn it’s not a panacea for the nation’s energy needs. Although natural gas emits 30 percent to 40 percent less carbon dioxide than coal, recent research has shown that methane, a potent greenhouse gas leaked during the drilling process, may counteract some of this benefit. Also, hydraulic fracturing’s potential contamination of drinking water is a major concern in some states.

Driving Demand

In Colorado, ranked seventh in the nation for natural gas production, growth in natural gas extraction led to legislation that promotes a shift from coal to natural gas by allowing utilities to recover the cost of the transition.

“We were the first in the nation to pass a clean air-clean jobs bill,” says Senator Judy Solano (D), who authored the bipartisan bill designed to utilize state resources while addressing air quality issues. “We will retire several coal plants and by 2018 will see an 86 percent reduction in oxides of nitrogen and more than 80 percent reduction in mercury and sulfur dioxide. For the metro area to see that reduction in pollution is great benefit to residents.”

With production outstripping demand, many are looking beyond heating and electricity to other uses for natural gas. Cleaner burning and cheaper than gasoline, natural gas is being used more and more to fuel trucks, buses and delivery vehicles. This not only takes advantage of domestic resources, but can revive local industry and improve energy security.

“Natural gas is important because it represents a significant economic engine for the state through the dollars being spent on exploration and development,” says Representative Brian Ellis (R) of Pennsylvania. “It’s also important because it offers the commonwealth a source of homegrown energy, helping us to reduce our dependency on foreign sources.”

Many industries that rely on natural gas—petrochemicals for plastics and other products, fertilizer and steel—are thriving. Examples include a new steel plant in Louisiana, chemical plants near the Gulf Coast, and a new denim plant built by a Brazilian company in Texas to take advantage of low electric rates.

Natural gas prices are expected to rebound eventually, as the economy ramps up, gas-powered electric generation and exports grow, and industries take advantage of this burgeoning resource.

“A diversified portfolio of fuel for electricity generation is critical to mitigate price swings in the energy market and to ensure security in our electricity grid,” says Nelson. “Natural gas is a key component of that mixture, which helps keep energy prices lower for electric customers.”

Learn more about natural gas, severance taxes and hydraulic fracturing at www.ncsl.org/magazine.
By Jacqueelyn Pless

No energy is produced without some consequences. Natural gas is a perfect example. Despite the tremendous economic benefits created by the recent abundance of cheap natural gas, critics are raising alarms about how it’s extracted.

Hydraulic fracturing, or “fracking,” combined with horizontal drilling, is a leap forward in technology, allowing energy companies to tap into previously inaccessible resources. The technology has opened up reserves that were too expensive to develop just a decade ago. The process pumps millions of gallons of a liquid—usually water mixed with sand and chemicals—underground to force open cracks in the rock so the natural gas can be removed from the shale rock formations.

Rapid expansion of fracking near densely populated areas, however, has shifted focus to its potential effects on public health and the environment.

“Natural gas is very important to the well-being of New Yorkers, to our economy and, to an extent, our environment,” says Assemblyman Kevin Cahill (D). “While deriving more of our energy from New York sources would certainly serve many public policy goals, it is not something we should advance at all costs and without regard to the environmental threat.”

A growing concern is the contamination of drinking water. Some fracking fluids contain hazardous chemicals that, if mismanaged, could spill into groundwater, rivers or streams. Another worry is that fracking requires large amounts of water, which could lead to damage of aquatic habitats or reduce the amount of water available for other uses. Fracking also produces wastewater that must be regulated and treated properly before it is disposed. Treatment and disposal remain a regulatory challenge.

Its effects on air quality and climate change also are concerns. During the drilling process, chemicals such as benzene and methane are released into the air. In fact, natural gas producers are among the largest methane-emitters in the country, according to the U.S. Environmental Protection Agency. The agency proposed a rule—not yet in effect—in July 2011 to reduce smog-forming chemicals released during oil and gas production.

Wildlife and plants also may be disturbed in the process. Finally, recent rumblings in Ohio and Oklahoma have drawn attention to a potential link between earthquakes and pumping fracking waste into deep wells.

The natural gas industry supports “state regulation of key environmental challenges,” says Christopher B. McGill, managing director of policy analysis for the American Gas Association. The industry would like to see more collaboration between state and federal regulators, he adds.

Balancing Act

The hydraulic fracturing debate has turned into a balancing act. State legislators and regulators want to protect the environment and public health, but they also recognize the benefits from the revenue the industry brings to state and local economies. A study by IHS Global Insight estimates shale natural gas production generated $18.6 billion dollars in federal, state and local government taxes and federal royalty revenues in 2010.

At least 137 bills in 24 states have been introduced that specifically address hydraulic fracturing, and legislation has passed in Indiana, North Carolina, Pennsylvania, South Dakota and Tennessee.

Most of the legislation this year would require better monitoring of chemicals and additives in fracking fluid, stricter disclosure of ingredients, and better monitoring of water withdrawals and waste treatment and disposal.

At least nine states already have some form of disclosure requirement, and 15 states have proposed related legislation this session. In June 2010, Wyoming became the first state to approve rules requiring public disclosure of the chemicals in fracking fluid. Colorado has the most comprehensive rule so far. It requires drillers to disclose not just chemical names, but also their concentrations.

“What I have seen is that the majority of the industry is using best practices and the minority is not,” says Colorado Senator

Jacquelyn Pless tracks natural gas issues for NCSL.
Natural gas is flooding the U.S. market because of a combination of hydraulic fracturing, or fracking, and horizontal drilling. Fracking involves pumping millions of gallons of a liquid—usually water mixed with sand and chemicals—underground to force open cracks in shale rock so the natural gas can be removed. Teamed with horizontal drilling techniques, it allows energy companies to tap into previously inaccessible resources. State lawmakers are concerned about health and environmental issues raised by hydraulic fracturing, and at least 137 bills in 24 states have been introduced that specifically address fracking.
“Families in our community have asked that light be shed on the types of substances being injected into the ground. I think that the public’s confidence in hydraulic fracturing will be strengthened simply by lifting the curtain and disclosing this information.”

—Senator Jane Nelson (R), Texas

By the Numbers

90 Years
Estimated supply of domestic natural gas at current consumption levels

24 Trillion
Cubic feet of natural gas used annually in the United States.

26 percent
Amount of the nation’s electricity generated by natural gas in 2011

Texas
Nation’s top producer of natural gas.

11,400
New wells fractured each year to produce natural gas

14,000
Wells re-fractured each year to produce natural gas

5
States that have enacted hydraulic fracturing related legislation this session

24
States that have introduced legislation addressing hydraulic fracturing

137
Bills introduced that address hydraulic fracturing

Gail Schwartz (D), chair of the Agriculture, Natural Resources & Energy Committee.

