STATES TACKLE THE TOUGH STUFF

INSIDE:

CONTROLLING HEALTH CARE COSTS

SUPPORTING JOB GROWTH

FINDING REVENUE

KEEPING GOOD STAFF
Nuclear energy produces nearly 70% of America's carbon-free electricity. With our electricity needs expected to grow 24% by 2035, advanced nuclear energy plants must be built to meet this rising demand without producing more greenhouse gases.

Nuclear energy facilities have the highest reliability of all electricity sources with production costs that average about 2 cents per kilowatt-hour. Nuclear energy should be expanded as part of a balanced energy portfolio that generates more low-carbon and affordable electricity and reduces our dependence on foreign energy sources.
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25 YEARS AGO
The North Dakota Capitol was constructed after a fire destroyed the first capitol on the night of Dec. 28, 1930. In the midst of the Great Depression, the Legislative Assembly decided to build a tower rather than a traditional domed capitol for economic reasons. It was a bargain, costing only 46 cents per cubic foot to build. It was finished for less than its $2 million limit. The 19-story art deco tower sits on 132 acres. On a clear day, from the observation deck on the top floor, you can see for 35 miles.

DID YOU KNOW ...
It’s Hip to be Healthy
“The wellness revolution, in which Americans everywhere are exercising more and eating less, is moving from the health club to the statehouse.”

Corrections
The publisher of “The Sometime Governments” was misidentified in an item in People & Politics in the May issue. The actual publisher is The Citizens Conference on State Legislatures. And, in an article in Trends and Transitions, the map incorrectly showed Pennsylvania as having enacted legislation allowing military designations on driver’s licenses. A bill has been introduced in Pennsylvania, but it has not yet passed.

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Online
Visit www.ncsl.org/magazine this month for:
◆ Learn more about efforts to find alternatives to transportation funding.
◆ Visit NCSL’s website on efforts states are making to curb health costs.
◆ Catch up on previous interviews with opinion leaders.
The people in your district who will be the most affected by higher electricity costs are those who can least afford them.

You see it every day. The families and businesses in your district are struggling to make ends meet. Over 60 million Americans with annual incomes below $50,000 already pay 21% of their after-tax income on energy. But thanks to electricity from coal, power bills throughout most of America have remained stable and affordable. Without coal as a dominant fuel for power generation, electricity costs would spike, resulting in even greater hardship. Learn why supporting coal is one of the best ways you can positively impact local job growth and the long-term economic outlook for your constituents at AmericasPower.org.
We expect to know what’s in our food so we can choose what we think is best for ourselves and our children. But what goes into our children’s health care?

As pediatricians, we know a lot about the care that’s best for a child to grow up healthy, happy, and full of promise.

That’s why, in partnership with the US Department of Health and Human Services, we developed Bright Futures, the recognized gold standard of children’s preventive health care. Bright Futures guidelines provide a set of principles, strategies, and tools to improve the health and well-being of all children, with health care that is culturally-appropriate and delivered in a child’s medical home.

Bright Futures should be used by states as the standard for preventive care in all public and private health insurance plans.

Learn more about Bright Futures at http://brightfutures.aap.org/ and find out what pediatricians are doing in your state for the health of children by contacting the AAP Division of State Government Affairs at 800/433-9016 ext 7799, or stgov@aap.org.

American Academy of Pediatrics

Bright Futures

prevention and health promotion for infants, children, adolescents, and their families™
The Real Change-Makers: Why Government Is Not the Problem or the Solution

By David Warfield Brown
Praeger
157 pages; $37

Who finds solutions to social problems in America? Not the people sitting in government offices, argues David Warfield Brown. Change-makers are just ordinary folks, he says. The kind of people who not only see a problem and envision a solution, but have the gumption to make it happen. The kind of people, in fact, who bring good ideas based on their own experiences to those who are “in power,” such as legislators.

Although Brown’s Democratic credentials are unmistakable (he served as deputy mayor during the Koch administration in New York City), he seems to be channeling George Bush Sr.’s belief in “a thousand points of light,” with a healthy dollop of hand-wringing borrowed from Robert Putnam’s “Bowling Alone.”

Brown argues that the answers to social problems won’t come from more litigation, legislation, regulations or funding. “Simply put, government did not create our social problems, nor will it solve them for us. They require our social attention.”

This message could be aimed at government for trying to do too much, but actually, he’s addressing people who do too little, those who he says are “putting down government but at the same time putting up with it.”

Brown’s brand of pragmatic, citizen-based advocacy is described throughout the book with examples from three social arenas: health care, education and poverty. For Brown what matters most isn’t the issue, it’s the motivation inside change-makers.

He’s especially interested in motivating baby boomers—those old enough to have spare time but young enough to have spare energy—to get up and get going.

Readers find words of wisdom on how to target the issue, locate fellow enthusiasts, build momentum and, when necessary, get America’s official decision makers to act.

Legislators may be particularly interested in the chapter, “One Thing Can Lead to Another.” Here, Brown imagines a newly elected officeholder’s first remarks to supporters: “I come to you not asking for your support but asking how I can use my public office to support you. Yes, you heard it right. I want to do all I can to support your efforts to address social problems which are beyond the means of government.” Brown suggests several ways a lawmaker might provide support:

◆ Offer public spaces for meetings.
◆ Allow government or campaign websites to feature citizen initiatives.
◆ Recognize the community’s change-makers publically with awards
◆ Offer the assistance of personal staff.
We might add these to Brown’s list:
◆ Show up at community events organized by change-makers.
◆ Talk to the press about change-makers’ issues.
◆ Hold hearings on the issues, whether or not legislation is involved.

The Real Change-Makers is text-dense. This may be just right for a baby boomer audience but less inviting to a younger crowd. That said, the encouragement to tackle social problems the old-fashioned way—with personal initiative and hard work—is a cross-generational message that couldn’t come at a better time.
Cancer matters. That’s why CANCERVOTES.

One out of two men and one out of three women will be diagnosed with cancer in their lifetime. State legislatures play a critical role in funding and implementing programs that ensure cancer patients and survivors have access to the health care they need.

From now through Election Day, volunteers across the country will be talking to candidates about cancer issues, and informing the public about candidates’ efforts to make cancer a national priority.

Log on to www.CancerVotes.org to find out more.

Make cancer an election issue in 2012.

Paid for by the American Cancer Society Cancer Action Network, 555 11th Street, NW, Suite 300, Washington, DC 20004
Good-bye Government Jobs

More than half a million public sector jobs have disappeared since September 2008. And, while private sector jobs have slowly increased during the last two years, with 25 straight months of job growth, those gains have been offset by massive cuts in state and local government jobs. This news is welcomed by those who want to shrink government, but all job losses have an economic impact on states beyond just the reduced buying power of idled workers.

Unemployed government workers have increased the demand on unemployment funds in many states that already are short of cash. Payroll tax collections decline with fewer workers, so less revenue is generated at a time of increased demand for unemployment benefits. Puerto Rico and the 12 states with the highest public sector job cuts together account for more than 340,000 public sector job losses since 2009. These 12 states currently are borrowing from the federal Unemployment Trust Fund to cover unemployment benefits.

Schools have been the hardest hit. Nearly 300,000 education jobs have been cut since 2008, accounting for 54 percent of all local government job losses. Reduced state funding for schools has been a key factor in those cuts.

—Jeanne Mejeur

Adding and Subtracting

Although 13 states added state and local government jobs between 2009 and 2011, most states eliminated more than they added. The number varies from 80,900 jobs lost in California to 13,400 gained in Maryland.

State Employees per 1,000 Residents

<table>
<thead>
<tr>
<th>State</th>
<th>Employees per 1,000 Residents</th>
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<tbody>
<tr>
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<tr>
<td>Wisconsin</td>
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<tr>
<td>Wyoming</td>
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Jobs Lost

These states and territory lost the most state and local government jobs between 2009 and 2011.

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<tr>
<th>State</th>
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<tr>
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<td>New Jersey</td>
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<td>Puerto Rico</td>
<td>25,600</td>
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<td>Ohio</td>
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<td>Illinois</td>
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<td>Georgia</td>
<td>19,200</td>
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<td>Florida</td>
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<td>Pennsylvania</td>
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<td>Missouri</td>
<td>14,500</td>
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<tr>
<td>Indiana</td>
<td>13,400</td>
</tr>
<tr>
<td>Arizona</td>
<td>12,600</td>
</tr>
</tbody>
</table>

- More than 20,000 jobs eliminated
- 10,000 – 20,000 eliminated
- 5,000 – 9,999 eliminated
- Less than 5,000 eliminated
- 200 – 13,400 jobs added

CONNECTICUT SENATOR EDITH PRAGUE, at 86, the oldest member of the Connecticut General Assembly, retired at the end of the session after 30 years of service. A Democrat and advocate of the elderly, children and organized labor, Prague was first elected to the House in 1982. She served as the commissioner on aging under Governor Lowell Weicker Jr. for two years before he fired her for resisting his plans to consolidate the agency. She claimed he viewed senior citizens as “greedy geezers.” She was elected to the Senate in 1994. Senators praised her service and gave her a sustained standing ovation on her last day.

THE REPUBLICAN STATE LEADERSHIP COMMITTEE has applied for the top-level .GOP Internet domain to help advance the mission of the Republican Party. The idea is to allow candidates and organizations to clearly identify themselves and their campaigns as Republican. This “is the latest in a series of steps to ensure that Republicans at all levels of the ballot have the opportunity to utilize leading and emerging technologies,” says RSLC President Chris Jankowski. The new domain “will soon be ready to help catapult thousands of Republican campaigns across the country.”

GEORGIA SENATE PRESIDENT PRO TEM TOMMIE WILLIAMS has announced he will step down from his leadership post when the Legislature convenes in January. An onion farmer and teacher from rural Georgia where Republicans rarely won, Williams was elected to the Senate in 1998 and played a key role in the GOP take-over of the chamber in 2002. He served as majority leader, then president pro tem in 2009. He helped orchestrate a coup that stripped much of the power of the lieutenant governor, later stating, “I feel strongly that the powers that reside with the Senate should remain with the Senate as the legislative branch.” Williams, 57, is running unopposed for his seat. In an email to his caucus announcing his decision, Williams said he believes “leadership positions as well as major chairmanships should be rotated or term limited …” Senate Majority Leader Chip Rogers said Williams is “one of the most decent men I have ever had the privilege to know. He leads with a heart of compassion rarely found in politics. … However, real leadership does not need a title, and Tommie Williams will continue to be a major force for good.”

THE KANSAS SENATE RECOGNIZED PAT SAVILLE for “extraordinary service, your sense of fairness, your unfailing attention to detail and your unflinching adherence to what is right” when she retired as the longest serving secretary of the Senate in the history of the state. She served under Senate Presidents Bud Burke, Dick Bond, Dave Kerr and Stephen Morris in her 22-year career as secretary. During that time she served as president of the American Society of Legislative Clerks and Secretaries (ASLCS), was awarded the prestigious NCSL and ASLCS Staff Achievement Award, and served on the NCSL executive committee. Saville began her state employment in 1964 working with the Veterans Commission and then moved to the House. She was appointed secretary of the Senate in 1990.

CRIME VICTIM ADVOCATES FROM ACROSS THE NATION PAID TRIBUTE to former Michigan legislator William Van Regenmorter who died in June at the age of 73. Author of the Michigan Crime Victim’s Right Act of 1985, he helped more than 30 states write similar legislation. The law passed while Van Regenmorter was a member of the Republican minority in the House and became a national model to protect the rights of people harmed by crime. The U.S. Department of Justice in 2009 honored him with the Ronald Wilson Reagan Public Policy Award. Van Regenmorter spent nearly 25 years in the Michigan Legislature before retiring in 2006. Van Regenmorter was widely regarded as one of Michigan’s most respected statesmen. Even though he wasn’t a lawyer, his impact on the justice system is far-reaching. “There is no question that without Bill we could not have made as much progress as we have in securing crime victims’ rights throughout our entire nation,” said Steve Derene, executive director of the National Association of VOCA Assistance Administrators. “Bill’s legacy can be found in his pioneering efforts that empowered countless crime victims and those that serve them to stand up for victims’ rights…” Lawmakers, prosecutors, congressmen and the Michigan attorney general all paid tribute to Van Regenmorter.

AS LAWMAKERS WRAPPED UP A MARATHON SESSION, Delaware House Speaker Robert Gilligan (D) stunned colleagues by announcing he is retiring from the legislature after 40 years. Lawmakers praised him from the floor, and governor Jack Markell called him “a giant not just in stature but in the contributions you have made to this state over 40 years.” First elected in 1972, Gilligan became speaker in 2008 when Democrats took control of the House. He decided he wanted to spend more time with his family. “It’s a great institution, and I do love this place, but you’ve got to move on when it’s in your gut and it’s in your heart,” he said.

ALABAMA HOUSE SPEAKER MIKE HUBBARD has written a first-hand account of the 2010 Republican campaign to win the state legislature for the first time in 136 years. “Storming the Statehouse, The Campaign that Liberated Alabama from 136 years of Democratic Rule” is Hubbard’s battlefield narrative of how he orchestrated the GOP revolution that changed the political landscape in the state. It was published by New South Books.

VERMONT DEMOCRATIC HOUSE MAJORITY LEADER LUCY LERICHE has announced she will not seek a fifth term. She is leaving the legislature because she can’t afford to stay. House Speaker Shap Smith said Leriche is “a great person, a great leader and she’s a good friend, but I think she needs to make some money and that’s a reality we have to face with a citizen legislature. It’s too bad because we are losing a talented person.” Vermont legislators make $604.79 per week during session, which runs for about four months.
The Unreasonableness (or not) of GPS

Modern technology used by law enforcement investigators poses new legal questions for state officials, particularly whether its use complies with the Fourth Amendment’s ban on “unreasonable searches and seizures.”

More and more police departments, for example, are using Global Positioning Systems, which can track suspects and give detailed information about their movements anywhere on Earth. Some law enforcement agencies even have ballistic capabilities to fire and stick the device on getaway cars to track them without engaging in dangerous chases.

In January, in United States v. Jones, the U.S. Supreme Court held that gathering data through a GPS tracking device on a suspect’s car, even while on public streets, is a “search” as defined under the Fourth Amendment. The court, however, did not address whether the search was reasonable under the circumstances. Police in this case had a search warrant, but the search was conducted outside its geographic area and the time frame of the warrant.

The physical intrusion of the device on the suspect’s car was key to the court ruling that it constituted a search. Four of the justices noted in a concurring opinion that, in “circumstances involving dramatic technological change, the best solution to privacy concerns may be legislative action. A legislative body is well-placed to gauge changing public attitudes, to draw detailed lines, and to balance privacy and public safety in a comprehensive way.”

At least 10 states—Florida, Hawaii, Minnesota, Oklahoma, Oregon, Pennsylvania, Texas, South Carolina, Utah and Virginia—have enacted laws that address the use of GPS devices by law enforcement officers. In April, Virginia became the latest; its law gives police the authority and protocol to apply for search warrants that permit the use of GPS tracking devices.

—Rich Williams

Revenues Are Up

If the Federal Insurance Office recommends moving away from state-based insurance regulation to an optional system of federal regulation, states could lose a significant source of revenue.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act requires the insurance office to study and report on how to improve and modernize insurance regulation.

State governments impose sales taxes on insurance premiums of the companies that write policies in their states. And recently, those revenues have been on the rise, according to the U.S. Census’ 2011 Annual Survey of State Government Tax Collections.

States collected a total of $16.4 billion in insurance premium sales taxes in FY 2011. That is $593.8 million (3.8 percent) more than in FY 2010.

The survey contains statistics on fiscal year tax collections in all 50 states in numerous tax categories. State taxes in all categories combined increased 7.9 percent, to $757.3 billion, in FY 2011.

Thirty-five states had an increase, with California, Texas, New York, Pennsylvania and Florida having the highest collections. Wyoming collected the least, followed by North Dakota, Nebraska, Alaska and Vermont.

