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

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

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

To obtain information about what you can do to ensure your constituents have term protection for “physical therapy” in your state please contact the American Physical Therapy Association State Government Affairs Department at 800/999-2782 ext. 3161.
JANUARY 2014

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NCSL’s national magazine of policy and politics

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• Top Challenges and the Best Advice for the Legislative Environment, a series of 20-minute webinars on Jan. 24, Jan. 31, Feb. 7 at 1 p.m. ET
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Archived
• Evaluating School Principals
• Oral Health
• Charter School Facility Funding

LEADERSHIP TRAINING AT GETTYSBURG
NCSL conducted leadership training for a group of legislative leaders with the battleground at Gettysburg as the backdrop. What better way to learn the lessons of Lincoln’s leadership during the Civil War than during the 150th anniversary of the Gettysburg Address on Nov. 19?

MEETINGS & SEMINARS
Legislators gathered in the nation’s capital in December for NCSL’s Fall Forum to discuss state-federal issues. Highlights included a visit to Capitol Hill to urge passage of the Marketplace Fairness Act; hearing former governors David Huntsman’s and Evan Bayh’s plan to end gridlock in Washington, D.C.; and learning how American 15-year-olds ranked on a new global reading, science and math test.

NCSL STAFF IN THE NEWS
“We believe everything [in a federal budget deal] should be on the table, but there should not be a disproportionate impact on states.”
—Sheri Steisel, senior federal affairs counsel, in Governing

“Minimum wage is a cyclical issue for the states. When the federal minimum wage hasn’t been increased for several years, then the states start looking at it.”
—Jeanne Mejeur, program principal, on National Public Radio

WWW.NCSL.ORG
The headline on the four-page, black and white publication proclaimed “State Legislative Organization Is Born.” It was Volume 1, Number 1 of State Legislatures Today. Dated January 1975, it marked the birth of an organization—NCSL—and a magazine, both 40 years old this month.

By the second issue, with a publication date of June/July, the magazine had shortened its name to State Legislatures, contained 22 pages printed in two colors—black and red—and reported on issues that are strikingly relevant today. Headlines included “Gun Control: the Controversy Continues;” “Congress Tries to Tame the Budget;” “Changes in State Marijuana Laws.” Other articles covered medical malpractice, growth and land use, and fair trade laws.

State Legislatures was shaped, as all publications are, by its advent in time. The 1970s were a tumultuous era. The Vietnam War ended, China opened up, terrorists murdered the Israeli Olympics team in Munich, Watergate ended the Nixon presidency, and the energy crisis stalled the nation’s economic growth with double digit inflation, soaring interest rates above 20 percent and the worst recession since the Great Depression.

1975 itself was marked by events large and small, cultural and political. The Wiz opened on Broadway; Jimmy Hoffa disappeared; Haldeman, Erlichman and Mitchell were convicted of perjury, conspiracy and obstruction of justice; PCBs were outlawed; Mohammad Ali beat Joe Frazier; and Bill Gates incorporated a new company called Microsoft. The public’s approval rating of Congress that year bounced between a low of 28 percent and a high of 38 percent.

Through it all, State Legislatures reported on the news, ideas, innovations and challenges the states and nation faced, and illustrated time and again that states are indeed the laboratories of democracy.

For 40 years, State Legislatures magazine has cared about both emerging and perennial issues, innovative as well as proven solutions, politics and politicians, leadership and legislative staff, the balance between the states and Congress, the courts and seven administrations. Its focus is constant and its reporting relevant and fresh. We believed 40 years ago, as we do today, that the states—with their serious, bipartisan approach to solving problems—strengthen the nation and move it forward.

At a time of gridlock and partisanship that has stalled Congress and frustrated the public, state legislators get down to work on what needs to be done. They meet the challenges of our country every day. The best ideas do indeed come from the states. And the best way to learn about those ideas is to read the pages of this magazine.

—William Pound, NCSL executive director
By Gary Moncrief and Peverill Squire
Paperback $29.95
Published by Rowman & Littlefield Publishers Inc.

