

July/August 2013

# STATE LEGISLATURES

 NATIONAL CONFERENCE *of* STATE LEGISLATURES

## BUILDING STRONG STATES

SERVICE  
STRUGGLE  
SACRIFICE

### INSIDE

STATES VS. FEDS

WWII VETERAN  
LAWMAKERS

PARTY POLITICS

THE GENIUS OF  
ALAN ROSENTHAL



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# Beating obesity will take all of us.



Today, across the country, obesity is one of the most pressing problems of our time. Everyone agrees something needs to be done, and that's a good start -- because addressing it will take all of us. And as the country's leading beverage company, we can play an important role. We can offer choices and information to help people make decisions that are right for them. We can innovate. And we can help get people moving - and enjoy it - by engaging in communities across the country.

## Over 180 no- and low-calorie choices

Fifty years ago, to help a generation of Americans eager to "keep tabs" on their calories, we introduced our first diet beverage, Tab. In 1982, we introduced Diet Coke. Since then, our portfolio in the US and Canada has grown to include more than 180 no- and low-calorie choices.



Today, they represent nearly one out of every three drinks we sell. Over the last 15 years, this has helped reduce the average calories per serving across our industry's products in the US by about 22%. Together with the beverage industry, we have also voluntarily changed our offerings in schools to be primarily waters, juices and no- and low- calorie options. This has helped reduce the calories from our industry's beverages in those schools by 90% since 2004.

## Portion-control sizes and nutrition information

Anyone who's ever tried to manage their weight by cutting calories knows that it's not just what you consume, it's also how much. To help, we've created smaller, portion-controlled mini-cans of our most popular drinks and will have them in about 90% of the country by the end of this year. And we put the calorie counts of nearly all our beverages on the front, where it's one of the first things you see.



## Partnering for innovation

New thinking is critical, so we've teamed up with some of the very best. For example, our partnership with Cargill has already led to an all-natural, no-calorie sweetener called Truvia. While it's only been available for 4 years, Truvia is already the second most popular sugar substitute in the country. It's found not only in a wide variety of foods and beverages, but also is sold as a tabletop sweetener for use in peoples' homes.

**truvia**  
Nature's Calorie-Free Sweetener

## Promoting physical activity

Talk to any expert, and you'll hear a call to get children active again. For the past 65 years, we've worked with the Boys and Girls Clubs of America, where its Triple Play program has helped hundreds of thousands of kids learn the importance of a balanced diet and regular exercise. We're leading sponsors of programs in major cities like Troops for Fitness in Chicago. And we've begun

building Live Positively Fitness Centers in communities across the US, giving children access to safe places to exercise and enjoy sports.



## Balance matters

We believe that beating obesity will come down to acting on one simple, commonsense fact: when it comes to weight management, all calories count. And if you eat and drink more calories than you burn off, you'll gain weight. Achieving a weight that's right for you is about balancing the calories you take in with the calories you burn up.

## Let's come together

Obesity won't be solved overnight, but we know that when people come together around shared solutions, good things happen.



To find out more about the commitments we've made and the actions we're taking, **visit us at [comingtogether.com](http://comingtogether.com).**

**Coca-Cola**



# STATE LEGISLATURES

NCSL's national magazine of policy and politics



JULY/AUGUST 2013

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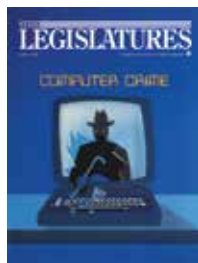
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## SL ONLINE

**VISIT [WWW.NCSL.ORG/MAGAZINE](http://WWW.NCSL.ORG/MAGAZINE)****THIS MONTH TO:**

- ◆ Learn how NCSL is voicing state concerns in our federal system.
- ◆ Read more about Alan Rosenthal's contributions and legacy.
- ◆ Find more resources on programs and services for veterans.
- ◆ Discover more virtual venues lawmakers are wandering into.
- ◆ Find help in understanding how the new pension rules may affect your state.
- ◆ Find out more about NCSL's professional development training opportunities for staff managers and others.

## THEN &amp; NOW

**25 YEARS AGO**

Articles from the August 1988 issue of  
STATE LEGISLATURES

**CRACKING DOWN ON COMPUTER CRIME**

As computer and communications technologies continue to advance at break-neck speed, criminals continue to find ways to exploit them. All but two states have passed laws to thwart computer crime, but the legislation needs constant revision to out-pace theft and mischief.

**MASSACHUSETTS INSURES THE UNINSURED**

Legislators have debated universal health insurance for years. Not without controversy, Massachusetts has made it state law.

**BATTLE ESCALATES OVER NEW HANDGUN LAW IN MARYLAND**

The legislation bans "Saturday Night Specials" and plastic guns—weapons produced solely for crime and for the pocketbooks of gun manufacturers, according to the bill's sponsor.

**DID YOU KNOW ...**

Hundreds of stonecutters spent more than a dozen years, starting in 1883, to build the grand staircase near the western entrance of the New York State Capitol in Albany. It's known as the Million Dollar Staircase because it was supposed to cost \$1 million, although it exceeded that. The sandstone walls supporting the staircase feature scores of carvings, which, according to legend, include the likenesses of some stonecutters' friends and family, along with the more famous figures. The opulent Capitol, built between 1867 and 1899 at a cost of \$25 million, reflected the state's prosperity at the end of the Civil War. A building-wide restoration of the state treasure was completed in 2012.

—*The New York Times* and "A Celebration of State Capitols" by Richard R. Gibson

**WHOSE CAPITOL IS IT?****SL ONLINE**

To find out, go to: [www.ncsl.org/magazine](http://www.ncsl.org/magazine)

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## LETTERS

Dear Editor,

In your June 2013 issue on page 6, you highlighted the passage of a bill in New Hampshire granting emancipation for a group of enslaved Africans who had petitioned the General Court for their freedom in 1779. Being one who initially voted “no,” I want to share my thinking with your readers.

I share the desire of my colleagues to right, whenever possible, the historical wrongs of slavery. My initial vote of “no” was an expression of a deep moral conviction. For me to proclaim anyone emancipated requires me to own the authority to enslave that person, which I reject. In that sense, the freedom we have now legislated was never ours to grant or to withhold in the first place. In the words of the original petition by the enslaved Africans, “Freedom is an inherent right of the human species.”

After a request for reconsideration was made, I voted “yes,” and joined in celebrating the goodwill and hard work of those who brought this legislation forward. This is a joyful and deeply meaningful time for the City of Portsmouth as it builds a memorial park to commemorate the site of an African-American burial ground, furthering a decades-long effort to learn about and teach our complicated history. May it inspire all of us to continue the work of overcoming the racism and oppression that endure in our society.

Patricia Higgins  
New Hampshire  
House of Representatives

Two rectangular signs with black frames hang from a metal pole. The top sign has the text "AMERICA'S Optometrists" in a serif font, with "Optometrists" being larger. Below it, in a smaller font, is "Complete Vision Care" and the phone number "634-8337". The bottom sign has the text "WE'RE OPEN" in large, bold, sans-serif capital letters, followed by "to treating more eyes in the country than anyone." in a smaller, italicized sans-serif font. The background shows a red building and some green foliage.

More Americans turn to doctors of optometry than any other eye care professional. With a four-year, doctoral-level clinical degree following college and extensive training, optometrists are licensed to correct vision, but they also diagnose and treat eye diseases. And as the need for new advancements in eye care continue, count on optometrists to offer the most comprehensive eye care.

Learn more at **AmericasEyeDoctors.org**

A logo consisting of a stylized eye shape formed by two curved lines, one blue and one orange, meeting at the bottom. Below the logo is the text "SEE CLEARLY, AMERICA" in a bold, sans-serif font.

SEE CLEARLY, AMERICA

# Locals Lead, States Score, Feds Falter

Compared to Congress, state governments shine. According to a Pew Research Center national survey of 1,501 respondents in March, a majority of Americans—57 percent—viewed their state government favorably, a 5 percent increase over last year. In contrast, the federal government’s approval rating fell 5 percentage points to a new low of 27 percent.

One explanation for the wide gap between state and federal approval ratings may be that people perceive state leaders as more fiscally responsible than Congress and the White House, says Carroll Doherty, associate director of the Pew Research Center. “The federal deficit is a major concern for Americans, whereas many states, by law, must balance their budgets,” Doherty says. Survey findings support that theory. Thirty percent of respondents said their state’s economy was excellent or good; only 16 percent said the same about the U.S. economy.

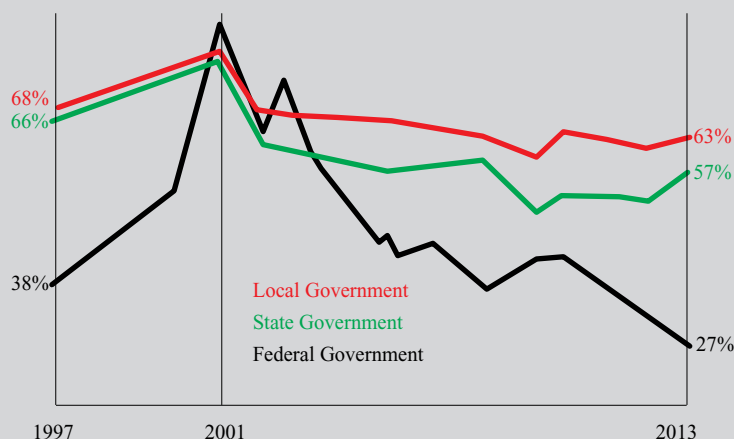
Others suggest the state-federal disparity stems from Americans’ dislike of partisanship and gridlock in Washington, D.C. Another factor may be that people feel a closer bond to their state and hometown office holders and institutions. “Some of it has to do with proximity,” says Doherty. “They see the federal government as a distant institution, while state leadership is much closer.”

Public confidence in public schools, organized religion, banks and TV news also has dropped to historic lows, making state governments’ gains even more noteworthy.

—Mary Winter

## How the Three Compare

The federal government’s approval ratings rose dramatically after Sept. 11, 2001, but dropped to a new low in March 2013. State and local ratings slipped slightly during the economic downturn but are moving up.

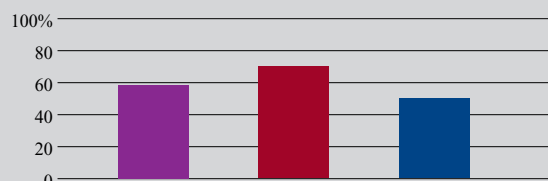


## State Government Ratings by Party Control

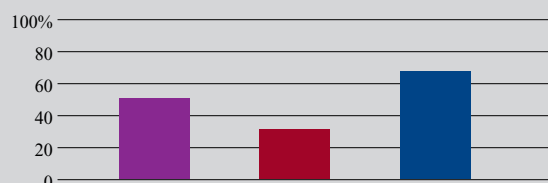
Survey respondents whose overall opinion of state government was very favorable or mostly favorable.

Legend: Total (Purple), Republican (Red), Democrat (Blue)

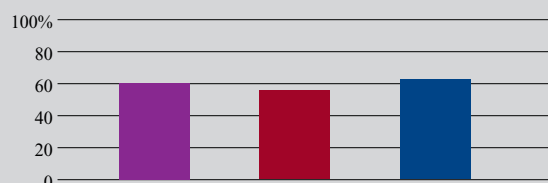
### States Under Republican Rule



### States Under Democratic Rule



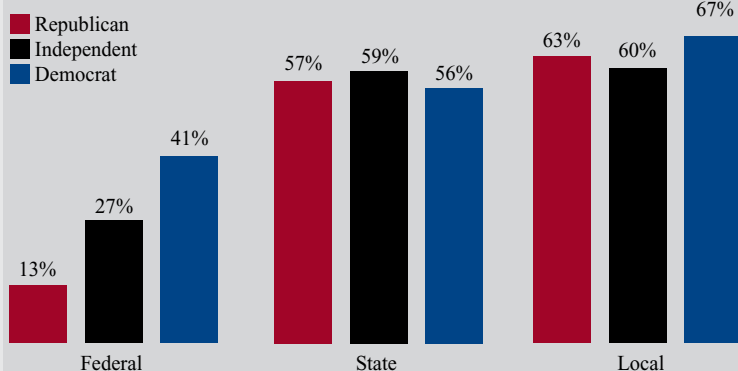
### States Under Divided Rule



Not surprising: Republicans are happiest when the governor and majorities in both chambers in their state are Republican, and similarly, Democrats like it when their party rules all three. Surprising: Citizens give high ratings to their state government when leadership is split between parties.

## Partisan Breakdown

Governments’ approval ratings by survey respondents’ political affiliations.



Source: Pew Research Center for the People & the Press March 2013 Political Survey





#### AFTER THE SUPREME COURT'S LANDMARK RULINGS ON GAY

**MARRIAGE** were announced in June, legislators from at least two states decided to take the fight home. Alabama Representative **Patricia Todd** (D), the only openly gay elected official in the state, is considering suing the state over the constitutional amendment banning same-sex marriage. It was approved by 81 percent of Alabama voters in 2006—the same year Todd was first elected. In Pennsylvania, Representatives **Steve McCarter** (D) and **Brian Sims** (D), the first openly gay lawmaker elected to the General Assembly, announced they will introduce legislation to allow same-sex marriage in the Keystone State.



TODD



MCCARTER



SIMS

#### FIVE VIRGINIA REPUBLICAN LAWMAKERS—including HOUSE

**SPEAKER WILLIAM HOWELL**—were targeted by anti-tax candidates in GOP primaries for supporting the state's new transportation funding bill, which calls for an estimated \$1.2 billion in new revenue a year. Howell and Delegate **Robert Orrock Sr.** won easily, as did Delegate **John Cosgrove**, who beat two opponents for the Senate seat being vacated by retiring Senator Harry Blevins (R). Delegates **Joe May** and **Beverly Sherwood** didn't fare as well. With less than 10 percent of the eligible voters choosing to participate, Sherwood lost to Mark Berg by only 78 votes, while May lost to Dave LaRock by more than 700 votes. Both delegates were trying to win their 11th consecutive terms in the House of Delegates.



HOWELL

#### THE WEST VIRGINIA HOUSE OF DELEGATES ELECTED NINE-YEAR

**VETERAN MEMBER TIM MILEY** (D) speaker in a special session called to replace Rick Thompson (D). Thompson resigned to become secretary of the Department of Government Affairs. Miley, the state's 56th speaker, served as chair of the Judiciary Committee for the past eight years. Finance Committee Chair Harry Keith White (D) virtually ensured Miley's election when he dropped out of the race and endorsed his colleague. Delegate Tim Armstead (R) was the Republican candidate for speaker. The 53-44 vote split mostly along party lines.



MILEY

#### KANSAS HOUSE MAJORITY WHIP BRIAN WEBER (R) RESIGNED



WEBER

from the Legislature in June to spend more time with his family and at the business he co-owns. Weber, 30, was first appointed to the Legislature to fill the seat of former Representative Pat George (R), who is now Kansas secretary of commerce. He was elected to the seat in 2012 and served as chair of the House Social Services Budget Committee.

#### A TEA PARTY ACTIVIST HAS BECOME THE FIRST AFRICAN-AMERICAN

**REPUBLICAN** elected to the Florida Legislature. **Mike Hill**, 54, a small-business owner, Air Force veteran, and president of the Northwest Florida Tea Party, won handily in the election to replace former Representative Clay Ford (R), who died in March. Shortly after being elected, Hill told the Sunshine State News that the voters had "made it clear that the conservative message of limited government, low taxes, personal freedom and individual responsibility is what they want out of government. ... I'm just honored to be able to serve them in Tallahassee."



HILL

#### ANNE ZIAJA, DIRECTOR OF THE MASSACHUSETTS SENATE LEGISLATIVE

**EDUCATION OFFICE** is the 2013 recipient of the Kevin B. Harrington Award for Excellence in Democracy Education. She was selected for her outstanding success at advancing civic education for countless young people, high school and college interns, and adults, and for consistently achieving full participation by Massachusetts senators in NCSL's America's Legislators Back to School Program. The award is named in honor of NCSL's founding president, and is given each year to a lawmaker, legislative staffer, legislature or chamber, or organization that best educates students or adults on the strength and value of our form of government.

#### COLORADO SENATE PRESIDENT JOHN MORSE (D) AND SENATOR

**ANGELA GIRON (D) FACE RECALL ELECTIONS**—the first in Colorado history—for their support of gun legislation. Morse will be term-limited out in 2014 if he survives the recall. Both voted in favor of bills that, among



MORSE

other things, limit ammunition magazines to 15 rounds and require universal background checks. More than 16,000 registered voters signed the Morse petition, and about 13,000 signed the Giron petition—both more than the



GIRON

required 25 percent of the total voters in the last local election. Petitions for the recall of Representatives Mike McLachlan (D) and Evie Hudak (D) also circulated, but failed to receive enough signatures.

# Drilling Down on Shale Gas

Natural gas production hit a record high in 2012, with drillers delivering nearly 30 million cubic feet, an increase of 25 percent since 2006. Legislatures have been working at a similar pace, discussing how much to regulate the technology that's fueling the boom—hydraulic fracturing.

In 2013, lawmakers in 31 states have introduced more than 170 bills related to hydraulic fracturing, a process in which drillers inject a mixture of highly pressurized water, sand and chemicals into underground shale, creating fractures that release trapped natural gas. Along with other technological advances, many experts believe hydraulic fracturing could make America energy independent by 2020 and supply the country with relatively cheap, clean energy for the next 90 years.

The natural gas boom has produced a recession-fighting financial windfall for local and state governments in Colorado, Louisiana, North Dakota, Oklahoma, Texas, Wyoming, among others, in the form of jobs, sales and severance tax revenue, lower gas prices and increased industrial activity.

But the fast-growing practice of hydraulic fracturing also has seen stiff opposition. Homeowners in some suburban communities are concerned about the 24-hour activity, noise, odors and infrastructure damage drilling operations can cause, as well as their water consumption. Some

environmentalists say hydraulic fracturing pollutes water and air with hazardous chemicals, endangering public health.

They cite a 2011 Environmental Protection Agency study of water in heavily drilled Pavillion, Wyo., where residents complained of brown, foul-smelling water. The EPA said the groundwater contained compounds “likely associated with gas production practices, including hydraulic fracturing,” and urged further study. Some have disputed the study, however, and the scientific peer review of the draft report has been delayed.

Gas industry officials and others, including a number of government leaders, claim fears about hydraulic fracturing are

overblown, and that charges against hydraulic fracturing are often untrue. They cite a February 2012 report by the University of Texas at Austin that found many water contamination problems blamed on the deep-underground injection of hydraulic fracturing fluids in fact had other causes, such as “well casing failures or poor cement jobs.” Generally, contamination “can be traced to above ground spills or other mishandling of wastewater produced from shale gas drilling rather than from hydraulic fracturing,” according to a UT Austin news release.

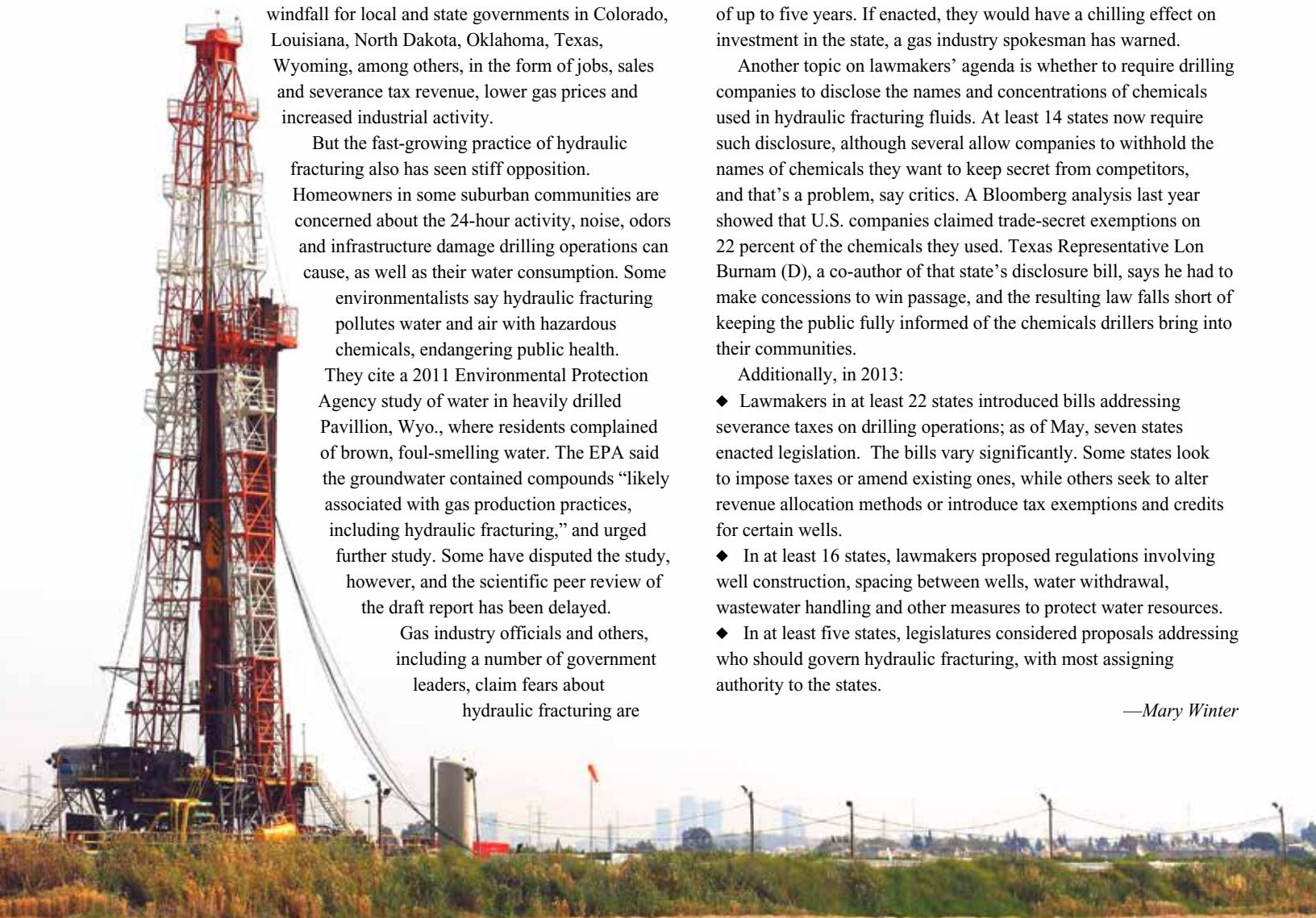
Lawmakers are busy sorting through the evidence. In New York and Vermont, they’ve passed temporary bans on hydraulic fracturing as they study its impacts on health and the environment. Similar legislation is under consideration in at least eight states, including California, where three bills introduced in 2013 carry bans of up to five years. If enacted, they would have a chilling effect on investment in the state, a gas industry spokesman has warned.