“Our new fracking rules are very strong and will require disclosure and transparency we did not have in the past, and encourage industry to move toward best practices,” she says. “I have heard from some health officials that air quality is a concern so we need to make more progress with air quality. Putting these gases into the atmosphere is not a good approach.”

Texas was the first state to enact legislation in 2011. “We passed House Bill 3328 to direct gas well drilling operators to disclose the amount of water and the type of chemicals used in the ‘fracking’ process,” says Texas Senator Jane Nelson (R). “Families in our community have asked that light be shed on the types of substances being injected into the ground. I think that the public’s confidence in hydraulic fracturing will be strengthened simply by lifting the curtain and disclosing this information.”

McGill says the industry does not have a problem with the regulations and backs “full disclosure of constituents in fracturing fluids. If proprietary information on amounts in mixtures can be protected, then so do. However, transparency and disclosure should be the standard.”

Generating Revenue

Most natural gas-producing states have some form of severance tax that is imposed on resources removed from the ground and usually is based on the market price of the resource. As a result, revenue generation can fluctuate as the value of natural gas changes.

In 2010, more than $11 billion was generated from severance taxes alone. In energy-rich states such as Alaska, Montana, New Mexico, North Dakota, Oklahoma and Wyoming, between 10.5 percent and 74.3 percent of the total state tax revenue came from severance taxes, according to the U.S. Census Bureau.

As of February, 36 states had severance taxes and all but five of them specifically tax oil and gas extraction. Eleven states are considering legislation this year to impose new, or amend existing, oil and gas severance taxes.

Tax structures and revenue allocations vary, but most of the revenue goes into state general funds and is used to pay the costs associated with resource extraction, such as road construction and maintenance, conservation and environmental cleanup. Some money goes to local governments affected by increased drilling. Alaska, New Mexico and Wyoming, for example, reserve a portion of collected taxes for long-term accounts and use the interest to help balance state budgets.

States also can generate revenue with impact and permit fees. Pennsylvania, the largest natural gas-producing state without a severance tax, recently enacted an impact fee, which will go mainly to local communities.

“The legislation provided a way for local governments to address local impacts resulting from natural gas activities,” says Representative Brian Ellis (R) of Pennsylvania. “A majority of the impact fee assessed on well operations goes back to local communities. Second, it provided us an opportunity to update a variety of environmental safeguards, enabling Pennsylvania to keep pace with the advancements in drilling techniques.”

Hydraulic fracturing has transformed the domestic natural gas outlook, but states are moving forward with caution.

“The natural gas in the Marcellus Shale deposit is not going anywhere, so there is no need to rush the process,” says Cahill of New York. “New information is disclosed and uncovered every day. That information should be investigated, considered and synthesized. Meeting a deadline to move forward just for the sake of doing so is simply not prudent.”

Read more about steps states have taken to regulate fracking at www.ncsl.org/magazine.
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A program developed in New Mexico may change how health care is delivered in rural America.

BY JOSHUA EWING

About 51 million Americans live in rural areas of the country, where obtaining medical care often involves long drives, long waits and extra expense.

In most rural counties, there are so few primary care physicians that many patients can’t obtain care as quickly as they want or need. Some 77 percent of rural counties face a serious shortage of health professionals—they’re called health professional shortage areas—and it’s estimated they need 4,000 more primary care physicians just to meet basic health care needs. Specialists are even scarcer, which means people must travel a long way to get that care, usually spending more money than people in a city.

Rural Americans are, on average, older, less educated and earn less money than people in metropolitan areas. They also are more likely to smoke, be obese and inactive. The result is a rural population that is in poorer health, has higher rates of death, disability and chronic disease, yet is less able to obtain health care.

Hope in New Mexico

Several years ago, lawmakers in New Mexico—where 33 percent of the population lives in rural areas—supported one doctor’s novel idea.

Dr. Sanjeev Arora, a professor at the University of New Mexico Health Sciences Center, developed a program in 2003 to deal with the growing problem of Hepatitis C in rural parts of the state. Of the estimated 34,000 people with the disease—many of them living in frontier and rural areas—only 1,600 had received any treatment. Hepatitis C is a viral disease that affects the liver and is most often contracted by sharing IV drug paraphernalia.

Arora set out to fix this problem and, along the way, created a model that has been replicated throughout the country and the world.

“I hope,” says Arora, “that this becomes the future of health care in rural and underserved areas.”

Multiplying Expertise

Arora knew there weren’t enough rural specialists trained to treat Hepatitis C. His patients often waited six months and drove up to 250 miles to his clinic. Many patients simply could not make the trip at all or afford the cost.

Arora turned to a telehealth—the delivery of health care using telecommunications technology—to bring treatment to the patients.

Most telehealth models pair a specialist in an urban area or at a university with a patient, using some type of videoconferencing software. The approach is still limited by the number of available doctors.

Arora’s idea—which he calls Project Extension for Community Healthcare Outcomes (ECHO)—uses the same technology, but rather than connect one patient to one doctor, it connects the many rural primary care doctors with many disease experts at the University of New Mexico to present cases and seek advice about treatment options. The process is similar to medical rounds in a hospital. The ECHO “clinic” is broadcast securely over the Internet, allowing primary care clinicians statewide to watch and benefit from the expertise of a specialist or a team of specialists.

“Project ECHO promotes care in underserved areas, builds capacity for rural doctors and treats people where they live rather...
than making them travel to the university in Albuquerque,” says New Mexico Representative Danice Picraux (D).

**Expanded Reach, Growing Popularity**

Lawmakers liked the idea and appropriated $700,000 a year to support Project ECHO in 2006, which grew to about $2.5 million before the recession hit in 2008. Since then, funding has been reduced to about $840,000 a year, Arora says.

Today, the project’s clinics in New Mexico have expanded beyond Hepatitis C treatment. Weekly clinics now are conducted on asthma, chronic pain, diabetes, cardiovascular disease risk, high-risk pregnancy, HIV/AIDS, pediatric obesity, rheumatology, substance abuse disorders and mental illness.

“This is the answer to rural New Mexico having specialty care,” says Senator Sue Wilson Beffort (R). “It is a cost-effective way to manage complex diseases, while allowing people to remain at home with their families.”

A 2011 study by Arora and his colleagues, which was published in the New England Journal of Medicine, found the ECHO model managed complex diseases such as Hepatitis C as effectively as an academic medical center. This is good news for frontier and rural states. Arora believes establishing similar programs in states with large underserved populations may reduce costs and improve patients’ health with better management of chronic diseases.