REVIEWED BY TRICIA SIMMONS

“Why States Matter,” by Gary Moncrief and Peverill Squire, not only answers the question of why, but even more important, why we should care. Today, with many Americans’ knowledge of government limited to news clips and sound bites about the breakdown of the federal government, a full understanding of how state governments influence citizens’ daily life, as well as the country’s big picture, is woefully lacking.

“Why States Matter” provides a solid framework for why states are an essential part of the nation’s federal system. Moncrief and Squire explain in a straightforward fashion why and how states differ, how innovative policies that originated at the state level have rippled through the entire country, and why all this is important.

The authors make the case that legislators and governors have more opportunity to innovate and experiment as the federal government shifts more financial responsibility onto them. Moncrief and Squire are confident that more than any other time in our country’s history, states have the capacity and resources not only to handle more responsibility but to handle it better than the federal government does.

States historically have been leaders in pioneering policy in the areas of public education, transportation, administration of justice, economic development, licensing and public health. And over the past two generations, they have continued to make significant policy changes.

In “Why States Matter,” the authors focus on the important role states play in the judicial system (only at the state level are judges elected) and with elections. From the presidential election down, states establish almost all the electoral rules of candidacy and qualifications. They determine who can vote, how they vote (in person, mail-in ballot, etc.), whether they can vote in primaries, and more.

Moncrief and Squire also compare states’ action to Congress’ inaction, by describing how state legislatures have overcome the stalemate on issues that have plagued Congress. Examples include welfare reform in Wisconsin and health care reform in Massachusetts. In both cases, these states addressed an issue the federal government was mired in, and the state policy eventually became the cornerstone of the federal law.

Although it’s a college textbook, it doesn’t read like it. The book is a great tool for the average citizen wanting to understand state government or the new lawmaker seeking to articulate better exactly why states matter.
Back to Work for Many Legislatures

Legislators waste no time getting back to work after the holidays. In fact, although it’s not mandatory as it is some years, Massachusetts lawmakers work on the holiday this year—New Year’s Day, Jan. 1. (It’s in the state Constitution: “The general court shall assemble every year on the said first Wednesday of January.”)


North Carolina lawmakers, meanwhile, are waiting until May to meet, and four states won’t convene in regular session at all this year. Montana, Nevada, North Dakota and Texas meet only in odd-numbered years—the last four of 31 states that did so in the 1960s. By the mid-1970s, the number of states meeting annually had shot up from 19 to 41. The most recent state to switch to an annual session was Oregon in 2011.

Full-Time, Part-Time and Somewhere In Between

NCSL uses three criteria to determine if a legislature is full-time, part-time or somewhere in the middle: time lawmakers spend on the job, staff size and pay. Populous states are often “full-time” by all three measures: big staffs, big pay and many hours on the job. On the other end of the spectrum, legislators in small states usually have few staff, low pay and spend only half their time on the job. Hybrid states are mixed bags: legislators typically spend at least two-thirds of their time on the job, but their legislative pay often requires additional income. Their staff sizes vary.

Full-time legislatures
Part-time legislatures
Hybrid legislatures

Source: NCSL, Dec. 1, 2013
**MASSACHUSETTS LAWMAKER MARTIN J. WALSH (D) BECAME THE 48TH MAYOR OF BOSTON** this month after winning a tight race in November against John Connolly, a city councilor. Walsh, first elected to the Massachusetts House in 1997, won the post previously held by Thomas Menino, who chose not to seek a sixth term as mayor. Walsh, a long-time labor leader, is the son of Irish immigrants whose personal story of childhood cancer, being grazed by a stray bullet after a night of drinking at age 22 and his struggle to overcome alcoholism won the trust of a diverse coalition of voters.

**COLORADO SENATOR EVIE HUDAK (D), THE TARGET OF A RECALL DRIVE BECAUSE OF HER SUPPORT OF STRICTER GUN LAWS, RESIGNED IN DECEMBER**, effectively securing Democrats’ slim 18-17 majority through 2014. Hudak was the third Colorado senator targeted for recall since the General Assembly last March passed a series of measures requiring universal background checks for private gun sales and limiting ammunition magazines to 15 rounds, among others. Senate President John Morse (D) and Senator Angela Giron (D) were tossed out of office in September. Hudak’s decision allows Democrats in her district to name her replacement. She was elected in 2008 and was chair of the Senate Education Committee. She sponsored legislation prohibiting people convicted of domestic violence to carry guns. “By resigning, I am protecting these important new laws for the good of Colorado,” she said.