Another topic on lawmakers’ agenda is whether to require drilling companies to disclose the names and concentrations of chemicals used in hydraulic fracturing fluids. At least 14 states now require such disclosure, although several allow companies to withhold the names of chemicals they want to keep secret from competitors, and that’s a problem, say critics. A Bloomberg analysis last year showed that U.S. companies claimed trade-secret exemptions on 22 percent of the chemicals they used. Texas Representative Lon Burnam (D), a co-author of that state’s disclosure bill, says he had to make concessions to win passage, and the resulting law falls short of keeping the public fully informed of the chemicals drillers bring into their communities.

Additionally, in 2013:

- ◆ Lawmakers in at least 22 states introduced bills addressing severance taxes on drilling operations; as of May, seven states enacted legislation. The bills vary significantly. Some states look to impose taxes or amend existing ones, while others seek to alter revenue allocation methods or introduce tax exemptions and credits for certain wells.
- ◆ In at least 16 states, lawmakers proposed regulations involving well construction, spacing between wells, water withdrawal, wastewater handling and other measures to protect water resources.
- ◆ In at least five states, legislatures considered proposals addressing who should govern hydraulic fracturing, with most assigning authority to the states.

—Mary Winter







Summer is the busiest time for U.S. home sales, and sellers are expecting an especially brisk season this year. The economy is emerging from the Great Recession, pent-up demand is driving strong sales in several markets, and consumer confidence shows steady improvement.

**40%**

Share of people who say it's a good time to sell a house, compared to 16 percent in May 2012

**\$271,600**

Median price of a new home in April

**10.9%**

Rise in U.S. home prices in March over a year ago, the most since April 2006

**35.4%**

Percentage of U.S. households that rent, up from 34.2 percent in 2009

**7.4%**

U.S. rental vacancy rate in 2011, down from 8.4 percent in 2009

**6%**

Share of U.S. "new" houses built after 2004

**19.3%**

Share of houses built before 1950

**39**

Number of metro areas where more than 10 percent of houses are new, topped by Gulfport, Miss. (16.4 percent)

Sources: U.S. Census Bureau, April 2013 report on 2009-11 U.S. housing market; April 2013 Fannie Mae Monthly National Housing Survey; The Washington Post; The Standard & Poor's/Case-Shiller 20-City Home Price Index.

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## E-Voting Overseas

**V**oting by fax and email is the latest advance in a decade-long effort to ensure ballots cast by U.S. military and other citizens living abroad are received by elections officials in time to be counted.

Numbers tell the story: In the 2008 election, more than 17,000 military and overseas ballots were disqualified because they arrived too late. In the 2010 election, a non-presidential year with a lower turnout, the figure was roughly 10,000. In total, 6 percent to 7 percent of ballots from military and overseas voters were disqualified, with the single biggest reason being that the ballots missed the deadline. (Data for 2012 aren't available.)

To fix the problem, states have moved back primary dates to ensure ballots are distributed at least 45 days before an election, posted voter information online, and let voters ask for absentee ballots via email. West Virginia tested Internet voting, but reservations persist about its security.

So far, the Internet solution with the most promise appears to be electronic transmission of ballots. Under the U.S. Military and Overseas Voter Empowerment Act of 2009, state election officials are required to send a blank ballot attached to an email to any service member who requests it. The attachment includes instructions on how to vote and a printable ballot and envelope, which voters mark with their selections and mail back to the United States. But in countries where postal service is poor or nonexistent, this isn't possible.

For those in remote places, 31 states and the District of Columbia now allow them to print their ballots, mark them by hand, then return them via fax or attached to an email. Arizona and Alaska allow voters who receive their ballots electronically to mark them with an online marking tool known as a "wizard" and return them attached to an email. Department of Defense grants are funding similar projects in several states.

Maryland enacted legislation this year to allow all voters, not just those in the military or living overseas, to use an electronic marking tool and return their ballots by mail, email or fax.

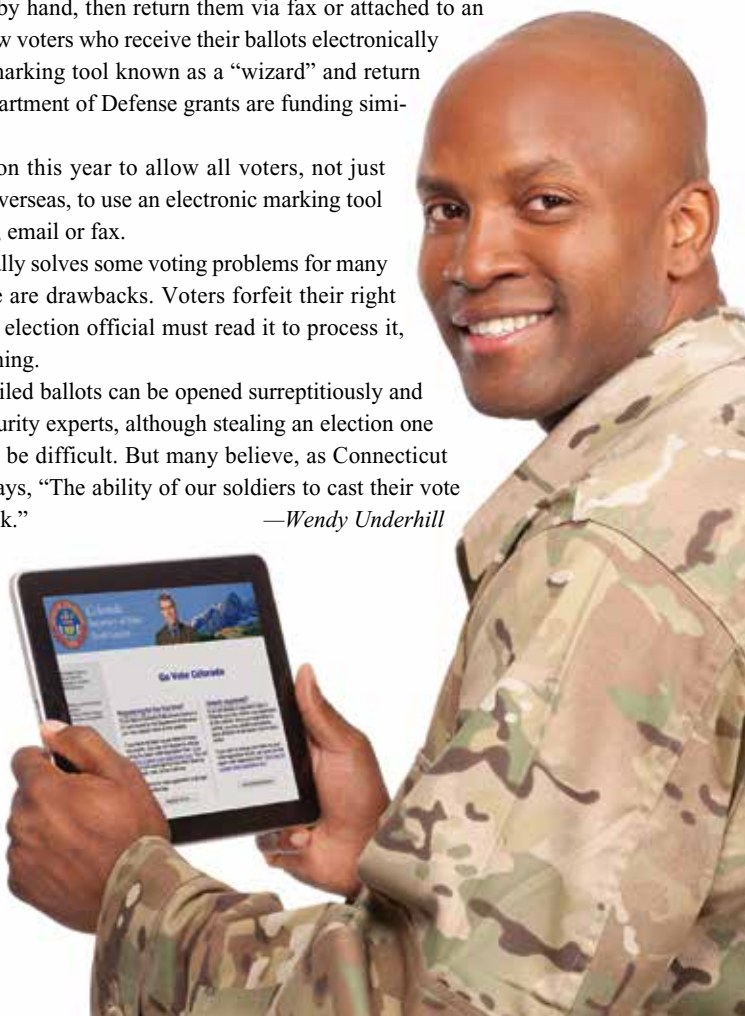
Returning ballots electronically solves some voting problems for many far-flung Americans, but there are drawbacks. Voters forfeit their right to a secret ballot, since a local election official must read it to process it, which is also very time-consuming.

Another concern is that emailed ballots can be opened surreptitiously and altered (hacked), say cyber security experts, although stealing an election one emailed ballot at a time would be difficult. But many believe, as Connecticut Senator Gayle Slossberg (D) says, "The ability of our soldiers to cast their vote far outweighs the minuscule risk."

—Wendy Underhill

### ONLINE

For more on electronic transmission of ballots, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine).



MADE IN AMERICA

# Nuclear Energy Produces Thousands of Jobs



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

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

Worldwide, more than 200 nuclear energy projects are in the licensing and advanced planning stage, with 63 reactors under construction. This means more demand for U.S. nuclear energy expertise and components for the \$740 billion global market over the next 10 years.

With demand for electricity also growing here in the United States, the nuclear energy industry will create tens of thousands of jobs for American workers while providing global customers with the safest technology in the marketplace.



NUCLEAR ENERGY INSTITUTE

Nuclear. Clean Air Energy.



[nei.org/jobs](http://nei.org/jobs)



# Where States Stand on Whether to Expand

**P**rojecting how many states will expand Medicaid eligibility beginning next year is like trying to hit a moving target. As of July 5, 22 states appear ready to expand. Another 23 states have announced they will not expand eligibility at this time. Two states are implementing or exploring alternatives, and three remain undecided.

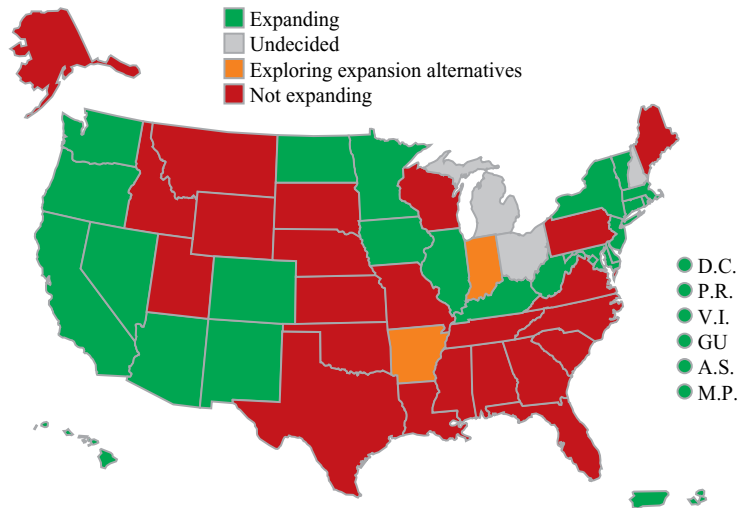
The Affordable Care Act of 2010 originally required states to expand Medicaid by Jan. 1, 2014, to people with family incomes at or below 133 percent of the federal poverty level. However, the Supreme Court ruled in June 2012 that the federal government could not force states to expand. According to the Centers for Medicare and Medicaid Services, states are no longer bound by a deadline, and those that choose to expand can drop that coverage later.

The Affordable Care Act provides 100 percent federal matching funds for the newly eligible Medicaid beneficiaries from Jan. 1, 2014, through Dec. 31, 2016. After that, funding gradually decreases to 90 percent in 2020. Many of the health care discussions in legislatures this session centered around this Medicaid issue.

—Melissa Hans

—Melissa Hansen

## Medicaid Expansion



Note: Wisconsin might expand Medicaid, but not under the ACA regulations.

Sources: NCSL and the Centers for Medicare and Medicaid Services, July 1, 2013.

# Pay Now or Pay Later

**M**edia reports of cyber attacks tend to focus on high-profile federal agencies and corporations, but hackers also prey on state governments, as the breach of South Carolina's Department of Revenue database last fall demonstrated.

Stolen were nearly 3.6 million Social Security numbers and nearly 400,000 credit/debit card numbers, affecting more than three-quarters of South Carolina's 4.6 million residents. So far, the attack has cost the state \$20 million for credit monitoring, security upgrades and consultants.

South Carolina's experience is a grim reminder of why robust cyber security has become so critical. Yet only 24 percent of state chief information officers said they were "very confident" their networks were adequately protected against external cyber threats in a 2012 survey by the National Association of State Chief Information Officers and Deloitte professional services.

This year, lawmakers in at least 17 states, including South Carolina, have introduced legislation to beef up computer security. The

South Carolina measure would overhaul the state's existing system with a new division of information security within the Division of Information Security to set and oversee state standards. The bill would authorize free credit checks for residents for 10 years to help thwart identity theft and create a permanent nine-member committee to continually evaluate state cyber security laws.

Bills in Hawaii, Kentucky, Michigan, Minnesota and South Carolina call for mandatory reviews of state cyber security systems and vulnerabilities. Measures in Hawaii, Michigan and South Carolina would create councils or other authorities to review existing cyber security measures, and newly enacted legislation in Texas, sponsored by Senator Leticia Van de Putte (D), creates a “cyber security coordinator” position with statewide authority.

Proposals in other states address how to best report and handle security breaches. A new Maryland law improves security procedures and practices and protects against unauthorized use of personal information. Legislation that would let public agencies decide whether to

disclose records of cyber attacks or threats was introduced in Arizona and recently passed in Kansas.

Training is another area lawmakers are considering. South Carolina's system was breached when a state employee, unaware of the potential risk, clicked on an embedded link in an email, allowing malware to invade his computer and obtain his username and password. Armed with this key information, the hacker went on to steal data throughout the entire database. Legislation in at least five states, including Alabama, Florida, South Carolina, Texas and Vermont, would support training for employees on how to spot and avoid suspicious cyber activity.

The need for better cyber security will only grow as mobile applications and cloud computing expand states' electronic banks of private data. Security will be expensive and will demand an unprecedented level of cooperation and information sharing among state, federal, and private security experts. But as South Carolina learned, it can be expensive not to have enough security.

—Cassandra Kirsch

—*Cassandra Kirsch*



## 1 KANSAS KEEPS IT CORKED

Kansas Senator Julia Lynn's (R) bill to allow liquor in the Capitol died in the Senate, in part because some feared it might lead to overconsumption.

But she still believes it would have been a good way to show off the beautifully remodeled Capitol. "We spent \$300 million renovating our Statehouse, and it's spectacular," Lynn says. "Why on earth wouldn't we allow community groups to use it and showcase the work of our Kansas artists and artisans?" The bill would have allowed residents to rent out the revamped Capitol in Topeka for public events that included liquor sales. Lynn, who said Governor Sam Brownback wanted the measure in place for the grand celebration of the renovation next year, argued that issuance of liquor permits would have been "very controlled" under her bill. "This was not about allowing lawmakers to keep flasks in their drawers," she said.



## 2 MUGGED

As if being arrested wouldn't be nightmarish enough, imagine finding your police mug shot on the Internet, along with details of your alleged crime, for millions to see. It's happened to thousands of Americans, thanks to commercial websites that post the painful portraits. And if you're innocent of the crime, or charges are dropped? The websites will remove your photo—for fees ranging from \$98 to \$1,000. Some state legislatures are trying to curb the practice. Georgia Representative Roger Bruce (D), calling it "extortion," pushed for a new law that makes it illegal for companies to charge to remove a photo if the arrested person is found innocent, if the charges are dropped or in other instances. Oregon's law is similar. In Utah, it's illegal to publish a mugshot and charge for its removal, regardless of the subject's guilt or innocence.

## 3 GED 2.0

States have been administering the GED (General Education Development exam) since the end of World War II, when the pencil-and-paper test was developed to help returning veterans. But change is coming: Next year, a revamped GED will be offered only in electronic form and for \$120 per test, double its current price. Some states that subsidize part or all of the expense of the tests are shopping for cheaper alternatives. Montana, New Hampshire and New York are switching to a new exam, and several other states are exploring offering more than one test. Randy Trask, head of the GED Testing Service, said the computerized exam will be cheaper for states to administer and will give test-takers details about what skills they need to improve. More important, he said, the new version is in sync with the tougher math and reading standards states have adopted.



## 4 TREAD ON ME

Humans are not designed to sit for eight hours a day, as many American workers do, says Oregon Representative Jim Thompson (R). "There's pretty good evidence sitting all day is bad for your health," he says, referring to studies linking inactivity with heart disease, obesity, high blood pressure and diabetes. That's why Thompson's a fan of treadmill desks—office desks with a treadmill built in so people can walk and work at the same time. A bill he's introduced calls for spending \$50,000 on a pilot project to test them at the Capitol. Users would keep track of their blood pressure and other health readings over two years. Treadmill desks cost about \$500, which Thompson argues is a relatively small price to pay for improved health. Critics are taking bets on how long it will be before they're used mainly as a place to hang ironing.

## 5

### HOME FOR THE HOMELESS

A shuttered prison in rural southeastern Colorado will become a substance-abuse treatment center and shelter for the urban homeless under a bill that recently won approval. Governor John

Hickenlooper (D) pushed for the plan, which has a first-year budget of \$2.78 million and will target a population the governor told the Denver Post is "the hardest to turn around." The proposal to repurpose the historic Fort Lyon facility will create some 50 jobs, but wasn't without controversy. Lawmakers on both sides complained the bill sneaked in through the back door—initially dying in Senate Appropriations, only to be amended to another bill. Opponents argued transitional housing doesn't get at the root of the homeless problem.



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## CAN'T HURT TO ASK

Idaho lawmakers are asking the federal government to turn over 16 million acres of public land inside its borders now managed by the U.S. Forest Service and Bureau of Land Management. Supporters of the formal resolution argued the state could create jobs and protect the land better from wildfires and pine beetles. Senator Michelle Stennett (D), an opponent, questioned whether the state could afford to police so much land. But Senator Jeff Siddoway (R) said the United States had promised Idaho at the time of statehood that the federal government would sell any land it held and return 5 percent of the proceeds. The resolution states that Idaho gave vast tracts to the government with that understanding—which, Siddoway said, has been breached.

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## BOOSTING VETERANS

At least 11 state governments are helping U.S. military veterans who own businesses by sending work their way. In Arkansas, for example, state agencies are instructed to spend 5 percent of their construction and goods-and-services budgets each year with companies owned by disabled veterans. Maryland also grants contract advantages to veterans. Legislators see such preferences as a tool to help reintegrate service men and women into state economies.



8

## CLOSED FOR THE SEQUESTER

Visitors to state and national parks this summer are feeling the effects of \$150 million in federal sequestration cuts and tight state budgets. Trash cans and bathrooms aren't so tidy. Lines are longer. Hours are shorter. Visitors' centers, trails and historic buildings are temporarily shuttered. Making things worse, the cuts have had a domino effect in places. At Kentucky's Mammoth Cave National Park, for example, 11 seasonal tour-guide jobs were left vacant to help offset a \$324,000 budget trim. But that meant suspending 600 cave tours, amounting to 28,000 fewer visitors than normal, and a big drop in revenue. "It's actually kind of a double whammy because it also means we don't collect about \$300,000 in fees," Park Superintendent Sarah Craighead told National Parks Traveler. "That's where most of our funding is in the summer."



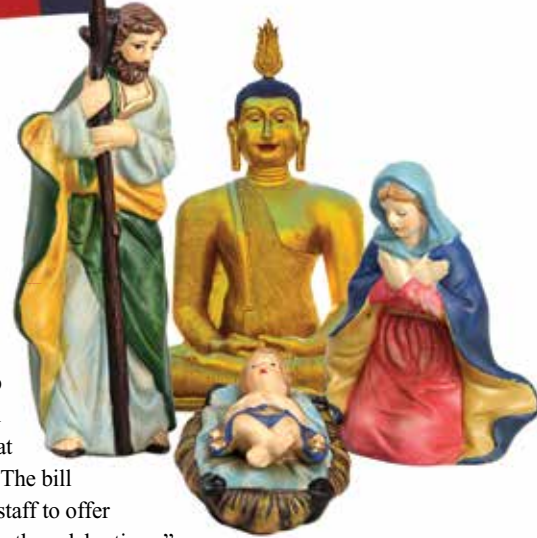
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## MERRY FIRST AMENDMENT

Texas lawmakers got a jump on the winter holiday season this spring with a measure that addresses yuletide greetings. The bill allows "students and district staff to offer traditional greetings regarding the celebrations."

Among the salutations to be allowed, without fear of lawsuits, are "Merry Christmas," "Happy Hanukkah" and "Happy Holidays." Bill sponsor Representative Dwayne Bohac (R) says he came up with the idea after his 6-year-old son told him his class had decorated a holiday tree with holiday decorations. "I was a little bit flabbergasted and a little bit upset that we've become so politically correct that we can't call a federal holiday by its name," Bohac told KTBC-TV in Austin. The "Merry Christmas Bill" allows schools to display Christmas trees, nativity scenes and menorahs during the holiday season as long as they represent more than one religion or include secular symbols.



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## POT OR NOT

A bill in Florida this session to allow medical marijuana never got a hearing. That's not unusual. But a recent poll there showed 70 percent of

likely voters in Florida favor legalizing medical marijuana. With almost a third of Florida residents aging baby boomers—currently 49- to 67-year-olds—alternative treatments for aches and pains are gaining in popularity. Florida lawmakers did pass a ban on certain smoking pipes in the Sunshine State. Currently, 18 states allow marijuana for medical purposes. And Colorado and Washington allow small amounts for personal, recreational use.

# States vs. Feds

The growing schism between states and the federal government makes for a difficult and deteriorating relationship, with a few exceptions.

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BY CARL TUBBESING

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**T**he challenges facing state officials as they deal with the federal government are enough to make them nostalgic for the good old days of unfunded mandates and preemption. As pernicious as these phenomena were—and still are—they were easily explained, and their effects on state flexibility and innovation were easily understood.

## Cracks in the Federal System

The current tensions in the federal system are more nuanced and resistant to solution than they were only a decade or so ago. And the prospects for any long-term improvement in the states' relations with the federal government are downright discouraging. That's the gloomy assessment offered by all four federalism experts interviewed for this article.

The bright spot in their analyses is that states continue to be policy activists and innovators, sometimes even in defiance of federal law, demonstrating the resilience and vitality of the federal system, even in a time of great tension.

Five recent developments present significant challenges for state officials in achieving a healthy partnership with the national government.

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*Carl Tubbesing, a frequent contributor to State Legislatures throughout his 35-year career with NCSL, continues writing in retirement. He joined NCSL shortly after its formation in 1975 and served 11 years in its Denver office before becoming director of NCSL's Washington, D.C., office where he managed state-federal activities. He was deputy executive director of NCSL when he retired in 2010. Tubbesing holds a Ph.D. in political science from Washington University in St. Louis and now lives in Maine, where he serves on several volunteer boards and enjoys the "prototypical retirement activities" of gardening, golf and bird watching.*

## 1. Reauthorization of Federal Laws

Historically, most federal laws have come with an expiration date. In order for them to remain in place, they must receive congressional reauthorization, or at least be amended or extended for the short term. The reauthorization process, however, has been one of the casualties of the near-paralysis that characterizes much of the activity in Washington, D.C., these days. In fact, some major laws have never been reauthorized and others haven't been for decades. The Clean Air Act was last amended in 1990, the Safe Drinking Water Act in 1996. The Temporary Assistance for Needy Families was reauthorized in 2005, but has existed on a series of short-term extensions ever since. Both the Workforce Investment Act of 1998 and the No Child Left Behind education act of 2001, have never been reauthorized. This failure to act places uncertainty on the laws' futures that not only inhibits states' abilities to plan ahead and implement the laws, but also to improve them.

George Mason University's Paul Posner notes that when the reauthorization process works, states' experiences with implementing the law can provide important insight into how to improve it. But the current breakdown in the reauthorization process, says Michael Bird, former senior federal affairs counsel for NCSL, prevents state legislators from working with Congress to fix problems in the laws.