“We spend a lot of money—about $2.5 trillion—on health care in this country. By making small investments in knowledge networks, we can get a better return on that investment.”

—Dr. Sanjeev Arora, University of New Mexico
Project ECHO Expands

In 2009, Project ECHO received a $5 million award from the Robert Wood Johnson Foundation to expand to more sites and focus on new diseases in New Mexico. The money also allowed the project to expand the treatment of Hepatitis C to Washington state.

Programs based on the ECHO model can be found at:
- University of Chicago, where providers are working to address hypertension in the African-American population.
- University of South Florida, where the focus is on treatment for HIV patients.
- University of Utah and Harvard, where Hepatitis C is the target.
- Veterans Administration, where efforts are focused on treating Hepatitis C, diabetes and chronic pain in veterans.

“It has opened up rural health care to first-class specialty care that simply wasn’t available before,” says Picraux.

The model also could be helpful to rural communities and states that are attempting to plan for the expansion of coverage under the Affordable Care Act. By 2019, an estimated 5 million more rural Americans will have health insurance coverage, either through a health insurance exchange or Medicaid.

Growth of Telehealth

Across the country, telehealth technology is growing in popularity and use. Today, 39 states provide some form of Medicaid reimbursement for telehealth services, and at least 12 require private insurance plans to cover such telehealth services. As use of health information technologies becomes more widespread, however, so do concerns about privacy and security of sensitive information.

In 2011, 11 states passed 16 bills related to privacy and security of health information, bringing to 23 the number of states that now have such laws.

Large amounts of data must be transmitted for video conferencing and file sharing, which means telehealth technologies such as ECHO require broadband Internet access that may not be available in some frontier and rural areas. As a result, at least 12 legislatures have created task forces, commissions or authorities aimed at expanding broadband access.

Arora believes academic medical centers should be training medical providers throughout their careers. “Knowledge networks” like Project ECHO allow such centers to share new treatment regimens with doctors and other health professionals whose busy practices make it difficult for them to read the latest medical journals and keep up with the latest discoveries.

“We spend a lot of money—about $2.5 trillion—on health care in this country,” Arora says. “By making small investments in knowledge networks, we can get a better return on that investment by reducing treatment and transportation costs, reducing costly medical errors, and by improving outcomes.”

“The thing state legislators across the country should know,” says Beffort, “is that this isn’t only a way to improve rural health care, this is a way to help the budget at a time when states are struggling. This is a program that the whole country will have someday.”

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A Medical Neighborhood

Accountable care organizations could solve some of health care’s biggest problems, but they’re largely untested.

BY MEGAN FOREMAN

Improving how we care for patients while controlling escalating costs are the two toughest issues in health care.

An approach some think may address both is the use of accountable care organizations, in which a range of medical providers work together to manage a patient’s medical needs. Some backers think the approach could help states control Medicaid costs and provide better care.

Accountable care organizations are similar to medical homes, but on a larger scale—a medical neighborhood. In an ACO, all providers—from the primary care doctor to the specialist to the hospital—have a stake in improving the health of patients.

The goal of coordinating care is to ensure patients get the right care at the right time in the right setting. This may mean more convenience for patients: Extended office hours, same-day appointments, and a 24/7 call-line staffed with professionals who can give patients advice and triage health concerns. States save money when the majority of patient care happens in a primary care setting. For example, Colorado estimates it spends $50 million a year on emergency room care for nonemergency situations. A 2009 survey indicated 87 percent of Medicaid clients who used ER services were never seen for that condition in a primary care setting.

Colorado, a leader in developing the model, is setting up regional ACOs to serve the state’s Medicaid beneficiaries. The state is currently testing its new system—called Regional Care Collaborative Organizations—with 60,000 Medicaid clients in a small number of counties. The program is set to expand to include all Medicaid beneficiaries in July if the test group meets its budget and patient care goals. Colorado hopes to save up to $14 million a year once the program is fully implemented.

“We have a pretty lean Medicaid program, so we should always be looking for effective ways to provide care for those who qualify.”

—Senator Betty Boyd (D), Colorado

Senator Betty Boyd (D)
Colorado

“Community health centers and medical homes are critical to coordinating care,” says Colorado Senator Betty Boyd (D), chair of the Health and Human Services Committee. “If you have a medical home, you’re more apt to get the most appropriate care because the provider knows what’s going on in your health life, and you are less likely to overuse the system.”

Pilot programs are just beginning to test the

Megan Foreman tracks health issues for NCSL.
ACO model and the data on their effectiveness is still to come. For this reason, some lawmakers think the timing is wrong to experiment with new approaches, especially with looming deadlines for federal health reform. Some are concerned that ACOs inevitably will lead to even larger health care organizations.

**Potential Cost-Savings**

For most patients, their benefits package will stay the same under ACOs. The consumer will find that little about their health care experience changes, except maybe some added conveniences. The major differences will be on the provider side, as payment models change drastically. The accountable care model fundamentally changes the financial incentives for health care providers.

The prevalent fee-for-service model rewards volume. Primary care doctors, specialists and other providers are not paid to prevent problems or help patients maintain a certain level of wellness.

ACOs turn the compensation model on its head by creating an incentive for treating illnesses and diseases early, providing more primary care, managing chronic diseases well, avoiding redundant and expensive tests, and cutting down on hospital readmissions.

The organizations do this by having providers and payers agree on a single budget for all the health services a certain group of people use in a year. They also establish a series of goals, such as reducing the number of hospital-acquired infections and increasing the number of patients able to manage their own illnesses. The budget and goals are determined through an analysis of claims to ensure the risk is tolerable for the providers and the quality goals are achievable.

Accountable care organizations share the savings among all the providers if they meet goals for patient health and cost containment.

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“ACOs are really a tangential aspect of the Affordable Care Act. Sure, we’d like to look at it, but we’re struggling just to get some basic intellectual capital on the ACA.”

—Representative Mark McCullough (R), Oklahoma

Accountable care organizations “embody the financial and quality care relationship states want to have with providers,” says Andrew Allison, Arkansas’ Medicaid director and president of the National Association of Medicaid Directors. “They are potentially the ideal [way] to align the financial impact with medical decision making.”

**State Role**

Lawmakers can play a role in helping accountable care organizations be successful.

“The state can provide structure and support for ACOs and ensure that whoever comes into the [Medicaid] system is routed to the most efficient level of care,” says Boyd.

Massachusetts, Minnesota, North Carolina, Oregon, Vermont and Washington join Colorado on the list of states that have taken long-term action to develop the ACO model. Many states have established pilot projects, reformed data and payment systems, invested in health information technology and exchange, restructured their Medicaid provider systems, and integrated the medical home model into service delivery.