**NEWS STORIES ABOUT A BRUTAL NEW FAD CALLED THE “KNOCKOUT GAME” HAVE INSPIRED AN OKLAHOMA LAWMAKER TO INTRODUCE LEGISLATION** toughening penalties for anyone convicted of participating. At least two people have died from the game in which one assailant tries to knock out an unsuspecting victim on the street with a single punch while another video records it. So far, no cases have been reported in his state, but Representative Bobby Cleveland (R) said the “whole purpose of the bill is to knock it out before it gets here.” Cleveland’s bill would require any minor accused of the crime to be tried as an adult and increase the penalty for unprovoked battery to 10 years in prison.

**THE HOLIDAY SEASON WAS A LITTLE MERRIER FOR CALIFORNIA LAWMAKERS, THANKS TO THE CITIZENS COMPENSATION COMMISSION’S DECISION TO RAISE SALARIES** by some $5,000 effective Dec. 1, 2013. The commission voted in June to restore lawmakers’ pay to 2011 levels and require the state to increase its share of elected officials’ health care coverage. It did not, however, restore all the cuts to health care benefits. The commission had previously cut wages for legislators by 18 percent, stopped providing them state-owned vehicles and reduced per diem payments. The base pay for California lawmakers increased from $83,802 to $84,012. A number of legislators, however, chose to donate the increases to charities.

**IN PENNSYLVANIA, LAWMAKERS RECEIVE AUTOMATIC, COST-OF-LIVING INCREASES**, and this year it amounts to $210, raising legislative pay from $83,802 to $84,012. A number of legislators, however, chose to donate the increases to charities.

**JERAMEY ANDERSON CELEBRATED HIS 22ND BIRTHDAY DEC. 6, THE SAME DAY HE WAS SWORN IN AS MISSISSIPPI’S YOUNGEST LEGISLATOR.** He’ll have to balance his legislative responsibilities with his school work—he’s finishing up his final year at Tulane University’s Gulf Coast campus. “I’m going to do what needs to be done,” Anderson (D) said. “The people of this district come first, and I will manage the two.” Anderson, who was his high school class president for three years, says education funding is one of his top priorities. He won a special election to fill the seat vacated by Representative Billy Broomfield, who was elected in 1991 and resigned to become mayor of Moss Point.

**IN 1992, MICHIGAN REDEDICATED ITS HISTORIC CAPITOL AFTER COMPLETING A $58 MILLION RESTORATION.** Now the 135-year-old building, a National Historic Landmark designed by Elijah Meyers and modeled after the U.S. Capitol, is once again showing some wear and tear. A five-bill package aims to provide a steady stream of money for restoration projects and Capitol upkeep. Senate Secretary Carol Viventi and House Clerk Gary Randall support the bills, saying they’ve asked for money for about 12 years to replace the fraying chamber carpet, held together with duct tape. “I think it’s important that we do take care of this building,” said Senate Majority Leader Randy Richardville (R), noting the bills do not call for any new taxes or fees.

**SENATOR SHARON NELSON (D) IS THE NEW SENATE DEMOCRATIC LEADER IN WASHINGTON.** She replaces Senator Ed Murray, who resigned his seat to become mayor of Seattle. Nelson was appointed to the House in 2007 and won election to the Senate in 2010. The Senate is controlled by the Majority Coalition Caucus of 24 Republicans and two Democrats.
Getting the Lead Out

California has bagged another legislative first: a ban on lead in hunting ammunition. The legislation seeks to reduce the potential harm lead shot poses to animal and human health. Conservationists have long supported the ban to protect America’s largest flying bird: the eponymous condor (it’s depicted on the California quarter), whose population dwindled to 22 three decades ago. Strong conservation efforts have increased its population to 424 in Arizona and California, although only half are in the wild.

Condors can be poisoned when they scavenge carcasses containing lead-bullet fragments, left by hunters. According to a U.S. Fish and Wildlife Service, lead caused 34 percent of the 123 California Condor deaths from 1992 to 2012. California banned lead shot in eight counties in 2007, but the condors’ range is so big it was largely ineffective. The statewide ban will likely also benefit scavengers such as bald eagles, golden eagles and other raptors.