—Heather Morton
States Plan for Settlement Money

The nation’s five largest mortgage servicers—Ally Financial, Bank of America, Citigroup, JPMorgan Chase and Wells Fargo—agreed in February to a $25 billion settlement over some questionable mortgage and foreclosure practices, including “robo-signing,” which refers to signing mortgage documents without verifying their accuracy. Together these five companies collect and process mortgage payments and handle defaults and foreclosures for nearly 60 percent of the U.S. mortgage market.

The settlement—which involved more than a year of negotiations with the states’ attorneys general, the U.S. Department of Justice and other federal agencies—including direct payments to the federal government, the participating 49 states and individual borrowers. Oklahoma was the only state that chose to settle separately for $18.6 million.

The states will split $2.5 billion based on the number of foreclosures and other factors. Another $1.5 billion is set aside for people whose homes were foreclosed between in 2008 and 2011; nearly $3 billion is committed to refinance “underwater” mortgages for borrowers who are paying on loans greater than their home’s current value; and about $17 billion is dedicated to consumers for a variety of mortgage activities.

California is in line to receive the largest amount, followed by Florida, Texas, New York and Illinois. As of May 24, nine states—Arkansas, Colorado, Connecticut, Georgia, Idaho, Indiana, Massachusetts, Nebraska and Utah—had decided how they plan to use their share of the settlement funds.

- Arkansas will split most of its $12.8 million among the state Development Finance Authority, the Access to Justice Commission, and two law schools at the University of Arkansas. The remainder will go into the state general fund.
- Colorado plans to spend most of its $50 million on affordable housing, mortgage loan-modification programs, housing counseling programs and the state’s foreclosure hotline.
- Georgia will split its $99 million equally among regional economic business assistance grants and other rural economic development efforts.
- Idaho will receive $13 million, some of which will go to the Consumer Protection Fund, the State Bar Volunteers Legal Program, Legal Aid Services, the Community Action Partnership, and others as determined by the attorney general. The rest will go into the state general fund.
- The Indiana General Assembly divided $43.8 million between low-income energy assistance, the Consumer Protection Division’s homeowners unit and other efforts to prevent foreclosures.
- The Utah Legislature decided to appropriate some of its $21.9 million to homeless shelters and services, and mortgage fraud investigations. The rest will go into the general fund.
- Connecticut will use $21.9 million of its $28.8 million award to support foreclosure assistance initiatives. Other funds will add attorneys and housing counselors to various state offices such as the Fair Housing Center and pay for public service announcements on foreclosure assistance. The general fund will receive $2.6 million in civil penalties.
- Massachusetts’ attorney general launched an initiative to support borrowers and prevent foreclosures with more than half of the $44 million the state received. Another $10 million will go to crisis response grants and municipal and community restoration grants.
- In Nebraska, the attorney general directed its $8.4 million award into the state’s rainy day fund.

The banks also agreed to allow greater transparency and follow new mortgage loan and foreclosure standards. “Dual tracking,” where the lender continues with foreclosure while the homeowner is trying to modify a loan, is now restricted, as are compensation arrangements that encourage foreclosure over other options. The settlement also enhances protections for military personnel.

The settlement, however, did not resolve all potential claims against these five servicers. The federal government and states may still pursue prosecutions for criminal offenses and violations.

—Heather Morton

For more information, go to www.ncsl.org/magazine.

The Allocations

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<th>State</th>
<th>Amount</th>
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Source: National Mortgage Settlement, Appendix B.
Will November Be Good for Women?

More than 6,000 state legislative seats are up for election this November. With the combined effects of redistricting, an acutely partisan environment and term limits in 15 states, plenty of new candidates will be vying to test the political waters of the statehouse. Several organizations are working hard to ensure that women are among those who choose to dive in.

Frustrated by the slow rate of increase in female state legislators (from 20.5 percent in 1993 to 23.6 percent today), the groups are focused on recruiting women and providing campaign training. Research shows women are more likely to run if they are personally asked to do so. When they run, they win at the same rate as men, if conditions are equal. Thus, more women on the ballot should result in more women elected.

The White House Project has offered nonpartisan leadership and campaign training for women for several years. The 2012 Project connects women to local organizations that train female candidates. Emerge America and the National Federation of Republican Women offer assistance to Democrats and Republicans, respectively, and many state partisan and nonpartisan programs do the same.

Currently, Colorado (40 percent), Vermont (38.9 percent), Hawaii (34.2 percent), Arizona (33.3 percent) and Minnesota (32.8 percent) have the largest percentages of women lawmakers. Of all female legislators in the country, 60 percent are Democrats and 39 percent are Republicans.

—Katie Ziegler

Marriage Laws

State legislatures and citizens continue to debate how to define “marriage,” and have reached different conclusions. Most recently, voters in North Carolina decided to restrict marriage to a union between a man and a woman, as do 37 other states. Six states and the District of Columbia have granted marriage licenses to same-sex couples. Laws passed in Maryland and Washington this year allow same-sex marriages, but they have not yet taken effect. In addition, a federal appeals court decision has halted same-sex marriages in California, and the case may be headed to the U.S. Supreme Court.

—Rochelle Finzel

Percentage of Female Legislators Since 1895

MOTIVATED LEGISLATORS

NCSL and nine states have joined Vermont in appealing a U.S. District Court decision regarding operation of a nuclear plant. The court ruled Vermont lawmakers were motivated by safety concerns when they passed a law requiring the Yankee Power Station to become certified before continuing operations after its 40-year license expired on March 21. Federal law places nuclear power plant safety exclusively with the Nuclear Regulatory Commission. In the friend of the court brief, NCSL argued that considering partial legislative records to determine lawmakers’ motivation “threatens the independence of legislative decision making and distorts the integrity of the legislative process.” The brief suggests the court should have looked solely at the language in the law.

WAIT AND SEE

Over the last few years, immigration has been one of the hottest topics in legislatures across the country. New research from NCSL’s Immigrant Policy Project, however, finds action on the topic waning. In the first quarter of this year, 45 legislatures and the District of Columbia introduced 865 bills and resolutions relating to immigrants and refugees. That’s a 44 percent decrease. Bill enactments also dropped 30 percent, with only 98 bills and resolutions being adopted in the same time period. Interest in the issue is not necessarily declining, however. Five states did not hold legislative sessions this year, accounting for about one-third of the decrease from last year. Other reasons for the dip include the fact that some states already have dealt with immigration issues and others were waiting for the outcome of the Supreme Court case. Other issues, like budget gaps, pensions and redistricting, also vied for attention this year.

GOING (ALMOST) PAPERLESS

What’s had Abraham Lincoln, Helen Keller, Dr. Martin Luther King Jr., Chief Joseph and Albert Einstein grace its face, is 77 years old, and is now going digital? The U.S. Savings Bond. The program was started by the U.S. Treasury Department in 1935 to give people a safe option to grow their savings. The Series E defense bonds came in 1941 to finance the war. They went online in 2002, and in January 2012, they went almost exclusively digital, saving taxpayers an estimated $70 million over the next five years in printing costs. The Treasury’s new “Ready. Save. Grow.” initiative offers six different bonds and treasury securities with varying interest rates. Buyers need a bank account, Internet access, and an email address to purchase and manage their bonds. The good news for those wanting a crisp piece of paper to help them visualize their savings goals is that they still can buy paper ones during tax time, with all or part of their tax refund.

ISLAND BAGS FIRST

Hawaii is the first state to ban retailers across the state from offering plastic bags at checkout. Supporters of the legislation say the plastic bags take hundreds of years to biodegrade, often clog up waterways and roadways, and contribute to the litter problem. Opponents argued the law would burden consumers and recyclers, and that paper bags also present concerns. Several U.S. cities already limit use of plastic bags and, in some places, paper ones.

ADAPTING INFRASTRUCTURE

Climate change is contributing to the disrepair of crumbling roads and bridges, according to a new report by the Center for Clean Air Policy and the Environmental and Energy Study Institute. “This is not about polar bears,” says Steve Winkelman, lead author and director of the CCAP. “It’s about backed-up sewers in your streets or basements.” The report says the record-breaking extreme weather last year caused more than $50 billion in damage to our transportation systems. After assessing how well critical infrastructure is handling current climate and weather conditions, the report’s authors recommend officials consider other ways to adapt infrastructure to guard against future weather extremes. These adaptations may be as logical as building a new culvert to address flooding or determining the height of a bridge based on precipitation data.
GUNS SHOOT UP ECONOMY

The National Shooting Sports Foundation, the trade association for the firearms, ammunition, hunting and shooting sports industry, says the industry is a leader in the nation’s economic recovery. It reported a 30.6 percent increase in jobs between 2008 and 2011, a 66.5 percent increase in economic impact, and a 66.5 percent increase in federal taxes paid by industry companies. The foundation also reports firearms purchases in January 2012, based on the use of the National Instant Criminal Background Check System, increased 17.3 percent over January 2011. “During difficult economic times and high unemployment rates nationally, our industry actually grew and created more than 10,000 new, well-paying jobs,” said NSSF President Steve Sanetti. “Our industry is proud to be one of the bright spots in this economy.”

The Brady Campaign counters this good news with a warning, “Where there are more guns, there are more gun deaths.”

THREE TRIES THWARTED

Colorado lawmakers rejected for a third time a bill that would have established a driver’s blood-level limit of 5 nanograms per milliliter of blood for THC, the psychoactive ingredient in marijuana. Nevada and Ohio have a 2 nanogram limit, and Pennsylvania, through a Health Department guideline, limits it to 5 nanograms. Washington voters will decide on a 5 nanogram limit this fall.

Opponents argued it is unfair to measure impairment based solely on a blood level. Others thought the bill should have targeted more than marijuana. Supporters cited the state’s increasing arrest rate for people driving under the influence of drugs, and data from the National Highway Traffic Safety Administration showing more drivers are testing positive for marijuana in fatal car crashes.

Seventeen states have a zero-tolerance policy for driving under the influence of any illegal substance—Arizona, Delaware, Georgia, Illinois, Indiana, Iowa, Michigan, Minnesota, Nevada, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia and Wisconsin—although Minnesota exempts marijuana. Sixteen states, Colorado included, allow use of medical marijuana.

RESTING PRIVATELY

Since budgets are not especially flush right now, some states are looking for private companies to sponsor rest areas. Currently, Georgia, Iowa, Ohio and Virginia are seeking bids. Highway rest areas, which provide a service the public has come to expect, can cost a state millions of dollars to maintain. At least 11 states have shut down rest areas since 2005 to save money. Connecticut and New Hampshire had to cancel shut-down plans, however, because of public backlash. The Federal Highway Administration has set guidelines for states seeking sponsors: Company signs are allowed, but must be consistent with other highway signs.

CONGRATULATIONS HAWAII

Hawaii’s legislative website—www.capitol.hawaii.gov—is the winner of the 2012 NCSL Online Democracy Award. The judges liked the website’s:

- Consistent, clean and attractive layout.
- Simple navigation, extensive information and good search capability.
- Extensive educational and jargon-free resources.
- Features that invite citizen involvement.
- Easy-to-find links to calendars, caucus sites, and committee hearings.

The annual award recognizes a state legislative website that makes democracy user-friendly in an exceptional way and is sponsored by two NCSL professional staff groups: the Legislative Information and Communication Staff Section and the National Association of Legislative Information Technology.
The Conservative Difference

GOP lawmakers have enjoyed remarkable success in the past two legislative sessions, but the long-term effects of some efforts rest in the courts’ hands.

BY LOU CANNON

The wave of Republican successes that washed over statehouses and the U.S. House in the 2010 midterm elections brought with it a more conservative agenda. Republicans were empowered by picking up 740 legislative seats, winning both chambers in 26 states and one chamber in eight others. It was their best showing since 1928, and they were jubilant.

Many of the newly elected lawmakers were eager to address illegal immigration, abortion, voter ID and collective bargaining, to name a few.

Two years later, it’s evident that the GOP takeover of the U.S. House accomplished little more than a morale boost for the party, with Congress in such gridlock it barely was able to raise the debt ceiling, much less face up to the nation’s pressing economic problems.

In contrast, Republican-controlled statehouses found success on several issues, and in many states.

Lasting Effect

Will the measures have long-lasting effects? During the first half of 2012, states waited on the courts for the answers, as partisan opposition and legal challenges have thrown several laws into uncertainty.

A wait-and-see attitude prevailed while lawmakers looked to the U.S. Supreme Court to decide on the constitutionality of the Patient Protection and Affordable Care Act that President Obama pushed through Congress on a party-line vote, and Arizona’s immigration law that, among other things, authorizes police to determine the legal status of people they lawfully detain.

The hot-button issue of same-sex marriage also is wending its way to the Supreme Court. In California, a divided federal appellate court affirmed an earlier decision invalidating a ballot measure that banned same-sex marriage. In Massachusetts, a federal appellate court found the 1996 Defense of Marriage Act discriminates against gays and lesbians.

Action Agendas

Midway through 2012, most legislatures have completed their legislative work, with thousands of measures considered. These are the key issues the new conservative majorities have focused on in the past year and a half.

Health Care. No single issue has greater impact on the public and the states than escalating health care costs. Last year, those costs surpassed $2.6 trillion, and a typical family spent more than $15,000. Health care costs eat up more than a quarter of state budgets.

Conservative lawmakers found no solutions, however, in the federal health reform law. In all, 20 states have passed some type of binding measure to oppose aspects of the federal health law. Adding nonbinding resolutions increases the total to 23.

The measures have focused on refusing to comply with the mandates that require purchase of insurance and impose fines on those who do not do so, keeping health insurance optional, and challenging other provisions of the 2010 law.

On June 28, the much-anticipated Supreme Court decision...
upheld the Patient Protection and Affordable Care Act, but limited the federal government’s ability to penalize states that choose not to expand their Medicaid programs. The ruling leaves plenty of questions—and work—for state policymakers, who continue to face the challenges and opportunities of implementing the wide-sweeping law. (For a closer examination of the decision and its potential effects on states, see the article on page 46.)

**Education.** The partisan divide was less clear on education reform. With budgets tight, most states quieted their cries for “local control” and competed for federal funds in the Race to the Top, an Obama administration initiative. Similar to education efforts by the George W. Bush administration to improve lackluster education achievement, it emphasized performance, measured by test scores.

For newly elected conservative lawmakers, education reform included school choice, limits to the collective bargaining rights of teachers, and shifts in education spending from teachers salaries to performance-based bonuses. Eight states—Florida, Indiana, Louisiana, Ohio, Oklahoma, Pennsylvania, Tennessee and Washington—now base school-aid allocations on student performance rather than on the number of students enrolled. Another seven states are moving to that standard.

**Immigration.** Conservatives brought a renewed energy to the immigration debate. Frustrated with Washington’s lack of action and concerned that the waves of illegal immigrants were costing American jobs and over-running health care, education and social services budgets, conservative majorities passed bold challenges against illegal immigration in Arizona, Alabama, Georgia, Indiana, South Carolina and Utah.

The Obama administration challenged the spark plug of these new laws—Arizona’s SB 1070—on the grounds that federal immigration law pre-empted the state’s law. The U.S. Supreme Court on June 26 gave both sides a partial victory. The court unanimously upheld the most controversial provision of SB 1070, which empowers police officers to check the immigration status of people they stop for lawful reasons.

On a 5-3 decision written by Justice Anthony Kennedy, however, the court rejected three other provisions of the Arizona law and reasserted that the federal government has the primary responsibility for immigration. The rejected provisions would have made it a state crime for illegal immigrants to fail to register under a federal law or to work or try to find work, and also would have allowed police to arrest people without warrants if they had reason to believe they were deportable under federal law.

Lower courts have blocked laws patterned on SB 1070 in Alabama, Georgia, Indiana, South Carolina and Utah. Courts will now have to re-examine these laws in light of the Supreme Court decision.

“A wait-and-see attitude prevailed in the states this year with immigration bills dropping by half from the high of 1,600 bills, anticipating the Supreme Court ruling in *Arizona v. United States,*” says Ann Morse, Washington, D.C.-based director of the Immigrant Policy Project for NCSL. “With the provision upheld on checking immigration status during a lawful stop, states may view the ruling as a yellow flag to proceed—with caution—on immigration enforcement in the 2013 legislative sessions.”