“I’m proud Colorado is moving forward and thinking creatively about how to provide services for Medicaid beneficiaries,” Boyd says. “We have a pretty lean Medicaid program, so we should always be looking for effective ways to provide care for those who qualify.”

**Who’s in the Driver’s Seat?**

Federal health reform created several pilot programs to test ACOs as a way to deliver health care to Medicare beneficiaries. The experience in those projects—both successes and failures—will give policymakers concrete data on what works.

“Medicare has the burden of leadership, and ACOs are its new payment model of choice,” says Allison. The question is whether states, after four years of deep fiscal pain, have the flexibility to take a chance on an unproven approach in their Medicaid programs.

Oklahoma Representative Mark McCullough (R) and his colleagues are deeply concerned about implementing the Affordable Care Act and ballooning Medicaid costs. He says they don’t have time to pay attention to more “exotic” ideas.

Accountable care organizations “are really a tangential aspect of the Affordable Care Act. Sure, we’d like to look at it, but we’re strug-
gling just to get some basic intellectual capital on the ACA,” McCullough says. “We’re opposed to it, but we have to prepare for what’s coming. It’s really hard because there is so much public opposition and [health reform] is so complicated.”

Reform on the Fly

Accountable care organizations may hold the promise of addressing all that’s wrong with the U.S. health care system, but they remain more of a concept than a concrete model. Even in Colorado and other states where pilot projects are underway, there is not enough data to draw firm conclusions about how well the approach contains costs or improves patient health.

“How long have ACOs been around?” McCullough asks. “It’s hard to pass judgment at all. The jury is still out, but some of the early data show that ACOs do not produce the cost savings it was hoped they might.”

Even advocates agree creating an ACO in a vastly complex health care system is like changing the battery while the car is going 80 mph. Payers and providers are entering into contracts while the business model is being developed and tested.

States that embrace ACOs as their business model are making purchasing decisions worth millions of dollars, essentially “picking winners,” Allison says. “The taxpayers aren’t interested in picking winners, they’re interested in outcomes, like quality and cost-efficiency. Patients want to see these outcomes, too.”

Creating an ACO requires a large-scale remodeling of the system that already is in place. There is concern that it will lead to even larger hospital systems and provider groups that will eventually hold huge market shares and run afoul of anti-trust laws.

“The systems ready to be ACOs are large, integrated health care systems,” says Allison. “This is an economy of scale. To be successful in the ACO’s risk-based payment models, and achieve team-based care, a system must have a large number of patients, functioning health information technology, and a solid infrastructure. This scale means market power.”

—Andrew Allison, Arkansas’ Medicaid director and president of the National Association of Medicaid Directors.

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The public discourse often confuses authority for leadership. Too often, people assume men and women with big jobs, fancy titles and lots of formal power are the epitome of leadership. Exercising leadership and exercising authority, however, are very different activities.

Authority is a contract for services. Whether you are talking about a mom or dad, the CEO of IBM or the speaker of the House, people in authority are supposed to provide certain services, for which they will be rewarded.

Leadership is a very different matter. It is about meeting needs rather than wants. It’s about helping communities face up to their most difficult problems. It’s about making progress on tough issues.

In legislative life, we have institutionalized this confusion by calling people majority and minority leaders. As every legislator knows, you get to be majority or minority leader by satisfying caucus members, or at least half plus one of them. That’s necessary work, but often has little to do with leadership.

Two types of legislators exercise leadership with little or no authority. The first is a back-bencher, particularly a minority party back-bencher, whose skill and persistence shepherds an important and perhaps controversial piece of legislation through to enactment. The second is a back-bencher who through dint of expertise or longevity and personality is able to exercise leadership across ideological and partisan divides, and influence the chamber without having much formal authority.

What It Takes

I’d like to focus on the first type—back-benchers who pushed difficult legislation through to enactment—to understand what it takes to make that happen. My next column will focus on the second type of back-bencher.

Two such stories, one involving Massachusetts Representative Carl Sciortino Jr., a Democrat, and the other Washington Representative Kevin Parker, a Republican, illustrate my point.

Sciortino is in his fourth term representing two blue collar Boston suburbs and is openly gay. In 2007, he was the lead sponsor of legislation to classify discrimination against transgender people a hate crime. He assembled a large number of co-sponsors, but couldn’t get the bill out of committee.

By 2009, the opposition had organized. Calling it the “bathroom bill,” they raised fears that transgender individuals would be able to use public bathrooms of either gender. Some legislators who had signed on to the earlier version of the bill were scared off by the publicity. At the 2010 Republican state convention, the bill was the subject of derision and ridicule. The media coverage of the bill was mostly negative, some of it harshly so.

Sciortino had to re-group.

He organized lobby days at the State House for transgender people to meet one-on-one with lawmakers, often their own legislator. Many of those lawmakers had never talked to a transgender person before.

He began negotiating the details of the bill with the House speaker, who had been a co-sponsor before he was elected speaker. Sciortino had voted for the speaker in a contested election. His goal, Sciortino says, was “to give him all the tools he needed to keep his word.”

He enlisted the help of a colleague—a “straight suburban dad and lawyer”—to bring a different kind of credibility and expertise to the negotiations. He also sought out a quiet senator from western Massachusetts to take the lead in the Senate.
Sciortino realized that if he “stopped, the bill would stop.” He chose to make it his No. 1 priority and be obsessive about pushing the bill. It worked.

The bill passed 94-60 in the House and on a voice vote in the Senate.

Building Alliances

Representative Kevin Parker of Washington proposed legislation in January to fight Medicaid fraud by using software that would help predict who was going to commit fraud before it happened. The current system is to pay the bills and then chase folks who appear to be committing fraud.

“It is all about partners, patterns and product,” says the Republican from Spokane.

First, partners. Even though the Democratic caucus in the Washington House in general and the Health Care Committee in particular are very liberal—and would choose adequate health care for the most vulnerable over rooting out every last bit of Medicaid fraud—Parker knew he would have to get support from one of them to have any chance of success. He focused on Eileen Cody, one of the most liberal members of the House and a member of the Health Care Committee. He not only approached her about the bill, but also some of her friends and colleagues in the Democratic caucus with whom he had worked in the past. He asked them to vouch for him with Cody. Her support was indispensable.