A national ban already exists on lead shot for waterfowl hunting, which the U.S. Fish and Wildlife Service estimates saves more than 1 million ducks a year by reducing the spent bullets on the ground they mistake for food and eat.

Critics of California’s new law say lead shot’s impact on the birds has not been scientifically proved. They point out that condors may be ingesting lead from other sources. Sportsmen also worry the ban will make ammunition more expensive and keep more would-be hunters at home. Ultimately, they say, conservation efforts and fish and wildlife agencies will suffer because hunting licenses are their main source of funds.

To address these concerns, the law directs the California Fish and Game Commission to help provide hunters with no- or low-cost unleaded ammunition. To give manufacturers enough time to get the lead out, the ban doesn’t go into effect until 2019.

Iowa lawmakers considered, but did not pass, a similar ban on lead shot in 2013.

—Doug Shinkle

Is Baby Safe to Sleep?

Roughly 4,000 infants die every year in the United States for no immediately obvious reason. When the cause cannot be determined, about half the deaths are attributed to Sudden Infant Death Syndrome (SIDS).

SIDS rates started dropping around 1992, when pediatricians began recommending that babies be placed on their backs to sleep. State and national educational efforts also focused on educating parents about the risks.

By 2006, SIDS rates had decreased by more than 50 percent. But recently, rates have leveled off. At the same time, some types of sleep-related infant deaths, such as suffocation and hypothermia, have increased. This has prompted health experts and some policymakers to call for more comprehensive efforts to reduce unsafe sleeping conditions.

In 2013, lawmakers in Hawaii and Minnesota passed measures requiring child care providers to adhere to “Safe to Sleep” recommendations that pediatricians developed in 2011. They include always placing a baby on its back to sleep; using a firm sleep surface covered by a fitted sheet; not having the baby sleep in the parents’ bed; removing soft objects such as pillows, toys and quilts from a baby’s bed; and eliminating all smoking during pregnancy, which doctors estimate would prevent a third of SIDS deaths.

In addition, the Affordable Care Act requires Medicaid to cover the cost of smoking-cessation programs for pregnant women.

—Bryan Kelley

SIDS Rate and Back Sleeping

Source: The Eunice Kennedy Shriver National Institute of Child Health and Human Development

For more information on NCSL’s resources and state laws on SIDS, go to http://www.ncsl.org

Why Hunters Hunt

Stalking prey over rough terrain or sitting patiently in a blind—what makes a hunter hunt? Putting meat on the table is the No. 1 reason given by 35 percent of respondents in a recent survey. Thirty-three percent said they hunt mainly for “sports and recreation.” Fifty-five percent of female hunters said obtaining meat was the main reason they hunt, compared to 27 percent of males.

The economic downturn and the increasing preference for local, nonprocessed food may contribute to the trend.


For more information on NCSL’s resources and state laws on SIDS, go to http://www.ncsl.org

STATE LEGISLATURES | JANUARY 2014
Renewable Energy Mandates on Front Burner

Renewable energy continues to be a hot topic in legislatures. Thirty states considered a wide variety of bills last year on Renewable Portfolio Standards, which require utilities to buy a certain quantity of renewable energy by a specific date. Currently, 29 states and Washington, D.C., have some type of Renewable Portfolio Standard, and another eight states have voluntary targets. These standards drive the country’s $36 billion market for wind, solar, biomass and other renewable technologies.

Even though renewable sources can be more expensive than electricity from gas or coal, rapidly declining costs have made renewables competitive in a number of regions. Supporters say any potential added costs are worth it because renewables boost energy diversity and provide a hedge against increasing fuel costs. Renewables also are integral to many state efforts to reduce pollutants and greenhouse gas emissions.

But critics argue renewables increase costs for consumers or do little to improve the environment. With natural gas prices at an all-time low, they advocate for a free market approach to determine what source of power utilities should purchase. Last year, lawmakers in 17 states considered 30 bills to repeal Renewable Portfolio Standards altogether, extend compliance deadlines for utilities or reduce the percentage of renewable energy required. None of the bills have passed, although bills in nine states are pending or were carried over to this year’s sessions.