Immigration reform—both to curtail illegal immigrants and address legal migration to fill labor shortages—will likely stay on top of legislative agendas, at least until the federal government determines a better way to deal with the issue.

**Pension Reform.** Conservatives enjoyed the support of many Democrats on this issue, a welcome development because unfunded pension liability is a runaway freight train bearing down on state and local governments. “Fiscal pressures have forced a degree of bipartisanship that belies the heated rhetoric,” says Ron Snell, NCSL’s expert on pensions.

The pressures are immense. The Pew Center for the States estimates that a $1.26 trillion gap exists between the promises states have to retirees, including health care, and the money set aside to pay for them. In addition, public pension managers are counting on a 7 percent to 8 percent return on the funds over the next two decades—well beyond the expectations of most economists. Even if the rosier estimates prove accurate, Snell says, the unfunded liability still would be about $750 billion. This has
Thirty-two states passed pension-reform laws in 2011 and seven—Alabama, Kansas, New York, Ohio, South Carolina, Virginia and Wyoming—have done so this year. In all, since 2005, 48 states have approved pension reforms by increasing employee contributions, raising age and service requirements, and reducing the amount of benefits, among other changes.

Most states have made changes within their defined-benefit plans, the traditional pensions in which retirees receive a fixed monthly payment based on age and length of service. Six states—Kansas, Louisiana, Michigan, Rhode Island, Utah and Virginia—have moved either to hybrid plans or cash-balance alternatives to traditional plans.

The willingness of states with Democratic majorities and powerful public employee unions such as Illinois and Rhode Island to act on pension reform reflects a changing mind-set. Even unions that previously resisted all reforms now accept the need for limited changes. Whether they will be sufficient remains to be seen.

Fiscal pressures have forced a degree of bipartisanship that belies the heated rhetoric.”
—RON SNELL, NSCL EXPERT ON PENSIONS

Whether public workers should be allowed to unionize. As California governor, Reagan signed a bill, uncontroversial at the time, allowing municipal workers to bargain collectively.

Now, however, with industrial unions in decline, public employee unions have become the vanguard of the labor movement. Democrats depend upon unions for contributions and support; Republicans are apt to see them as barriers to balanced budgets and sensible work rules.

The Republican-controlled Ohio legislature, in 2011, was the first to ban collective bargaining for public employees, including police officers and firefighters. Unions representing these employees united with teacher unions to back a voter referendum that overturned the collective-bargaining ban.

In Wisconsin, the birthplace of public employee unions, Governor Scott Walker’s proposal to limit collective bargaining for public employees incited a riot of sorts. After labor-backed activists stormed the Capitol and Democratic legislators left the state in protest, Walker and a Republican Legislature saw the budget through to passage and cheered when the state Supreme Court upheld the anti-union rules on a 4-3 vote.

The union struck back this year by trying to recall Walker. The fierce campaign that followed became a national test of resolve. Money flowed to organized labor and a conservative movement, for which Walker has become a poster child. Walker survived the recall, but at a cost to him and his allies of $31 million. Senate Democrats, in a consolation prize of sorts, won a recall election that gave them—at least until November—a one-seat majority. Whether this will encourage other states to endure the travails that come from trying to clip the wings of public employee unions remains to be seen.

In the wake of Walker’s victory and the decisions by voters in San Diego and San Jose, Calif., to restrict pensions, the flagship conservative magazine National Review predicted other states would move against public employee unions as well.

This expectation was echoed, with mounting concern, on the union side. Gary Chaison, professor of labor relations at Clark University in Worcester, Mass., says unions “gambled heavily and lost heavily” in Wisconsin and now face “a real problem” in trying to sustain collective bargaining.

Nonetheless, when the results of the Ohio referendum are factored in, it’s unclear how many states will charge into the contentious arena of collective bargaining. Conservatives heavily outspent the unions to win in Wisconsin, and it’s likely that efforts to undo collective bargaining in other states would also result in expensive political battles.

Voter Identification. Eight states passed voter ID laws last year, and three states followed this year, bringing the total to 32 states with voter ID laws. Most of the stricter voter ID laws require a government-issued photo identification. Individual plaintiffs, backed by civil rights groups, are challenging the laws in Pennsylvania and Wisconsin. The U.S. Department of Justice declined under the Voting Rights Act to pre-clear voter ID laws in South Carolina and Texas. These states are suing in the U.S. District Court in Washington, D.C., to win approval of their laws.

Republicans contend voter ID laws are needed to prevent impersonation at the polls, although most voter fraud allegations have instead involved alleged irregularities in mail or absentee voting, issues neither party has addressed.

Democrats say these laws are meant to discourage voter turnout, especially among students, minorities, the poor, elderly and disabled. There is little evidence, however, that voter ID laws depress turnout, which actually rose in Indiana in 2008 after the legislature adopted a voter ID requirement.

Abortion. Republican-controlled legislatures have seized the opportunity to rewrite state laws to restrict abortions: 24 states approved 92 restrictions in 2011, and 13 states approved 30 new restrictions in 2012. In nine of the 13 states, Republicans hold a majority in both legislative chambers.

Late-term abortions were a popular target of much of the legislation. Eight state legislatures banned abortions after 20 weeks post-fertilization, while Arizona did so at 18 weeks. Arizona, Oklahoma and Wisconsin joined four states that ban abortion by medication. News laws in Mississippi and Tennessee require abortion providers to have admitting privileges at a nearby hos-
pital. Mississippi also requires the doctor to be a gynecologist.

Elizabeth Nash, state issues manager of the Washington, D.C.-based Guttmacher Institute, says these restrictions “push the envelope of legality.”

Pro-life groups intend to keep pushing for additional limitations.

“The pro-life movement will ensure that the protection of life is a central issue in the 2012 elections,” says Charmaine Yoest, president of Americans United for Life. “We will continue our work at the state level to enact common-sense and protective laws such as prohibitions on state funding of abortion and abortion providers, informed consent requirements and parental involvement mandates.”

In the most recent move aimed at Planned Parenthood, Arizona excluded abortion providers from receiving federal and state family planning funds, as Indiana, North Carolina and Texas had done in 2011. Kansas passed a similar law that excluded only federal funds.

The 2011 laws have yet to go into effect because all have been blocked by legal challenges.

**Same-Sex Marriage.** Voters nationwide may tell pollsters they favor same-sex marriage, but they don’t tend to vote that way. Thirty-eight states prohibit same-sex marriage, and 32 have done so by popular vote. In May, 61 percent of the voters in a North Carolina primary election voted to limit marriage to a union between a man and a woman.

On the other hand, legislatures have approved same-sex marriage in New Hampshire, Vermont and—dramatically—in New York, where in 2011 a handful of Republican senators broke with their party and joined Democrats to make same-sex marriage legal in the Empire State.

Same-sex marriage also is legal in Connecticut, Iowa and Massachusetts because of rulings by the highest courts in these states that their constitutions require equal treatment of all marriages. California’s same-sex marriage law, approved by the Legislature, remains on hold pending the U.S. Supreme Court’s decision whether to review the federal appellate court decision that overturned a ballot measure banning such marriages. The law would go into effect if the high court declines to take the case.

The discrepancy between poll findings and ballot results is less than it seems at first glance. A key reason is that voters under age 30 are most favorable toward same-sex marriage but least likely to vote, while those over 60 are disproportionately likely to vote and most opposed to same-sex marriage.

Even so, Jennie Bowser of NCSL observes that the “yes” vote for banning same-sex marriage peaked in 2005 and has declined in every vote since. The 61 percent support for the same-sex marriage ban in the May North Carolina vote was the lowest favorable vote ever in the South, where opposition to same-sex marriage is stronger than in other regions. There will be a different twist when voters in Maine consider this issue in November. Previous ballot questions in other states asked voters if they wanted to ban same-sex marriage. In Maine, citizens will be asked if they want to legalize it.

**What’s Ahead**

Does the conservative agenda have staying power?

The answer depends to some degree on the specific issue. Republicans tend to be more comfortable than Democrats and their union backers in dealing with pension reform and collective bargaining, says Alan Rosenthal, a writer and professor of public policy at the Eagleton Institute of Politics at Rutgers University. He says this is also true of education, where a growing preference for a “business-style performance model” long favored by Republicans has been embraced even by the Obama administration.

“Democrats and the teacher unions are on the defensive,” Rosenthal says. On the other hand, Democrats and their constituent groups are energized on gay-rights issues, especially same-sex marriage, he says.

If history is a guide, the staying power of the conservative agenda in the states will also depend on the outcome of the November elections. In the past, states have played the lead role in policy development when one party has held a commanding majority in a significant number of states while divided government prevailed in Washington, D.C., as was the situation in the last two years.

The most striking historical example occurred from 1930-1932 during the Great Depression when Republican Herbert Hoover was president. Democrats won key statehouses in the 1930 elections and tried to alleviate widespread joblessness and suffering with public works programs, unemployment insurance and bank deposit protection. Democrat Franklin D. Roosevelt was elected president in 1932 and, soon after his inauguration in 1933, launched the New Deal. From the outset, FDR freely acknowledged that many of the New Deal’s most transformational measures were based on what the states, particularly New York, had done in the two years before his election.

Whatever happens in November, states will continue to play a role, if only in every-day practical interpretations of Supreme Court decisions on health care, immigration and other issues. Justice Louis Brandeis famously celebrated the states as “laboratories of democracy.” They have now become, in Rosenthal’s words, “laboratories of conflict,” and these conflicts show no sign of abating.
Across the country, in blue states and red, governors and lawmakers are avoiding tax increases like the plague. If they’re not cutting taxes outright, they’re at least promising not to raise them.

In New Hampshire, the GOP-dominated legislature introduced a constitutional amendment to prohibit an income tax. In Oklahoma, the Republican governor has a proposal to reduce, and then eliminate, the state income tax. In Oregon, a Democratic governor kept his promise to propose a budget with no tax increases. West Virginia’s Democratic governor and Legislature are in the process of phasing out a food tax entirely. In Massachusetts, the Democratic legislature has rejected a Democratic governor’s proposal to hike the tobacco tax and close loopholes on candy and soda taxes. The Republican-dominated Indiana legislature went so far as to give residents a refund.

The confluence of deep-seated voter aversion to taxes, years of ideological gains by supply-siders, and fears that raising taxes could endanger the fragile economic recovery have most states dodging any serious consideration of tax increases. There’s also less pressure as the recovery continues, albeit unevenly.

In the last two legislative sessions, however, a few states have tested the waters, and they are among the country’s largest. In those states that are either considering tax increases now or have recently enacted them, efforts have been driven by politicians in both parties.

◆ In California, Democratic Governor Jerry Brown, stymied by a failure to secure the required two-thirds vote in the Legislature, is asking voters to approve a ballot measure to increase the income tax on high earners and the sales tax. It will be a high-stakes vote: Brown’s proposed FY 2013 budget is premised on the measure passing in November, with “trigger cuts” to take effect if it fails at the ballot box.

◆ In New York, Democratic Governor Andrew Cuomo and a Legislature under split control faced expiration of a tax on high earners. They agreed to legislation that structured the tax categories, hiking taxes for the state’s richest while easing the tax burden for many of those further down the income chain.

◆ In Maryland, a bid by Democratic Governor Martin

BY LOUIS JACOBSON

Louis Jacobson is a senior writer with PolitiFact.
O’Malley to raise gasoline taxes fizzled, but lawmakers and the governor agreed on income tax hikes instead. After initially adjourning in April without enacting anything, a special session in May produced a tax increase on people earning $100,000 or more and couples earning $150,000 or more.

◆ In Nevada last year, Republican Governor Brian Sandoval took heat from some in his own party for extending a series of business taxes that had been scheduled to expire.

◆ In Ohio, Republican Governor John Kasich proposed increasing severance taxes to as high as 4 percent on oil and natural gas drillers in his state, possibly generating $1 billion by 2016. The plan, however, has stalled in the GOP-controlled legislature.

◆ In Arkansas, the Democratic-controlled legislature voted, by lopsided margins, to let voters decide whether to raise the sales tax by a half-cent to fund highway infrastructure improvements. It will be on the November ballot.

◆ Finally, in Kentucky, Democratic Governor Steve Beshear established a commission consisting primarily of private-sector leaders to review the overall fairness and adequacy of the state’s tax system. Recommendations are due later this year.

“Voters want more services, or at least basic services. They don’t understand why their tax money appears not to be getting things done—like paving the streets, keeping libraries open or having smaller classrooms.”

—Harvey Englander, Los Angeles Political Strategist

**Fiscal Dynamics**

Colorado offers an example of the fiscal dynamics at work. The state was a pioneer in the tax-restricting policy known as TABOR and will, in 12 years, generate only enough sales, income and other general tax revenue to pay for “the three largest programs in the general fund—public schools, health care and prisons,” according to a study by the University of Denver Center for Colorado’s Economic Future. “There will be no tax revenue for public colleges and universities, no money for the state court system, nothing for child-protection services, nothing for youth corrections, nothing for state crime labs and nothing for other core services of state government.”

Some believe this is what should be happening with government—the “starve the beast” approach. Others, however, are deeply concerned. The “doomsday budget” in Maryland that would have taken effect if the legislature and the governor failed to agree on terms became a key point of leverage. It would have “cut heavily into education—not just higher education, but elementary and secondary, as well as into other programs,” says Roy T. Meyers, political scientist at the University of Maryland-Baltimore County.

Endless cuts to business taxes can reduce revenues for
Building a Better Government

New York Governor Andrew Cuomo (D) is riding high in the polls. He’s prepared to spend some of his political capital on the challenging—and possibly thankless—task of reorganizing state government to make it more efficient.

Cuomo first proposed a 20-member panel known as the Spending and Government Efficiency (SAGE) Commission in early 2011 and secured a place for it in the budget. The commission’s stated goal is to “modernize and right-size state government, improve performance, increase accountability and save taxpayers’ money.” It’s billed as the first major redesign of state government since 1927.

The panel is getting “lots of emphasis” from the governor, says Gerald Benjamin, a political scientist at the State University of New York at New Paltz.

The commission was charged with delivering final recommendations by June 1. Even before the official deadline, it had made a number of recommendations, including merging the Bridge Authority with the Thruway Authority, combining some back-office activities, using reinsurance to increase capital available for affordable housing, and making energy efficiencies.

Much of the feedback so far has been cautiously optimistic.

The New York Observer editorialized that “state government desperately needs a housecleaning. Mr. Cuomo made administrative reform one of his top campaign promises in 2010. This is not a particularly sexy issue—few hearts beat faster when they hear the words ‘administrative reform’—but it is absolutely vital for the state’s fiscal health.”

But Ken Brynien, president of the New York State Public Employees Federation, cautions that the commission’s insularity leaves it at a disadvantage. “It is a mistake to believe that a group of private sector CEOs and not-for-profit administrators operating in a vacuum can make informed recommendations about changes in state agency operations,” Brynien says.

“The most informed people, and the ones who should be on the SAGE Commission, are the people who actually do the work, and the unions who represent them. But we were not invited to participate on the commission. So instead, we are in the position of having to lobby against any bad ideas they recommend.”

Others are more hopeful. The commission “could provide a roadmap for changes in service delivery that are long overdue—if they are done,” says Lawrence Levy, dean of the National Center for Suburban Studies at Hofstra University.

“The truth is that change, real change, is hard and can take time to do right.”

States yet provide little business growth, in the view of some policymakers. Ken Fergusen, a past president of the Oklahoma State Chamber of Commerce, recently noted that, while a relatively low-tax system is important for businesses, it’s not always their first priority.

“When we called on CEOs of Fortune 500 companies, their first questions were about quality of life, not about tax rates,” Fergusen wrote. “They were concerned about educational and cultural opportunities for their employees.”

Taxes Meet Mixed Reception

Polls indicate the degree of public support for new tax increases varies widely.