Second, patterns. He knew the bill involved two very different values that appealed to different legislative constituencies: adequate health care for all and being tough on crime. Democrats were not going to go for the bill unless they believed that it would increase funding for health care, a harder case to make than the anti-crime argument. Because of this, the Washington State Health Care Authority’s position was going to be critical because the agency was the one that would implement the new procedures to try to anticipate fraud. Early on he reached out to officials in the HCA and, after a series of meetings, gained their support. He also held one-on-one meetings with every member of the Health Care Committee to listen to their concerns and make the case that the money saved by cutting down on fraud would be used for more health care services.

Third, product. From the outset, he was willing to make significant accommodations in the legislation to meet the concerns of the HCA and the Health Care Committee Democrats as long as he did not lose the core innovation of predictive modeling.

Parker’s bill passed on March 8, the last day of the session, and it was signed by the governor March 30.

What can we learn from them about how to lead from behind? Maybe one of the most important things is that backbenchers have the luxury of being able to concentrate on a single piece of legislation. But keep these points in mind, too.

✦ Be relentless, work on the bill every day, never take no for a final answer, and continue to negotiate and build your coalition.
✦ Be brutally realistic about your resources and constraints. What assets do you have inside and outside the legislature? What are the liabilities? How have you helped other legislators? What untapped networks do you have?
✦ Create unexpected alliances. People notice.
✦ Find out what other people care about, even if it is not what you care about. Be willing to compromise as long as doing so does not undermine your core purpose.
✦ Bring legislators face-to-face with real people hurt by the absence of the legislation.

The most important lesson of these two stories is that legislative leadership is not the exclusive prerogative of speakers, senate presidents, minority or majority leaders, or committee chairs. The opportunities to exercise leadership without formal authority are available to every member. The only questions are whether they see those opportunities when they arise, and have the skill and courage to step up, take the initiative and see it through, no matter how daunting the challenge.
Lawmakers are balancing strict food safety laws with policies to encourage small food entrepreneurs.

**BY DOUG FARQUHAR**

Food safety is something most Americans take for granted.

But that confidence is shaken when there’s an outbreak of a food-borne illness, like the Listeria infection in Colorado cantaloupes last year that left 32 people dead.

There’s plenty of reason to be concerned. One of every six people becomes ill each year from eating contaminated foods, according to estimates by the Centers for Disease Control and Prevention. An estimated 48 million Americans become sick from food-borne illness, 128,000 end up in hospitals and 3,000 die.

While state lawmakers are well aware of the dangers, they increasingly are interested in introducing more flexible rules to allow for the growth of local food producers. New laws to encourage the “cottage food” movement offer exemptions for food start-ups from state health and food safety rules until they become established.

From Maryland to California, cottage food laws have struck a chord with lawmakers. Exemptions from food safety laws for church suppers, potlucks, farmers’ markets or foods sold directly to consumers are a way to encourage entrepreneurs and promote economic development. Arkansas, Arizona, Indiana, Maryland, Missouri, Minnesota, Montana, Texas, Virginia, Washington, Wisconsin and Wyoming have adopted cottage food laws.

“Food safety rules and fees were preventing businesses from starting up,” says Michigan Senator John Proos (R), sponsor of his state’s Cottage Foods Act. “By providing this exemption, we have seen an explosion of small producers selling at farmers’ markets across Michigan.”

**Collaborative Process**

Former Minnesota Representative Al Juhnke’s (D) foremost concern was “first, do no harm” in adopting a cottage foods law in Minnesota.

He worked closely with the state health department to determine the most important food safety concerns and other areas where it made sense to back off. Labeling was important to let consumers know what the product contained and that it was not inspected by the state.

“People have an expectation that their food is safe and inspected. That’s not always the case,” says Juhnke, who left the House in 2010 and now is an aide to U.S. Senator Al Franken.

In Michigan, Proos worked with the state agriculture department on the cottage food bill. To deal with labeling and hazardous food concerns, the department identified potentially hazardous foods that require time or temperature control for safety—meats, poultry and shellfish, mushrooms, raw sprouts and tofu—that must remain subject to state oversight. The law also continues to require all foods be labeled with allergens, which is a federal requirement.

Cottage foods in Michigan cannot be sold in retail stores. The law is designed for direct sale to customers at farmers’ markets, roadside stands, from home kitchens or other direct markets, but it loosens the regulatory burdens that hindered start-ups from selling foods.

Now, local markets are showcasing Michigan berries and other fruits, and the scones, muffins, cupcakes and cookies that can be made with these fruits.

“It has been a huge benefit to the agriculture industry in the state,” says Proos. “Organic farmers, health advocates, small business, the agriculture community and foodies all support this bill.”

**Improved Training**

“Consumers need better protection from food-borne illness, without over-regulation,” says Texas Senator Jane Nelson (R). Texas adopted her food safety bill requiring the licensing of producers that harvest, package and ship produce while providing an exemption for small farmers.

Nelson included protections for local bakers as well. “The Cottage Foods section was intended to ensure small home bakers are able to sell their products without over-regulation by the state or local health departments.”

Rather than providing a blanket exemption, her bill requires small food producers to complete food safety training.

The Minnesota cottage foods efforts also encouraged training. Additional legislation in 2011 exempted faith-based organizations, school concession stands, fraternal organization and food service events from needing a state food safety license. It also highlighted the potential health threats caused by contaminated foods. When the state health department and the University of Minnesota Agriculture Extension held free training on food safety, more than 700 people attended. An additional 500 people requested the training video, “Cooking Safely for a Crowd.”
### States, Feds See Food Safety Roles Differently

**BY DOUG FARQUHAR**

Outbreaks of illnesses from contaminated food helped spur enactment of the Food Safety Modernization Act, passed by Congress and signed by the president in January 2011.

The law focuses on preventing outbreaks, instead of reacting to them, and changes many of the regulatory structures designed to protect the public from food-borne illnesses. The main thrust of the law, however, is to update the U.S. Food and Drug Administration’s authority to regulate foods. Previously, FDA acted only after a food-related illness outbreak. The new law allows the FDA to design measures to prevent food-borne outbreaks from occurring by regulating the food industry.

“FSMA will have a significant impact on states,” says Joe Reardon, an FDA official and former food program director of the North Carolina Department of Agriculture & Consumer Services. “It will create a federal-state partnership to build an integrated food safety system.”

FDA officials see one of their roles as guiding small businesses through new food safety requirements. “If we want to ensure that our food is safer, we need to be able to invest in compliance,” says Dr. Margaret A. Hamburg, FDA commissioner of food and drugs. “We need to help educate and train industry—especially small businesses—through guidance documents that address the real-world issues companies face in trying to abide by the rules.”

The federal law created some tension between the federal government and the states, however. Lawmakers in Delaware, Hawaii, North Carolina and Utah have introduced legislation to protect the states’ role in food safety. Many state lawmakers also see it as their role to help small businesses deal with food safety regulations.