John Kincaid from Lafayette College and Florida State's Carol Weissert point out a sobering reality: Even when Congress does reauthorize a law, it seldom listens to state officials. "Years ago," Weissert says, "there was much more deference to state legislators and governors." She points to a study by political scientist Kevin Esterling that showed during Medicaid hearings in the U.S. House, members of Congress were more likely to favor the testimony of industry, trade associations and think tanks over that of state officials.





## 2. Waiver Authority

States may apply for waivers from certain provisions in many federal laws. One theory behind the concept is that it saves Congress from writing even more detail into legislation, and it allows the executive branch to accommodate differences among states. Waivers can also be used to encourage a specific state action. In fact, waivers have become a prominent focal point in state-federal relations. President George W. Bush and his Education Department, for example, used waivers to encourage states to comply with the No Child Left Behind law. Likewise, waivers have been an essential tool in negotiations between the Obama administration and state governors over the Affordable Care Act.

Posner views the increased use of waivers as a presidential reaction to congressional inaction. By making accommodations and improvements to laws on a state-by-state basis, “waivers have become the functional equivalent of reauthorizations,” he says. The word Weissert likes to use to describe today’s waiver-filled federal system is “bargaining.”

“Things are negotiable,” she says. And although waivers provide legislators and governors with a certain degree of flexibility, Weissert questions whether there is enough transparency in the granting of waivers and whether states are treated equitably.

## 3. Competitive Grants

First used by the national government as long ago as the mid-1960s, competitive grants are awarded to states at the discretion of federal agencies based on criteria or standards established by law or regulation. The Obama administration has been particularly enamored with them. The president used competitive grants in the American Recovery and Reinvestment Act for high-speed rail and other transportation projects as well as broadband deployment. And the president’s most recent budget offering includes several new competitive grants, including ones to encourage energy efficiency and preschool improvements.

But by almost any measure, Obama’s Race to the Top initiative, also included in the economic stimulus law approved in 2009, has been the most successful ever at achieving dramatic state policy changes. What has set Race to the Top apart is the huge pot of money—\$4.35 billion—available for the grants and the way it has brought

## THE EXPERTS



John Kincaid is director of the Meyner Center for the Study of State and Local Government and professor of government and public service at Lafayette College in Pennsylvania. Kincaid served on the staff of the U.S. Advisory Commission on Intergovernmental Relations for eight years and was the executive director from 1988 to 1994. He has written numerous books and articles on federalism and federal systems, and was the editor of *Publius: The Journal of Federalism* for 25 years.



Paul Posner is director of the public administration program at George Mason University and a former president of the American Society of Public Administration. He led the budget and public finance work at the U.S. Government Accountability Office for 14 years, wrote “The Politics of Unfunded Mandates” and many articles on public budgeting and federalism, and has worked with senior budget leaders of advanced nations through the Organization for Economic Cooperation and Development.



Carol Weissert is professor of political science and director of the LeRoy Collins Institute for Public Policy at Florida State University and is the editor of *Publius*. Her early career included three years at the National Legislative Conference (one of the organizations that merged to form NCSL) and positions at the U.S. Advisory Commission on Intergovernmental Relations and the National Governors Association. She has been a professor of political science and director of the Institute for Public Policy and Social Research at Michigan State University and has written many books and articles on federalism and public policy, particularly health policy.



Michael Bird began his service to state legislatures in 1970 as an intern in the Illinois General Assembly, followed by a stint with the Program for Legislative Improvement, working on projects to modernize the Colorado and Arizona legislatures. After working on a similar project with the U.S. Virgin Islands Legislature, he directed the fiscal staff of the Oklahoma Senate. He joined NCSL in 1985 as a member of the state-federal relations team in Washington, D.C. As NCSL’s senior federal affairs counsel, Bird coordinated lobbying activities and was the liaison to congressional leadership offices and the White House. Bird retired from NCSL in May 2013.



about reforms in state education laws, among both the states that won and those that didn't.

Posner believes competitive grants represent "a resurgence of creative federalism" that began in the Lyndon Johnson years. His argument is that they "drive a lot of change," while accommodating differences among the states. Besides, he says, they're voluntary, states don't have to participate.

Critics argue there's something wrong with this picture. They say the motivation behind competitive grants is upside down. Traditionally, states have served as the "laboratories of democracy," experimenting with solutions to difficult challenges, refining and shaping them to differing circumstances, state by state. Often this process results in action by the federal government, argues Posner, but not until a significant number of states have acted—not until the issue is "finally ripe for solution" at the national level, he says.

Competitive grants represent top-down—and often coercive—federalism, which Kincaid argues has been the dominant feature of state-federal relations since the late 1960s. Although states may not have to apply for the grants, Kincaid says the amount of money involved, especially when states are so strapped for funds, makes them very hard to resist.

#### 4. Institutional Connections

Michael Bird's Washington career began in the latter half of Ronald Reagan's presidency, when the Advisory Commission on Intergovernmental Relations (ACIR) was a vital forum for discussion and research among state, federal and local officials. At that time, the U.S. House and Senate had full, standing committees devoted to intergovernmental issues. The White House intergovernmental staffs had clout in administration policy deliberations. Several federal agencies, including the Census Bureau and the Office of Management and Budget, produced invaluable information and analysis on state and federal fiscal matters.

When Bird retired in May, the advisory commission had long since been dismantled, the congressional committees were gone, the role of White House intergovernmental staff had been diminished and intergovernmental fiscal reports were no longer produced.

For Bird, the demise of these forums is symbolic of the cracks in the federal system. Cracks that affect how state, local and federal officials communicate and work with one another to craft solutions to common problems.

Weissert, whose early career included seven years at ACIR, maintains that the disappearance of these kinds of institutions is "one of the really bad things" that has happened over the past several years and particularly laments the loss of intergovernmental research.

"ACIR was created and was successful at a unique time, when political parties were not so polarized and could work together in settings like that," says Kincaid, who directed the commission for eight years. He says he has no expectation that it or any of these forums will ever be revived.



#### 5. A Political Disconnect

About half the members of Congress once served in their state legislatures, making them obvious potential state cheerleaders. For more than three decades, NCSL staff have cultivated relationships with these lawmakers in their work for states. They have sought them out to sponsor key amendments. They have encouraged state legislators to bring these former colleagues back to the state capitol to remind them of their roots. They have heard them say, "You don't have to worry about me on this. I came from a legislature, you know."

That connection, though still a factor, may be disintegrating. Weissert has studied the bills that former state legislators introduce in Congress and has concluded that while federal lawmakers may recognize the role of states in the legislation they introduce, the bills are not necessarily "state-friendly." Similarly, Posner's analysis of votes on unfunded mandates showed that having served in state or local office had no effect on how members voted.

Bird recalls a prime example of that. The first vote cast by a former NCSL president was against an NCSL policy position. Posner relates an analogous story involving a former chairman of the National Governors Association. "Federalism isn't animating discussions any longer," Posner argues. "Even states' champions aren't necessarily their champions anymore."

How has this happened? Weissert and Posner point to partisanship and private interests. "There is just so much more partisanship at both levels," Weissert says. That, along with "private interests," have eclipsed the states' role, says Posner.

Kincaid argues that so much of this has to do with elections. The way congressional districts are drawn, the kind of candidates who win primary elections and the need to raise large amounts of money all work to devalue state experience and interests as influences over congressional behavior. It is also very difficult for polarized state officials to come to consensus on federal matters. Posner, for example, points out that the National Gover-



nors Association, once a power in negotiations over almost all domestic policy matters, has had to sit out the work on such major recent legislation as health care, immigration reform and No Child Left Behind, because its members have been unable to find common ground on the issues.

### The Bright Spots

Despite these cracks in the federal system, experts believe state officials are, and will continue to be, effective players in shaping public policy. Here are three reasons why.

#### States have great influence in implementing federal laws.

A popular belief is that states have become nothing more than branch managers for the federal government, implying that they do little more than administer laws passed by Congress. Not so, Weissert says. It's when state and federal officials get down to the business of making federal laws work that they have their greatest influence, she says.

Kincaid concurs. He believes the level of cooperation required at the implementation stage, when state and federal officials must work together, is a positive contrast from the coercive way the federal government usually treats the states.

Posner and Bird say the partnership works well when the federal government needs the states—a phenomenon Posner describes as an “episodic attachment to federalism” and Bird characterizes as “convenient federalism.” Posner notes, for example, that the federal government had to rely on the states when it did not have sufficient resources to administer the 2009 recovery act, thereby giving states leverage over how many of the law's many elements to carry out.

Although states are weaker than they once were in shaping legislation as it moves through Congress, Posner argues they have plenty of influence through the back-door—through the waiver process and other state-by-state negotiations—and their

influence is greatest during the early stages of implementing a new law. Weissert points to the separate deals that governors are making over Medicaid expansions as part of the health reform act as a prime example of this back-door influence.

#### States are as innovative as ever.

A willingness to tackle tough issues is the stuff of New York Times headlines: “Connecticut Deal on Gun Control May Be Nation's Most Sweeping.” “Arkansas Adopts Restrictive Abortion Law.” “States Shifting Aid for Schools to the Families.” Gun control, abortion, charter schools, immigration, elections, climate change and marijuana are among the nation's most intransigent and controversial issues. Yet, state legislatures and governors take them on session after session. Posner asserts “state policymaking is as fertile as ever.”

Many of the areas in states' current policy activism are “morality issues” the federal government finds almost impossible to handle, Weissert says. Current state action has been facilitated by the fact that, in an unprecedented number of states, one party controls both the legislature and the governorship, making controversial issues easier to resolve.

#### Sometimes states take the ball and go home.

State legislators are finding leverage, too, by refusing to abide by federal directives. Passage of the REAL ID Act in 2005 provoked large scale “civil disobedience” among state legislators and governors. The result? Only 19 states have been deemed in compliance with the law. When states refuse to comply with REAL ID, carve out exceptions to No Child Left Behind, reject high speed rail funds or refuse to expand Medicaid, Posner says they are demonstrating a “resistance impulse.”

Other state legislatures are engaging in “de facto nullification,” Kincaid believes, by passing state laws in defiance of federal law. Nullification is a legal theory that says state lawmakers have the right to invalidate any federal law they view as unconstitutional. In some areas, such as restricting abortions and legalizing marijuana, Kincaid says states are nullifying federal law, state by state.

### Systemic Challenges

The resiliency and vitality that states have demonstrated in the federal system for more than two centuries are undergoing an especially critical test. In the recent past, when unfunded mandates and preemption placed strains on the system, state legislators looked for solutions in legislation—the Unfunded Mandate Reform Act—and in presidential directive—the Federalism Executive Order.

The causes of the current tensions, experts agree, are systemic: namely, extreme partisanship and polarization and the federal government's structural fiscal woes. These challenges are not susceptible to legislative or regulatory fixes.

The cracks in the federal system, in other words, are deep and may be widening for quite some time.

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# Where is the state-federal relationship headed?

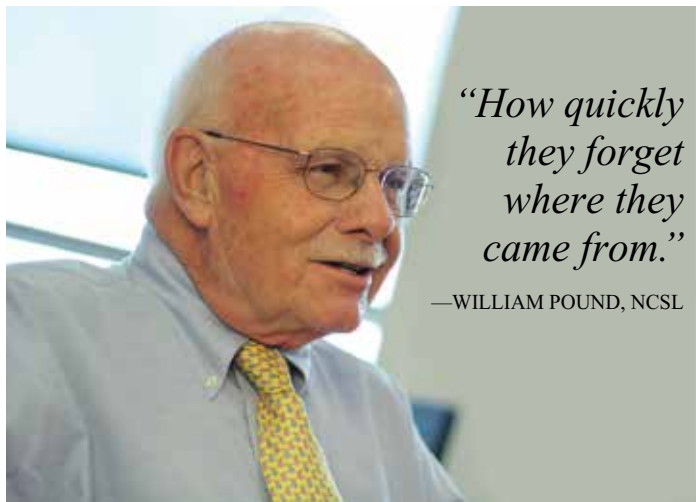
**W**illiam T. Pound, executive director of NCSL, and Sue Urahn, executive vice president of The Pew Charitable Trusts, shared these insights on the states' evolving relationship with the federal government at a recent NCSL meeting for legislative fiscal leaders.

**State Legislatures:** How has the state-federal relationship changed in the past 25 years?

**William Pound:** There were a lot more federal-state initiatives 25 years ago. You saw the creation of the Environmental Protection Agency and welfare programs with significant cooperation between federal and state governments. Congress has increased funding for more programs and services, but also has used matching funds or partial funding to get states to achieve its goals, and that has strained the state-federal relationship. In the wake of the Great Recession, there is also more uncertainty about federal policy. State legislators wonder if the rules of the game may change in a couple of years. The federal government may promise it will cover the costs of some programs, but as it tries to rein in spending, state lawmakers wonder if that promise will hold. If there is a bag out there, who is going to be left holding it?

**SL:** Do you still see states as “laboratories of democracy?”

**Sue Urahn:** I wouldn't underestimate the willingness of states to innovate in times of uncertainty. If you look at immigration or Medicaid or how states are finding ways to control costs, there are a lot of interesting strategies happening in the states. States also face balanced-budget requirements, which Washington doesn't, so state lawmakers are going about resolving their problems in really thoughtful ways. The other certainty lies in demographics. The 2010 Census found 13 percent of the population over the age of 65. Some states are going to have an easier time than others. But each state will have to face the realities of an aging population.



*“State lawmakers are going about resolving their problems in really thoughtful ways.”*

—SUE URAHN,

THE PEW CHARITABLE TRUSTS



**SL:** With 50 percent of the members of Congress and many high-level federal officials with state governing experience, why is the state-federal relationship so strained?

**Pound:** Politics. How quickly they forget where they came from. One problem is that everyone wants to make the decisions, which creates clashes. And as our politics and institutions become more politicized and partisan, compromise becomes much harder, even among state and local officials. It's clear that when different sides come together, they can be very effective. One example of this is the Main Street Fairness Act. This important piece of legislation would allow states to collect the sales taxes owed to them on remote and online sales—some \$23 billion. The legislation has brought Republicans and Democrats and state and federal legislators together.

**SL:** What do you think the relationship between Washington, D.C., and the states will be like in four years?

**Pound:** I think it will be about the same as it's been over the last six years or so. We're in a highly politicized pattern right now. As state budgets recover from the recession, I think you'll see the states reasserting themselves, but there will also be a number of permanent changes resulting from the recession. States have been challenged to take a really hard look at their budgets, and I think they've found some efficiencies that will last beyond the recovery. Financially, things will be more difficult in the future because no matter what happens in Washington, there will be some decline in domestic discretionary spending.

**Urahn:** I think over the next five to 10 years there will be some enormous shifts in the fiscal relationship between the federal government and the states. For instance, something will have to happen on the revenue side of transportation, but we don't yet know what that will be or what it will bring for the federal-state relationship. In a resource-constrained environment, which we are likely to have for a while, I think every single fiscal relationship is going to be renegotiated over the next decade. It's all going to look different than it did 30 years ago, but I don't know what it's going to look like. It will depend on the issue.

# Majority Rules?

Is the unusual Washington coalition that took control of the Senate a mere political blip or the start of a new era?

BY ROBERT MAK

In the hallways of the Washington state Capitol, some Democrats have been grumbling for months about one of their own. “What’s his deal?” they ask, making little effort to hide their animosity toward Senator Rodney Tom (D).

“Obviously, there are people who still won’t talk to me,” says Tom, acknowledging that his unorthodox path to become majority coalition leader left many of his colleagues not just perplexed, but furious.

Democrats called Tom a traitor after he and Democratic Senator Tim Sheldon turned from their caucus this year to form a coalition with Senate Republicans—a move that tipped the balance of power.

As the Washington Legislature wrestles over education funding and ongoing budget shortfalls, Olympia is still debating the significance of this unusual coalition that crosses party lines.

“There are people in the Republican Party who aren’t real excited with me either,” says Tom, who still considers himself a Democrat. He says his motivation is simply to reflect the views of his suburban district. “It’s about changing the direction of politics.”

## A Coalition Emerges

The 2012 election set the stage for Tom’s unlikely ascent. In a state colored blue on most national political maps, Democrats retained the governor’s office and easily maintained their majority in the House. They also won the Senate with a narrow three-seat lead and proceeded to elect veteran Seattle Democrat Ed Murray as majority leader.

Democrats knew their control was tenuous. Sheldon had a long history of straying from the party line. And caucus members were suspicious of Tom, who originally was elected to the House as a Republican before switching his party affiliation in 2006. As a Democrat in 2010, Tom helped craft his caucus’

*Robert Mak is a veteran journalist who has covered Washington state politics for 20 years.*



PHOTO: JONATHAN KAMINSKY

*Washington Senator Rodney Tom (D) joined forces with Senate Republicans to form the Majority Coalition and become its leader. A fiscal conservative, he believes his constituents are more concerned about his stance on government spending than his political affiliation.*

budget, but ended up voting against it, saying he couldn’t live with its tax increases.

One month before the 2013 session convened on Jan. 14, Republicans called a press conference announcing that Democrats Tom and Sheldon were joining them to form a new caucus.

With a 25-24 margin, the coalition seized power, and Senate Republicans supported Tom to be the Majority Coalition leader and Sheldon to be Senate president pro tempore. “I’m personally very happy with it,” says Senator Mike Hewitt of Walla Walla, Republican leader for the past seven years. “The leadership is from the center.”

Republicans described the change as a promising sign of bipartisanship. Democrats saw it differently, stung by the realization they had lost control, despite winning the election.

“Is it bipartisan, or is it just two guys who kind of look like,



*Senator Mike Hewitt (R) Washington*

*“I’m personally very happy with [the coalition]. The leadership is from the center.”*

— SENATOR MIKE HEWITT (R) WASHINGTON

and quack like, and waddle like Republicans?” said Senator Jeannie Darneille (D).

### The Swing Districts

Both Tom and Sheldon say the willingness of state Democrats to raise taxes is what pushed them toward the coalition. “I’m very much a Democrat. I am a social liberal, fiscal conservative,” says Tom, who made his career in real estate and investments. “The Democrats want to tax everybody. Of course, they want you to tax the other person. And the Republicans want a bunch of stuff for free.”

In delivering criticism of both parties, Tom says he’s betting that constituents are more concerned about his positions on state spending than his political affiliation. His legislative district covers several Seattle suburbs, including the high-tech corridor surrounding Microsoft and some of the state’s wealthiest communities along Lake Washington.

By contrast, Sheldon lives on the southern tip of Hood Canal in Mason County, a rural district on the edge of the Olympic National Forest. His office walls are filled with pictures of loggers, including his grandfather, an immigrant from Sweden. “He was a risk-taker,” Sheldon says with a smile.

The collapse of the logging industry left the state prison as one of the largest employers in Sheldon’s district. With unemployment hovering around 11 percent, Sheldon says his constituents have no appetite for higher taxes. Yet the Democratic Caucus, he complains, is dominated by lawmakers from the urban areas of Seattle and Tacoma. “I think they’re totally out of touch with my constituents. If you look at loggers, the forest products industry, they were primarily Democrats. Now, they’re almost entirely Republicans,” Sheldon says.

Despite offers to join the Republican Party, Sheldon has been elected nine times as a Democrat. He cites his admiration for Harry Truman and John F. Kennedy, but tensions with his caucus have grown. Sheldon supports parental consent on abortions, opposes a ban on assault weapons and backed George W. Bush for president.

During the years Democrats held a comfortable majority in the Senate, Sheldon says he was kept on the sidelines. “I was on the Transportation Committee for years,” he recalls. “When I objected to certain things ... you’re off the committee. Those kinds of punishments are not well-accepted.”

### An Opportunity Arose

As the Democrats’ margin in the Senate eroded, Sheldon knew his opportunity was coming. John Wilkerson, a political science professor at the University of Washington, says lawmakers may be emboldened to exercise growing independence from their caucuses, in part because of the state’s unconventional blanket primary. In Washington, voters are notoriously independent and in the primary, they can choose candidates from any party. The two candidates with the most votes advance to the general election, regardless of party affiliation.



Senator  
Jeannie  
Darneille (D)  
Washington

The system diminishes the role of political parties in the nominating process. In Sheldon’s case, Democrats have recruited candidates to challenge him in primaries, but Sheldon has survived with the help of some Republican voters who have crossed party lines to support him.

Meanwhile, Wilkerson says the source of campaign money is also changing the politicians’ calculations. “The money increasingly doesn’t come from the parties; it comes from other sources. So the parties have less and less ability to control their caucus,” Wilkerson says.

When Sheldon and Tom met this year with Republican leaders, Senator Joe Fain (R) was



Senator  
Joe Fain (R)  
Washington

primarily concerned about how to hold the coalition together. At Fain’s urging, all members signed a short mission statement with “budget sustainability and living within our means” at the top of the list. Notably absent was any mention of social issues that might threaten to divide the group.

Fain also insisted on a name for the caucus.

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*“Is it bipartisanship, or is it just two guys who kind of look like, and quack like, and waddle like Republicans?”*

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—SENATOR JEANNIE DARNEILLE (D)  
WASHINGTON

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*Washington Senator Tim Sheldon joined Senator Tom and the Republicans to form the new coalition and serve as president pro tem. He has been elected nine times as a Democrat, but believes the party is totally out of touch with most of his constituents.*

PHOTO: JONATHAN KAMINSKY





## Coalitions Across the Country

As a rare coalition of Republicans and Democrats took control of the Washington Senate, a somewhat similar situation was unfolding across the country in Albany, N.Y.

A group of five Democratic senators, known as the Independent Democratic Conference, joined Republicans in a power-sharing coalition. Republican Dean Skelos and Democrat Jeff Klein agreed to serve alternate weeks as the Senate's temporary president.

"Whether this will be an enduring form of government in New York State remains to be seen," says Morgan Pehme, editor-in-chief of the political newspaper *City & State*.

Under the coalition leadership, the New York Senate passed the budget, along with a new gun control law and an increase in the state minimum wage. Meanwhile, the Legislature continued to be rocked by scandals, indictments and arrests of lawmakers.

"It has been a fascinating chapter in New York State government," Pehme says. "The coalition has just been another element in that ongoing soap opera."

In some states this year, lawmakers formed alliances across party lines, but not for the actual operation of the legislature. In Hawaii, minority Republicans joined with a dissident faction of Democrats to elect Democrat Joe Souki as House speaker. With a 44-7 margin, Democrats dominate the state House, but Republicans were named vice-chairs of three committees, including the Finance Committee.