California voters appear to favor the governor’s ballot measure. A February Field Poll put support at 58 percent, while a March poll by the Public Policy Institute of California found 52 percent backing. The polls found sharp divisions between Demo-}

ocratic and Republican views of Brown’s proposal.

“While state tax increases face the dual challenges of voter distrust and partisan differences, most Californians support a tax increase on the wealthy and tax increases to avoid more cuts to local schools,” says Mark Baldassare, PPIC’s president and CEO.

Meanwhile, New York voters supported the tax hike on high earners by a 3-to-1 margin in a Siena College poll last October, and by April, Cuomo’s job performance rating was approaching two-thirds positive, according to a Siena poll.

Other efforts, by contrast, are starting in a hole. The sales tax proposal to build roads in Arkansas faces steep challenges, according to a March poll by Hendrix College. The ballot measure there trails 42 percent to 51 percent.

In general, says Harvey Englander, a veteran political strategist in Los Angeles, “Voters want more services, or at least basic services. They don’t understand why their tax money appears to not be getting things done—like paving the streets, keeping libraries open or having smaller classrooms. They are upset at public employee pensions but don’t understand the underlying concepts. They don’t trust the people they have elected.”

Others maintain, however, that new taxes are the last thing voters need.

“Total state spending will have increased by $31 billion since the recession began” under Governor Brown’s plan, says California Senator Bill Emmerson (R), vice chair of the Budget and Fiscal Review Committee. “Increasing taxes on Californians who are already struggling to make ends meet while coping with a high unemployment rate is the wrong approach to addressing our state’s fiscal problems. We must enact government reforms, such as a spending cap and fixes to our unsustainable pension system, to get our state back on the right fiscal track.”

No proposed tax increase is guaranteed to overcome the public’s unwillingness to shell out more of their earnings—and their reluctance to fund government initiatives of which they’re skeptical. But some proposals are more likely to be accepted than others.

Here are some ways the recent tax-hike proposals have minimized opposition and maximized voter goodwill.

◆ Focus on the rich. In the Occupy Wall Street era, some states are finding that targeting high earners can be politically palatable. The plan passed in New York certainly fits this demographic, creating a new top tax bracket and forestalling the expiration of the temporary “millionaires’ tax.” So does Maryland’s, affecting roughly the top 14 percent of taxpayers.

Brown’s ballot measure in California would also target the wealthy—those earning more than $250,000, roughly the top 1 percent of filers—for an income-tax hike that expires in seven years. The measure also would raise the sales tax for four years, however, which would represent a broader hit to taxpayers.

◆ Be creative. Cuomo and legislative leaders found a solution that allowed both parties to save face: Upper-income taxpayers would pay less than they would have if the existing millionaires’ tax had been extended outright, but more than they would have if it had lapsed.
Political leaders in Albany “were desperate for revenues, even Republicans, since there was a huge deficit and they didn’t want to cut health and education spending,” says Lawrence Levy, a Hofstra University professor who specializes in New York politics. “A millionaires’ tax polled very high, so, voila, political kumbaya.”

◆ Let the voters decide. For legislators, increasing a tax is always politically easier if the voters do it—though in California, Brown had no alternatives. Democrats and Republicans in the Golden State are on different planets on tax policy, and with a two-thirds requirement in the Legislature for raising taxes, he was stymied.

“In general, legislative Democrats seem to believe additional expenditure cutbacks are not viable and would threaten important public services, particularly education and social services,” says Jason Sisney, deputy legislative analyst with the California Legislature’s Legislative Analyst’s Office. “By contrast, legislative Republicans are opposed to tax increases, given the softness of the state’s economy.”

Englander said there are “very few Democrats” in the California Legislature “who will seriously question the status quo, and there are fewer Republicans who are willing to compromise on just about any issue.” This made a ballot measure the only plausible approach.

Arkansas lawmakers, meanwhile, also went the ballot-measure route and deferred a ballot measure to the voters, though judging by the wide margins of passage in the state House and Senate, their decision to do so was more of a matter of choice than it was in California.

◆ Extend taxes rather than impose new ones. In Nevada, Governor Sandoval is pushing to delay the expiration of business taxes despite a backlash among some fellow Republicans. “He’s lined up support from several conservative legislators and it appears that for now the taxes will not sunset,” says Eric Herzik, a political scientist at the University of Nevada at Reno.

A major reason for Sandoval’s decision was to avoid another round of cuts to education and health care in a state that had been hit hard by the recession, says Herzik. For some conservatives, “the incessant mantra of ‘no new taxes’ has come up short in terms of having any positive effect on the state’s economy,” he says. “Thus, legislators are cautiously moving to extend current taxes.”

◆ Choose targets carefully. When Ohio’s Kasich, one of the nation’s most fiscally conservative governors, considered how to raise taxes, he zeroed in on the natural gas industry—a booming system, to get our state back on the right fiscal track.”

—SENATOR BILL EMMERSON (R), CALIFORNIA

“Increasing taxes on Californians who are already struggling to make ends meet while coping with a high unemployment rate is the wrong approach. … We must enact government reforms, such as a spending cap and fixes to our unsustainable pension system, to get our state back on the right fiscal track.”

California’s Prop 13 Challenged

Could a key provision of Proposition 13, the landmark tax-limitation measure that has profoundly shaped California’s fiscal picture since voters passed it in 1978, be near its end?

Charles Young, a former chancellor of UCLA, and William Norris, a former federal appeals judge, hope so. They have filed a lawsuit seeking to overturn one of Proposition 13’s key provisions—a two-thirds requirement for the Legislature to increase taxes. The two-thirds requirement has been controversial for years because it allows a minority to block fiscal action in the Legislature.

Depending on one’s point of view, the supermajority requirement either has been a major impediment to the smooth functioning of government or a needed brake on excessive taxation and spending.

The argument Young and Norris are making hinges on whether the proposition was an “amendment” or a “revision” that changed the “basic plan” of government. To pass, amendments require only a majority vote of the people. A revision, however, requires a supermajority in both legislative chambers and voter approval.

The suit argues Proposition 13 was a revision because it “restructured California’s basic governmental plan by granting a minority in either house of the Legislature veto power over the majority’s exercise of the core legislative power to raise revenue by taxation.”

This line of argument was used unsuccessfully by opponents seeking to overturn California’s Proposition 8, which banned same-sex marriage. The state Supreme Court, in a 6-1 ruling, rejected their argument, stating the marriage ban didn’t “make a far-reaching change in the fundamental governmental structure or the foundational power of its branches.” This court ruling clarified the boundary between amendments and revisions and motivated Young and Norris to file the suit.

If the supermajority provision of Proposition 13 were to fall, it would have far-reaching consequences to the balance of power between the state and localities, and for how revenue is raised. Legal experts warn, however, that courts are often unwilling to overturn something that’s been in place for more than three decades—particularly if it’s already been affirmed in court. Indeed, that’s what the Los Angeles County Superior Court ruled and why the case is now in the appeals stage.

Howard Jarvis Taxpayers Association—the anti-tax group named after Proposition 13’s creator—is defending the measure. One of its allies, the Pacific Legal Foundation, argues that Proposition 13 is in no way a major “revision” of government. In an amicus brief, the foundation also points out that in the original case against Proposition 13, “the entire initiative was clearly upheld by the court.”

University of California at Berkeley law professor Jesse Choper says that, although the case being made by Young and Norris is “not a crazy argument,” he doubts the provision will be overturned.

California-based Democratic strategist Garry South agrees. “Prop 13 has been litigated to death, and I don’t see any reasonable prospect that it will be overturned.”

Extending expiring tax provisions hasn’t worked everywhere. The California Legislature’s failure to extend a temporary bump in income, sales and vehicle license fee rates that took effect in 2009 pushed Brown to seek approval from the voters.

State Legislatures
new sector that’s poised to use fracking and other technologies to tap into the Utica Shale formation. Kasich wants to use proceeds from the severance tax to cut more broad-based taxes, including income and small-business taxes.

◆ Make the benefits tangible. That’s what the Arkansas proposal to fund transportation does. “It’s never easy to sell a tax, but there’s a clearly established need in the state for an improved highway system, and we think voters will be receptive to that,” says Randy Zook, president and CEO of the Arkansas State Chamber of Commerce. Still, he acknowledged, “it will be a tough sell and a close call.”

In Maryland, lawmakers—despite their initial disagreement over general fund revenues—doubled the “flush tax,” a fee on septic and sewer systems in the Chesapeake Bay watershed. The proceeds will finance wastewater treatment and other water infrastructure, and also allows counties to levy taxes to support stormwater management. These concrete benefits, combined with a long-standing sentiment among Marylanders to protect the bay, means the provision probably has some degree of voter support, Meyers said.

◆ Consider a broad overhaul. One of the few tax approaches with the potential to garner support from both sides of the aisle is the notion of thoroughly overhauling, rather than tinkering with, the tax structure. That’s essentially what Beshear is trying to do in Kentucky.

“In our state, there’s always some sort of talk about tax reform, and when you go through an economic downturn like we just did, it exposes deficiencies in your tax code,” says Representative Rick Rand (D), a member of the Tax Commission. “The governor felt it was important that we convene a panel to work through it and build consensus for some form of tax reform.”

Uncertainty Persists

Still, there’s no guarantee that any of these tax increases across the country will pass.

In Minnesota, for example, Democratic Governor Mark Dayton proposed increasing the state’s top income tax bracket temporarily—to 13.95 percent, the highest in the nation—as part of a $4.1 billion overall tax hike. But he’s been stymied by a GOP-controlled Legislature that has staunchly blocked his agenda.

Carleton College political scientist Steven Schier says if Democrats win control of the Legislature in 2012, “some forms of tax increases, perhaps those proposed by Dayton, become much more possible. But as long as the GOP controls one chamber, such increases are far less likely.”

“... The governor felt it was important that we convene a panel to work through it and build consensus for some form of tax reform.”
—REPRESENTATIVE RICK RAND (D), KENTUCKY
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Boosting State Economies

Six legislative leaders talked with State Legislatures about efforts to improve the economy and spur job growth in their states.

BY SUZANNE WEISS

From business tax cuts, credits and other incentives, to new job training initiatives and bond-financed construction projects, legislators are pursuing aggressive strategies to stimulate sluggish economies.

Washington

One of the more ambitious undertakings is a billion-dollar supplemental capital budget bill Washington lawmakers passed this spring with strong support from both parties. The initiative is projected to create more than 25,000 jobs during the next several years by using debt financing at a time when construction costs and bond rates are low to accelerate public works projects already planned and ready to go.

As part of the deal, the Legislature also approved a constitutional amendment for the November ballot to gradually lower the state’s debt limit. Major items in the package include $320 million to build or expand health, science and technology centers at a dozen community colleges and universities; $216 million for natural resource projects such as flood control, fish hatcheries and toxic-waste cleanup; and more than $250 million for housing, safe drinking water and energy-efficiency programs.

“As an economist, it’s been rewarding to see all of us—legislators, the governor, the private sector—get on the same page in support of more coordinated, regionally based economic development strategies,” says Washington Senate Majority Leader Lisa Brown (D). “We’re not just chasing dollars.”

Connecticut

During the past two sessions, the Connecticut General Assembly approved a billion-dollar package of bills to stimulate the economy with overwhelming bipartisan support. Projects include $291 million in state-backed bonds for Jackson Laboratory to build a large research facility focused on genomic medicine at the University of Connecticut Health Center. Governor Daniel Malloy promoted the idea as a way to make Connecticut a national leader in the field of bioscience. The research facility will eventually employ 1,000 people.

“The governor’s office had ideas, the legislature had ideas on both sides of the aisle—and all the things we agreed on, we put in the bipartisan jobs bill,” says Connecticut Speaker of the House Christopher Donovan (D).

The Connecticut stimulus package also includes an additional $700 million in bonds for small-business loans and grants, cleanup and redevelopment of industrial brownfield sites, bridge repairs, community college job training programs, and a Main Street Investment Fund to refurbish commercial centers in small towns.

To make it easier for business, Connecticut legislators also streamlined the process for obtaining certain business permits and created a new e-business portal.

“In the midst of the recession, we knew we had a responsibility to develop ideas to help businesses grow,” says Donovan.

Tennessee

In the past two years, a number of states have approved tax breaks coupled with regulatory reforms as a way to create a more business-friendly environment.

“We’re focused on getting out of the way of the private sector and helping small businesses create jobs,” says Tennessee Speaker of the House Beth Harwell (R).

This year, Tennessee lawmakers passed bills eliminating the gift tax, phasing out the inheritance tax by 2016, and cutting red tape for businesses seeking permits and licenses. Legislators also created a program that will provide new and expanding businesses with $80 million in direct cash grants to cover infrastructure improvements and job training.

Michigan

The Michigan Legislature in 2011 eliminated the state business tax, which legislative leaders described as “onerous” and “punitive.” Lawmakers replaced the lost revenue with a flat 6 percent income tax on traditional C corporations, while S corporations will pay a 4.35 percent tax on profits under the individual income tax.

“Our strategy has been to steer away from recruiting new companies from outside the state,” says Michigan Senate Majority Leader Randy Richardville (R).

“Instead, we emphasized making the business climate better here in Michigan—economic gardening vs. economic poaching.”

The Michigan Legislature also passed legislation to phase out the personal property tax for industrial properties with exemptions for small commercial properties.

Arizona

Arizona lawmakers approved a four-year, gradual reduction of the state’s corporate income tax, from 6.9 percent to 4.9 percent, beginning in January 2014. Other major elements in what became known as the Arizona Competitiveness Package included corporate tax credits of up to $9,000 for creating new jobs; a 10 percent increase in the state’s research and development tax credit; a 5 percent acceleration of the depreciation schedule for businesses’ personal property; and increased funding for a grant program that supports customized training by employers creating new jobs, improving workers’ skills or increasing the wages of current employees.

Arizona recently joined about 20 states that have invested in deal-clos-
A Look at Tax Incentives

States regularly rely on tax incentives as an economic development tool to spur job growth. While 13 states do a good job evaluating how effectively they are achieving their goals, half the states do very little, according to a recent report by the Pew Center on the States.

“Evidence Counts: Evaluating State Tax Incentives for Jobs and Growth,” examines the quality and scope of states’ evaluations of tax incentives, based on the belief that an effective assessment occurs regularly and relies on high-quality data to measure the incentives’ economic results. The report’s authors also suggest that more deliberation should occur on the potential effect of tax incentives before they are offered.

“Policymakers should know whether these tools deliver a strong return on their investment,” says Jeff Chapman, senior researcher at the Pew Center on the States. “Regular, rigorous and comprehensive evaluations of tax incentives are critical to their ability to do so.”

The report identifies 13 states that led the way in measuring the effectiveness of tax incentives: Arizona, Arkansas, Connecticut, Iowa, Kansas, Louisiana, Minnesota, Missouri, New Jersey, North Carolina, Oregon, Washington and Wisconsin, with 12 more having mixed results.

—Aron Snyder

Arkansas

Legislators reauthorized the governor’s $100 million deal-closing fund, established in 2007. The fund is credited with luring $766 million in new business investment to Arkansas, creating nearly 6,500 jobs with an average hourly wage of $20.

Among the large businesses that have taken advantage of grants and other incentives are LM Glasfiber (fiberglass blades for wind turbines), Daasault/Falcon (aircraft), Welspun (pipe manufacturing), and Hewlett Packard, which recently opened a $28-million customer service and technical support center that will employ more than 1,000 people.

Arkansas lawmakers also created new sales, use and income tax credits for small businesses in economically distressed areas of the state that are trying to expand—with an emphasis on supporting tourism enterprises and revitalizing town centers.

“Arkansas is edging its way into a more productive period,” says Arkansas Speaker of the House Robert S. Moore Jr. (D).

“We weathered the economic downturn without laying off teachers and state employees. We’ve managed to maintain an attractive environment for business. And we are one of the few states that ended the fiscal year with resources to take on some capital improvement projects,” he says.

Washington Senate Majority Leader Lisa Brown (D)

“It’s been rewarding to see all of us support a more coordinated, regionally based economic development strategy.”