“We want to adopt our own food safety rules before they are dictated by FDA,” says Hawaii Senator Clarence Nishihara (D), who chairs the Senate Agriculture Committee. Bills before his committee this session would require a certification program for producers and ensure a trace-back ability to identify where a product comes from when someone becomes ill.

An amendment was added to the federal food safety law to ensure small businesses are protected, exempting them from the extensive requirements imposed upon large food manufacturers and processors.

Food facilities that sell only within their state—or within 275 miles of their facility—and have less than $500,000 in annual sales are exempt from the new federal law, as is food produced on a farm and sold directly to the consumer, including at local farmers’ markets. Since the federal food safety law does not preempt state laws, these facilities and activities remain subject to state and local food safety laws.

### Cottage Food Laws

Although there is no universal cottage food law, most state laws have four provisions:

- Exemptions from licensing for small companies that sell directly to consumers.
- Labels that must state the product has not been inspected.
- Rules for handling potentially hazardous foods, such as those that need a certain cooking time or temperature to ensure safety.
- Training courses for people who prepare foods for large groups.

### Working With States

Most food safety efforts are performed at the state level. State workers inspect most food processing and service facilities following state rules. Congress recognized this when drafting FSMA, and specifically required the FDA to work with states. The law encourages creation of an integrated state-federal food safety system. It seeks consistency among state and federal food safety training and standards nationwide, much of which will be done by the states.

Although there are no specific state requirements, the law encourages the FDA to rely heavily on current state food safety and inspection programs, since a majority of the work currently is performed by state agencies. Under the law, FDA must:

- Improve the ability of local and state agencies to detect and handle outbreaks of food-borne illnesses.
- Improve training for state, local territorial and tribal food safety officials.
- Provide money to state and local agencies to improve food safety activities, laboratory capacity and the infrastructure of state food safety programs.
- Support efforts to detect and investigate food-borne outbreaks, which currently fall to state agencies with funding from the FDA or the U.S. Department of Agriculture.
- Create “Food Safety Integrated Centers of Excellence,” within state departments of health, to help states and localities during an outbreak, offer analysis of the response, and provide training.

“We do have the safest food supply in the world,” says Reardon. “But we need to work hard to keep it that way.”
Lawmakers in more than two dozen states are changing the rules on bail.

BY RICHARD WILLIAMS

ost of the people sitting in local jails have not been convicted of a crime. Instead, they’re awaiting trial and can’t afford bail.

In fact, 60 percent of jail inmates are awaiting disposition of their cases, not serving time for a conviction, according to the federal Bureau of Justice Statistics. Three-fourths of these people are accused of property, drug or other nonviolent offenses. Although many are not considered a danger to the public or a flight risk, locking them up contributes substantially to the $9 billion local governments spend every year on jails.

There’s a high cost to defendants, too. The time they spend in jail can cost them their jobs, prevent them from supporting their families and keep them from dealing with matters that might help their case. Defendants out on bail who have a job, are connected with their families and aren’t abusing drugs or alcohol are more likely to show up in court, according to experts in the field.

Determining Release

Bail is the basic right for most defendants to be released prior to trial. Conditions for bail are set by a judge to reasonably ensure public safety and the person’s return to court. They can include posting the full bail amount, using property as collateral or signing a written agreement to appear, referred to as release on your own recognizance. Judges also can order nonfinancial conditions, such as drug testing.

In localities with a pretrial services program, defendants are subject to supervision while they await trial or disposition of their case.

In 2011, at least 28 states enacted 73 bills addressing bail policy. The bulk of these laws seek to improve the effectiveness of commercial bond and pretrial services programs.

“We need to do a better job of distinguishing people who are suitable for release,” says Representative John Tilley (D) of Kentucky. “We don’t want people sitting in jails only because they cannot afford their financial bail.”

Tilley chairs the House Judiciary Committee and co-sponsored pretrial reforms there last year.

Improving Pretrial Services

In 2011, Kentucky lawmakers set out to improve their pretrial system by determining who would be best-suited for release. (Kentucky is one of only four states—the others are Illinois, Oregon and Wisconsin—without commercial bail.) They changed pretrial release by requiring risk assessments and improving pretrial supervision. The reforms emphasized alternatives to jail for defendants.
who are not dangerous or a flight risk, who have substance abuse or mental health needs, or who are unable to pay their bail fee.

Defendants now undergo a pretrial risk assessment that considers factors linked to pretrial appearance rates and successful reentry into the community, such as employment status, family ties and avoiding substance use. Those determined to be low or moderate risk to the public or alleged victims, and who are likely to appear for court, are released on their own recognizance. For some moderate-risk defendants, courts impose conditions, such as drug testing or GPS monitoring.

Defendants who remain in jail before trial because they can’t pay bail receive a $100 credit toward their bond every day, allowing them to earn their release over time. High-risk offenders who must pay a bond to get out are not eligible.

The Kentucky law improves the supervision of those on probation, parole and in pretrial programs, and reinvests the savings from housing fewer inmates to community programs that supervise both defendants and convicted offenders. The law also requires better record keeping of appearance rates and new crimes by pretrial defendants.

“The end goal is clear,” says Kentucky Senator Tom Jensen (R), referring to the state’s package of recent reforms. “We want more cost-effective ways to hold offenders accountable while improving public safety.”

A co-sponsor of the recent reforms, Jensen chairs the Senate Judiciary Committee that recently heard good early results on the legislation from the courts.

Kentucky Chief Justice John D. Minton Jr. told lawmakers the changes appear to be paying off. More low- or moderate-risk defendants are getting out before trial and being released without a bond, yet new crimes committed by those released went down 4 percent. The court wants the General Assembly to use money saved under the program to hire more staff for the offices that supervise pretrial defendants to handle increased in-person reporting, drug testing and curfew checks of those who are released.

“The end goal is clear. We want more cost-effective ways to hold offenders accountable, while improving public safety.”

—Senator Tom Jensen (R), Kentucky
Views Differ on Pretrial Release

State leaders consider many issues as they refine and improve bail laws. Two of the potential options—pretrial services programs and the commercial bail industry—are subject to debate about their role in the bail system.

Proponents of bail reform believe a financial bail system has little effect on public safety. Timothy Murray, executive director of the Pretrial Justice Institute, maintains risk assessments can be used to gauge a defendant’s probability of committing new crimes while on release and the likelihood he or she will show up in court.

“High functioning pretrial services programs provide the court with neutral and validated information for each defendant,” Murray says. “Armed with this information, the court can make safe, fair and effective pretrial release decisions.”