In Arkansas, the House of Representatives is controlled by Republicans, but Democrats played a key role in electing the speaker. While the selection was by secret ballot, David Ramsey, associate editor of the *Arkansas Times*, says it was widely understood that many Democrats threw their support behind Republican Davy Carter, with whom they hoped to build a better relationship.

"Structurally, I wouldn't describe it as a coalition government," says Ramsey. Democrats chaired some committees, but Republicans prevailed over much of the session's legislation, on issues ranging from abortion to voter identification, with votes falling along party lines.

In the end, Ramsey says the Democrats' role in electing the speaker may have had an impact on one big issue: Medicaid expansion. Arkansas legislators approved expanding coverage using private insurance companies in the state's health care exchange. "The general sense is, it just wouldn't have happened if Carter weren't speaker," Ramsey says.

"Not just the 'coalition,' but the 'Majority Coalition.' It's amazing how words have so much power."

The coalition took over the caucus room and other offices previously occupied by Democrats, while proposing to split leadership of committees with Democrats. All but three Democrats dismissed the offer, pointing out that Republicans would chair the most powerful committees, such as Ways and Means. "Becoming a co-chair was buying into the concept that this was something that our party agreed to and, in fact, we didn't agree to it," says Darneille, who declined to share leadership of the Human Services and Corrections Committee.

### A Classic Tax Battle

Across the rotunda, members of the Democrat-controlled House were mere spectators of the Senate drama, but they instinctively understood the potential ramifications for budget negotiations.

In a \$34 billion biennial budget, Washington has to overcome a \$1.2 billion operating shortfall, complicated by a recent state Supreme Court decision that the state is not living up to its constitutional mandate to amply fund public schools.

To generate an additional \$1.4 billion for education, House Democrats proposed extending some business taxes that were set to expire and repealing certain tax exemptions on businesses and products, such as bottled water. Republicans rebuked the Democrats for proposing tax hikes, and the Senate Majority Coalition

passed its own "no-new-taxes" budget, balanced instead by fund transfers, along with cuts to social services and state employee health care coverage.

Representative Ross Hunter, the Democrats' House budget writer, found himself in a unique spot. He's the primary negotiator with the Senate and, it so happens, Hunter is also Tom's roommate. For years, Hunter and Tom have shared a condominium during sessions as the two Democrats hail from the same district and their families live only about a mile apart.

This year, with many Democrats livid at Tom, Hunter jokes that the living arrangement made some lawmakers nervous. But Hunter still considers Tom a friend—a sign of civility in the midst of the political unrest.

"This is not Washington, D.C.," Hunter says. "We've served the same district for 10 years. If he would have corrupted me by now, or me him, you'd be able to see it."

Hunter, however, believes that his Olympia roommate is misinterpreting what constituents in their district want. "If you ask anybody, 'Do you want to have your taxes go up?' they'll say, 'No, of course not.' But when you ask people, 'You have a choice between educating children or closing a particular set of tax loopholes,' you get a different answer," Hunter says.

With the Majority Coalition insisting it would not consider any expansion of taxes, a compromise seemed elusive. As the Legislature spilled into two special sessions, the logjam was finally broken by a new economic forecast—an unexpected projection that the state would have an extra \$320 million to spend due to higher revenues and fewer cases for social services. Democrats withdrew most of their proposed tax increases, and the final compromise included just a couple less controversial tax hikes. Lawmakers made changes to the state estate tax in response to a court ruling and ended a tax break for residential phone customers in an effort to avoid legal challenges from cell phone companies.

### The Net Effect

For all the fuss over the coalition, Hunter says the net effect was that he negotiated directly with Republicans, not unlike years when the parties split control of the two chambers. "Is this





an enduring phenomenon? I don't think so," Hunter says.

He believes the coalition might have more credibility with progressives if it were to tackle issues important to them, such as gun control and college financial aid for immigrants. He cites an example where the coalition never acted on a bill House Democrats sent over on women's reproductive rights, which would have required most health insurance plans to cover abortions.

Coalition members viewed it as a distraction, outside the mission statement they had signed. "That's just the other side trying to jab this Majority Coalition," says Hewitt. Tom insists he supports the legislation, "but is it the most important thing we do this year? I don't think so."

"It's a messy world, right?" Hunter counters. "You have to deal with multiple kinds of issues. You can't say the only thing the Legislature does is the budget."


### Back to the Ballot Box

As lawmakers fought the budget battle in Olympia, Democratic activists turned their attention to the ballot box. They censured Tom and Sheldon, accused them of "gross disloyalty" and pledged to withhold any future support.

There are websites, Facebook pages, even bobble heads depicting "King Tom" in a crown and robe. "Help us regain the state Senate majority that Rodney Tom stole from us," wrote state Democratic Party Chairman Dwight Pelz in one of many fundraising emails.

As he begins fundraising for next year, Tom expects his suburban legislative race could set state records, costing each side more than \$1 million. Democrats are eager to oust Tom in the primary, but Tom isn't counting on Republicans to come to his rescue. After all, he does have a "D" behind his name.

Tom believes that, as long as he plays a pivotal role in the Senate's balance of power, there will be donors who support his political path. "I think I really do represent the district, so from that angle, I push forward," he says.

How Tom fares will likely frame how history portrays his strategy and the coalition. Sheldon, who has withstood election challenges from fellow Democrats, offers some advice. "You get a lot of mileage today by running against the party," Sheldon says. "People just don't trust politicians and they certainly don't trust parties." 

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# Two States, Same Challenge

Lawmakers in Colorado and Connecticut made tough calls in the wake of mass shootings.

BY LYNN BARTELS

America's divide over gun ownership rights and regulations is not new, but rarely has the debate been so emotional. In the wake of the mass shootings in Colorado and Connecticut in 2012, state legislatures have looked at hundreds of proposals pushed by both sides: from arming schoolteachers and nullifying federal firearms restrictions, for example, to banning high-capacity weapons and holding firearms manufacturers liable for shootings.

Legislators have introduced roughly 2,356 gun bills since shortly after the Newtown, Conn., shootings in which 20 children and six adults were killed in December 2012. In April, an analysis of about 1,500 of the bills by the Sunlight Foundation, which monitors transparency in government, found them to be about evenly split between weakening or strengthening gun restrictions. Last year, only 35 percent of gun bills would have strengthened regulations, according to the Law Center to Prevent Gun Violence.

As of mid-June, approximately 202 of the 2,356 gun-related bills had become law, according to NCSL research. They run the gamut, from New York's limit of seven bullets per magazine to Arkansas' Church Protection Act, giving places of worship the authority to allow guns on their premises.

## Lawmakers Respond

Lawmakers in Connecticut and Colorado were forced into addressing gun laws following the movie theater shooting that killed 12 people and injured 58 in Aurora, Colo., in July, and the tragedy at Sandy Hook Elementary School five months later.

Both states passed greater restrictions on guns, but the route each legislature took and the opposition the legislation faced varied greatly, even though both states have Democratic governors and Democratic-controlled legislatures.

Connecticut legislators made sweeping changes in a single bill that many consider one of the strictest in the nation. Among its provisions are an expanded assault weapons ban, a restriction on high-capacity magazines and registration for the purchase of ammunition and all guns.

*Lynn Bartels covers the Colorado General Assembly for the Denver Post.*

Colorado legislators passed five new guns laws. They're tamer than Connecticut's, but for a Western state, where gun ownership is high and where guns have long been used to hunt and protect property, their passage surprised many. Colorado's new laws limit ammunition magazines to 15 rounds, institute universal background checks for the sale and transfer of weapons, and require gun buyers to pay for background checks, among other things.

Legislative chambers in both states became stages for the national debate. Hearings drew unprecedented crowds, mostly those opposed to any kind of restriction on the right to bear arms. Gun control advocates argued back with facts and figures: 85 Americans die daily from guns—53 of them suicides—a rate that far exceeds most other developed countries.

Supporters of tougher gun laws call them common-sense reforms. "They ensure that law-abiding citizens have full access to guns for all lawful purposes but that criminals do not," says Colorado Senate Majority Leader Morgan Carroll (D). "Weapons in the hands of criminals or the dangerously mentally ill hurt our communities and take away the rights of other citizens to live."

Second Amendment activists viewed the 2012 shootings as evidence the country needs more guns. Had more people been armed in Sandy Hook Elementary School or the Aurora theater, they argued, the killers likely would have been gunned down, either preventing the massacres or at least limiting the carnage. The Newtown and Aurora killers specifically chose a school and a theater because they knew the occupants would be unarmed, many argued.

"It's obvious you're safer when law-abiding people have guns," says Colorado Senator Greg Brophy (R). "Even our sheriffs said the new laws won't make anyone safer."



Senator  
Greg Brophy (R)  
Colorado



House Minority  
Leader Larry  
Cafero (R)  
Connecticut

## What the Laws Do

### Connecticut's new gun law:

- ◆ Expands the assault weapons ban
- ◆ Prohibits high-capacity magazines
- ◆ Requires background checks on all firearms sales
- ◆ Mandates registration to purchase ammunition and all guns
- ◆ Increases funding for security and mental health treatment.

### Colorado's five new guns laws:

- ◆ Limit ammunition magazines to 15 rounds
- ◆ Mandate universal background checks on the sale and transfer of weapons
- ◆ Require gun buyers to pay for background checks
- ◆ Ban certain domestic violence offenders from owning guns
- ◆ Require applicants for concealed-carry permits to demonstrate their competence with a gun in the presence of a certified instructor.

## Cooperation in Connecticut

Connecticut's gun bill had strong bipartisan support, including the backing of Senate Minority Leader John McKinney (R), whose district includes Newtown, and House Minority Leader Larry Cafero (R). Leaders from both parties talked about how to respond after the Sandy





PHOTO: CHARLES KRUPA/AP

Connecticut Senate President Donald E. Williams Jr. (D), left, and Senate Minority Leader John McKinney (R) after the gun bill passed with bipartisan support.

Hook Elementary School shootings, says Senate President Donald E. Williams Jr. (D). “It was a remarkable moment in our legislative history in Connecticut. We were able to come together in a bipartisan way and take action on what is arguably the most divisive issue in American politics,” Williams says.

Connecticut lawmakers introduced dozens of gun bills; some died on the calendar, others were merged into the 139-page bill that ultimately passed. The legislature held public meetings—including one in Newtown. The Senate vote on the prevailing bill was 26-10, with 20 of 22 Democrats and six of 14 Republicans in support. The House vote was 105-44, with 85 of 99 Democrats and 20 of 52 Republicans in support. One Democrat and one Republican were absent.

Connecticut Senator Andrew Maynard (D), one of the two Democrats opposed to the bill, says he believes emotion overcame logic. “The nature of the crime demanded some sort of action, but we took a knee-jerk approach to it.” He says he’s not sure the expanded weapons ban and the magazine limits will make Connecticut safer, and was upset to see “thoughtful” hunters and sportsmen who opposed more controls labeled “gun nuts.”

### Controversy in Colorado

Colorado’s battle over gun laws was more partisan than Connecticut’s. When Colorado Democrats unveiled their bills, they faced fierce opposition from the GOP, gun rights groups and even some members of the Democratic caucus. Republicans made clear from the beginning they didn’t believe in what Colorado Senate Minority Leader Bill Cadman (R) called “meaningless, feel-good legislation.”

Democrats drafted their proposals without much GOP input.

The most controversial, sponsored by Senate President John Morse (D), would have held manufacturers, sellers and owners of weapons liable for deaths they caused. Morse eventually withdrew it after delivering a blistering attack on the gun lobby.

Morse, now the subject of a recall attempt over the gun bills, says it was worth it. “If making Colorado safer from gun violence costs me my political career, it is an amazingly small price to pay,” he says.

Those opposed to the legislation feared it was only the beginning of an eventual total government ban on personal gun ownership.

“This is step one,” said Colorado Senator Brophy. A frustrated Colorado Senate Minority Leader Cadman accused supporters of the bills of being controlled by outsiders, including New York Mayor Michael Bloomberg and his group, Mayors Against Illegal Guns. He displayed a New York flag in the Senate Republican Office in protest. (New York was the first state to pass stricter gun laws following the Connecticut shootings.)

Gun ownership for many in the Rocky Mountain state is such a cherished value that after the bills passed, some rural residents even threatened to secede.

Of the five bills that became law, only the one limiting online concealed-carry training received any GOP support, with five of 43 Republicans in both chambers voting for it. Colorado Senate

## Arming school personnel

In 2013, legislators in more than 30 states introduced bills authorizing K-12 school staff to carry firearms. Specifics varied widely—from calling for principals to carry concealed weapons to creating school marshal programs to train teachers, administrators and janitors in gun use. Most of the bills failed. The ones that passed make the following changes:

- ◆ In Alabama, current and retired school employees can now form volunteer emergency security forces, and districts must establish policies addressing the carrying and storing of their weapons.
- ◆ In Arkansas, a church that operates a private school may allow people with concealed-carry permits to carry guns on school property. And, colleges may allow faculty to carry guns on campus if the governing board does not have a policy prohibiting it.
- ◆ In Kansas, school districts may allow employees with concealed-carry permits to carry guns on campus if the district does not have a policy prohibiting it.
- ◆ South Dakota’s “school sentinels” law authorizes districts to create, establish and supervise the arming of school employees, hired security personnel or volunteers.
- ◆ Tennessee allows certain school employees to carry a firearm on school grounds if they are licensed, meet certain qualifications, and have written authorization from authorities.
- ◆ The Protection of Texas Children Act permits schools to designate an employee as a marshal who can use a firearm to deal with potential crises.

—Lauren Heintz and Michelle Camacho Liu



Senate President John Morse (D) Colorado



KATHRYN SCOTT OSLER/THE DENVER POST

*Colorado Senate Majority Leader Morgan Carroll (D), left, and Senate Minority Leader Bill Cadman (R) found little to agree upon in Colorado's new gun laws.*

Majority Leader Carroll says Democrats were proud they “were able to get done what Congress couldn’t get done.”

After Colorado Governor John Hickenlooper (D) signed the bills, all but 10 of Colorado’s 64 county sheriffs joined in a federal lawsuit seeking to block them, arguing two of the laws violate the constitutional right to bear arms. Connecticut Governor Dannel Malloy (D) is facing a similar suit.

The laws also could cost the states revenue if manufacturers of weapons and weapons accessories based in Colorado and Connecticut move to other states, as a few have threatened.

### Blue State, Purple State

Governors Hickenlooper and Malloy talked after their tragedies and as their legislatures geared up. “As [Malloy] described what Connecticut was considering, I would say, ‘Boy, that would never fly in Colorado,’” Hickenlooper says. “They were much more aggressive than a Western state would be, but if you look at their demographics, they’re a blue, blue, blue state.”

In contrast, Colorado voters are almost equally divided among Republicans, Democrats and unaffiliated. “Republicans rule,” read the headline in the Rocky Mountain News after the 2002 election. But only two years later, Democrats picked up a U.S. Senate seat, a U.S. House seat and control of both chambers of the legislature, a feat the party had not achieved since 1960. The state has remained purple in recent years. In 2010, the GOP knocked off two Democratic incumbents in the U.S. House and today, Republicans serve as attorney general, treasurer and secretary of state.

In Connecticut, Democrats hold every congressional seat and every statewide constitutional office. And although Connecticut

is the home of the trade association for the firearms industry and several prominent gun makers, including Colt’s Manufacturing, Stag Arms and Sturm, Ruger and Co., a Quinnipiac University poll taken in March showed broad support for tougher gun laws there—even among Republicans.

House Minority Leader Cafero told the Hartford Courant that a Republican presence at the negotiating table helped stop some of the stricter gun control measures Democrats initially sought, including limits on the number of guns people could own and steep taxes on ammunition. “I felt I had an obligation to make sure there was a balance between the safety of the public ... and the protection of Second Amendment and law-abiding gun owners,” Cafero says.

For Colorado Representative Rhonda Fields of Aurora, passage of the gun laws was a personal victory. She lost her son and his fiancé to gun violence in 2005. Because of her activism in the case, she was appointed to a vacancy in the Colorado House of Representatives. She subsequently was elected to the seat and now represents the Aurora district where the recent theater shootings occurred. Fields sponsored three of the five gun bills that became law but says she was unprepared for the anger the legislation spawned.

“I had no idea the Capitol would be stormed ... that people would circle the Capitol for hours honking their horns.” She received a series of threatening, racist emails that led to an arrest, a new home security system and state trooper presence when she is at the Capitol. Although Fields is still fearful, she says she has no regrets about the legislation.

“Doing nothing,” she says, “is not an answer.” But for gun rights activists, what lawmakers in Colorado and Connecticut did isn’t the answer either.



*Representative  
Rhonda  
Fields (D)  
Colorado*

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# A Purple Peace

With partisanship at toxic levels, the Texas freshman caucus thought it was time to try something new to encourage more civil discourse.



*“We can come from different backgrounds and different philosophies and still be united with one common goal.”*

—REPRESENTATIVE RON SIMMONS (R) TEXAS

Texas Representative Ron Simmons (R), center, came up with the purple solution to incivility and partisan rancor in the Texas House.

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BY MORGAN CULLEN

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Conservative red and liberal blue were overshadowed by bipartisan purple this year—at least in Texas, on Thursdays, during session.

After a contentious, partisan session two years ago, a freshman lawmaker decided to bring in the color guard. He thought a visual, purple prompt would be a good reminder to legislators that, despite their political and philosophical differences, they were all working toward the same goal—to improve Texas.

What happened in 2011 to cause such a colorful response?

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*Morgan Cullen is a senior policy specialist with NCSL and liaison to the Texas Legislature. He'll be sure to wear purple whenever he visits Austin.*

At the beginning of the biennial session, Texas lawmakers were confronted with a deluge of controversial bills even though parliamentary rules in the state prohibit lawmakers from debating anything but emergency bills (as defined by the governor) during the first 60 days of session.

In 2011, Governor Rick Perry requested early action on setting voter ID requirements, banning sanctuary cities and requiring sonograms for women getting abortions—issues that immediately pitted Democrats and Republicans against one another, and created a bitter partisan tone that remained throughout the entire session.

The mudslinging between the two camps became so bad that several lawmakers decided to leave office or were voted out by a frustrated electorate. What resulted was one of the largest freshman delegations in the state's history—41 new House members

PHOTO COURTESY OF THE TEXAS HOUSE AUDIO/VISUAL DEPARTMENT

*“Purple Thursdays definitely set a tone for a more collegial atmosphere, but there were a lot of other things in play as well.”*

—REPRESENTATIVE TREY MARTINEZ FISCHER (D) TEXAS

out of a total of 150 (48 Democrats and 102 Republicans) with a shared priority—to restore civility between the two parties.

### Determined to Be Different

Representative Jason Villalba (R) decided what was needed was a way to get to know each other as friends rather than combatants. So he created a freshman caucus that would meet once a week to get to know each other on a personal level. “We tried to schedule an event that provided some training to freshman members as well as an opportunity for them to interact outside of the formal milieu of the House chamber or our committee rooms,” Villalba says.

At the group’s first gathering, a bipartisan breakfast, Representative Ron Simmons (R) suggested the purple plan to show not only solidarity as a class, but also their commitment to maintaining civility. “I thought this would be a fun way to show our friendship as a freshman class,” says Simmons. “But more important, to show that we can come from different backgrounds and different philosophies and still be united with one common goal in mind—to serve Texas.”

The idea spread like wildfire. Nearly the entire freshman class participates. Some of the chamber’s more senior members even don a bipartisan wardrobe on Thursdays, and now some legislative staffers are appearing in purple.

But has it actually helped to improve civility in a chamber that both sides agree was in desperate need of a change in tone?

Representative Trey Martinez Fischer (D) thinks it has. “Purple Thursdays definitely set a tone for a more collegial atmosphere, but there were a lot of other things in play as well.” This session didn’t start off with many of the controversial issues the previous session had to deal with. “We had time to get to know each other, to build relationships. Wearing purple on Thursdays was an easy part of that process,” he says.

With the Texas budget forecasted to end the year with around \$8 billion in surplus, lawmakers this session also avoided many of the tough decisions required two years ago when the state’s budget shortfall hovered around \$16 billion. Choosing what to do with surplus money can raise as much partisan dander as choosing what to cut when there’s a deficit, however.

### Symbolic and Sincere

The House faced a challenge to maintaining civility and mutual respect this summer with a controversial restrictive abortion bill, and it is certain to face more. But it’s clear that symbolic gestures of greater mutual respect and understanding have made a difference. “We all care about this state and have different ideas about the best way to meet the needs of our constituents,” says Repre-



*There’s bipartisan participation in Purple Thursdays from nearly every freshman lawmaker in the Texas House.*

sentative Villalba. “But we can disagree without being disagreeable. We can work together in a manner that moves Texas forward. That is what Purple Thursdays are all about.”

With congressional approval ratings at rock bottom, and national partisan gridlock at an all-time high, perhaps the U.S. House or Senate could take a page from their counterparts in Texas. Wearing a little purple may not begin to solve the serious problems facing Congress, but it certainly can’t hurt.

Pelosi in purple, Boehner in blue-violet, just maybe. 🏛️

*Representatives Trey Martinez Fischer (D) and Jason Villalba (R) compare the pocket squares they gave each other on a Purple Thursday in Texas.*



PHOTO COURTESY OF THE TEXAS HOUSE AUDIOVISUAL DEPARTMENT

BY ERIC FRANCIS

**W**hen the new Arkansas speaker of the House banged the gavel to open the 89th General Assembly, history was made.

It just wasn't the history everyone expected a year earlier. Instead of welcoming the first African-American speaker in the state's history, members were greeting the first Republican speaker since Reconstruction.

In March 2012, Representative Darrin Williams (D) was chosen speaker-elect, setting Arkansas up to have its first African-American speaker. That is, until voters elected enough Republicans for the party to claim the House and Senate. In the House, Republican Davy Carter won the leadership position after a last-minute bid that gained the support of only a few Republicans but almost all the Democrats, who considered him to be more moderate than his colleague Representative Terry Rice (R).

### A Southern Trend

With the Arkansas House and Senate now in GOP hands, the Republican takeover of state legislative chambers in the formerly solid Democratic South is complete.

"It started with the Florida Senate going from a Democratic majority to a tied chamber in 1992. Ever since then, the South has gradually moved toward the direction of the Republicans," says Tim Storey, an elections analyst for NCSL.

"There wasn't a single Republican chamber in the South 20 years ago; now every one is. That's a tectonic shift in the political landscape."

"Arkansans are conservatives," Speaker Carter says. The state was last to join its neighbors, not because it doesn't share those same conservative values, Carter says, but because of its most successful political son—what he calls the Bill Clinton influence.