Brown has served 20 years in the Washington Legislature—two terms in the House and four terms in the Senate, where she has been majority leader since 2005. An associate professor in the organizational leadership program at Gonzaga University, Brown recently announced that she would not run for re-election this fall.

Connecticut Speaker of the House Christopher Donovan (D)

“We knew we had a responsibility to develop ideas to help businesses grow.”

First elected to the Connecticut House of Representatives in 1992, Donovan has served two terms as majority leader and two years as speaker. He is running for the Democratic nomination for the congressional seat being vacated by U.S. Senate hopeful Christopher Murphy. Donovan teaches political science and sociology at the University of Hartford.

Tennessee Speaker of the House Beth Harwell (R)

“We’re focused on getting out of the way of the private sector and helping small businesses create jobs.”

Harwell, who is in her 12th term in the House of Representatives, was chosen speaker in January 2011. She served as chair of the state Republican Party from 2001 to 2004 and has been an assistant professor of political science at Belmont University.

Michigan Senate Majority Leader Randy Richardville (R)

“We put the emphasis on making the business climate better—economic gardening vs. economic poaching.”

Richardville is in his second and final term in the Michigan Senate. He served six years in the House, where he was majority floor leader his final term. He is a former economic development director for the city of Monroe, and spent 20 years working for several Fortune 500 companies as a controller and global finance planner.

Arizona Senate President Steve Pierce (R)

“We need to begin putting money back into education, public safety and other budgets that have been cut over the past several years.”

Pierce, a third-generation Arizona cattle rancher, was elected to the Senate in 2008. He became majority whip the following year and in November 2011 was chosen Senate president.

Arkansas Speaker of the House Robert S. Moore Jr. (D)

“We are one of the few states that ended the fiscal year with resources to take on some capital improvement projects.”

Moore, in his third and final term in the House, has been speaker since January 2011. A retired farmer, he has served as an assistant attorney general, chairman of the state Transportation Commission, and director of the state’s Alcohol Beverage Control Board.
Great Ideas for Cutting Costs

Six more strategies to manage the rising costs of health care.

BY RICHARD CAUuchi, KARA HINKLEY AND BARBARA YONdORF

Lawmakers are chipping away at the $400 billion a year states spend on health care through a wide range of approaches, including some innovative local and private sector programs. Many appear to be working.

Monitor Prescription Drug Abuse

Insurance fraud drains public and private health insurers of up to $72.5 billion a year, according to the Coalition Against Insurance Fraud.

To combat one aspect of abuse, databases can store information on the specific prescription drugs patients need, how often they require them, and where they pick them up. When this information is monitored and analyzed, it may identify patterns of illegal use and distribution. This, in turn, can deter fraudulent prescription drug insurance claims and impede the black market resale of prescription drugs. Forty-nine states have authorized prescription drug monitoring programs, although seven are not yet operational.

At least 38 states also require Medicaid beneficiaries suspected of misusing controlled substances to “lock-in” or use a single prescriber and pharmacy. An analysis of Oklahoma’s lock-in program in 2009 found that doctor shopping, the use of narcotics and emergency room visits by participants decreased. This saved an average of $600 in narcotics reimbursement per person the first year.

Some states also require patients to have a physical exam before controlled drugs can be prescribed, or show a valid ID when picking up prescriptions at a pharmacy. Other state requirements include better oversight of pain management clinics, use of tamper-resistant prescription paper, faster reporting and interstate sharing of prescription records.

Expand Information Technology

The use of electronic health records is considered a promising way to reduce administrative costs, improve patients’ ability to follow treatment regimens and reduce costly medical errors. Software tools and data analytics also can help health care providers make better decisions, identify the best clinical practices, and reduce fraud. Health information technology is especially helpful in rural areas to monitor, diagnose and treat patients remotely.

Since 2010, the federal government has awarded nearly $7 billion through 10 programs designed to help eligible states, professionals, hospitals and critical access hospitals adopt new or upgrade existing health information technology systems.

Technology should lower costs, according to a 2008 Congressional Budget Office study, by helping providers: avoid harmful and allergic drug reactions as well as duplicative or inappropriate tests or procedures; adhere to proven practices; choose the most cost-effective treatments; and compile data on the effectiveness of various treatments.

The benefits that technology can achieve are becoming more
Tele-Intensive Care Units, for example, allow physicians to monitor hospitalized patients from remote locations. One such program at the University of Massachusetts Memorial Medical Center helped to “reduce hospital lengths of stay, lower rates of preventable complications, and improve adherence to best practices,” according to a study in the Journal of the American Medical Association.

Not surprisingly, the upfront costs of installations, upgrades and training can be high. Another challenge is that some competitors are hesitant to share data. And, in some cases, the availability of electronic test results have led to more, not fewer, tests, according to a March 2012 Health Affairs article.

Promote Healthy Behaviors

“The only way to keep your health,” Mark Twain wrote, “is to eat what you don’t want, drink what you don’t like, and do what you’d rather not.”

Twain may have put too fine a point on the keys to good health, but most of us know by now that eating a nutritious diet, exercising regularly, limiting alcohol and avoiding tobacco lower the chances of getting certain chronic (and costly) conditions.
Treating heart disease, cancer, diabetes and arthritis accounts for at least 75 percent of all health care costs, according to the Centers for Disease Control and Prevention. Investing an extra $10 per person a year in programs that increase physical activity, improve nutrition and prevent tobacco use could save the country more than $16 billion annually within five years by preventing or delaying the onset of these chronic diseases. That includes $1.9 billion in Medicaid savings and another $9 billion in savings to private payers, according to estimates by the Trust for America’s Health.

Many low-cost prevention efforts focus on children and mothers, including teaching primary school children the dangers of too much sun exposure, educating mothers on the benefits of breast-feeding to protect infants from bacteria and viruses, and supporting community campaigns that encourage physical activity.

In the workplace, wellness programs can help employees increase physical activity, manage stress, improve diets and not use tobacco. Healthier employees acquire fewer chronic diseases, which can lower health care and health insurance costs, reduce absenteeism and increase productivity.

Among employers who offer health benefits, 74 percent of those with fewer than 199 workers and 92 percent of those with more offer at least one wellness program, such as online resources, gym memberships, smoking cessation classes and personal health coaching. A 2012 American Journal of Managed Care report found an increase in physical activity, improvements in diet and mental health, and reductions in body mass index as a result of workplace wellness programs. Overwhelmingly, studies on absenteeism and health care costs showed dramatic improvements.

States, too, are including wellness benefits in their state employee health plans. Arkansas, for example, offers up to three days of paid leave for employees who participate in a healthy lifestyle program. Texas allows state employees 30 minutes a day for exercise and encourages them to complete a health risk assessment.

Alaska, Colorado, Indiana, Georgia, Maryland, Michigan, Texas, Utah and Washington authorize certain types of worksite wellness program rewards while ensuring they would not violate insurance discrimination, rebate or rating laws.

**Ensure Patient Safety**

An inaccurate prescription sends a woman to the hospital with chest pain and blurred vision. A surgeon leaves a clamp in a patient’s stomach requiring another surgery. A 76-year-old woman hospitalized for a urinary tract infection is given the wrong dose of a blood thinner and dies.

Medical errors are not only costly, they can be deadly.

Mistakes such as these are not as uncommon as they should be. About one in seven patients experiences a medical error, of which 44 percent are preventable, according to the Office of Inspector General in the U.S. Department of Health and Human Services. In fact, medical errors are the eighth leading cause of death in the United States and cost patients, insurers and governments more than $19.5 billion a year.

Legislatures have supported several different ways to reduce medical errors and protect patients’ safety. Three practices are showing success: adopting electronic prescribing, penalizing doctors for illegible prescriptions, and refusing payment for certain serious and preventable medical errors.

Difficulty deciphering doctors’ notoriously bad handwriting can result in giving patients an incorrect dosage or an entirely wrong drug—Cerebyx for seizures instead of Celebrex for pain, for example.

To reduce these errors, all states and territories, except Puerto Rico, allow prescriptions to be transmitted via the Web—called e-prescribing—from doctor to pharmacy. All but nine also allow e-prescribing of controlled substances. In Montana, writing an illegible prescription is a civil offense.

State legislatures also have enacted laws restricting or prohibiting payment for “never events,” which are errors that result in serious harm, including surgery performed on the wrong body part, pressure ulcers from failing to manage incontinence and dry skin, and hospital-acquired infections such as pneumonia.

Maine prohibits health facilities from charging a patient or his insurer for 28 specific never events, and requires facilities to inform patients of the policy. Medicare, several state Medicaid programs, and many commercial insurers also have adopted non-payment policies.

Refusing payment for never events saves patients and insurers money, but it is not yet clear whether the policy decreases errors. In 2009, 3,416 payment “adjustments” were made, yielding $18.8 million in Medicare savings out of total of $133 billion in hospital expenditures, according to the Centers for Medicare and Medicaid Services.
Consider Medical Malpractice Reform

The medical liability system—including award payments, administrative expenses, the cost of defensive medicine and lost clinical time—add up to an annual price tag of $55.6 billion (2.4 percent of all health spending), according to the report, “National Costs of the Medical Liability System,” by researchers at Harvard University.

“We have to be realistic about what medical liability reform can achieve in terms of controlling health care costs,” says Dr. Michelle Mello, one of the report’s authors and professor of law and public health at the Harvard School of Public Health, citing the small share of actual health spending attributed to liability costs.

Limiting malpractice awards, reducing the number of malpractice claims through mediation and pre-trial screenings, and encouraging the best medical practices may help to reduce these costs and increase patient satisfaction.

According to patient advocates, the need to fairly compensate patients injured by medical negligence is closely tied to patient safety issues. “The most promising approaches are those that have realistic prospects of reducing defensive medicine,” says Mello.

The University of Michigan Hospital System and Stanford Medical Center use models that disclose any adverse event, apologize to the patient or patient’s family and encourage mediation. At least 97 percent of providers supported this model, according to a 2009 Journal of Health and Life Sciences Law report.

The savings potential may increase when supported with other efforts, such as providing adequate funding for state medical boards to investigate complaints and discipline doctors; supporting efforts to collect data to help track medical errors and instances of malpractice; and developing and following clinical guidelines that reflect successful practices.

Help Patients Decide

If you live in northern Idaho and have severe back pain, you are six times more likely to have corrective back surgery than if you lived in the southern tip of Texas. Why? Doctors in the Northwest are more likely to recommend surgery than those in southern Texas.

If these kinds of unwarranted variations in medical care were reduced among the Medicare population, costs could decrease by as much as 30 percent, according to researchers at Dartmouth University who studied success rates at the Mayo Clinics.

One somewhat new strategy is to educate patients about how to make these important health care decisions. Called “patient decision aids,” they can be videos, pamphlets and Web-based tools that present the risks and benefits of available treatments and screening options.

Although the aids do not yet identify the costs of the various treatment options, research indicates that patients who use decision aids tend to choose less costly, less invasive options than those who don’t. For example, patients with herniated disks who watched a video about their treatment options chose surgery 22 percent less often than patients who didn’t watch it, according to a 2000 study by Lippincott Williams and Wilkins, Inc. Both groups had similar symptoms and results at three months and at one year.

Washington lawmakers in 2007 increased legal protections for physicians whose patients receive decision aids during informed consent. A large employer plan in Colorado gives patients a $50 gift card for using a patient decision aid. These educational aids also helped patients make decisions more consistent with their values, according to a 2009 Judgment and Decision Making study from Wichita State University’s Department of Psychology.

What’s Next?

Modest good news came in May when the Milliman Medical Index showed the rate of increase in health spending for a family of four was down to the “lowest in the 12-year history of their survey.”

That increase, however, amounts to spending a hefty $1,335 more, bringing a family’s average annual health care costs to $21,000.

“These sobering numbers show that legislatures have no time to rest in the fight to keep costs down and the taxpayer protected,” says Utah House Speaker Rebecca Lockhart (R). “I’m sure that health care reform will be back on quite a few legislatures’ dockets in 2013 and beyond.”

Learn more about state efforts to curb health care costs at www.ncsl.org/magazine.
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Two Illinois senators set partisanship aside and formed a friendship across the aisle.

BY CAROL KNOWLES

They finish each other’s sentences and laugh hysterically at each other’s jokes. They may sound like an old married couple, but they’re not. Illinois Senators Pamela Althoff (R) and Toi Hutchinson (D) are unlikely friends who share a deep and abiding bond.

They are different in age, party affiliation, race and geography. Althoff, a Republican, and Hutchinson, a Democrat, are more like sisters than partisan foes. Althoff, 58, hails from McHenry, a small, but rapidly growing town near the border with Wisconsin. Hutchinson, 38, lives in Olympia Fields, near the southern edge of Chicago and the state’s population center.

In a crowded, noisy hallway just outside the Senate chamber, filled with lawmakers, staff members, lobbyists and a parade of tourists, the pair took some time out of their hectic day to talk about the secret to their rapport.

They both struggle to pinpoint when and how they became friends—they just know they are. It is a magical connection that keeps them both grounded and sane in what can be a rough-and-tumble world of Illinois politics.

“When I came in, I was all by myself. There was no class [elected at the same time]. There was no one I belonged to,” Althoff recalls. “I recognized immediately when Toi came in that she wouldn’t have that structure either, and there was an immediate connection.”

The pair bonded further at the 2009 NCSL Legislative Summit in Philadelphia. The conference gave both women a chance to get to know one another outside the office, and they’ve attended many NCSL events since.

“We travel together. We go to conferences together,” says Hutchinson, who chairs the Senate’s Revenue Committee. “Pam helped me become acclimated to NCSL, and now I sit on the NCSL Budget and Revenue Committee so I can enhance my work here in the Capitol.”

Althoff, a self-described collaborator who likes to network and bring people together, is on the Senate Republican leadership team, serving as party whip. She’s active in NCSL, sitting on a number of committees, including its Executive Committee.

The more they got to know one another, the more they realized just how much they have in common. They believe their differences are not nearly as important as what brings them together.

Similar Paths

Both women were raised Roman Catholic in the working class suburbs south of Chicago. Both are well-educated, and each served as a local government official before advancing to the Senate.

Althoff, who has a master’s degree in education, began her career as a special education teacher. She was mayor of McHenry in 2003 when she was tapped to replace a popular veteran lawmaker who resigned the seat after being diagnosed with cancer. Elected to the Senate in 2004 and re-elected in 2008, she also served as McHenry’s city clerk, and had been a successful businesswoman.

Hutchinson, former chief of staff to Senator Debbie Halvorson, was appointed to the Senate in 2009, filling the vacancy created when her former boss was elected to Congress. She won election to the Senate in 2010. A mother of three, she served two terms as Olympia Fields village clerk and has extensive community organizing experience. She is in her second year of law school at Northern Illinois University, attending part time.

“Good for the Legislative Process”

Their friendship does not go unnoticed. It’s a welcome change from the partisan rancor that can permeate the atmosphere beneath the Capitol dome.

“Their relationship speaks to the importance of personality in the legislature,” says Senate Minority Leader Christine Radogno (R). “They both are open, friendly and willing to learn from each other. It makes it easy for a relationship to develop.”

Radogno, a senator since 1997, represents a district that abuts Hutchinson’s. She is the first female caucus leader in the Illinois General Assembly, and receives high marks for the collaborative way she works with her members and with those in the Democratic caucus.

“It is very good for the legislative process when people build

Carol Knowles is a writer in Springfield, Ill., and a former Illinois State House reporter.
relationships and are willing to work together to find common ground and practical solutions,” she says.

Althoff befriended and mentored Hutchinson in part because of the isolation she felt as a new lawmaker.

“I am very cognizant of the fact that I struggled the first nine months I was down here. I had nobody to explain to me how to behave, what to do,” Althoff recalled. “In fact, the advice I got was ‘shut up and keep your head down.’ That’s not what you want to do when you first get here. So, I’ve made an effort to try to mentor or at least be available to people who wish to have some kind of advice or have a friend to talk to.”

Hutchinson said learning the ways of the Senate, as well as taking the time to get to know and understand other legislators, have been critical to her own development as a lawmaker.