Alternately, representatives of the bail bond industry think defendants released to their custody are less likely to commit crimes and are more likely show up for their court date.

The service these private companies provide is “not only effective, it’s indispensable,” says Dennis Bartlett, executive director of the American Bail Coalition. “It doesn’t cost the public anything, and if the defendant skips [his or her court hearing] and is not recovered, the bail agent has to pay the court the full amount of the bond, in cash.”

The Pretrial Justice Institute is the national nonprofit organization dedicated to ensuring informed pretrial decision making for safe communities. The American Bail Coalition is the member organization dedicated to the long-term growth and continuation of the surety bail industry.

Hear more from Timothy Murray and Dennis Bartlett at www.ncsl.org/magazine.

Tilley is encouraged. “We’re letting more people out and they’re committing fewer crimes, while showing up for court at the same rate as before the new law went into effect,” he says.

Regulating Bail Bonds

Commercial bond is now the most common form of bail, having surpassed release on recognizance over about the last 15 years. Under commercial bond, a defendant pays a nonrefundable fee to a licensed agent who certifies to the court he or she will be liable for the full bail amount if the defendant fails to appear. (Bondsman generally are not financially responsible if a defendant is rearrested.) The increased use of commercial bonding in states has gained the attention of legislatures. At least 27 laws in 17 states have been enacted since 2010 addressing bondsmen licensure, training requirements or business practice. In many states, reforms have been welcomed by the commercial bail industry in the belief that they strengthen the profession.

Last year, for example, Utah lawmakers added a requirement that, to apply for a license, bondsmen must complete a course that covers many aspects of bonding. Representative Gregory Hughes (R), sponsor of the legislation, said it was a collaborative effort of legislators, law enforcement agencies and bail bondsmen.

In Connecticut, bail reform was on the agenda for nearly a decade before the General Assembly enacted legislation last year. The reforms—supported by the bail bond industry—were spurred by a domestic violence task force that heard from victim advocates. They expressed concern that some bond financing practices encouraged quick, poorly supervised release with little effort to provide notice or protection to victims.

“There were a number of violent crimes across the state that we felt potentially could be stopped with changes to our bail laws,” says Representative Mae Flexer (D).

Concerns about victim safety and the integrity of commercial bonding were raised by the case of Selami Ozdemir. Despite having a violent criminal history, he was released from custody in 2010 after paying no money toward his $25,000 bail fee. Even though he was under a temporary order prohibiting him from contacting his wife, the day after he got out of jail, he killed her in a murder-suicide.

“The previous system allowed offenders to bond out without even a down payment, leaving victims with the misconception that the amount of bond set would keep the offender incarcerated,” says Flexer.

Ozdemir was released without paying anything because of a practice known as “undercutting,” where competition between bondsmen drives them to offer lower rates and better deals on financing. Under the new law, bond agents may not change the bond rates set by the insurance commissioner. While bond fees do not equate to safety in all cases, Flexer thinks the new regulations can ensure that everyone plays by the same rules.

Bondsman in Connecticut also are now prohibited from soliciting business inside courthouses, police stations, correctional institutions and other detention centers.

“We were looking to better safeguard against frenzied competition for better repayment deals and unjustifiably lenient bail arrangements,” says Flexer.

The legislation also prohibits a bondsman from working if he has a forfeited bond that is at least 60 days past due. New reporting requirements help identify these as well as the value of the collateral put up as security for a bond.

“This gives the Insurance and Public Safety departments the tools needed to regulate bond professionals, protect the public from potentially dangerous criminals, and to help prevent bond agents from compromising the integrity of the bail bond system in Connecticut,” says Debra Korta, legislative director of the Department of Insurance.

In addition, new requirements for uniform standards of record retention will provide access to information needed for oversight. “This provides much needed transparency to an industry that had virtually none,” she says.

Senator Joseph Crisco (D), who co-sponsored the 2011 legislation in Connecticut, says enhanced oversight of the bail bond industry will allow agencies to audit, investigate and enforce sanctions on bond companies and professionals that operate outside of the new regulations.

“These reforms helped to align our bail procedures with the original intent of the practice.”
You can’t bring home the bacon when the pig is dead.

Alan Simpson is a former state legislator, Wyoming’s colorful and outspoken Republican U.S. senator for 18 years and, most recently, co-chair of the National Commission on Fiscal Responsibility and Reform. After 10 months of work in 2010, the bipartisan panel’s draft recommendations to reduce the deficit by reforming the tax code and cutting entitlements, among other measures, were never officially adopted. Since then, Simpson and his co-chair, Erskine Bowles, have testified before Congress urging adoption of their blueprint for economic recovery.

State Legislatures: Do you think the recommendations of your fiscal responsibility commission have a chance of being implemented? If not, what’s the risk to the country?

Simpson: Oh, I don’t know. It’s like a stink bomb in a garden party. We just keep telling people what is going on. We are a little disappointed that the president walked away from it. One of the great allies has been Bill Clinton. He actually went to the president and said, “Look, you appointed these guys by executive order.” I would have wrapped my arms around it and run with it, but it was not to be. But you know it won’t go away. You have an unconscionable, unsustainable, totally predictable chaos coming, and young people aren’t paying any attention. They don’t seem to get it. I didn’t give a damn about anything when I was 20 either.

SL: The president’s budget assumes Congress will suspend mandatory cuts in discretionary programs and defense that are supposed to begin next January because the congressional super committee failed to agree on a deficit reform plan. Do you think that will happen?

Simpson: No sane person—the president or anybody in Congress—is going to let that sequester take place. They’ll either come up with something or pass a law and suspend that part of it. But it is inexorable. Your country will borrow $3 billion, $600 million today and they will borrow $3 billion, $600 million tomorrow. And it’s not going to anything. It is just running the country deeper in the hole. The debt limit now, while we were all asleep the last few weeks, essentially went to $16.2 trillion. People don’t understand what $1 trillion is. If you spend a buck a second from right now you wouldn’t reach a trillion for 32,500 years.

When [Erskine Bowles] and I go around the country and spend an hour with any group—lefties, righties—we’ll get a standing ovation. People are thirsting for someone to tell them the truth, not bullshit or mush.

SL: Why do you think it has been easier for commissions such as yours to come to a bipartisan consensus, but Congress can’t?

Simpson: We took a year, and it took us three months to establish trust. There is no trust in Congress. The caucuses consist of sitting down and figuring out how you can screw the Republicans or how you screw the Democrats, but nothing constructive. How can we embarrass the president? How can we embarrass Boehner? How can we embarrass McConnell? How can we embarrass Reid? If that creativity were directed to the debt and the deficit, it would take care of everything swiftly.