Clinton probably was an influence, says David Lublin, professor of government at American University in Washington, D.C. But previously, Arkansas's Democrats



Speaker  
Davy Carter (R)  
Arkansas

**SOLID  
SOUTH**

RECENT REPUBLICAN VICTORIES IN THE  
ARKANSAS GENERAL ASSEMBLY COMPLETED THE  
SOUTH'S TOTAL TRANSFORMATION TO THE GOP.

also had benefitted from being able to "minimize differences" between themselves and Republicans, especially in rural areas, says Lublin.

Arkansas's shift to a GOP majority was merely an extension of a broader Southern trend, where the delegations to Congress went Republican first, followed by state legislatures, says Merle Black, professor of politics and government at Emory University in Atlanta.

"This is kind of a trickle-down thing," says Black. "The realignment started with presidential politics back in the '50s, and it takes a long time to come down to the levels of state legislatures. Local politics is where your inherited party loyalty means more than anything else."

"When ... 'Democrat' is something you have to explain to people, that's when the Democrats are really in trouble. It's just totally the reverse of what it used to be with respect to Republicans," Black says.

Ultimately, though, several factors that helped polarize the rest of the Southern electorate came to bear in Arkansas: race, economics and social issues.

### The Reagan Influence

When Ronald Reagan was elected in 1980, 40 percent of white voters identified as conservatives. By the time he left office in 1988, that percentage had jumped to 60.

Republican ranks increased by 50 percent in the 1980s,

many white moderates among them. "When they started draining a majority of white conservatives and white moderates [from the Democrats], they had enough votes among whites to put them in power," says Black.

And the shift just continued, culminating in 2010. "The 2010 elections were, I think, a reaction to the Obama-Pelosi economic agenda, which was way too liberal for these Southern states. That also accelerated in 2012. So the Republicans have had two cycles in a row at the state legislative level, where they went from being slightly under 50 percent to now being 62 percent of all [Southern state legislative] members," Black says.

As conservative white voters started shifting to the GOP, social issues gained a higher profile within the party, says Lublin. "Typically, abortion under Ronald Reagan and gay rights more recently. Those issues, along with things like school prayer and gun control, have tended to propel conservatives into the Republican Party," he says.

When Democrats could no longer play down the differences

*Eric Francis is a freelance journalist and Arkansas native.*



between themselves and Republicans on those issues, moderate and conservative voters—who used to trend Democratic—moved solidly into the GOP’s camp all over the South. “People who hold conservative views on those things tend to be highly conservative in the South,” says Lublin.

### The Race Issue

The GOP’s gains among white voters in the Deep South had roots in the turmoil of the 1960s as African-American voters began to move away from Abraham Lincoln’s GOP. “In the Deep South, you’ve got this incredible racial polarization across the parties,” Black says. The racial division among voters is reflected in the demographic breakdown of legislators, he says.

“Across the Deep South—Alabama, Georgia, Louisiana, Mississippi, South Carolina—54 percent of all Democrats in state legislatures are African-American and 36 percent are white. It’s literally an African-American dominated party in state legislatures. The Republicans in the Deep South are 99.4 percent white.”

In the Upper South states—Arkansas, North Carolina, Tennessee and Virginia—more whites (60 percent) than African-Americans (38 percent) still hold Democratic legislative seats. In Florida, the party is split fairly evenly: 47 percent African-American and 45 percent white.

And then there’s Texas. The Democratic Party in the Lone Star state is “18 percent white, 25 percent African-American, 54 percent Hispanic, and about 3 percent other minorities,” Black says. “In the Texas House and Senate there are only 12 Anglo Democrats.”

### GOP Grip

Just how dominant is Republicanism in the South? Professor Black can cite statistics at a fevered pace to demonstrate the totality of the party’s grip in the region.

“Take the 11 Southern states and their 22 state legislative houses, and Republicans have a majority in 21 of those,” he says. “The only chamber they don’t control outright is the Virginia Senate, where there’s an even split between the two parties.” Since the tie-breaking vote rests with the Republican lieutenant governor, however, it’s safe to say the chamber is functionally in GOP hands.

“The Democrats do not have a majority in any Southern legislative chamber at this moment. That’s really amazing. Right

now, I’ve got Republicans holding 62 percent of all legislative seats in the South,” he adds. “It’s a big shift. Democrats are down to 37.5 percent, the lowest they’ve been in recent times.”

Black goes so far as to suggest the Democratic Party in the South is in its worst position since Reconstruction, and he thinks its chances are about to get worse.

“In all these Deep South states, this was the first time in the election cycle where the Republicans controlled the redistricting process,” he says. In 1992 and 2002, for the most part, Democrats still controlled the process. They didn’t necessarily get what they wanted, Black says, but they were in charge. Not this time.

### The Crystal Ball

Given this trend, what are the chances the Democrats will regain sway in the South anytime soon?

“Those numbers may fluctuate a little bit, but I think we’re looking at Republican majorities across these Southern states for the foreseeable future,” Black says.

Storey agrees, noting there’s no other part of the nation that is so unified in the shift to GOP dominance. “In other regions you’ve got some Republican chambers, some Democratic; in the South it tends to go all one way or all another way,” he says. “This could reflect a longer-term shift for the South into the GOP column.”

Jay Barth, a professor of politics at Hendrix College in Arkansas, isn’t as sure. He isn’t convinced Arkansas voters are going to follow the path of other Southern states and push the GOP to a larger majority right away.

“After the closeness of the battle in the House, I’m not convinced that the momentum toward Republicanism is going to continue as emphatically,” he says. “I think the Republicans have some advantages in the state, looking forward, especially in terms of the parts of the state that are growing fastest. But there’s a model out there—the Kentucky model. It’s just a bigger version of Arkansas in some ways. And it’s had a very stable, two-party system in state politics, even though in the federal races Democrats tend to get shellacked.”

And that, Barth speculates, is how things might shape up in future Arkansas elections.

“It’s a different scenario than what we’ve seen elsewhere in the South, where once Republicans gained control they kept on trucking,” he says. “I feel we’ll see something different develop in Arkansas.”



# The “Wizard” of Democracy

Intellect, insight and inspiration distinguish Alan Rosenthal’s influence on state legislatures.

Alan Rosenthal dedicated his life’s work to legislatures—to understanding them, making them strong, and extolling their value to generations of students, legislators, governors and political scientists. As an author, he graced the pages of *State Legislatures* magazine many times for many years. He believed, as we do, that legislatures are the most responsive, innovative and effective institutions in government, and he went out of his way to prove it to our readers every chance he got. A Rosenthal article in the magazine was always witty and insightful and full of passion for the institution he loved best. His perspective was like no one else’s, because no one else knows legislatures as completely as he did. As we were preparing this magazine, Alan was critically ill. He died on July 10. It is our honor to pay tribute to his life’s work on the pages of the magazine he wrote for so prodigiously. Thank you, Alan.

—The editors

“His leadership of the Eagleton Institute of Politics at Rutgers University inspired new respect for what state legislators do and the way they do it. Whenever I was with him or heard him speak, I took notes.”

—Bob Garton, former president of the Indiana Senate

“No one else is able to be so deeply immersed in a deadly serious cause while maintaining such a playful sense of humor and delightful overall disposition. I shudder to think where this noble cause would be without Alan’s tireless work over these past several decades.”

—John Hibbing, professor of political science, University of Nebraska

“His service, dedication and usually spot-on advice have spanned decades, and have been given freely to those across the spectrum of politics.”

—Steve Sweeney, president of the New Jersey Senate

“His efforts to track and evaluate changes in lawmaking and promote the spread of good practices have had an incredible impact throughout the nation.”

—Talbot “Sandy” D’Alamberte, former state legislator, former president of Florida State University and the American Bar Association

“Alan Rosenthal certainly merits a tribute from state legislators and legislative staff for his work over the years. I hope that a new generation of political scientists will pick up his legacy and do multi-state studies that will help to strengthen state legislatures.”

—Bill Kelly, former member of the Minnesota Legislature

*“Alan was a legend, and we continue to benefit from his good sense, good works and good humor.”*

—TALBOT “SANDY” D’ALAMBERTE, FORMER STATE LEGISLATOR,  
FORMER PRESIDENT OF FLORIDA STATE UNIVERSITY AND THE  
AMERICAN BAR ASSOCIATION

BY KARL KURTZ

It happened like this: When Rutgers University Professor Alan Rosenthal went to Columbus, Ohio, to observe the General Assembly, he decided to test the old saw, “Two things you should never watch being made are sausages and laws.”

“After watching our legislature, he wanted to observe sausage being made,” says Richard Finan, former president of the Ohio Senate. “So I made several phone calls and got him an appointment to visit a sausage factory. When he returned from touring it, he concluded that the saying was a total myth. Sausage-making is nothing at all like lawmaking.”

Rosenthal turned this experience into a memorable article for *State Legislatures* magazine in September 2001. In “The Legislature as Sausage Factory: It’s About Time We Examine This Metaphor,” he contrasted the highly private, regulated, inspected and routine process of making sausages with the highly public, ever-shifting, on-the-fly, never-the-same process of making laws.

## A Rare Combination

This story illustrates both the humor and acuity Rosenthal brought to his study of state government and politics. His rare ability to bridge the gap between academics and politics served him well.

He has written or edited numerous books, reports, articles and monographs. He’s influenced the lives of thousands of students and two generations of political scientists. He’s been honored with many awards.

Karl Kurtz, director of NCSL’s Trust for Representative Democracy, has known Alan Rosenthal for 40 years as mentor, collaborator and friend. Brian Weberg, director of NCSL’s Legislative Management Department, suggested and contributed to this article.



Alan Rosenthal: 1932 – 2013

But perhaps the greatest influence this skilled observer of representative democracy has had is this: He has helped to modernize and strengthen state legislatures, encouraging them to become equal partners in our three-part government.

“Alan’s good humor, keen intellect and incessant curiosity have enabled him to make lasting contributions to our understanding of representative government,” says David Frohn-mayer, a former state legislator and University of Oregon president-emeritus. “In very few fields of political science scholarship is so much owed to the efforts of a single pioneering investigator. Alan Rosenthal is owed a debt of gratitude by all who study or serve in state governments.”

### The Art of Scholarship

Rosenthal had been practicing the art of scholarship and practical politics since the late 1960s and early 1970s when he and the Eagleton Institute of Politics at Rutgers University conducted studies of the Arkansas, Connecticut, Florida, Maryland, Mississippi, Ohio, Texas and Wisconsin legislatures, to strengthen them and make them more effective.

Rosenthal directed and wrote or edited all the reports and recommendations on the eight states. Connecticut’s report, written by David Ogle, a former student of Rosenthal’s, is credited with

## The Conscience of State Legislatures

Alan Rosenthal may not have known it, but for 14 years, he was my go-to guy. When NCSL hired me in 1999 to be the first director of the Center for Ethics in Government, all I knew about legislative ethics came from my own experience as a Colorado state legislator. I needed a national perspective and, lucky for me, Alan and his array of books provided that.

The Ethics Center’s early association with this widely respected expert on state legislatures also provided us with credentials.

“We need to get the Ethics Center on the map,” he said. He suggested we publish and widely distribute what he named “The State of State

Legislative Ethics.” The manual—chock-full of essays, case studies and research on states’ ethics laws in more than two dozen categories—came out in 2002 and has sold out twice.

A prophetic and excellent writer, Alan jam-packed his books with relevant information. But of all the books he wrote, “Drawing the Line, Legislative Ethics in the States,” is the winner for me. It has helped me develop ethics trainings for public officials and taught me about legislatures across the country. My copy is now dog-eared and tabbed, underlined and bookmarked.

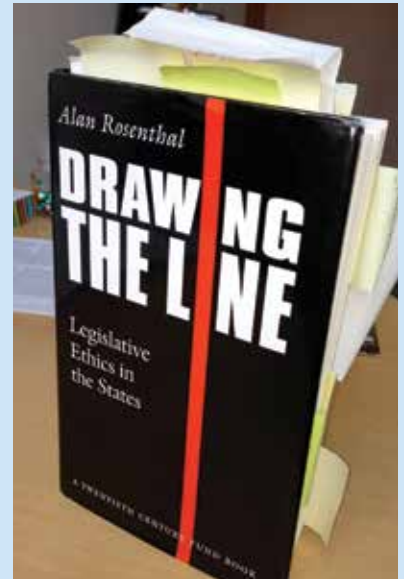
I quote Alan all the time. Sometimes I use a quote from one of his books. Most times, I would call him for a fresh perspective and angle. And I never hesitated to send calls from the media his way. No matter the issue—even when I was reluctant—he never hesitated to weigh-in on a subject and give a good quote.

Alan worried that legislatures are “too inbred, clubby and gift-oriented.” He first clued me into using the “appearance of impropriety” as a standard test for ethical behavior. No-cup-of-coffee laws, strict gift bans and strong disclosure laws are ways to curb the appearances of impropriety by legislators, he said. “Legislators have to take ethics seriously and assume responsibility.”

His enormous respect for the legislative institution was evident in all his advice. “One of the major ethical issues facing legislators is not about accepting a meal from lobbyists or whether their occupations outside the legislature pose a conflict,” he said. “Rather, it relates to their commitment to the Senate, the House and the legislature. Legislators have an obligation to maintain the well-being of their institution and to leave it in as good, or better, shape when they depart as they found it when they arrive.”

Oh, so true. Alan Rosenthal could have been talking about his own legacy, for he has done just that.

—Peggy Kerns, director of NCSL’s  
Center for Ethics in Government





*“Alan’s enduring legacy is that he could remind current members they are only the next season and not the start of history.”*

—TOM LOFTUS, FORMER SPEAKER OF THE WISCONSIN HOUSE, AMBASSADOR TO NORWAY AND AUTHOR OF THE ART OF LEGISLATIVE POLITICS

persuading members of the Connecticut General Assembly to adopt sweeping changes.

The transformation in Hartford reflected the institutional challenges of the times: switching from biennial to annual sessions, creating nonpartisan offices for research and fiscal analysis, establishing a joint legislative management committee, converting bill drafting and more to the computer age, and raising legislators’ salaries.

About the same time, Rosenthal and Donald Herzberg, the director of the Eagleton Institute, were conducting seminars for emerging legislative leaders. For 10 years, these workshops on the institution of the legislature made a profound impression on participants, many of whom later became legislative leaders, governors and members of Congress.

Like many others who participated in one of these conferences, Martin Sabo, former Minnesota House speaker, NCSL president and congressman, says Rosenthal “taught me and other legislators the importance of the legislative institution and the responsibility to nurture it.”

Throughout his career, Rosenthal paid particular attention to his home state of New Jersey. In 1992 and again in 2001, he served as the independent, nonpartisan tie-breaker on the state’s congressional redistricting commission. And in 2011, he served as the independent member on the state



legislative redistricting commission, the obvious choice for the chief justice, since his name appeared most often on the lists submitted by both the Republicans and the Democrats. In 2011, Politicker NJ, an online political report, ranked Rosenthal No.1 among the state’s 100 most powerful politicians, excluding elected officials, for his efforts to draw fair state political maps in the face of intense partisan pressure from both sides.

“Alan’s knowledge of the legislative process and how the gears in Trenton turn is second-to-none,” New Jersey Senate President Steve Sweeney (D) says. “It’s why governors, legislators and other elected officials have called on him to help resolve the issues that shape the state of New Jersey.”

### Nationwide Influence

Rosenthal and his work extend beyond the Garden State. He’s well-known and admired among state-government politicians, students and professors across the country. “Alan’s knack for taking knotty ideas about legislatures and federalism, and making them clear and relevant has helped

## John Patton: Putting Rosenthal’s Theory Into Practice

John Patton is but one example of how influential Rosenthal’s work has been. Rosenthal’s vision of stronger, more effective legislatures intrigued Patton as a young Wyoming lawmaker at an Eagleton Institute conference in 1967. But what really fired him up was a national study in 1971 that ranked the Wyoming Legislature 49th in the country on how functional, accountable, informed, independent and representative it was.

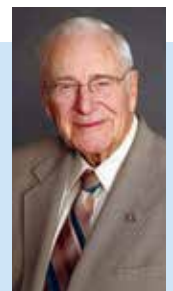
The ranking, by the now-defunct Citizens Conference on State Legislatures, horrified Patton and many other Wyoming legislators. Patton immediately introduced bills based on recommendations in the study, including going to annual legislative sessions and

establishing a central, nonpartisan Legislative Service Office. The bills passed and transformed the Wyoming Legislature. “We made more positive changes than any other state that year,” says Patton.

Patton’s success did not go unnoticed. The Citizens Conference on State Legislatures and the National Conference of State Legislative Leaders asked him to direct the Project for Legislative Improvement, to continue work being done in Arizona, Colorado, Louisiana, Massachusetts, Minnesota, New Hampshire and Ohio. In this work he consulted often with Rosenthal. “I liked his reports and recommendations on legislative improvement because they were tailored to

each state and not a one-size-fits-all approach,” he says. Patton hired a staff of bright, young activists to work with each of these states. Among them were Steve Lakis, now president of the State Legislative Leaders Foundation, and Michael Bird, who recently retired from NCSL.

Patton eventually moved on to a short stint in President Gerald Ford’s administration, then in 2008 once again ran successfully for the Wyoming House. At age 82, he is serving his third consecutive term in the House. Fittingly, he currently co-chairs NCSL’s Legislative Effectiveness Committee.



thousands of students, journalists and government officials understand the complexities of governing,” says Tom Berg, a former Minnesota legislator and author of “Minnesota’s Miracle: Learning from the Government That Worked.”

For more than 40 years, Rosenthal defended state legislatures—even the ones most maligned by the media. In his books and when talking with the media, he pointed out what is right about our system of representative democracy, refuting the public’s perception of a broken-down system.

“Federalism in the 20th century owes a debt to the life’s work of Alan Rosenthal,” says former Michigan Governor John Engler, now president of the Business Roundtable. “His faith in the importance of state government and state and local decision making led him to report on and write about leadership and creative problem solving in all 50 states. He inspired many to imitate the successes, and more than a few to go where none had previously gone. I know because I was one who

read Alan’s work, didn’t wait for Washington, and in the end made a small difference.”

Along the way, Rosenthal made lasting friendships with many governors, legislators, staff and lobbyists—not to mention thousands of students. Tom Loftus, former speaker of

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*“My first conversation with him, so full of passion and enthusiasm and insight, typified Alan and his life-long affair with state legislatures.”*

—CARL TUBBESING,  
NCSL’S FORMER DEPUTY DIRECTOR

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the Wisconsin House, U.S. ambassador to Norway and author of “The Art of Legislative Politics,” says, “As speaker of the Assembly in Wisconsin for almost a decade, I cherished

## In the Beginning

Before the National Conference of State Legislatures even existed, Alan Rosenthal was influencing it. Some 40 years ago, Rosenthal conducted a study on how three then-competing organizations of state legislators might merge to become more effective. His recommendations became the blueprint for creating NCSL in 1975.

Fast-forward 20 years and again Rosenthal’s influence on the organization is significant. To combat the public’s growing cynicism and distrust of democratic institutions, he challenged state legislators and staff in his book, “The Decline of Representative Democracy,” to develop educational programs about the democratic process.

NCSL took up this challenge by launching the Trust for Representative Democracy, a public education and outreach program aimed at teaching people of all ages about the legislative process. “Republic on Trial: The Case for Representative Democracy”—written by Rosenthal, Burdett Loomis, John Hibbing and Karl Kurtz—became the intellectual foundation for the Trust.

At about the same time, Rosenthal was playing an integral role in establishing NCSL’s new Center for Ethics in Government. His national reputation and wise guidance on legislative ethics were vital to the center’s success.

And throughout the years, Alan kept writing and writing and writing: At least 15 of his keen and clever articles have appeared in State Legislatures magazine.

He was a mentor, collaborator, idea man, courage giver and conscience to some of NCSL’s most long-tenured staff. Rosenthal’s contributions to the organization’s work continues, reaching far beyond its office walls.

“When I introduced Alan as the ‘rock star’ of state legislatures, he thought I was teasing him, but I wasn’t,” says Wyoming legislative staffer Wendy Madsen. “For those of us involved in educating the public about the importance of this institution, he is our champion and his work is the well from which we drink.”

Fortunately for NCSL that well is full to capacity.



Alan's advice, interest and friendship. Being the speaker is a rather lonely job in the sense that a friend without an agenda is hard to find. Alan was that friend. And, he was that friend to hundreds of others."

### The Work Continues

After funding ran out for the annual conferences for emerging legislative leaders, Rosenthal continued periodically to convene legislators, legislative staff and scholars to reflect on the state of the legislative institution. The most memorable of these was a symposium, "Legislatures in the States: Progress, Problems and Possibilities," in Williamsburg, Va., in 1990.

From that conference, Rosenthal wrote: "Acknowledging the progress that had been made in modernizing state legislatures, the symposium concluded that change is necessary and possible. And it can be accomplished within the confines of the present system. It will require the commitment in each state of legislative leaders and substantial efforts by other legislators as well. It is up to them to meet together and discuss their institution in terms of what they want to be and how they can achieve their objectives. Then, it is their collective responsibility to make it happen—to shape their legislature according to the traditions, cultures and needs of their respective states. They must begin now to shape an even more effective legislature for the twenty-first century."

These words ring truer than ever for a new generation of legislators and legislative leaders. And Alan Rosenthal remains the premier voice in America calling lawmakers to action, just as he did with a young lawmaker from Cody, Wyo., more than 40 years ago.

"Alan Rosenthal shaped my legislative life," says former U.S. Senator Alan Simpson. "We first met when I was a young Wyoming state legislator. Alan was this amazing, creative, inspiring, warm, wise and witty man. He became my mentor—one of the greatest influences on my life as a legislator—on how to make legislating work," says Simpson.

"He is 'The Wizard' in my mind."

#### SL ONLINE

To discover more about Rosenthal and his contributions, and to learn about a fund being developed in his honor, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

# A Legislative Life

BY GARY MONCRIEF

During his long and productive career, Alan Rosenthal was described in many ways.

- ◆ "The foremost observer of comparative state government."
- ◆ "The most highly regarded academic student of the practical issues swirling around state legislatures."
- ◆ "Encyclopedic knowledge and unparalleled access to key lawmakers."
- ◆ "The guru of state legislatures."

All these descriptions from his book jackets are true. Well, maybe not the "guru" one. My favorite comes from Chris Mooney (himself a highly regarded student of legislatures) who began his review of one of Rosenthal's publications in 1998 this way: "Alan Rosenthal knows the U.S. state legislatures better than anyone else. For the past 30 years, he has acted as a political anthropologist, going bravely into the field to bring back intelligence on these institutions, their cultures and the people who inhabit them."