“There are so many benefits to talking to people who don’t look like you, don’t think like you, don’t live where you live,” she says.

Illinois Senate President John Cullerton (D) has spent more than three decades in the legislature and agrees getting to know and understand colleagues is an important part of the legislative process.

“One of the great things about serving in the General Assembly is the opportunity to get to know and, in many cases, befriend members from divergent regions, diverse backgrounds and, yes, even different parties,” Cullerton says.

Friendship and Independence

Hutchinson considers herself doubly blessed because she has a strong mentor from her own party in Senator Kimberly Lightford, an assistant majority leader under Cullerton. “I had two really strong, articulate, intelligent, opinionated women who really made sure I learned the ropes,” Hutchinson says.

Neither Hutchinson nor Althoff believes their friendship gets in the way of party politics or in representing their individual districts.

“We both have a sense of independence in this structure. We both work our districts, and we work hard in our districts,” Hutchinson says. “We both have a fierce independent streak so we can talk about things.”

In fact, when Hutchinson was seeking election to a full term in the Senate, she sought counsel from Althoff, who provided encouragement, commiserated on work/life balance issues, and told her to be true to herself.

“As long as you are who you are and you never betray yourself, your constituents will always follow you,” Althoff advised.

The two have cosponsored legislation, often on issues related to local governments, where their government service careers began. They certainly don’t agree on everything. When they disagree, however, they do so with dignity and respect. They take the time to listen and to understand each other’s position, along with the positions of their Senate colleagues.

“There was a bill [sponsored by Hutchinson] that I stood up on the floor and said, ‘I love the sponsor so much. In fact, I hate the bill as much as I love the sponsor,’” Althoff says.
Relationships, they agree, are key to tamping down the rancor that can bleed from campaigns into governing.

“When you know personal things about a colleague, it is much harder to demonize that person when you don’t agree with a stand,” Hutchinson says. “I can take a principled stance, but I can also respect the fact that this is a representative democracy. There are 58 other voices in that room, not just mine, and I need to be able to allow for dissension and debate.”

Partisanship in its Place

Partisan rancor is not new to the Prairie State. Even Abraham Lincoln, who served in the Illinois General Assembly, suffered mudslinging attacks and the type of character assassination that can make today’s political wrangling appear tame. In the heat of debate, lawmakers have even been known to come to blows.

“Illinois historically has been a very partisan, bare-knuckle brawl between parties and between regions,” says Professor Charles N. Wheeler III, director of the Public Affairs Reporting Program at the University of Illinois, Springfield.

But those partisan differences, he says, didn’t carry over into personal relationships as much as they do now. He sees less of a commitment to getting things done than in the past.

Wheeler, a former long-time Chicago Sun-Times political reporter, says the evolution of technology and new political strategy techniques have helped foster the sometimes intense lack of civility in politics and government. A small miscue, captured on video, can quickly go viral.

“Twenty or 30 years ago you could go into any bar anywhere and there would be some guy sitting at the end of the bar ranting and raving and spewing goofiness,” he said. “Now, with Facebook, Twitter, YouTube and the Internet, all those guys sitting at the end of the bar can be in touch with each other and have a disproportionate impact on politics.”

Althoff and Hutchinson are doing their part to keep the discourse civil, and they hope their harmonious relationship will encourage others to follow their lead. The pair hosted a dinner in the Senate for the 16 women who make up 27 percent of the 59-member body.

“It is a unique position to be in, in this Capitol. We are excited and humbled to be here every day, but you have to have somebody else to talk to about this,” Hutchinson says.

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

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

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

Retiring colleagues, stagnant salaries and intensifying partisanship are top concerns of legislative staffers.

It's not always easy being a staffer.

Some legislative staff jobs have been eliminated. Pay and benefits often are cut or frozen. Tensions of an increasingly partisan legislature can sour the workplace environment. A staffer’s value is sometimes questioned. Work hours often conflict with family time. And finally, many staffers’ baby boomer colleagues are retiring.

These are among the more striking challenges facing legislative staff, according to a recent nationwide NCSL survey of legislative staff managers. Not surprisingly, two-thirds of the nonpartisan staff and three-fourths of the partisan staff who responded expect to leave legislative service before 2021.

It’s tempting to conclude the main cause of the anticipated staff turnover is the pending retirements of baby boomers, but researchers found turnover to be a problem among all age groups.

One-quarter of the youngest cohort—between 20 and 34 years old—said they plan to leave legislative service within five years, higher than any other age group. On the other hand, nearly half plan to serve 11 to 15 more years before leaving. That won’t make them legislative careerists, but it will give them enough time to build the knowledge and experience legislatures need from their staff.

Staff between 35 and 49 years old led the field among those who said that they expected to leave legislative service within 11 to 15 years. Nearly 60 percent of them said that they planned to be out the door before they turn 65.

Baby boomers, age 50 to 64, were least likely to say they planned to depart within five years, confirming the trend by the largest generation to delay retirement and work longer than their predecessors.

NCSL’s confidential survey asked respondents to rank the importance of 12 potential management challenges. The top three were:

- The loss of skills and experience from retiring senior staff.
The Survey

NCSL emailed this online survey in June 2011 to the 9,849 legislative staff in all 50 states who have used NCSL services. This is about one-third of all state legislative staff in the country.

NCSL received 1,260 responses—13 percent. Although the makeup of legislative staff nationwide is about evenly divided between nonpartisan and partisan staff, about three-fourths of the responses to the survey were from nonpartisan staff and one-fourth from partisan staff. For that reason, the opinions of partisan staff are somewhat under-represented.

Nearly half of all respondents were baby boomers. Because veteran staff are more likely to know about and use NCSL services, older staff also are likely to be over-represented in this sample.

“The impending loss of experienced staff and legislators due to term limits, baby boomers’ retirement, and private sector salary competition have wreaked havoc on the experience level and effectiveness of legislative staff.”

—RESPONDENT TO NCSL’S STAFF SURVEY

Not everyone views retirement of the older generation negatively. “Although senior staff… add much wisdom and knowledge of the legislative process, they often block change and fresh ideas,” another staffer said. “We are still performing duties that are 20 years out of date because it has always been done that way.”

Interestingly, the younger the staff, the less worried they are about the problem of replacing retiring senior staff. Either the older generations value themselves much more than the younger ones do, or the junior staff have a “we’ll handle it” attitude.

Hurt by Tight Budgets

Stagnant salaries drew many laments.

“We are going on four years without a salary increase,” said one respondent, “and I don’t expect an increase in the near future due to the acrimony in our capitol.”

“Our aides are paid $30,000 to $40,000,” a partisan staffer said. “The legislature has gotten rid of pay raises, so there is no way to stay as legislative staff because we can’t make a living. The result is that most of our staff are in their early 30s, with no institutional knowledge.”

Public cynicism and distrust of government in general and the legislature in particular also play a role: “Our services are not

♦ Salary or benefit reductions for staff.
♦ An influx of new legislators who do not value staff services.

“The impending loss of experienced staff and legislators due to term limits, baby boomers’ retirement, and private sector salary competition have wreaked havoc on the experience level and effectiveness of legislative staff,” one respondent said. “There are still some committee staff who can compete and surpass lobbyists in their policy knowledge and political skill, but it is becoming rarer.”
Managing the Future

At a workshop at the 2011 Legislative Summit in San Antonio, several small groups of legislative staff came up with ideas for addressing staff management concerns.

Replacing retiring senior staff:
- Develop a succession plan for replacing senior managers. Identify those who are likely to retire and their potential successors. Invest in training and professional development for younger staff.
- Increase cross-training so that more than one person can perform key functions of an office. This helps reduce the effect of both anticipated and unanticipated staff departures.
- Develop a mentor program that draws on the knowledge and experience of senior managers.
- Reward and remunerate mid- and junior-level staff to minimize turnover among these future senior managers. If salary increases are limited, use other incentives such as employee appreciation days, out-of-office learning opportunities, flexible office hours and wellness programs.

Dealing with budget reductions:
- Provide individual annual reports on salary and benefits to clarify the value of staff compensation.
- Involve all staff in determining how savings can be found. Consider having a contest for staff to contribute ideas on ways to save money.
- Communicate and discuss budget changes so staff understand what has been done and why. This can be a springboard for other cost-saving ideas.
- Charge a committee with developing no- or low-cost community-building activities such as potlucks, shared breakfasts, or group recreational activities.
- Ensure staff understand and appreciate their vital role in the legislative process and feel they are valued.

Coping with new legislators who may not value the work of legislative staff:
- Re-evaluate your legislature’s new member training and development program to make it as effective as possible, and involve your office in it.
- Develop a mentor program between senior staff and legislators, to help new lawmakers learn the legislative process.
- Increase personal contact with new members. Something as simple as introducing yourself can break down barriers.
- Develop a video testimonial showing veteran legislators who have benefited from the value of your office’s services.
- Be prepared to respond to power shifts among legislators and leaders by adapting your office’s services to reflect their different values.

valued, and we aren’t being granted even cost-of-living increases. State employees make 40 percent of what private sector employees make, and the public seems to want to send our best and brightest elsewhere.”

Others pointed to problems with work conditions. “I notice a lot of staff turnover because of the unfriendly family nature of legislative work, such as unpredictable evening hours.”

While some staffers acknowledged the generous job benefits they receive, others complained about cuts in benefits, such as training. “We have no ability to participate in professional development due to budget constraints. I used to attend NCSL conferences regularly, but no more!”

One of the challenges posed in the survey—attracting young people to legislative service—scored relatively low. Some respondents said retention rather than recruitment was the bigger problem.

It used to be easy to attract people to work in the capitol, one respondent said. “However, the legislature’s salary structure is lower than that of the private sector or the executive branch. In addition, increased political polarity and an increased disrespect for the value of staff by some new members can make it difficult to retain good staff.”

Friction With Lawmakers
Legislators for whom staff work also came in for criticism in the survey, but who doesn’t like to complain about their boss? Some of the concerns focused on unrealistic expectations from lawmakers, especially related to information technology. “With the proliferation of technology comes the expectation that we provide support for outside services like Gmail, Google Calendar, or personal phones,” one person responded. “I couldn’t fathom an employee at a Fortune 500 company calling the help desk for support on their personal phone, email or laptop.”

Another respondent lamented that “in our instant information world, there seems to be an inadequate appreciation that carefully drafting legislation and preparing background information sometimes takes time.”

The problem of poisonous partisanship and narrow perspectives were reflected in survey results as well, especially among the older set. “Our legislators and staff are increasingly partisan and increasingly lacking in knowledge about issues. They seem interested only in information that supports their position.”

The younger staff were somewhat less concerned about partisanship. Perhaps their generation reflects, or has accepted, the changing character of legislatures. Or, more likely, unlike their elders, they can’t yearn for the “good old days” if they haven’t experienced them.

The Rewards
By its very nature, the survey invited legislative staff to complain—and kvetch they did. Yet, despite all the gloom, American legislatures will most likely adapt, as they have in the past, to the tough circumstances confronting them. Legislative staff will no doubt rise to the challenges they face, and probably emerge the better for it.

One staffer expressed a love for the job that many feel. “My Legislature is ... one of the most interesting places to work, like being at university with all the intellectual stimulation and variety of high-energy people, but without exams, registration, tuition or GPAs to worry about. ... I like (almost) all the people interaction we get here (but the angry, shouting, threatening ... people I can do without). I love it.”

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It was like the canary in the coal mine.

When two senior members of the fiscal staff announced their retirement to the Nevada Legislative Counsel Bureau in 2009, Tammy Grace, deputy director of the bureau, knew it would grab lawmakers’ attention and help them recognize the serious problem facing them.

“The loss of long-term employees left a gap in institutional knowledge for our agency in an area that has a direct relationship to our legislators,” Grace says. “It made the turnover problem very visible.”

Plenty of staff have left since, Grace says. Some retired, while others took outside offers, perhaps made more attractive by furloughs, pay cuts and reduced benefits. Then came the biggest blow. Before the 2011 session, the bureau’s 18-year director, Lorne Malkiewich, announced he would retire at the end of the session.

The much-anticipated, much-discussed baby boomer exodus appears to be in full swing at the Nevada legislative bureau.

Even before Malkiewich’s announcement, however, the staff agency was developing a way to deal with the problem. After the high-profile departures in 2009, Tammy Grace worked with members of the bureau to design a leadership academy where participants would gain the skills to be good managers and leaders who are willing to share what they learn with their younger coworkers. With support from legislative leaders, who felt the loss of key budget talent, the program was awarded $40,000 in 2011 to fund its startup.

Looking Down the Road

The Nevada Legislature has been ahead of the pack in addressing upcoming staff needs. The process of identifying gaps between future workforce needs and current capacity and then developing programs to close those gaps is officially called “succession planning.” It usually is a collaborative endeavor among an organization’s leaders (staff and legislators), human resources professionals and employees. Plans may include designing new positions, reassigning job responsibilities, reorganizing agencies, investing in staff training, improving recruitment activities, focusing on retention, preserving the knowledge of senior staff, and finding ways for those soon to retire to mentor their younger colleagues.

Like legislatures, most public organizations and many private ones have no succession plan in place or, at best, have only bits and pieces of various activities to help manage upcoming transitions. Few legislatures have performed serious “gap analyses” to identify how their current organizations and structures might fall short in the future.

Many legislative staff offices, however, have recognized the need for senior staff to pass on knowledge, sometimes through mentor programs and often by documenting the procedures, tasks and skills required for various jobs. Even though legislatures, in general, have a strong history of staff training, these
efforts often have been poorly funded, unfocused and unavailable to many employees.

After working for the Legislature for 34 years, Jeff Youtz, director of Idaho’s Legislative Services Office, is preparing his staff and legislative leaders for his upcoming retirement. He’s been managing a series of retirements of senior staff recently, which has given him the opportunity to reassign and reorganize responsibilities, as well as mentor and prepare new young leaders in the agency. He is fully aware that the anticipated brain drain from state legislatures no longer is a theory, but a growing reality.

The nonpartisan agency of 65 employees provides a full range of research, budget, audit and technology support to all members of the Legislature. Along with more informal mentoring and leadership preparation activities, Youtz has written a kind of “Everything You Need to Know” guidebook for this central agency that includes all his management and administrative knowledge and experiences. His successor will open it to find a monthly time line with tasks, deadlines and assigned responsibilities, along with examples of communications a director will need.

“The state legislative process is driven with definite time lines, deadlines and organizational expectations that don’t change a great deal from year to year,” Youtz says. “With this guidebook, if I were to leave tomorrow, my successor would at least know what’s coming month by month.”

**Promoting Leadership**

The Nevada Legislative Counsel Bureau leaders hope their academy will provide a way to manage the transition.
Do-it-Yourself

If you don’t have a formal succession plan at your office, there’s plenty you can do yourself.
- Find one or several mentors who currently are leaders within your agency.
- Solicit feedback from them on your leadership qualities, both good and bad.
- Participate in all applicable training opportunities.
- Ask questions of current managers and employees.
- Create your own career development plan—where you want to go, what you want to achieve and when.


The bureau, with its 280 nonpartisan staff, conducts research, bill drafting, fiscal analysis and audits, and provides a full range of computer and administrative support to the Legislature. Like Idaho’s Legislative Services Office, it is Nevada’s one-stop shop for member support services and institutional memory.

The leadership academy held its first graduation ceremony on May 31, 2012. The 10-month program is subtitled “Promoting a Culture of Leadership” and Grace, the academy director and passionate advocate, is quick to point out the significance of this label.

“Our program is trying to change the LCB culture to be one where our agency looks to mentor and grow leaders,” she says, “not just wait until people announce they are leaving.”

She hopes the program creates a “new norm” among employees where graduates share what they have learned, and where those who are promoted to supervisory positions have the training and tools to be good managers and leaders.

In developing the content for the academy, designers interviewed directors to determine what skills and knowledge they believed would be needed by staff in the future. All employees who had support from their supervisors and who could commit to attending all sessions were invited to apply to the academy.