SL: Congress’ approval rating is at a historically low level. Can they do anything about it?

Simpson: They have to. The trigger point will come when the people who loan us money will say we just want a little more interest for our money. We will continue to loan you money, but we do want a little more interest. Then interest will tick up and inflation will tick up, and at that point the guy that gets hurt most is the little guy everybody talks about.

SL: And at that point something is going to happen?

Simpson: It will happen because people will say, “You know, I was borrowing money at 2 percent or 3 percent, if I could, and how did it
go to 6 percent. I just needed that to get my kid into community college or buy a secondhand car and, by God, you’re at the wheel.” They are going to take it out on them.

**SL:** Is that the only realistic way for things to change?

**Simpson:** It’s the only way. It is called democracy. Any other way is chaos. There’s been no shared sacrifice in this country since World War II. Nobody has had to do anything. We send other people to fight our wars and borrow money to pay for it.

**SL:** Should Congress change its rules to make it easier to get things done?

**Simpson:** One thing [Senator Robert] Dole and I used to do when we were in the leadership—and [Senator Robert] Byrd, too, on the other side—when someone would say they were going to filibuster, we’d say just three words: Bring your cot. We are going to stay in here for about six or eight days, and I think you will enjoy it. That is what you do. That works. Nothing difficult about it at all, except the sergeant-at-arms has to get that many cots.

**SL:** What do you think about the relationship between the state and the federal government?

**Simpson:** I was in the state legislature for 13 years. I loved it. We were always told we’re independent and so on, but we always loved that federal money. State legislators are beginning to panic a little. They see the feds aren’t going to be able to do what they used to do and it’s tough. It spooks them. The relationship is always the same: “We don’t like the federal government, but boy we sure like what comes from it.” And that’s an eternal thing. I spoke to the legislators in Washington. I laid it on, and they heard it. I just said, “Guys, the fun and games are over. You can’t bring home the bacon when the pig is dead.”

All of us were sent to Washington or Cheyenne or the state capital to get money. We weren’t sent there to do something constructive. We were supposed to get the highway money. Go get the airport money. Go get the water line money. Go get the community college money. That was your job, and if you didn’t do it, you got fired.

**SL:** What will it take for Republicans and Democrats to agree on entitlement reform and what will the effect be on states?

**Simpson:** You’d better find a mechanism because it’s on automatic pilot, and it has no brakes. In our commission, we were going to take $400 billion out of [Medicare] and not let it go up over 1 percent of GDP a year. Health care is the biggest issue confronting this country. Give up talking about Obamacare. You can call it Elvis Presley Care; it can’t possibly work. Ten thousand people a day are turning 65. One person of every three weighs more than the other two. This is absolute madness; it’s unsustainable, and everybody knows it.

**SL:** Do you think the candidates for president are they talking about the right issues?

**Simpson:** On our side of the aisle, if you’re just going to talk about contraception and abortion and gay/lesbian issues, we haven’t got a prayer. There are a lot more things important to Americans than those personal things, and especially with a party that says keep government out of our lives. You know, nobody can really create jobs. The economy will create jobs if people get their boots off the neck of the country. Things will grow. I never understood the tax cut in the first place myself. How do you get a tax cut when you are fighting two wars, borrowing the money to do it, and you have a health care or pharmacy bill with no revenue stream to support it. Madness.

**Editor’s note:** These interviews are part of a series of conversations with opinion leaders. They have been edited for length and clarity. The opinions expressed are those of the interviewees, and not of NCSL.
“At last, some lawmakers who are my size.”
—Colorado Senator Linda Newell (D), who stands 5 feet 0 inches tall, after welcoming 35 fifth-grade “junior senators” to the Capitol for Girls with Goals Day, in the Denver Post.

“Like Old Mother Hubbard, we went to the cupboard and found the bones to make soup.”
—Oregon Senator Jackie Winters (R) on the Legislative Assembly’s successful rebalancing of the state’s two-year budget at the end of the session, in the Statesman Journal.

“Clearly it’s nice, but I’ve been black for 43 years, so I’m kind of used to this. So I don’t feel any different.”
—Arkansas Representative Darrin Williams (D), about being the first African American ever elected speaker-designate in the state, in the Arkansas Democrat-Gazette.

“What we are getting is a lot of data, but not much information.”
—Minnesota Senator Michelle Benson (R) about bills to require independent audits of health maintenance organizations, in the Forum of Fargo-Moorhead.

“It was under the radar, but believe me Wall Street noticed.”
—Oklahoma Senate President Pro Tem Brian Bingman (R), about the legislature’s efforts to shore up pension funds for teachers and state workers, in Stateline.

“Never can I recall a time in my 37 years on this floor that I’ve seen so much animosity and criticism of members of this body.”
—Virginia Senator Charles J. Colgan (D) to his colleagues from both parties on the last day of session, in the Washington Post.

“You have to be part of the solution—we desperately need your advice.”
—North Carolina Representative D. Craig Horn (R), to a group of parents angry about budget cuts to schools, in the Charlotte Observer.

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.
For decades, tobacco companies paid Hollywood to push smoking in movies.

Why are state taxpayers doing it now?

In March 2012, based on documentary evidence, the US Surgeon General reported that, for decades, US tobacco companies gave Hollywood valuable incentives to promote smoking in movies. Today, so do taxpayers.

Through state film production incentives, states hand hundreds of millions of dollars to producers of movies with smoking.

Research indicates that exposure to on-screen smoking accounts for a million current teen smokers in the U.S. Indiscriminate film subsidies undermine states’ own efforts to keep kids from starting to smoke and avert billions in health costs.

No state can afford this deadly, wasteful policy conflict. Fortunately, the fix is straightforward.

As the US Centers for Disease Control and Prevention (CDC) recommended last year, states can simply make future media productions with tobacco imagery ineligible for public subsidy.

There’s no First Amendment issue. After all, state subsidy programs already filter out film projects for a range of other content.

Whether or not you think film subsidies make sense as economic development policy, collateral damage to kids’ health makes them unsupportable.

It’s time to mend state film incentives or end them.

Learn more at bit.ly/fixsubsidy.


Smoke Free Movies—the R-rating, certification of no payoffs, anti-tobacco spots, and an end to brand display—are endorsed by the World Health Organization, American Medical Association, American Academy of Pediatrics, American Heart Association, Legacy, American Lung Association, Americans for Nonsmokers’ Rights, American Public Health Association, Campaign for Tobacco-Free Kids, Los Angeles County Dept. of Health Services, New York State Department of Health, New York State PTA, and many others. Visit SFM online or contact: Smoke Free Movies, UCSF School of Medicine, San Francisco, CA 94143-1390.