That is true. He spent hundreds—probably thousands—of hours in legislative halls and chambers. He was a firm believer in what the great congressional scholar, Richard Fenno, described as "soaking and poking," which is the process of observing first-hand the legislature and the legislator. It is talking with—and especially listening to—all manner of legislators, staff, lobbyists and journalists, absorbing oneself into the legislative culture.

To look over a legislator's shoulder and simply comment on what one sees is not enough. Good anthropologists or political scientists take those observations and make them meaningful; they make sense of the multitude of observations. That is Rosenthal's unique contribution: the ability to observe the legislative world, understand what it all means and convey that insight clearly to others.

### Tomes of Treasure

Alan has produced almost 20 books, more than 50 book chapters and another 50 or so

*Gary Moncrief is the university distinguished professor and internship director at Boise State University. He co-authored "Why States Matter," a new book due out in September 2013.*



monographs, research articles and magazine pieces on state politics generally and New Jersey politics and government specifically, as well as comparative work on governors and lobbyists. But it is for his books on legislatures that he is justly celebrated. And there are many. Some are co-authored, including "Republic on Trial," (2003) written with Burdett Loomis, John Hibbing and NCSL's Karl T. Kurtz. Some are monographs about a specific legislature, such as "Strengthening the Maryland Legislature" (1968). Some are about the interaction with other branches, such as "Governors and Legislatures: Contending Powers" (1990).

"Engines of Democracy" (2009) is a compilation of Rosenthal's legislative wisdom distilled into one book. I believe he intended it to be his capstone work on state legislatures, and he would probably tell you that if you could read only one of his books about legislatures, that would be his recommendation.

Limiting oneself to that excellent but singular work is not, however, the way to truly appreciate his contributions, nor is it the way to truly appreciate what he teaches us about legislatures and their evolution. I recommend, instead, reading my three favorite Rosenthal books as a trilogy, starting with "Legislative Life" (1981), proceeding to "The Decline of Representative Government" (1998) and finishing with "Heavy Lifting" (2004). Combined, these three books provide a complete and true picture of the importance of state legislatures and legislators and how they've changed over a quarter century. They also bear





*Alan Rosenthal was a genius at making sense out of his observations. His explanations of what it all means could fill a library—and do.*

witness to his great respect for the legislative institution and his concern for its future.

### A Legislative Classic

“Legislative Life” was the first comprehensive volume devoted specifically to the topic of state legislatures in almost two decades. It is a thorough review of everything from running for legislative office to the roles of leadership, committees and staff to legislative appropriations and oversight functions. Most important, it heralded the emergence of his method of research, which he describes in “Legislative Life” as “synthesizing qualitative data obtained in the field with the more systematic data produced by the discipline of political science.”

His aim in this book was to describe the organization, structure and culture of legislatures, but with a comparative view. After all, it is the comparison of the 99 legislative chambers in the 50 states that make legislatures so interesting to so many of us. And he recognized that description precedes comparison. Because of this approach, his field work in collecting interviews, his genuine appreciation for the legislative institution and the people who serve it, and his easy writing style, Rosenthal’s “Legislative Life” is a classic. It is illuminating, realistic and thorough, and it still holds the reader’s attention.

“Legislative Life” is also important because it sets the baseline for where legislatures had been and where they were going. He argued that, by 1980, legislatures had developed into important and capable policymaking institutions. He paints the picture of legislatures that, beginning with the reapportionment revolution

in the 1960s and continuing through the modernization period of the 1970s, had reformed themselves into vital and viable partners in the state policymaking process.

As he concluded, “The contemporary state legislature is the product of decades of development and change. No longer a relic of the past, the legislature has built up capacity and become heavily involved in the governance of the state.” In some respects, these were the halcyon days for state legislatures, helped in large part through Rosenthal’s work to develop and build the institution’s ability to govern.

### Essential Reading

By the time Rosenthal published “The Decline of Representative Government,” his assessment of legislatures was no longer sanguine. In the book, he chronicles how a series of changes made in the 1980s and ’90s and certain current trends—inside and outside the legislature—were threatening the independence and equality of the legislative branch.

The threats he focused on were the growing concern for re-election rather than policymaking, the increase in direct democracy initiatives by interest groups to bypass or threaten legislatures, and the advent of term limits. In this book he emphatically recognizes the tension between the goals of the individual legislator and the needs of the legislative institution, and warns of the need to reconcile the two.

Written in 1998, his admonishment rings even more true and urgent today: “Legislators have to take responsibility for their own institution. That entails any number of things: nurturing civility; keeping partisanship from dam-

aging the legislature or the legislative process; maintaining the strength of the institution; and providing enough centralized power to facilitate consensus building.”

“Legislative Life” and “The Decline of Representative Government” are essential reading for anyone who cares about the institution of the American state legislature and wants to understand it better.

But I believe his best book in the trilogy is “Heavy Lifting: The Job of the American Legislature.” In it, he undertakes the difficult task of answering the question, “What makes a good legislature?” The quality, he concludes, can be judged by three things: how legislators represent their constituents, how deliberative and fair-minded the legislature is in the business of making law, and how well the legislature balances the power of the executive.

Based on extensive surveys, interviews, anecdotes and research from other scholars, he builds a case for what legislatures should and can be. It is a brilliant book. Chapters 2 and 3 on representation contain one of the best discussions of state legislative representation ever. His descriptions of how bills are crafted and obstacles overcome are superb—excellent, detailed yet accessible explanations of the lawmaking process itself. His analyses of the interplay between the executive and legislative branches and the essential role leaders play are also spot on.

“Heavy Lifting” is the wisest book about legislatures, written by the wisest legislative scholar we have had. It should be required reading for all lawmakers and anyone else who cares about America’s legislatures even half as much as Alan Rosenthal cared about them.

# Six Who Served

These World War II veterans, with their unique experiences and wisdom, epitomize public service.



BY MARK WOLF

As World War II raged in Europe and the Pacific, six young American men did what millions of others did. They joined up to serve their country. They didn't know each other then—and they don't now. But a bond of patriotic service connects them more than 60 years later. Now in their 80s and 90s, they are part of the Greatest Generation, and each brings his unique experiences to the job of state legislator.

Three are Republicans, three are Democrats. Their service to the nation reflects the diverse experiences of their fellow veterans: some were in combat, some in support, some joined near the war's end, but each was affected by his service in some way.

Like these six, millions of soldiers, sailors and fliers returned home from World War II to spark a robust economic rebirth, populate the nation with little baby boomers, and assume leadership roles from the White House to the school board. Seven became presidents, and countless more became state legislators.

Today, these six remain on active lawmaker duty.

*Mark Wolf is a publications editor for NCSL. Contributors include Alice Wheat, an NCSL policy associate, who learned of these six men from Jackie Wright, majority secretary of the Idaho House of Representatives. Wright surveyed the 50 states to find these veterans.*



**GEORGIA REPRESENTATIVE JOHN YATES (R)** *was first elected to the Georgia House of Representatives in 1988. He is chairman of the Veterans and Defense Committee and serves on the Appropriations, Motor Vehicles, and Legislative and Congressional Reapportionment committees.*

John Yates grew up one of seven children on a farm in Griffin, Ga., and knew early that he wanted more than the low wages earned in the local cotton mill. So he left home at 18 for California where he was living with his pregnant wife when the war broke out. He tested into field artillery officer candidate school and found his high school education pitted against college degrees.

"It was the toughest three months of my life. We studied all the time. They didn't give you enough to eat or time to eat it. They were trying to break you. The washout rate was about 80 percent," says Yates, now 91. He was commissioned as an officer, trained as a liaison pilot by crop dusters and sent to Europe to join the 127th Field Artillery, or as he points out, "President Truman's old outfit." He flew more than 200 low-altitude missions in a Piper Cub, directing artillery fire while avoiding both German Messerschmitt aircraft fighters as well as snipers on the ground.

"I was flying in front of guns along the front lines. To keep the Germans from shooting you down you had to keep them guessing. You'd fly at 3,000 feet, then 2,500 feet. If you did that, you wouldn't get shot. The Piper Cub was the perfect plane if you had superiority. I could look out the plane and see the bombs flying over me," says Yates, who saw extensive action during the Battle of the Bulge.

Yates' final mission was flying along the Rhine River north of Cologne. A message from the ground inquired if the bridge across the Rhine was still intact. "I said 'Yes,' then 'No.' The Germans blew it up while I was watching."

He was a captain with six Air Medals and four Battle Stars by the time he left the service. Three of his four brothers also served in the war. Two were captured, and one was hospitalized, but they all returned safely. Following his discharge, Yates earned a degree from Georgia State University and worked as a manager for Ford Motor Company for 35 years before retiring and becoming the first Republican from Spalding County ever elected to the Georgia General Assembly, which he calls the "hardest job for the lowest pay I've ever had."



**IDAHO REPRESENTATIVE FRANK HENDERSON (R)** was first elected to the Idaho House in 2004 and won re-election in 2012. The onetime reporter and publishing industry veteran is chairman of the Banking Committee and a member of the Health and Welfare, Transportation and Defense committees. He is an Idaho native.

A broken leg suffered in high school short-circuited Frank Henderson's service in World War II.

He enlisted in the Illinois National Guard in 1940, when he was 18. When war broke out in December 1941, he was called to active duty with a rifle company in the Army's 33rd Division. But while he was standing in line to get shots a doctor noticed something different about him and asked, "What's wrong with your leg?" It had healed from a bad break at a bit of an odd angle, resulting in his honorable discharge. He returned to civilian life, studied forestry at the University of Idaho and survived a 10-day "tryout" at the Chicago Herald American Examiner newspaper to hook on as a general assignment reporter and photographer.

He spent most of his career as an advertising and marketing executive in the pharmaceutical industry before moving to Post Falls, Idaho, where he owned and published the Post Falls Tribune. He served as the town's mayor, then county commissioner, and was elected to House District 3 in 2004.

Henderson and 11 other veterans founded American Legion Post 143 in Post Falls in 1976.

"Because we had a good commander, the membership built up to the largest post in Idaho with over 600 members," says Henderson who, at 91, is the only survivor among the founders.

Henderson sponsored a bill, enacted in 2006, that provides for full college benefits for the surviving spouse of a serviceman or woman killed during his/her time in the military. "It pays for a four-year degree including subsistence," says Henderson.

He believes many Americans don't appreciate the danger today's soldiers face. "In World War II the enemy was in front of us. Now the hot fire could come from any direction. I don't think the general public understands that it's a war. It's just as obscene, as brutal and as merciless as it was in World War II. That's obviously a little frustrating."



**VIRGINIA SENATOR CHARLES JOSEPH COLGAN SR. (D)** is the longest-serving member of the Virginia Senate. Colgan was president pro tempore from 2008 to 2011 and currently serves on several committees, including Rules, Transportation, Commerce and Labor, and Finance.

Charles J. Colgan always wanted to fly. Orphaned as a child and raised by his grandparents, he was only 17 when an Army recruiting sergeant visited his school looking for aviation cadets to join the Army Air Corps. After passing the written and physical tests, Colgan and four other recruits were called onstage at a movie theater in Cumberland, Md.

"They stopped the movie and swore us all in," says Colgan, 86.

Then in 1945, after graduating from high school, he was called to active duty just as the war was winding down.

Since the flight schools were shutting down, Colgan was assigned to aircraft maintenance. "Once I got involved, I found it held a great interest for me. To take an airplane that had problems and get in there and fix it was a big deal," he says. After his training he was assigned to the Army Air Corps Euro Air Transport Service in Naples, Italy.

"I saw the aftermath of the war, a country blown to pieces," he says. "You could hardly find a building in Naples that didn't have damage. There were orphaned kids with missing limbs. To be a witness to that. ... You saw the horrors of war even though you weren't directly involved in it," he says.

Following his discharge, the GI Bill helped him get his engine mechanic's license and embark on a career that took him from being a commercial pilot to founding Colgan Air Inc., which he started with one airplane and \$1,500 in the bank. He eventually sold it for \$20 million.



**WISCONSIN SENATOR FRED RISSE (D)** was elected to Wisconsin's Assembly in 1956 and the Senate in 1962, making him the nation's longest-serving state legislator. He served as Senate president from 1979 to 1993, and again in 1995, 1997, 1999, 2001, 2007, and 2009 to 2011. Born and raised in Madison, Senator Risser is the fourth generation of his family to serve in the Wisconsin Legislature. He serves on the Senate Judiciary and Labor Committee and the State and Federal Relations Committee.

The Navy told Fred Risser that he and fellow Navy enlistees could finish high school before they were sworn in, but a group of them were pulled out of school with a month to go. "The teachers gave us the grades we had at the moment," he says. "We missed the graduation experience."

Risser was sworn into the Navy a few days before his 18th birthday and a few days before the Germans surrendered. Just before he finished boot camp, the Japanese surrendered. "I tell people the Germans and the Japanese saw me coming," says the 86-year-old.

Trained as a medic, he spent time in Newport, R.I., then in Panama before he returned to the United States. He, too, used the GI Bill to earn both his undergraduate and law degrees from the University of Oregon. He practiced law with his father before entering public service.

His time in the Navy broadened his world view.

"I certainly became an internationalist," says Risser. "I realized this is a single world, that we're all intertwined and you can't be isolated from the rest of the world."







*“We’ve never seen a national effort as complete or as absolute as during World War II.”*

—SENATOR FRED RISSE (D) WISCONSIN

The United States, he believes, is much more removed from the military experience than it was when he was growing up in Madison.

“The culture was entirely different then. People were subject to the draft, there was rationing. Everyone was involved in the war and doing something. Now you find a lot of people who aren’t affected by the war, who don’t know anyone who is in the service.

“We’ve never seen a national effort as complete or as absolute as during World War II. You never threw away an automobile tire because we didn’t have access to rubber. You couldn’t buy new cars because the auto manufacturers were into making tanks. That generation during the war, from the oldest to the youngest, was participating in one goal: to win the war.”



**NEW MEXICO SENATOR JOHN PINTO (D)** *has served in the Legislature since 1977. He is chairman of the Indian and Cultural Affairs Committee and serves on the Education Committee. Before he was elected to the New Mexico Senate, Pinto worked as a schoolteacher and a legislative liaison. He has also worked for the Navajo Nation.*

When he was growing up, John Pinto’s teachers didn’t allow him to speak his native language, Navajo, in school.

Flash forward only a few years and the U.S. Army discovered Navajo speakers were not only valuable, but heroic for developing an unbreakable code based on the Navajo language. Several hundred Navajo Code Talkers used the code successfully throughout the Pacific theater.

Pinto was trained as a Code Talker, drilling with backpack radio transmitters to communicate, but the war ended before he was deployed overseas.

Following his discharge, he returned to New Mexico and eventually earned bachelor’s and master’s degrees in education from the University of New Mexico. He was elected to the New Mexico Senate in 1976.

Estimates are that 120,000 to 170,000 people still speak the Navajo language, enough that they were able to watch the 1996 Super Bowl broadcast in Navajo. But it’s getting harder to interest the younger generation.



**NEW YORK SENATOR WILLIAM “BILL” LARKIN, JR. (R)** *worked as an executive assistant in the New York Senate before being elected to the Assembly in 1979 and to the Senate in 1990. He currently is majority whip and serves on several committees. During his first term in the Senate, Larkin chaired the Senate Veterans Committee and sponsored sweeping changes to veterans’ benefits.*

The Army thought it was getting an 18-year-old soldier when Bill Larkin was sworn in at Albany, N.Y., Union Station in 1944. That’s what Bill Larkin thought, too. Except he was really only 16, a fact that would not surface until 1965. Larkin had been raised by an aunt and uncle, and his birth date was muddled along the way.

Larkin was shipped to New Guinea, then the Philippines, where he saw combat.

“When you turned around and saw somebody lying there dying in the mud... I lost kids I knew from back home, friends I met at Fort Dix, some I met in New Guinea,” he says. “We were running up hills when we heard President Truman had dropped the bomb [on Hiroshima, Japan, Aug. 6, 1945], and a lot of young fellows knelt down and said a prayer, ‘Thank God.’ When the second one was dropped on the 9th, we knew the war was over.”

Larkin came home intent on attending college, but with the wave of returning veterans, spots were scarce. He eventually returned to service after lasting only a month working in a brewery. He qualified for Officer Candidate School, and ended up commanding a company that went into combat in Korea in July 1950.



"It was tough, bitter cold. We had the same combat uniforms we used in the Philippines," he says.

Much tougher than the conditions was his duty to notify the parents of soldiers wounded or killed in combat. "When you write that letter home that says, 'I regret to inform you that your son was killed today,' it was the hardest thing I ever had to do," says Larkin.

He witnessed history up close as a project officer when President John F. Kennedy visited Germany in 1963 and two years later when Martin Luther King, Jr. marched from Selma to Montgomery, Ala., for voting rights.

Lieutenant Colonel Larkin retired after 23 years of active duty and several awards—the Legion of Merit, seven Army Commendation Medals and seven Battle Stars. But he didn't stop working. Whenever an American affixes a Purple Heart commemorative stamp to a first-class letter, it is in large measure possible because Larkin spearheaded an 11-year effort to first create the stamp and then, in 2011, have it designated as a "Forever" stamp. Larkin was also instrumental in the construction of the National Purple Heart Hall of Honor in New Windsor, N.Y., where he lives.

"It's to honor the 1.8 million Americans killed or wounded in combat, although my sense is that there are more than that," says Larkin. "World War II veterans are dying every day. I go to reunions every

*"I'm proud I served, and I only regret that some of my dear friends didn't make it."*

—SENATOR BILL LARKIN (R) NEW YORK

so often, and I was told that of our battalion in the Philippines, only two of us are alive today.

"I'm proud I served and I only regret that some of my dear friends didn't make it. I never go to bed at night without saying a prayer for them."

With the military careers of these six Americans long behind them, their commitment to serving their country now plays out in the committee rooms and chambers of state legislatures. But today, their generation's shadow indeed grows shorter with every dawn. The Veterans Administration estimates 642 World War II veterans die each day.



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# GI JOBS

States are helping veterans find good jobs based on the training and education they received in the military.

BY JAMES B. REED

**W**hen millions of veterans flooded home after World War II, the federal GI Bill helped them pay for their education, find a job and survive unemployment. Most agree the legislation fueled job growth, helped the economy absorb the new workers and created a new cadre of entrepreneurs. The economic boom that followed lifted millions of Americans into the middle class.

Today, tens of thousands of service men and women are returning home from the Middle East and the post-9/11 GI Bill helps them assimilate, as do many other services offered by all levels of government, nonprofit organizations and private businesses.

The real key to veterans adjusting to life back home is finding a good job. But even with the support, the tough job market and sluggish economy makes that difficult. Veterans and their wives and husbands face some unique obstacles in finding and retaining civilian jobs, even when they have marketable skills.

Many have received specialized training in the military for jobs that would require a state occupational license or credential in the civilian world. But military preparation isn't always recognized or valued in the civilian world.

And that's where state lawmakers are trying to make a difference.

## Experience Counts

"Montana is working hard to get separating and retiring service members to work," says Senator Elsie Arntzen (R) of Montana, adding that the state's unemployment rate for post-9/11 veterans is 17.5 percent, while the state average is only 5.7



Senator  
Elsie Arntzen (R)  
Montana

James B. Reed staffs the NCSL Military and Veterans Affairs Task Force.



*"We have an obligation to find ways to give veterans every opportunity to apply their military experience to academic credit, job certification or vocation training credits."*

—REPRESENTATIVE DAN SADDLER (R) ALASKA

percent. "It is critical that we give recognition for military service and training for state licensing, to help these Montanans transition into jobs in the private workforce."

Several state legislatures have made changes to occupational licensing requirements to more readily recognize and accept military training, education and experience, particularly in jobs related to military specialties.

States regulate hundreds of occupations, mostly in the health field, through various boards and agencies. Typically, to qualify for a license, four elements are considered: a person's formal education, work experience, score on the licensing exam, and basic qualifications such as citizenship and residency.

Maryland lawmakers, in 2007, passed some of the first legislation requiring state licensing agencies to work together to identify barriers veterans face in using their military health care training and experience to qualify for state licenses. Since then, most state legislatures have considered how best to ease the red tape for veterans in their states.

The most common policy change, made so far in 34 states, has been to allow military training, education and





## Health Care Vets

Few military health care licenses transfer to civilian jobs, making it surprisingly difficult for veterans to find jobs even though states face shortages in the health care workforce. Army medics, for example, receive national emergency medical technician certification—recognized in 46 states—yet often are required to meet additional requirements to obtain a valid state license.

The U.S. Department of Labor anticipates significant growth in health care jobs by 2020, including more than 1.2 million jobs for registered nurses and nearly 370,000 for licensed practical nurses. Health care aides, pharmacy technicians, physical therapists, physical therapy assistants and physician assistants are also expected to be in high demand.

To streamline the transition from military to civilian health care professions, lawmakers in at least eight states have passed legislation requiring state boards of health to consider relevant military education, training and experience.

Utah and Virginia are focusing on emergency medical technicians, while Oregon, Virginia and Washington are targeting various medical professions.

Georgia developed specific nurse licensing requirements for former military medical corpsmen and paramedics. Iowa and Maryland directed their departments of veterans' affairs to focus on helping direct veterans to fields where there is a shortage of workers. And 32 states offer loan repayment programs to primary care providers—both former military and civilian—who commit to working in medically underserved areas for at least two years.

—Megan Comlossy



Representative  
Dan Saddler (R)  
Alaska



Representative  
Tanya Pullin (D)  
Kentucky



Representative  
Tom Sloan (R)  
Kansas



Senator  
Ed Harbison (D)  
Georgia

experience to count when considering an occupational license. Another nine states are still considering the issue.

"Americans in military service receive world-class training, education and experience during their time in uniform, assets that shouldn't be lost to them or to our communities as they transition to civilian careers," says Alaska Representative Dan Saddler (R). His legislation, enacted this year, requires most state licensing boards, the University of Alaska and vocational education facilities to accept relevant military training and experience when making occupational licensing decisions and granting educational credits.

"I think we have an obligation to find ways to give veterans every opportunity to apply their military experience to academic credit, job certification or vocation training credits." Kentucky Representative Tanya Pullin (D) believes in doing "more than talk of hiring veterans." She sponsored successful legislation this year to ease licensing requirements specifically for firefighters and emergency medical technicians. She chairs the House Veterans Military Affairs and Public Safety Committee, which will conduct hearings during the interim to assess the progress of boards and commissions in recognizing military training.