They participated in workshops, read various texts, completed a work project and were evaluated comprehensively. They knew it would be rigorous.

“Many staff here are on the verge of retirement,” says Mindy Martini, who works in the Research Division and was in the original group accepted into the program. “So I thought, if I don’t participate in the academy, I risk being overlooked when these positions become available.”

Martini loved the experience, but it didn’t turn out to be only about her individual progress. “For me, the biggest thing we learned was about other divisions at the LCB. We now have a team. As we move up into leadership positions, we all will be working together.”

“Succession plans are not designed to just get you to the next level. They are geared to emphasize the building of competencies that increase individual and organizational effectiveness.”
—FROM THE CONNECTICUT SUCCESSION PLAN

Training Focus

The Connecticut General Assembly and its Office of Legislative Management are no strangers to succession planning. Jim Tamburro, the office’s training and staff development coordinator, is one of the few full-time, in-house legislative staff training professionals in the country. For years, his office has focused its efforts on staff training and development.

The office provides administrative, human resources and fiscal support to about 400 other staff working in the General Assembly’s nonpartisan research, fiscal, bill drafting, library, IT, security and audit offices. These staff have the opportunity to participate in 12 certificate programs on leadership, legislative aide development, life management, presentation skills, and committee clerk skills, among others.

The “Leadership Development and Succession Management” course is targeted to supervisors and directors who learn how to coach and motivate employees, handle performance problems and conduct appraisals. Tamburro helps division directors identify potential candidates for the programs. Staff who already are performing well and have a strong leadership potential are encouraged to participate.

Connecticut participants self-select to enter the training program. Tamburro, however, also coaches directors to use the “talent assessment grid” to identify strong candidates. The grid measures “performance levels” and the “potential for larger or broader roles” on a scale of low, medium and high. Staff who have high performance and high potential are encouraged to participate in the program.

“We are looking for the ‘high/high’ people, and we want to create an individual development plan for them,” says Tamburro.

The Connecticut and Nevada programs rely heavily on a thorough, honest performance evaluation of the participants. “The 360 assessment is very important,” says Tamburro. “It provides feedback they never would receive otherwise and serves as the basis for their individual development plan.”

A Bounty of Benefits

These efforts illustrate a few possibilities available to legislatures as they confront baby boomer retirements, higher staff turnover and declining resources.

Positive, unintended consequences are side benefits. When Nevada’s leadership academy class first convened, “we had to introduce people to each other,” says Grace. “We got them together and started to break down the silos. Now they get together as a group every month and stay connected.”

Grace doesn’t hide her pride in the academy and its first class of graduates. She boasts proof that its goals are being met. This September, it’s her turn to retire, and five academy graduates have already volunteered to take over the reins of the academy.

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The months of speculation and uncertainty about the constitutionality of the federal health law ended June 28. The U.S. Supreme Court upheld the law, with the exception of the provision that would have allowed the federal government to withhold all federal Medicaid funds from states that don’t expand their Medicaid programs.

The complexities of the Patient Protection and Affordable Care Act (PPACA) confound even seasoned policy experts, with provisions covering myriad programs and topics. The Supreme Court case, however, related primarily to the law’s key mechanisms to provide health coverage to about 32 million of the nation’s 50 million uninsured, beginning in 2014. Those include:

- **Individual mandate.** The court upheld this provision, which requires most people to have coverage. People may purchase coverage through insurance exchanges with sliding scale subsidies for those with incomes between the federal poverty level and four times the poverty level. In 2012, for a family of four, that would be between $23,050 and $92,200.

- **Medicaid.** The law expands eligibility for the program to most people with incomes up to 138 percent of the poverty level. The court let the expansion stand as a voluntary program separate from the rest of Medicaid, and prohibits the federal government from cutting off existing Medicaid funds for states that choose not to participate in the expansion.

The Implications

So what does the ruling mean for states?

The question could elicit more than 50 different answers, depending on the state, not to mention the variety of viewpoints within states.

States that put their insurance exchange planning on hold, awaiting the court’s ruling, have some quick decisions to make. States already faced daunting challenges in developing exchanges by 2014, including these deadlines:

- By September 2012, states must determine the “essential” health benefits for insurance plans sold in the exchanges, or federal officials will determine the benefits for them.
- By mid-November 2012, states must submit plans to the federal government stating whether they want to run their own exchange or adopt a state-federal model. Otherwise, federal officials will run it.

“I’m not sure how the ruling will affect Oklahoma’s exchange plans,” says Representative Mark McCullough (R), NCSL’s Health Committee co-chair. “Oklahoma does not want the PPACA. Period. We may just let the federal government come in and start setting one up while we wait for the November elections.”

Other states are moving full steam ahead. “Colorado’s exchange was designed and supported by Democrats and Republicans to operate on its own, regardless of the court’s decision,” says Senator Betty Boyd (D), NCSL’s other Health Committee co-chair. “We’re ready to apply for our next federal grant, so this will enhance the ability of our exchange to meet its goals of providing affordable health coverage options for all Coloradans.”

Martha King directs NCSL’s Health Program.
As for Medicaid, it’s too early to tell what path states will take. The court cut off the very large stick that threatened to stop all federal Medicaid funds to states that don’t expand their eligibility. But the very large carrot—billions of dollars to cover 100 percent of the medical costs for all the newly eligible people for three years—may be hard to pass up. After three years, the federal share phases down to 90 percent by 2020, and continues at that level.

McCullough, a lawyer, notes that he “was pleasantly surprised that they won’t hold the Medicaid expansion over our heads. Tying federal funds to specific state conduct seems to me to have more basis in precedent, but I’ll take it.”

“I think states will have a difficult time turning down such a bargain in the 90 percent federal match to expand Medicaid,” says Boyd.

In the meantime, several states have vowed to continue to resist certain provisions of the federal law. Sixteen states prohibit government employees from enforcing the individual mandate or the required employer contribution, even though the PPACA delegates those tasks to the federal government. Five states require legislative approval before their state agencies, alone or with federal agencies, can administer various provisions in the act. In addition, at least seven states have passed laws to create Interstate Health Compacts to circumvent the federal law by joining together to establish programs outside of the PPACA, which would require congressional approval.

“I still believe that the PPACA is deeply flawed, and I hope for its eventual repeal,” says McCullough.

The Prognosis

The court ruling may have laid to rest the legal challenges at the national level for the time being. But it does not fix the nation’s continuing challenge to create a high-quality, sustainable and affordable health system.

“As we sift through all the implications of the court’s decision, we must keep our focus on the best path forward to improve the health system,” advises Boyd.

Both supporters and opponents of the law agree that the daunting dilemma of controlling health care costs remains. Virtually everyone also agrees that the political challenges that linger will play out in the 2012 elections.

“Oklahoma does not want the PPACA. Period. We may just let the federal government come in and start setting [an exchange] up while we wait for the November elections.”

—REPRESENTATIVE MARK MCCULLOUGH (R), OKLAHOMA
Bring civics to life! When legislators visit classrooms, students learn to appreciate the pressures, debate, negotiation and compromise that are part of representative democracy. America’s Legislators Back to School Program kicks off the third week of September and runs throughout the school year. It’s a great opportunity to meet with young constituents and answer questions, share ideas, listen to concerns and impart a greater understanding of the legislative processes necessary for developing effective public policy and engaged citizens.

“Legislators should view visits with students as opportunities for teachable moments, not only for students but for parents and teachers.”
MASSACHUSETTS STATE SENATOR RICHARD MOORE

“The Back to School program revitalizes me every time I enter a classroom. It inspires me both as a legislator and as a person.”
NEVADA STATE SENATOR VALERIE WIENER

NCSL Is Here to Help
Get everything you need for the Back to School Program at www.ncsl.org/backtoschool.

How to Get Involved
It’s easy to participate and share ideas with America’s youth. Contact your state legislative coordinator listed on the NCSL Back to School Website or, let us know you would like to participate and we’ll help you from there at btsp@ncsl.org.
Eighty middle school students descend on Virginia’s Capitol Square the second week of every January. The kids aren’t on a field trip. They’re a select group of students reporting for work as pages and messengers.

Bethany Gottschall was there this year to drop off her daughter Caroline. It was 18 years ago that Bethany herself served as a Senate page, and her return to the Capitol evoked fond memories of her service and an appreciation for the effort of Virginia’s General Assembly to preserve the program.

“I think it is wonderful that the pages have this opportunity, and that the senators and staff dedicate their time to make this a possibility,” says Gottschall.

BY BLADEN FINCH

Bladen Finch directs the Senate page program in Virginia and was a Senate messenger himself back in 1994.

Teaching Good Habits

Pages and messengers tackle hundreds of work assignments while navigating the halls in which Thomas Jefferson, James Monroe, James Madison and other notable statesmen once walked. Staff members teach, encourage and mentor pages and messengers as they harness the concept of hard work, develop an ability to think critically, and develop job skills working alongside top government officials.

The Senate Clerk’s Office conducts a two-day training session emphasizing responsibility and time management skills. The young people also learn about the tasks they will handle in the bill room, post office, clerk’s office, public information offices and concierge desks. (House pages have similar responsibilities, including work in the governor’s office.)

For Senate pages and messengers, the most anticipated assignment is working in the Senate chamber, where they prepare members’ desks and often speak with tourists and visiting
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.


SMOKING IN MOVIES KILLS IN REAL LIFE. Smoke Free Movie policies—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.
school groups.

“They are our legs, energy and enthusiasm,” says Susan Clarke Schaar, clerk of the Senate.

Pages and messengers hear testimony in committees from experts and ordinary citizens, and witness floor speeches and listen to debates on topics ranging from abortion to taxes. They discover that, like making sausage, the process is not always pretty. This is real life civics.

**Select Group**

What makes Virginia’s program different than others—about half the states have some type of page program—is that the young people stay in Richmond for the entire session.

In the hotel, chaperones keep an eye on etiquette and help teach some important lessons, such as the value of compromise when sharing a room. The students must get up on their own, dress in uniform, have breakfast and walk to the Capitol by 8:15 a.m. Roll call is taken, uniforms inspected, announcements given and assignments made. Quitting time is 5 p.m.

Pages and messengers must be 13 or 14 years old. Applicants must have an A or B average and written permission from their school principals. They complete an application as well as write an essay.

On a rotating basis, senators choose 11 of the pages, while leaders appoint another five, including a page for the lieutenant governor. Senate messengers are appointed by the clerk of the Senate at the recommendation of senators who do not make an appointment that year. This results in about 34 young people serving in the Senate. In the House, the speaker makes the appointments, for a class of about 40.

**Historic Role**

Like parliamentary floor motions, the program has deep roots. The Virginia General Assembly, America’s oldest English-speaking representative assembly, has met in the present day Capitol since 1788. As early as 1848, nearly 100 years after the legislature convened in Thomas Jef-
Facts About NCSL:

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

Make plans to be in Chicago, Aug. 6-9, for this year’s Summit! Learn more at www.ncsl.org/summit
ferson’s “Temple on the Hill,” the first mention of pages appears in the Senate and House journals.

“I felt like I was treading on hallowed ground,” says Sallie Johnston, a teacher with Henrico County Public Schools, reflecting on her experiences as a page nearly 40 years ago. In 1970, she was the first female Senate page and “forming friendships took some time,” she says, noting the resistance of the boys to the change.

“There’s no way to teach government the way it is taught in this program. It is a remarkable experience,” says Johnston.

Learning extends beyond normal work hours. Mandatory study hall each evening, complete with tutors, ensures these future leaders keep up with their studies.

The education extends even further. Senate pages and messengers are charged with completing a community service project and bi-weekly newsletter that is sent to staff, senators and parents. They tour local historic sites and museums to gain an appreciation of Virginia’s rich culture and heritage.

Some of the best traditions include the annual reception at the Governor’s Mansion and the Capitol Classic basketball game where pages and messengers cheer on senators, delegates and the governor. At St. John’s Church, each

class hears a re-enactment of Patrick Henry’s “Give Me Liberty or Give Me Death” speech, containing many of the parliamentary motions still used today. And, toward the end of session, senators switch rolls with the pages and messengers for a lively mock legislature.

The program has a loyal cadre of veterans. They fill the Senate and House galleries every January with great memories of what the program meant to them.

“I knew Caroline would have a great experience,” says Gottschall. Not only did her daughter gain maturity, she also “was able to look after herself and keep up with her school work.”

It was a life-changing nine-week session. “She wanted to be a film director. Now, she talks about pursuing law and politics.”

“There’s no way to teach government the way it is taught in this program. It is a remarkable experience.”

—SALLIE JOHNSTON, TEACHER AND FORMER PAGE
It certainly wasn’t how BettyLou DeCroce wanted to gain a seat in the New Jersey Legislature.

In January, a GOP panel at a special convention named her to represent the 26th District for the remainder of the year. It was bittersweet. Her husband, Alex DeCroce, had held the seat for more than two decades. But on Jan. 9, he collapsed and died of a heart attack at the statehouse in Trenton, just after the end of a late-night legislative session.

“This was Alex’s plan. We talked long ago about me following him into the General Assembly,” DeCroce says. “He said to me, ‘A woman should be in the seat, and with everything you have to offer and that you do for me, you would be a great help.’ But didn’t happen the way we wanted. We both would have preferred to have him standing beside me. But this is what he wanted, and my family agreed.

“I’m where I’m meant to be.”

Quick Action
Following her husband’s death, she was almost immediately thrust into the spotlight as GOP leaders turned to her to fill the shoes of her late husband.

Some diminished her easy win, calling it nothing more than an entitlement vote. But most—including a large number of locally elected officials—believed her career in government at the municipal, county and state levels made her uniquely qualified. Some even said she was more qualified than her husband was when he began his first term in 1989.

As her supporters expected, after being sworn into office in February, she hit the ground running.

She signed on as a prime sponsor of “Alex DeCroce’s Law” to protect the rights of crime victims to have their say in court, be free from intimidation and receive the medical care needed, which her husband had backed. She supported her party in casting a vote against a marriage equality bill. She has begun to work on legislation to deal with flood mitigation issues. And she

spends much of her time on the road visiting the townships in her district.

“The assemblywoman is already showing her strong, conservative leadership, which the state sorely needs,” says her district partner, Assemblyman Jay Webber (R). “I am very proud to work with her and look forward to this partnership continuing in the future.”

That will depend on the voters, of course. She won a primary challenge in June and will run in a special election in November to serve out the second year of her late husband’s term. In 2013, she can run for a full term on her own.

Her campaign is gaining support.

“I have the opportunity now to show voters who I am outside of being Alex’s wife,” she says. “I intend to show them through hard work that I am an experienced public servant, which is different from being a politician. For me, it’s not the title, it’s what you do as an individual to make a difference. I truly am here to make life better for the people of my district.”

Family Ties
DeCroce started down the path to legislative service long before she married in 1994.
“My grandmother was an aide to [U.S. Representative] Rodney Frelinghuysen’s father, and my grandfather was an elected councilperson in Rockaway for almost 30 years,” she says. “When I turned 18, my grandmother said, ‘You’re working the polls.’ I was one of 10 grandchildren, and I was the one to follow my grandparents into politics.”

After studying business and government, respectively, at Berkeley College and Rutgers University, she went to work “to make things better for people.” She first served on the Mine Hill, N.J., Township Council. That was followed by a stint on the town’s planning board, as a municipal clerk, as a chair and fund-raiser for several Republican campaigns, as commissioner of health insurance funds, and as a member of a zoning board.

“She first served on the Mine Hill, N.J., Township Council. That was followed by a stint on the town’s planning board, as a municipal clerk, as a chair and fund-raiser for several Republican campaigns, as commissioner of health insurance funds, and as a member of a zoning board.

“Some of the things I’ve done go way, way back,” she says, recalling her job as an assemblyman’s aide. “All of this helped me learn how municipalities work,” she says. “I also gained experience with the county working for the sheriff’s office.”

Juggling Responsibilities

DeCroce was serving as a deputy commissioner of New Jersey’s Department of Community Affairs when her husband died. She also has business experience at various companies, and currently is a real estate agent.

How does she do it all?