Kansas Representative Tom Sloan (R) sponsored successful legislation this year to, among other things, better evaluate certificates and training curriculum provided by the U.S. Department

of Defense. State officials are working with staff from the DoD to train state regulatory agency staff on the new requirements.

A similar bill has passed the House in Georgia and is now under consideration in the Senate. Senator Ed Harbison (D) is "encouraged by the efforts of both the legislative body and the governor's office to remove unnecessary obstacles" to the licensing of military members and their spouses.

Several private sector efforts also focus on helping veterans find good jobs. A few include:

- ◆ The "Troops to Energy Jobs" program spearheaded by the Center for Energy Workforce Development.
- ◆ Walmart's commitment to hire 125,000 veterans over the next few years.
- ◆ The U.S. Chamber of Commerce's "Hiring Our Heroes" program that holds job fairs in 400 communities annually.

### A Federal Push


A U.S. Department of Defense task force, created in 2012, is working to close gaps between military training and civilian licensing requirements as well. Working with state legislators, regulators, educators and business leaders, the group

## A Source for Ideas

Kansas Representative Tom Sloan (R) says his idea to study the Department of Defense's materials and requirements in order to better evaluate how similar and transferrable they are to state requirements was a "direct result of the NCSL-DoD partnership and the Military & Veterans Affairs Task Force."

These NCSL groups are a great way for lawmakers and staff to receive information from NCSL targeted to their interests, as well as share sensible solutions, talk about successful strategies and learn lessons from colleagues dealing with the same challenges around the country.

# Truth in Advertising?



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## Health care services can be mislabeled too.

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

“Physical therapy” is not a generic term—it describes the care provided by or under the direction of licensed physical therapists. When people seek

“physical therapy” they deserve to know their care is in the hands of a licensed physical therapist. Other health care providers might share some of the same treatment techniques or rehabilitative procedures used by physical therapists, but the care should only be described or advertised as “physical therapy” or “physiotherapy” when provided by or under the direction of a licensed physical therapist.

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



American Physical Therapy Association

[www.apta.org](http://www.apta.org)

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



is trying to find an effective way to determine equivalence between military and civil training programs, particularly for bus and truck drivers, emergency medical technicians, paramedics and licensed practical nurses.

“Fast Track to Civilian Employment,” a February 2013 report by the Executive Office of the President, outlines the barriers and makes the case that skills learned in the military are transferable to civilian jobs. “Our veterans bring an important set of skills to the job market,” says Frank C. DiGiovanni, senior director of Training and Readiness Strategy at the Department of Defense. “Among them are extraordinary leadership skills, finely tuned problem solving capabilities and working harmoniously as a member of a team.”

He goes on to say how essential state involvement is to the mission’s success. “To this end, state legislators have been outstanding partners,” he says, by introducing bills that recognize the value of military training.

Although few object to helping veterans find employment, state licensing agencies or professional organizations that administer the certifications or exams have expressed concern about how to evaluate military training fairly, for both the veterans and the other professionals who took the civil route to credentials.

A lack of common standards for both training routes as well as a lack of experience by colleges and technical schools on how military programs might translate into academic credits can hinder efforts. Without common standards, it is more difficult for state licensing agencies and academic institutions to evaluate the equivalency of military training and experience accurately.

Professions such as doctors, dentists and certified public accountants have opposed some of these efforts. The Hawaii Association of Public Accountants, for example, testified against a bill this year, expressing concern that, “Self-vetting by military-affiliated applicants by affidavit while others must undergo regular vetting for protection of the public will create an unacceptable two-class system.” Such opposition compelled the Hawaii committee considering the bill to expressly not apply the bill’s intent to CPAs.

## Double Trouble


Spouses with state-specific licenses (about a third of all) face similar challenges because of frequent transfers to other states where requirements often differ.

About 15 percent of military spouses move across state lines in any given year, often requiring them to get re-licensed or recertified, depending on their occupation. Teaching and nursing are the top two occupations for military spouses and both require state-specific licensure.

Thirty-eight states have either laws or executive orders requiring an expedited license process for military spouses.

At the federal level, a study by the U.S. Departments of Treasury and Defense recommends that states:

- ◆ Support the endorsement of a current license from another jurisdiction as long as the requirements are substantially equivalent.
- ◆ Provide a temporary license to allow time to fulfill any missing requirements.
- ◆ Expedite application procedures by simplifying approvals and streamlining needed documentation.

Two more ways states can help servicemen and women is to allow members of the National Guard and Reserve to keep their occupation licenses while serving on active duty. Twenty-five do so now and nine more states have pending legislation. Six states allow reciprocity of licensing by granting a valid but temporary license. 

## Keep on Truckin’

Logical jobs for many veterans who have learned to maneuver Hummers, tanks and other military vehicles through the rough terrain of Iraq and Afghanistan are professional truck and bus drivers.

The nation is expected to need about 300,000 more truck drivers by 2020, according to the White House Council of Economic Advisers. Close to 10,000 military truck drivers left the service last year, with more coming next year. Civilian truck drivers earn a median hourly wage of about \$18, well above the nation’s average median wage.

After a federal rule was issued in 2011, states were allowed to accept two years of military driving experience in lieu of the behind-the-wheel driving test. Forty-six states so far have chosen to do so, and two are considering it. Applicants must still pass the written exam to receive a commercial driver’s license.

Virginia created the “Troops to Trucks” program in the Virginia Department of Motor Vehicles to work with military bases to train new drivers. It targets those with less than the required two years’ experience driving a commercial vehicle.

Another new federal law allows states to exempt military personnel from state residency requirements for commercial drivers. Texas lawmakers recently passed legislation to allow this.

—Alice Wheat

## GI Bill

Signed into law by President Franklin D. Roosevelt on June 22, 1944, the GI Bill allowed millions of soldiers returning from World War II to go to college and buy houses, thanks to its generous grants, subsidies and home loan guaranties.

It also softened the impact on the job market by steering some returning soldiers into college.

Unemployment assistance was the most controversial benefit to get included and ended up being the least used among veterans. They collected less than 20 percent of the funds set aside for it.

But the other provisions were history-making, according to the U.S. Department of Veterans Affairs. By 1952, the Veterans Administration had backed nearly 2.4 million home loans, and by the time the original GI Bill program ended in 1956, almost half the veterans (7.8 million of 16 million) had participated in an education or training program.

The GI Bill was revamped in 1984 and again in 2008. The Post 9/11 GI Bill’s enhanced educational benefits for those who were serving on or after Sept. 11, 2001, include up to 36 months of tuition, a living allowance, money for books and the ability to transfer unused educational benefits to spouses or children.

—Mary Winter

### ONLINE

For more information on NCSL’s resources on veterans’ issues as well as partnerships and task forces, go to [www.ncsl.org](http://www.ncsl.org)





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# Virtual Venues

Legislators are reaping the benefits of reaching citizens online and paving the way for those who follow.



BY PAM GREENBERG

**A** technologically savvy high-tech lawmakers across the county are gathering insight and ideas from constituents on a host of issues. But they're not going door to door. They're using online discussion groups and conducting virtual town halls using social media and other online tools.

Digital town halls won't completely replace the old-fashioned kind of public hearing, but with so many Americans connecting with political causes and issues online, these virtual venues are becoming increasingly popular and important.

## Online Innovators

Once Hawaii Senator Jill Tokuda (D), chair of the Education Committee, made the leap into the online world, it didn't

*Pam Greenberg, a frequent contributor to State Legislatures, covers legislative technology issues for NCSL.*

take her long to become quite adept at learning how to use new tools as they become available. Her first experiment came after Hawaii passed a constitutional amendment in 2011 requiring an appointed state board of education. Senator Tokuda faced the challenge of drafting the enabling legislation on a short timeline. "It was a very hot topic, and I wanted to engage all of our constituents in the dialogue," she says. "We looked to social media as the quickest way to engage people in that dialogue."



Senator  
Jill Tokuda (D)  
Hawaii

Tokuda set up a Twitter town hall, and has since conducted a second one about creating a state-funded early learning system. She's also experimented with Ustream to video stream a live town hall meeting, and used Google Hangout—a group video chat site—to discuss issues with small groups. The Google Hangouts were streamed live and coordinated with a Twitter discussion held at the same time. The video was archived on YouTube, and the Twitter discussions are saved on Tokuda's website.



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## 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.



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When Tropical Storm Irene slammed into Connecticut in August 2011, the General Assembly turned to social media to communicate with and respond to constituents. The legislature set up Facebook and Twitter pages called “After Irene CT” to communicate with the public and gather comments. Armed with that input, the General Assembly held hearings in Hartford about the storm and the state’s response in its aftermath. It publicized the project, in part, through a video on YouTube.

“We understand that not everyone can come to Hartford, sit and wait for public hearings, and take their turn,” says Senate President Donald Williams (D) in the video. “We want to do something brand new. We want to have a new way for folks to provide their stories and their insights.”

“After Irene CT” is now being used for public feedback about the state’s readiness and response to other extreme weather and disasters, including its recent focus on how best to use \$71.8 million in funding to help rebuild communities damaged by Superstorm Sandy.



*Senate  
President  
Donald  
Williams (D)  
Connecticut*

Across the country in Texas, the Government Efficiency and Reform Committee came up with the “Texas Red Tape Challenge” to encourage public opinions about how to make Texas’ laws and regulations less burdensome. The committee created a “crowd sourcing” website and Twitter account that allowed participants to post comments, read and discuss others’ ideas, and vote on their favorites. The website spelled out the rules and had a frequently asked questions section. The project, which ran from July to October 2012, focused on four topics: public school mandates, state agency rulemaking, manufacturing in the state, and occupational licensing.

The challenge was “an extension of a longstanding philosophy that good ideas may be found within the wealth of expertise and experiences of all Texans,” says Representative Bill Callegari (R), chairman of the committee, “and those ideas may contribute to meaningful changes in our laws and regulations.”



*Representative  
Bill Callegari (R)  
Texas*

Public participation on the site exceeded original estimates: 960 online users submitted nearly 100 ideas by the time it ended.

### The Trailblazers

All across the country, more and more legislators, legislative committees and caucuses are conducting online forums. Pioneers include the Utah Senate for its use of online legislative town hall meetings, the Indiana House and the Senate Democrats for conducting some of the first legislation forums on Facebook, and the Minnesota House for a website soliciting feedback about property taxes.

In 2007, two health and higher ed committees in Washington teamed up to conduct two three-day “Web dialogues” to gather citizens’ answers to these questions: “What can the state do to reduce the incidence of obesity in Washington?” and “What can communities, colleges and universities do to educate more students to higher levels?”

## Online Opinion Polls

New features on legislative websites gather constituents’ opinions about legislation during the session.

**NEVADA** posted its first online opinion poll in 1999, and it’s been active every session since. Citizens can express their views and vote on all bills being considered. The website posts the comments, vote tallies and which bills received the most interest. The results are searchable by bill number, zip code, and Senate or Assembly district. Names, addresses and other personal information are shared only with legislators so they can follow up with constituents.

**ALASKA**’s Public Opinion Messaging System, available since 2002, allows citizens to send a 50-word message on any topic to legislators during legislative sessions. It requires a name and address, which is matched to information from voter registration lists.

**NEW YORK** Senate’s OpenLegislation website, created in 2009, lets visitors view and comment on bills anonymously, as well as read comments from others. Users also can sign up to receive an email update called Bill Buzz that alerts participants when comments are made on the bills they’re following.

**IOWA** began seeking the public’s input on how to improve state government in 2009 as a result of the State Government Efficiency Review Committee. Its website displays the suggestions offered.

**WYOMING** created an Online Hotline in 2011 to track the level of public support for particular bills. Although the votes and comments are not posted on the Web, they are shared with legislators.

Earlier this year, three more legislatures added online comment forms. **MARYLAND**’s new Voice My Opinion System, **NORTH DAKOTA**’s Constituent Views and **WASHINGTON**’s E-Comments allow constituents to state their views on a specific bill. Messages require an address so that constituent views can be sent to lawmakers to respond.

Public announcements invited citizens to participate. The websites offered background information on the issues. An agenda gave details about the focus for each day’s discussion. And the online comments were recorded by trained staff.

### Is It Worth It?

Any effort to increase participation in the public square is worthwhile, of course, but evidence shows the specific benefits of jumping online, even before the dominance of Facebook or Twitter.

A survey of participants in the Washington Web dialogues found that more than three-quarters of those responding felt the online experience was positive or somewhat positive, and said they would view legislators who solicit the general public’s opinions through similar online dialogues more favorably than those who don’t. Eighty percent wanted more dialogues on other topics in the future. And more than two-thirds gained a deeper understanding of the issues.

In a study of a series of 20 online town hall meetings by members of Congress, the Congressional Management Foundation found these virtual meetings increased participants’ trust in their representatives and their likelihood to vote.

Specifically, the study found that the online town halls:

- ◆ Increased the member of Congress’s approval rating—with the average

net approval rating (approves minus disapproves) jumping from 29 percent before the session to 47 percent after.

- ◆ Improved constituents' view of the lawmaker's position on the issue discussed—with approval jumping from 20 percent to 58 percent.
- ◆ Attracted a diverse array of constituents, including those from demographics not traditionally engaged in politics and people frustrated with the political system.
- ◆ Increased the participants' probability of voting for the member in the future, particularly among swing voters.
- ◆ Were extremely popular—95 percent of participants said they would like to attend similar events in the future.

### Lessons Learned

The congressional study also discovered which elements contributed most to the success of the online town halls:

- ◆ Use a neutral moderator,
- ◆ Set clear ground rules,
- ◆ Invite a broad sample of participants, including some not acquainted with the lawmaker,
- ◆ Allow unscripted, real-time questions and comments from participants,
- ◆ Focus on one timely issue, and
- ◆ Provide concise, unbiased information on the topic in advance.

Although Senator Tokuda moderated her forums, she says she now sees the value in having another person available to monitor the technology and the questions flooding in from various sources, such as a Twitter stream. In Texas, Jeremy Mazur, a former legislative committee staffer, served as the neutral moderator of the Texas Red Tape Challenge.



The recommendation to include a wide variety of views is easily addressed through social media, which can attract a diverse group of participants. To ensure they reached a diverse group, the forums in Connecticut, Hawaii and Texas used Web announcements, Twitter tweets and Facebook posts, along with traditional press releases, to publicize the events.

### The Time Factor

The time required for this kind of preparation, however, is often the biggest barrier to conducting online forums, says Rich Nafziger, the former chief clerk of the Washington House who worked on the Web dialogues. He recommends choosing a very specific and salient subject, trying it out and then building on it.

"It's worth the effort and worth building on," says Tokuda. "I think it's impossible to do it perfectly, but I feel it's opening doors and giving voice to individuals who really want to share their thoughts."

#### SL ONLINE

For links to more information on virtual venues for lawmakers, go to: [www.ncsl.org/magazine](http://www.ncsl.org/magazine).



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# The Great Evaluator

Steve Aos helps lawmakers in Washington be shrewd stewards of taxpayers' money. His methods may be coming to a statehouse near you.



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BY JONATHAN KAMINSKY

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**O**n a May morning shortly after the Washington Legislature has concluded its regular session, a trim, soft-spoken man in his early 60s welcomes a visitor to his office a few blocks from the Capitol.

One wall is taken up by dozens of oversized three-ring binders with titles like “Drugs & Labor Market” and “Mental Health Model Parameters.” The other is filled with tomes ranging in topic from criminology to econometrics. Reading material aside, the simple desk, austere swivel chair and second-story view of Olympia’s unglamorous downtown do not

suggest the workplace of one of the most celebrated minds in evidence-based policymaking.

But Steve Aos, director of the Washington State Institute for Public Policy—an entity with the responsibility of answering specific policy questions posed by the Legislature—has led to a transformation in the way state lawmakers think about funding a broad array of government programs.

In so doing, Aos (sounds like dose) has attracted the attention of the MacArthur Foundation and the Pew Center on the States, which have embarked on an ambitious, seven-figure effort to replicate his method in 14 other states, and counting.

Asked about the high level of interest his work—especially in criminal justice—has generated beyond Olympia, Aos smiles graciously. (He has lectured on his research methods 243 times, to audiences as far afield as the United Kingdom and Australia.) It is “nice and gratifying,” he says.

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*Jonathan Kaminsky is an Olympia-based reporter who has covered the Washington Legislature for the Associated Press.*

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*“It’s tremendously exciting to be at the beginning of what can be a transformation in how government makes its toughest choices.”*

—GARY VANLANDINGHAM, DIRECTOR OF THE RESULTS FIRST PROJECT AT THE PEW CENTER ON THE STATES

“It’s more exciting to me that it’s being used to the degree it is in Washington state,” he says. “You have an interest in getting better outcomes and using taxpayer dollars more efficiently, making public policy work better, in your own place.”

### A Translator

Aos’ primary role is to bridge the disparate worlds of academic researchers and political decision makers by distilling and interpreting the findings of the former for use by the latter.

It’s hard to find anyone willing to speak ill of how he does it. Senator Bruce Dammeier (R), vice chair of the Early Learning and K-12 Education Committee, is effusive in his praise of Aos. The institute’s research “has been really important” in guiding lawmakers’ thinking on a range of education issues, he says, including informing his position that teachers’ advanced degrees subsidized by the state must be specific in nature to stand the best chance of boosting student outcomes.

Senator Jim Hargrove, a notoriously prickly six-term Democrat and former chairman of the Senate Human Services and Corrections Committee, agrees. The institute, he says, “has been crucial in not only gathering the results of the programs that we’ve been doing, but also in looking at national research and bringing us models for programs that are showing results elsewhere, so that we’re not just guessing all the time about stuff.”

“I wish they had more capacity,” Dammeier says. “We need people like that to highlight the areas we should be focusing on and to know whether the money we’re investing gets an outcome. That way it’s not just rhetoric, it’s not just debate, but we’ve got a basis to make a sound decision.”

The institute’s work appears to have borne fruit. By its own estimate, criminal justice policies it has recommended that have been adopted by the state since 2000 will save taxpayers and crime victims a total of \$2.77 billion by 2050. In addition to returning a benefit six times greater than the money spent, these policies have also led to 1,200 fewer people in state prisons, Aos says. Meanwhile, the state’s violent crime rate dropped by more than 20 percent between 2000 and 2011, the latest year for which figures are available.



Senator  
Bruce  
Dammeier (R)  
Washington



Senator  
Jim Hargrove (D)  
Washington

## The WSIPP Model in Three Steps

Whether measuring the cost-effectiveness of education, health care, criminal justice or other taxpayer-funded programs, the WSIPP model is carried out in three steps.

### 1. WHAT WORKS?

To begin, staffers track down and pore over all available peer-reviewed research conducted on the program to be analyzed. Take, for example, cognitive behavioral therapy, a treatment program for adult criminal offenders that the Legislature asked WSIPP to assess in 2009. After discarding studies with questionable methodologies—“the lousy research,” as Aos calls it—he and his staff use the remaining data to determine what works and what doesn’t. With cognitive behavioral therapy for adults, Aos says, the institute reviewed 39 studies. All told, those studies indicated that the treatment is effective: It reduces the rate that offenders commit a new crime and return to prison by about 8 percent.

### 2. WHAT’S ECONOMICAL?

The next step is to put a dollar value on both a program’s costs and its benefits, both to taxpayers and to affected individuals, such as crime victims. Because the state had already enacted the cognitive behavioral therapy program on a limited scale, the institute was able to peg the cost per participant at \$500. And because of the work from Step 1, staffers knew it was expected to reduce recidivism by 8 percent. In order to unpack the latter figure, they dug into questions such as how long would it take before future crimes are avoided, how many of those crimes would be serious or minor, and how many crimes would result in the offender being apprehended and sent back to prison. Ultimately, says Aos, “you have to do that math right, so when you hit the ‘run’ button on the model it actually computes, or monetizes, what the benefits are of that 8 percent reduction in recidivism. So you can take the benefits and stack them up against that \$500 cost and see whether the program is likely to be a good investment.”

### 3. WHAT’S THE BEST MIX?

Finally, the institute suggests how much of a set of programs in a policy area the state should invest in. Often, this takes the form of a fiscal impact statement for proposed legislation. To reduce crime, for instance, the institute might suggest specific funding levels for programs including cognitive behavioral therapy for adults, similar programs for juvenile offenders, drug courts, policing levels, and prison beds, among others. These recommendations, like the cost-benefit findings of Step 2, are based on the findings yielded by the institute’s computer model, which Aos and his staff have honed over the past two decades. “This step, which we call portfolio analysis, is where we say how much the state should put into juvenile programs versus adult programs versus prisons versus early childhood education, if the goal is to reduce crime,” Aos explains. “We’re looking for the portfolio that will give taxpayers both the best crime reduction and the best use of their taxpayer dollars.”

### Juvenile Justice First

In 1995, shortly after Aos joined the institute as associate director, he quickly immersed himself in his first legislative assignment. Eager to combat a years-long wave of violent crime sweeping the nation, lawmakers had funded a pilot program of intensive supervision of juvenile offenders. They wanted to know how it was working.

After assessing the available research on similar programs around the country, Aos gave lawmakers the bad news: It was ineffective. Then, at the Legislature’s direction, he found other programs, ones that used a cognitive behavioral therapy



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*Steve Aos and his staff at the Washington State Institute for Public Policy have led an evidence-based transformation in how lawmakers decide to fund an array of human services programs.*

approach, to be more promising. Following his advice, the state shifted funding accordingly. The results were good, and his reputation among lawmakers was established.

The experience was both gratifying and eye-opening, Aos says. Coming from a background in energy policy, where return-on-investment analyses were standard procedure, he assumed that similar work was done in arriving at best practices in juvenile justice.

"I found out that there wasn't. There was very little such work done in human services in general. Not just in Washington but anywhere around. You could search forever and not find anything," he says. "So what I wanted to do was to ask that economic question that was asked in other areas of public policy and apply it to the human services area."

### The Formula

Aos has developed a uniform approach to answering the increasingly diverse questions his institute receives from the Legislature. After analyzing all the research on a program to determine its effectiveness, the institute produces an estimate of how much it is likely to cost or benefit taxpayers.

Aos notes that those tied to programs the institute has labeled as poor investments at times voice their disapproval. "In which case I say, 'How we came up with that judgment is all written in the technical appendix. If we left out a study, please let me know. This is how we coded them. If we made a mistake please let me know that too.' It's in a model, and it's calculable," Aos explains.

Finally, Aos and his staff recommend a portfolio of possible investments. For example, to yield the lowest crime rate at the best price, they'll point to an ideal mix of, among other funding priorities, prison beds, cops on the street and treatment for ex-cons.

Even the most finely tuned, easily digestible data can be trumped by political calculation, however. When this happens, Aos says, he channels the professional baseball player he dreamed of becoming while growing up cheering for the Los Angeles Dodgers.

"I try to take a hitter's mentality to what we do here," he says. "We produce the best work that we can. Sometimes it's going to be used directly and immediately in a budget allocation. Sometimes it's not. And you can't throw your helmet and stomp because you'll lose your mind if you do that. You keep going forward. You always hope for that hit."

### Spreading the Word

Gary VanLandingham, director of the Results First project at the Pew Center on the States, is the man in charge of bringing Aos' vision to capi-

## A Snapshot of the Institute

The Washington State Institute for Public Policy's mission is to conduct useful, non-partisan research that helps policymakers, and in particular lawmakers, make informed decisions about long-term, important issues facing the state.

The Legislature created the institute in 1983 to bring the state's higher-education expertise to bear on the state's social and economic problems. The institute has since expanded to 16 staff, including 12 researchers who cover issues including criminal justice, welfare, health and utilities.

Policy questions posed and passed by the Legislature are the primary driver of the institute's work, though with the approval of its 16-member board, it also conducts research for outside entities. The board is structured to be nonpartisan, and is co-chaired by lawmakers from each party. Half of its members are lawmakers evenly divided among the four caucuses. Four are public university administrators, two are gubernatorial appointees and two are the respective heads of the House and Senate nonpartisan staffs.

It is funded each biennium through a legislative appropriation to The Evergreen State College in Olympia.

tols across the country. The institute's model, he says, has the potential to fundamentally change the way state governments operate.

Over the past 30 years, VanLandingham notes, revenue forecasts relied upon by state lawmakers to write budgets have evolved from relatively crude, simplistic estimates based on static economic growth rates to sophisticated and powerful computer models that, while not perfect, give a far clearer view of future tax receipts. Aos' model, VanLandingham says, can be seen as the prototype for a similar approach to the expenditure side of the ledger.

Two years in, he says, results are already apparent. New York Governor Andrew Cuomo's office is using the model to look for ways to make the criminal justice system more efficient. In addition, VanLandingham says, New Mexico recently used the Aos approach to help evaluate a prison drug treatment program. After learning it was under performing, lawmakers eventually decided to shift its \$3 million in funding to a more promising effort. Other states, like Rhode Island, he adds, are coming on board as well.

"Now is the time for this work to proceed," he says. "It's tremendously exciting to be at the beginning of what can be a transformation in how government makes its toughest choices."

As for Aos and his institute, there is no resting on laurels. Having applied its brand of cost-benefit analysis from juvenile justice to adult corrections, early learning, K-12 education, child welfare and health care, it recently received a new assignment. With the passage of a voter initiative last year legalizing the recreational use of marijuana, Aos' staff has been charged with evaluating the costs against the benefits in carrying out the groundbreaking initiative. Their first report is due in 2015.

With this ever-expanding purview, are there any topics Aos secretly pines for an opportunity to delve into? "No," he says. The institute is kept so busy that he has no time for such concerns. Then he pauses.

"We've never done anything in transportation. I'd like to do that sometime. It's a topic of importance to the state."

# How to Be a Better Boss

Legislative staff managers are vital for staff success. Here are some things great managers have mastered.




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BY BRIAN WEBERG

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**M**ore than 34,000 bill drafters, researchers, budget analysts, evaluators, information technology specialists, policy advisers, parliamentarians and personal aides help to keep our state legislatures running effectively and efficiently. Yet the role that is sometimes overlooked, but crucial to all staff success, is that of manager.

With ever-tight budgets, high demand for services, an aging workforce, fewer talented folks interested in public service, and a dizzying pace of change that increasingly forces staff to reassess what they do and how they do it, managers face daunting challenges.

Effective ones know how to support staff in ways that motivate and challenge without discouraging them. Here are some tried and true management practices and behaviors that separate great managers from the rest.

---

*Brian Weberg directs NCSL's Legislative Management Program and conducts training programs for legislative staff managers.*

## 1

### Manage

Most legislative staff managers got where they are by being really good at a particular skill like bill drafting, budget analysis, political campaigning or some other functional specialty. Most likely they did not get much training on how to be a boss. Great managers acknowledge that they put their management role first, and seek the training and information they need to learn and improve. Too often, poor managers don't let go of the familiar and comfortable specialist role that got them to where they are. But managers should manage, and that often requires learning a whole new set of skills, as well changing behaviors and making a choice to take on new challenges.

## 2

### Communicate

Everyone has heard the old real estate adage that there are three key factors in assessing the value of land—location, location, location. In management there is a similar mantra: commu-

nication, communication, communication. Great managers make it their top priority to promote robust, open, multidirectional communication in their organizations. The tools are basic, but they work. Here are a few:

- ◆ Hold staff meetings that matter.
- ◆ Give regular feedback on employees' work.
- ◆ Open your door and wander out of your office often.
- ◆ Be a good listener.
- ◆ Avoid surprises and secrets by telling everyone (almost) everything.
- ◆ Walk the talk by modeling the values and behavior you want to see in your staff.
- ◆ Respect differences in work styles and personalities.



### Let Go

Effective managers try their best to make everyone on the team the best they can be. But some employees just can't get there, don't want to get there or aren't even headed in the right direction. When their best efforts fail, great managers know when to let go. They know when to move on from time-consuming, energy-zapping problem employees so they can focus on the superstars, potential superstars and workhorses who make positive things happen each day.



### Make Plans

Legislative work is often intense, surprising and chaotic, yet fairly predictable. Legislative staff managers often fail to think about their planning responsibilities during the much-needed down times, many of which are in the realm of what we call human resource management. Do you have a pay plan, a job classification plan, a staff training plan, a succession plan or a clear set of personnel policies? If you do, you're demonstrating to your employees that you care about their careers and you value fairness, equity and performance. With those qualities, your workplace will encourage stronger employee loyalty, productivity and retention.



### Respond to Change

State legislatures are steeped in tradition, which serves them well. Institutional momentum generated by long-held traditions and the press of daily business, however, can perpetuate the status quo and bind legislative staff to practices, procedures and

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attitudes that are out of sync with changing legislator needs and expectations. Great managers know this and monitor trends, test assumptions about their work, and find ways to let go of activities and products that no longer serve their mission.



### Build Trust



Legislatures (and most of the world) run on trust and crawl without it. Great managers are trust builders—between themselves and their employees and between their work groups and the clients they serve. Trust is earned. It should not be assumed. It is fragile and, once lost, may take enormous effort to restore. Trust is built by routinely expressing fairness, honesty, loyalty and reliability in your actions and interaction. Staff managers who build trust help their employees make the most of what they have to offer legislators and the legislative process. And that is what the job of managing is all about.

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# Go Figure!

New guidelines are changing how public pension accounting affects the books, budget and bond ratings.



BY KEITH BRAINARD

**A**cross the nation, public pension funds hold some \$3 trillion in assets in trust for 15 million state and local government employees and 8 million retirees and their family members. How these benefits are funded and accounted for is a matter of consequence and vigorous debate.

Until recently, state and local lawmakers needed to focus only on a single set of calculations, within parameters set by the Governmental Accounting Standards Board (GASB), to assess both the condition and costs of their public pension plans. But the days of a single set of numbers are gone. In June 2012, the GASB approved new standards for public pensions and the employers that sponsor them: states, cities, school districts, etc.

Known officially as GASB Statement No. 67 and No. 68, the revised standards for public pension plans apply to fiscal years that began after June 15, and will take effect for employers after June 15, 2014.

Lawmakers will now have at least three sets of pension numbers for three different purposes—books, bonds and budget. As sponsors of public pension plans, state and local governments must understand the source, purpose and audience for each to make sound policy decisions and accurately communicate with constituents about the condition of the retirement plan.

## **BOOKS: Computing an annual financial position for pensions for governmental accounting**

Since the mid-1990s, financial reporting standards set by the GASB have been based on an actuarial calculation of the amount needed to fund the pension plan.

The new GASB standards set forth different guidelines for employers, depending on the type of their pension plan:

- ◆ **Single-employer:** The pension covers only one governmental entity.
- ◆ **Agent:** The pension covers several governmental entities that make individually calculated contributions for their respective portions of the costs.
- ◆ **Cost-sharing:** The pension covers several governmental entities that proportionally split the costs.

Under the new standards, any review of a pension should begin with understanding which type of plan it is. Plans covering the vast majority of public employees are either agent or cost-sharing plans.

Another important change under the new GASB standards is that the computation of a “net pension liability” will now appear in the government’s basic financial statement. It is the calculation of the difference between the market value of the pension’s assets and its obligations to pension beneficiaries on a specific date.

Employers that participate in cost-sharing plans will be required to report their share of the net pension liability. For some, this new requirement will result in placing a liability on their books that is disproportionately larger than other liabilities. In addition, because the amount of this liability will be based on the assets’ market value (not actuarial, or smoothed value), it is also likely to introduce an unprecedented level of year-to-year volatility.

*Keith Brainard is research director at the National Association of State Retirement Administrators. This article was adapted from Government Finance Review with permission from the Government Finance Officers Association.*

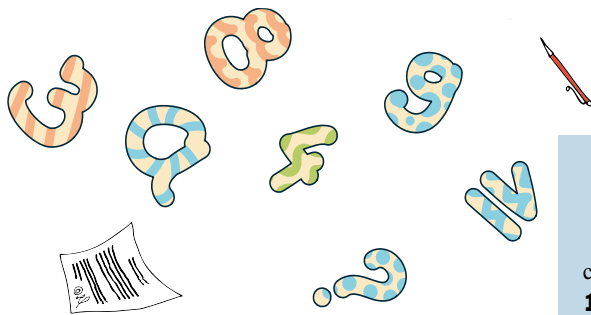


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### **BUDGETS: Determining the appropriate annual contribution to the pension plan needed for sound funding**

Of the many changes, perhaps the most notable will be the separation of public pension accounting from public pension funding. The new standards are focused on accounting, but not on financing pension benefits.

The previous standards created a single calculation that was used to identify the cost of the plan, expressed through the annual required contribution (ARC). The new accounting number is separate from an ARC and does not contain guidelines for calculating one.

State and local pension funding policies usually exist in statute and vary in how specific they are and in what elements they address. Most of these funding policies comport with accounting and actuarial standards in how they calculate an annual required contribution and are not required to change; but, they should be assessed for their effectiveness.

To guide lawmakers in reviewing the effectiveness of existing practices and governing statutes, 10 national associations representing state and local governments (including NCSL) established a Pension Funding Task Force that released “Pension Funding: A Guide for Elected Officials” in March. According to the guide, “The ultimate goal is to ensure that pension promises can be paid, employer costs can be managed, and the plan to fund pensions is clear to everyone.”

In it, the task force recommends that pension funding policies:

- ◆ Be based on an actuarially determined contribution.
- ◆ Be disciplined to ensure that promised benefits can be paid.
- ◆ Maintain intergenerational equity so that the cost of employee benefits is paid by the generation of taxpayers that receives services.
- ◆ Make employer costs a consistent percentage of payroll.
- ◆ Require clear reporting to show how and when pension plans will be fully funded.

### **BONDS: Calculating how pension obligations affect a government's creditworthiness**

Bond-rating agencies assess the creditworthiness of issuers of municipal debt based on a number of metrics, a government's pension plan being one of them.

Some ratings agencies have announced that in their credit analytics they will adjust pension data using uniform, and generally more conservative, assumptions for comparative purposes.

In 2011, Fitch Ratings announced that it would apply a uniform 7 percent investment return assumption to calculate the pension cost of plan sponsors. Fitch also indicated that it would allocate costs to individual employers participating in cost-shar-

## **What Legislators Need to Ask**

Although similar terms and multiple numbers have the potential to cause confusion, legislators should be asking three main questions:

- 1. How much should we be paying?** An actuarially determined annual contribution within some established parameters (most likely in statute) is what the Pension Funding Task Force recommends to ensure sound funding practices.
- 2. What should I know about the new pension liabilities figure that now will be on the basic financial statements?** The actual liability is the same as it always was, but the calculation will move from being a mere footnote to a more visible place on the financial statement. Nothing has changed as far as the liability itself.
- 3. What should we know about the bond-rating agencies?** Some of the agencies have announced that in their credit analytics, they will adjust pension data using uniform, generally more conservative assumptions regarding amortization periods and investment returns. However, pensions are just one of many metrics they use to determine bond ratings.

ing, multiple-employer pension plans and would reconsider its criteria after the new GASB standards were issued.

Moody's published a revised approach to assessing pension liability in April. Among other changes, it intends to use a risk-free discount rate (currently around 3.8 percent) instead of accepting projections of pension fund returns, and a uniform 20-year amortization period for all plans. These changes will make pension liabilities appear much greater—and also will be yet a different number than those used for accounting and funding.

To date, Fitch has not publicly released new criteria, and S&P's has not indicated whether the criteria it uses to evaluate pension plans will change as a result of the new GASB standards.

### **Understanding Changes is Crucial**

Assessing the health of a public pension plan has always been complex, but at least it was largely confined to understanding GASB standards. These standards provided insight into a pension's funding condition and annual cost, which the bond-ratings agencies also factored into their assessment of creditworthiness.

The new world of public pension data promises to be more confusing with different factors and methods being used—and published—by different groups for different purposes.

Although policymakers should continue to use an actuarial calculation to determine the necessary pension contribution to put in their budgets, the net pension liability will now be a distinct computation on the financial statement. And yet another calculation—entirely different from the others—may be made by credit rating agencies to determine how pension commitments affect a municipal bond issuer's ability to meet obligations.

These numbers will need to be explained and put into the proper context for other lawmakers, for the media and for constituents—both public employees and the general public. Failing to do so could result in the proliferation of misunderstanding and misinformation, rather than relevant and factual data on which to base sound policy.

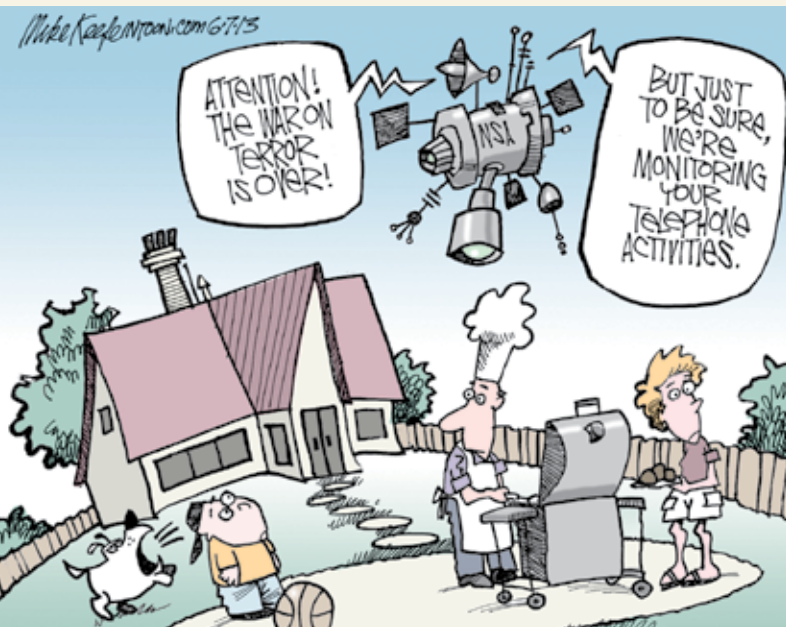


**“It probably won’t be very popular with Minnesotans ... but sometimes leadership is a little lonely.”**

— Minnesota Senate Majority Leader Tom Bakk (D) in the *Minneapolis Star Tribune*, about voting for pay raise for senators—their first since 1999.

**“An airplane is a hole in the air in which to throw money.”**

—Nebraska Senator Bob Krist (NP) during a floor discussion on whether the state needs a new plane, as reported in *Unicameral Update*.



JEFF PARKER/FLORIDA TODAY AND THE FORT MYERS NEWS-PRESS



**“I think there’s some reform fatigue going on in the legislature. We’ve done a lot of heavy lifting in the last few years and there’s been a lot of controversy in our hallways. People are just trying to catch their breath a little bit.”**

— Indiana Senate President Pro Tem David Long (R) in the *South Bend Tribune*, explaining why lawmakers want more time to study a school voucher program that was upheld by the state Supreme Court but may be costly.

**“What’s next? Fountains with flowing alcohol?”**

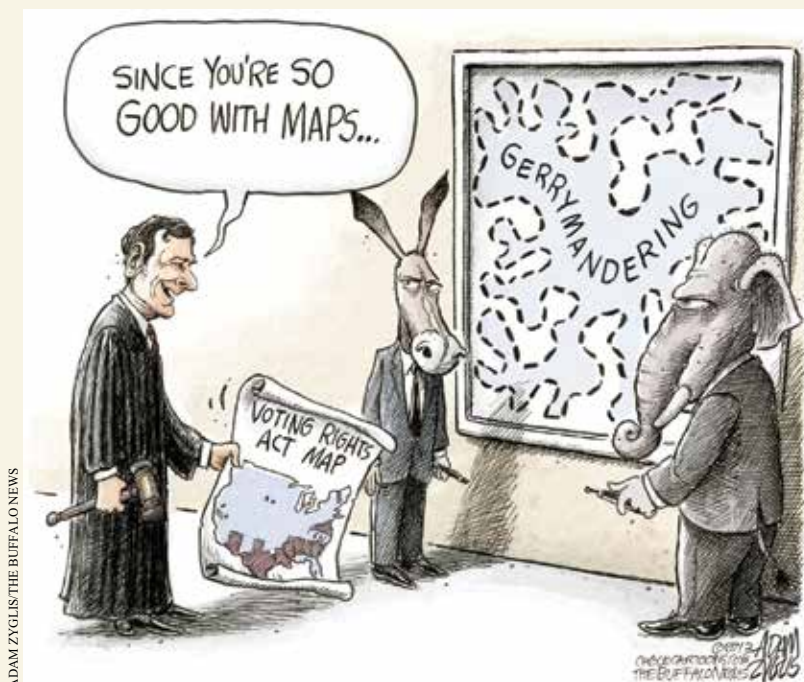
— Kansas Representative Pete DeGraaf (R) in the *Topeka Capital-Journal*, debating a bill to allow liquor sales at special events in the state’s Capitol and allow casinos to install self-serve wine machines. *The bill died.*

**“I’ve never seen the case where a governor has rolled over her own party because she was throwing a temper tantrum.”**

—Arizona Representative Eddie Farnsworth (R) following the vote to expand Medicaid after a battle between Republican Governor Jan Brewer, an expansion advocate, and anti-expansion GOP conservatives, as reported by the *Associated Press*.

**“They are out of line with the values of California and should be ineligible for a tax benefit paid for by all Californians.”**

—California Senator Ricardo Lara (D), in the *Sacramento Bee*, on his bill to revoke the Boy Scouts’ nonprofit status because it bans participation of openly gay adults.

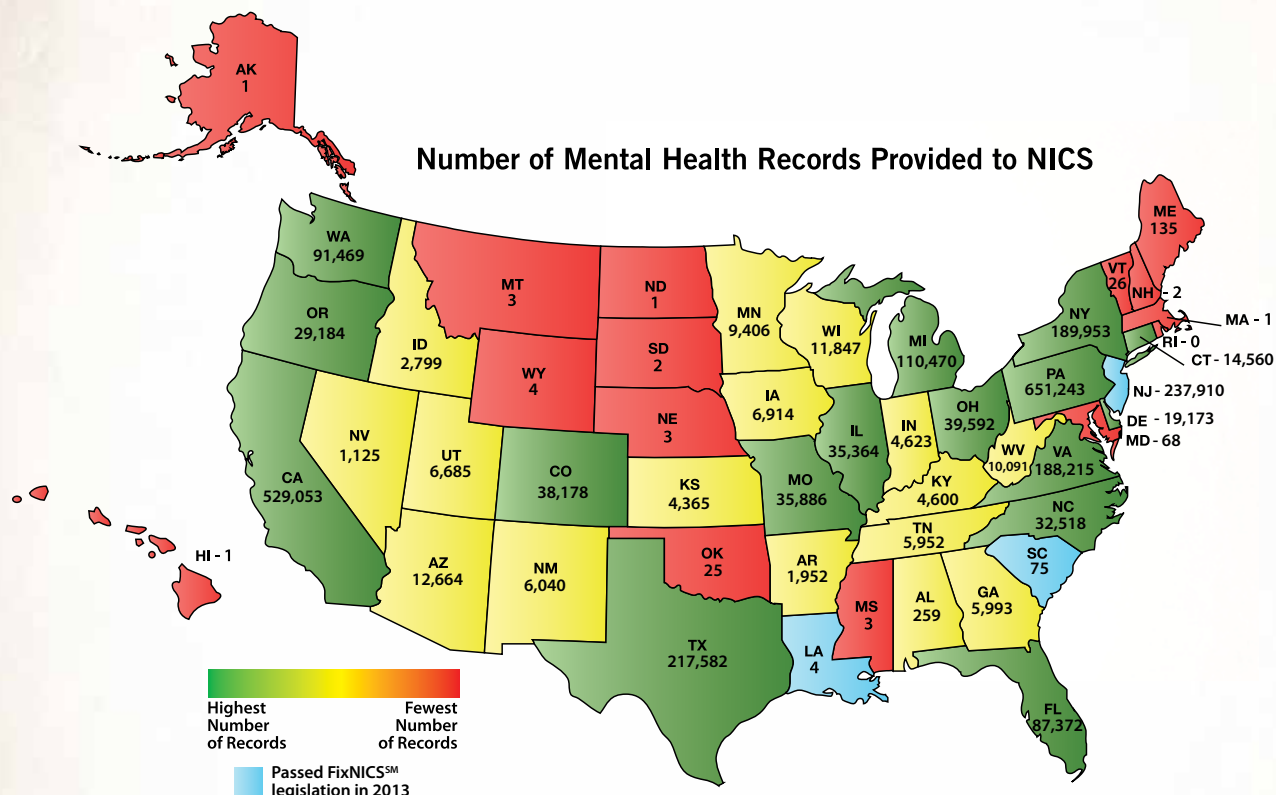


ADAM ZYGLIS/THE BUFFALO NEWS

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*FixNICS<sup>SM</sup> is a National Campaign of the National Shooting Sports Foundation<sup>®</sup>*

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