“I’m a multitasker. I can do many things at a given time,” she says. “Women tend to be able to do this: You can run a home, have a family, operate a business and have a career. You just have to work hard at it and be willing to do whatever it takes to get the job done.”

She said her work ethic is part of what drew Alex DeCroce to her when he was running for a seat on the Morris County Board of Freeholders and she was campaign vice chair for his opponent.

The DeCrocaces were married for 18 years. They shared a love of politics, she says, but respected their differing viewpoints.

“There is a lot in me that is different than what Alex was,” she says. “That’s why he and I were such a great match. He had the state end, and I had the local end. Bringing those together was, I think, very good for the people because that brought in knowledge from all sides.”

Not every political family can have that kind of harmony, she says.

“Yes, it is tough sometimes. All the wonderful things happening are bittersweet,” she says. “Sometimes I think about it and start to well up. But Alex would not want me to do that. He’d say, ‘Don’t cry. Show them you’re strong.’ So that’s what I do. I focus on the work.”
“The presidential race will come down to who voters believe can best restore the economy and create jobs.”

Neil Newhouse is a partner and co-founder of Public Opinion Strategies, which the New York Times described as “the leading Republican polling company” in the nation. He is directing polling for Mitt Romney’s presidential campaign, and has worked on many congressional and gubernatorial campaigns. He has twice been named “Pollster of the Year” by the American Association of Political Consultants.

State Legislatures: Will the economy be the primary factor in the November election?

Neil Newhouse: While there are signs of improvement in some facets of the economy, most voters on the front lines of the economy—parents, small business owners, young people—are failing to see the turnaround. We continue to see this sentiment shared in the surveys and focus groups we conduct across the country among all types of people. Far too many people remain either unemployed or underemployed, and rising gas prices are squeezing household budgets. So, yes, the economy will be the No. 1 issue on the minds of most voters. This election will be driven by fiscal issues.

SL: Do voters think the country is moving in the right direction?

Newhouse: Even as more voters believe the country is headed in the right direction than a year ago, a significant majority remain negative, believing the country is off on the wrong track. The sluggish economy has dampened any events that could have otherwise lifted the mood of the country.

SL: What will the political landscape in the states look much different than it does today?

Newhouse: There will certainly be changes up and down the ticket, but I don’t expect this election to be a “wave election” like we have seen the previous three cycles.

SL: What do you see in terms of voter turnout?

Newhouse: Voter turnout will be solid in 2012, but likely
“Super PACs are … probably the most negative thing that has happened this year.”

Peter Hart is the chairman of Peter D. Hart Research Associates and the man the National Journal called “probably the foremost Washington pollster for the Democratic Party and its centrist candidates.” Hart and Bill McInturff of Public Opinion Strategies have been the pollsters for NBC News and The Wall Street Journal since 1989. Hart’s firm has represented more than 40 U.S. senators and 30 governors and has worked for the Smithsonian Institution, the Holocaust Memorial Museum and the Kennedy Center.

State Legislatures: Will the economy be the primary factor in the November election?

Peter Hart: As the economy goes, so goes the nation. And so goes the presidential election. The question is, are we coming out of the recession and does the public believe that good times are ahead? The numbers on unemployment alone will not be strong enough for the president’s re-election, and he is going to have to rely on direction and perceptions that indeed things are going to get better one way or another. I think the economy is essential, and at this stage it’s hard to know if it will favor the Democrats or the Republicans.

SL: Do voters think the country is going in the right direction or off track?

Hart: Only about a third of Americans are saying things are headed in the right direction. And we have essentially been on a negative course for 10 years. There are a few blips here and there, when we killed Osama Bin Laden or when Saddam Hussein was captured. But we haven’t had a majority of Americans saying things are headed in the right direction for a consistent period of time in more than 10 years. I think Democrats would be looking and hoping for the right direction numbers in the 35 percent to 40 percent range for Obama to be re-elected. Like George W. Bush, they may be enough for re-election, but psychologically these numbers are far away from the president feeling he has the wind at his back.

SL: Can you look in your crystal ball and tell us what you think Washington is going to look like after the election?

Hart: The honest answer is, I don’t know. What it really comes down to is the economy. A lot has to do with events within the United States and more important maybe internationally. Unlike other elections where you have a firm and fixed sense of how an election will play out,
not as strong as in 2008. At the moment, Republicans are more enthusiastic about the election than Democrats. On the Democratic side, enthusiasm has dropped for the president. Voters are not as excited as they were in 2008. However, Obama will be able to partially offset the decline with a robust early voting operation.

**SL:** How big a factor will social issues—such as abortion, contraception, gay marriage—be for independent voters?

**Newhouse:** There may be a handful of voters who will base their decision on the candidates’ stances on social issues, but for the vast majority this election will be focused on the economy and the candidate they think can get the country back on the right track.

**SL:** How significant will the 18- to 29-year-old vote be in 2012?

**Newhouse:** As in 2008, it will be significant in 2012. However, Obama’s success in 2008 is a bit misleading. While this demographic was important to Obama in 2008, he didn’t drastically increase their turnout—18 percent of the electorate in ’08—relative to 2004 and 2000, when the turnout was 17 percent. Obama’s success among these voters came from his strong margin of victory over John McCain—66 percent to 32 percent. Al Gore and John Kerry both won this age group, but with smaller margins over George W. Bush. Obama’s challenge is that 18- to 29-year-olds are not as enthusiastic about this election as they were in 2008.

**SL:** How concerned are Americans—and politicians—about the money pouring into super PACS and the negative ads they generate?

**Newhouse:** Americans are undeniably concerned with the influence of super PACS. In an ABC-Washington Post poll conducted in March, 68 percent of Americans said they believed super PACS should be illegal, while just 25 percent said they should be legal. Politicians also are concerned since they understand that a mere handful of wealthy donors can easily offset all their fundraising efforts.

**SL:** How important is the top of the ballot to state legislative elections?

**Newhouse:** Without a doubt, the top of the ticket has an impact on down-ballot races. Presidential years drastically increase turnout. The question this year is going to be whether Obama’s team can get their core supporters enthusiastic about heading to the ballot box on Election Day, like in 2008. Without that enthusiasm, which we haven’t been seeing in the numbers this year, it is unlikely the president’s coattails will be long enough for everyone.

**SL:** How have polls and campaigns changed in the past 20 to 25 years?

**Newhouse:** With respect to polling, there have been a number of changes since I began working in the industry. Technological improvements have enabled us to more rapidly analyze data and provide strategic guidance. The proliferation of cellphones also has forced us to adapt our process of reaching voters. Campaigns have changed drastically over the course of my career. In polling, there is a much greater focus on targeting voters. Our data allow us to identify our strongest and most likely supporters and attempt to get them to the polls on Election Day.

**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.
this is an election where there is so much unhappiness with Washington, the Congress, and government that any scenario is possible. There is so much combustibility. In this election, a third-party candidate could probably score in double digits and congressional incumbents could be in for a surprise. After the election, the Congress may look the same, but American’s attitudes will be vastly different than they were in the 2010 off-year election. At this point, to prognosticate how it’s going to turn out is a recipe for sure folly.

SL: Will the political landscape in the states look much different than it does today?
Hart: This is an election that is going to be driven from the top to the bottom. So it depends a lot on what is happening at the top. How President Obama does in states like North Carolina, Virginia, Ohio and Missouri will have a tremendous effect, not only on Congress, but also on the statehouses. I think we may have more voters, but a lower percentage of eligible Americans going to the polls. There was a tremendous wave in 2008, but I don’t see that kind of enthusiasm now. The stakes in the election will be driven as much as anything by super PACs and by negative advertising.

SL: How big a role will social issues play?
Hart: Like all elections it always comes back to first principles. And I think first principles are going to relate very much to the economy and to questions of security. The negative effect of the Republican primary will continue to be felt this summer and the fall. The advantage Republicans had going into this primary season was that they were doing well with independents and were predicted to do well with suburban women. What we’ve seen in our later polls is that there has been a huge switch by suburban women to the Democrats. The contraception issue has hurt the Republicans with suburban women and younger independent voters. The positive decision of President Obama on the question of deporting young immigrants has helped him with most voters, but is could be a really solidifying issue for Hispanic voters. The issues such as gay marriage, gun control and abortion will continue to energize the Republican base, but I believe it will have only a small effect on voters in the middle.

SL: How significant will the 18- to 29-year-old vote be this time around?
Hart: Exceptionally important. But the tremendous challenge for Obama’s re-election campaign is whether they will create the same sense of energy, the same sense of passion. My guess would be no. The young vote still very much favors the Democrats and particularly the president. I just don’t think the passion and enthusiasm are equal to where we were four years ago. While the president and the Democrats will do very well with the younger voters, my question is: Will they vote? Will they be the foot soldiers they were some four years ago? One of the major reasons for this is the advent of Super PACs, which in my opinion, are probably the most negative thing that has happened this year. They will suppress the turnout and turn off the voters.

SL: How important is the outside money, the super PACs?
Hart: When the year is over we will recognize that Super PACs are what 2012 was all about. It is probably the most negative thing that has happened this year because candidates have essentially ceded their campaigns over to groups of individuals who have no responsibility to anyone beyond their own cause. Their responsibility does not go beyond Nov. 6. What we have lost is accountability. Candidates are held responsible for their ads; a super PAC has no responsibility. An independent super PAC can choose to vilify the opposition or say a huge number of falsehoods with no price to pay. It is poison. It is a tremendous disservice to our election process and our democracy. Both parties have some responsibility for this phenomenon, but the Republicans are the most responsible. It will have a tremendous effect in every way.

SL: In the years that you’ve been watching elections, how have the polls or the campaigns changed?
Hart: When I started the business 40 years ago, all of my polls were done door-to-door. Today there is a combination of telephone and Internet polling, and the speed and sophistication of both gathering and analyzing the data is like comparing the old transcontinental railway and today’s super-fast bullet trains. Both run on tracks, but in every other way, they are totally different. But against that we’ve lost some of the personalization. At the same time we have such a proliferation of polls that it’s hard to know who is measuring what. The challenge for our profession is to provide the politicians and the political process a way to understand what message the voters wish to convey.
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Tested by Tragedy

New York Assembly Speaker Sheldon Silver is the recipient of this year’s top legislative leadership award.

BY EDWARD P. SMITH

As Americans watched the attacks of Sept. 11, 2001, in horror, no state legislative leader in the country faced a challenge greater than New York Assembly Speaker Sheldon Silver.

Not only was Silver the leader of the state’s largest legislative body, he also represented the district where the attacks occurred. Neighbors, friends and constituents died that day.

“Great catastrophes, such as 9/11 or Hurricane Katrina, pose a broad spectrum of challenges,” Silver says. “It is easy to look at massive devastation and get lost in the enormity of it. Recovery requires leadership that can address the big picture but also ask the simple questions, such as, ‘What do Mr. and Mrs. John Q. Public need right now?’ ”

Silver was evacuated from his office building after the attack. He quickly turned a high-tech Winnebago into a rolling district office. “We kept people informed, gave them a shoulder to lean on, took their problems to the appropriate government agencies, helped them deal with their insurance companies, and got them access to their apartments and cars.”

New York Assembly Majority Leader Ron Canestrari said Silver’s leadership was crucial in the aftermath of the attacks.

“His community was devastated. But Shelly communicated a sense of strength, purpose and resolve that helped people get through very difficult circumstances and helped them get beyond the tragedy as best they could,” Canestrari says.

Silver was first elected to the Assembly in 1976 from his district in lower Manhattan, where he was born and still lives. He became speaker in 1994, and is the longest serving Democrat in the job and the second-longest serving speaker in state history.

Silver is the recipient of this year’s William M. Bulger Excellence in State Legislative Leadership Award, the nation’s top legislative honor. The award is bestowed by the National Conference of State Legislatures and the State Legislative Leaders Foundation on leaders whose careers embody the highest principles of leadership and who are committed to protecting and strengthening their state legislature.

“My immediate reaction to the news that I had won the award was a sense of great honor, considering the list of previous award winners—all true public servants who have had distinguished careers,” Silver says. “There was also that sense of satisfaction that comes with the recognition of your peers. I am truly humbled, because I have tried very hard to live up to the ideals of the Bulger Award—integrity, passion, vision and courage.”

Education, a revitalized economy and ensuring access to health care for the working poor, children, the elderly, people with disabilities and immigrants are his priorities.

His proudest accomplishment is the law creating universal preschool. “It is one of the best investments we can possibly make to ensure our future,” Silver says.

But he also points to the broader accomplishment of ensuring the legislature’s role as a strong, independent arm of state government. “I have had the extraordinary opportunity to lead my conference during the terms of five governors, and never once have we acted as a rubber stamp,” Silver says. “I can tell you without question we have prevented policies that would have profoundly hurt New York’s most vulnerable citizens, and for that I am very proud.”

William Pound, executive director of the National Conference of State Legislatures, says Silver “has strengthened the New York Legislature through his leadership of a diverse Assembly and in modernizing the legislative institution. One of the strongest and longest serving legislative leaders in America, he is a worthy recipient of this award.”

Stephen Lakis, president of the State Legislative Leaders Foundation, says Silver is well-deserving of the award. “Courage, conviction, fairness, integrity and dedication to the institution of the state legislature are the hallmarks of his career. He has steered the course through tumultuous times in Albany, always serving as a steadying voice of reason and always with an eye to serving the people of New York.”

To Silver, the job is the reward.

“I have what I think is one of the best jobs in the world: Leading the New York State Assembly—an independent, member-driven institution where initiatives are crafted that often serve as a model for policies around the country and for the federal government.”

Edward Smith is the managing editor of State Legislatures.
“It is a joke that we’re going to change the perception of an industry that is one step above the public’s view of legislators.”
—Ohio Representative Lynn Wachtmann (R) about a bill to require training for used car dealers, in the Gongwer News. The bill passed 60-28.

“No matter what the governor does, to try to make it look prettier, it’s like trying to put lipstick on a pig.”
—Virginia Senator A. Donald McEachin (D), about a new voter identification requirement and the governor’s decision to send new ID cards to everyone registered in the state, in the Washington Post.

“Don’t buy into all the BS you’ll get from lobbyists and people who are going to kiss your behind as an elected official. It doesn’t last. The real reward is serving your constituents.”
—Louisiana House Speaker Jim Tucker (R), in the Advocate.

“It’s a mixed blessing ... legislatures occasionally need new blood, new ideas, fresh faces. They also need people who have been there and done that.”
—Former Colorado House Speaker Terrance Carroll (D) on the high turnover of legislative seats, to USA Today.

“We’re coming to get you. ... And you’re going to go to jail. So, here’s your chance—throw it away tonight.”
—Michigan Senator Rick Jones, (R) on a bill he sponsored banning retailers from selling synthetic marijuana, in the Detroit News.

“They’ve had all this time to figure it out and come up with a more humane way. I’d like to sit all 100 of them down and have duck and goose fat—better yet, dry oatmeal—shoved down their throats over and over and over again.”
—John Burton, chairman of the California Democratic Party, in the San Francisco Chronicle, about the chefs who are fighting the state’s ban on the sale of foie gras (which requires force-feeding grain to birds). Burton wrote the law when he was a senator in 2004; it had a seven-and-a-half year grace period.

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Doing the Work That Matters

Public employees are well-educated, highly trained professionals. They are devoted to building their communities, educating young and old alike, protecting natural resources, providing a safe and secure environment for our families, and making sure we have the services that enable us to grow and thrive.

- Delivering high-quality public services depends on adequate funding and other resources. The ability to get the job done has been strained to the breaking point by the loss of more than 650,000 public employee jobs over the last two years. We must stop these cuts and establish fair funding to maintain the essential services the public expects.

- Through collective bargaining, public employees are able to speak up and share ideas for improving government services. Let’s protect those rights and welcome the ideas that help build our communities.

- Public employees spend their careers providing services critical to the quality of life in their states and towns. When they retire, they should not have to sacrifice their own quality of life. The average annual public pension is about $23,000. We can afford to preserve this asset that sustains so many public workers after a lifetime of service.

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