In Kansas, for example, lawmakers defeated two bills to repeal the state’s Renewable Portfolio Standard, which mandates that 20 percent of energy utilities sell comes from renewable sources by 2020 and establishes a cost cap of 1 percent on rate increases. Kansas’ wind energy industry has grown significantly in recent years because of the standards. Seven manufacturing facilities there support 4,000 to 5,000 jobs, according to the American Wind Energy Association.

Seventeen states considered—and Colorado, Maryland, Minnesota and Nevada passed—measures to strengthen their Renewable Portfolio Standards by increasing overall renewable requirements or assigning specific targets for certain energy sources. Connecticut, Maryland, Montana and Virginia expanded their definitions of renewable energy to include additional technologies, most commonly thermal energy or small hydropower. Attempts to establish standards in Georgia and Kentucky failed.

Across the country, most of the legislative activity (88 bills) involved more technical matters, including modifying existing renewable energy requirements or voluntary targets. Eighteen of these bills passed.
It’s All Relative

When home is an unsafe place to live, children often benefit by staying with familiar adults. Recently, lawmakers have been making it even easier for grandparents and other relatives to be the loving caregivers for children in stressful situations. States grant provisional, emergency or temporary foster care licenses that allow relatives who are waiting for a full license to care for children after certain basic safety checks have been completed. Foster care licenses allow relatives to receive the full foster care rate for children in their care as well as an array of other services.

States also grant waivers from certain nonsafety requirements, such as limits on the age of a relative caregiver. While these provisions are usually in state child welfare regulations, recent legislation in Colorado, Connecticut, Indiana, Nevada, Utah and Virginia also addresses licensing for relative caregivers.

In other actions:
◆ California, Colorado, Hawaii, Indiana and Nevada have expanded the definition of “relative” to include more distant relatives such as great-aunts or second cousins.
◆ Arkansas, California, Connecticut, Kansas, Michigan, Mississippi, Ohio, New York and Virginia have increased financial support to relatives who become legal guardians.
◆ Louisiana expanded life insurance coverage to include grandchildren in the legal custody of a grandparent.

The federal government prohibits states from establishing a separate foster care licensing system for relatives—they must meet the same licensing standards as a non-relative. The federal Fostering Connections Act of 2008 requires that relatives be notified within 30 days of a child’s removal from home. The act clarifies that states may waive certain nonsafety licensing standards on a case-by-case basis for relative foster family homes. For example, a state that requires foster homes to provide a separate bedroom for each child could choose to exempt a prospective relative foster parent with only one bedroom available and still license the home. The act also offers states the option of providing payments (using federal Title IV-E funds) to licensed grandparents and other relatives who assume legal guardianship of children.

—Nina Williams-Mbengue

For 50-state information on relative foster family homes, go to www.ncsl.org/magazine.
BRINGING HOME THE BACON
Ohio motorists who hit and kill feral hogs, wild boars and turkeys may soon be allowed to take home the carcasses. The measure, introduced by Representative Bob Hackett (R) and approved by the House, adds the animals to the list of road kill, including deer, that motorists currently can bag in Ohio. Drafters of the legislation said that other than ribs and ham, the bill contains no pork. About 15 states have laws on road kill.

TEXAS RIDES THE WIND
Texas wants to become the first state with a commercial offshore wind farm. The Gulf Offshore Wind Project, five miles off the coast of South Padre Island, is scheduled to open in three years on 41,000 acres in the Gulf of Mexico and generate electricity for up to 1.8 million homes. Offshore wind farms are up and running in countries such as Denmark and Japan, but the United States has been slower to accept them, in part due to concerns about aesthetics and disruption of migratory bird paths. Hydraulic fracturing, which has lowered electricity costs, has taken some of the wind out of the offshore wind industry’s sails and made funding more difficult, but advocates say offshore wind farms are the future.

LONGHAND LIVES
Penmanship isn’t included in the country’s new Common Core K-12 education standards. Computer keyboard skills are far more important than longhand, say Common Core experts. But at least seven states—California, Idaho, Indiana, Kansas, Massachusetts, North Carolina and Utah—that have adopted the standards disagree, and they are fighting to restore cursive instruction. Idaho Representative Linden Bateman (R) said research indicates children engage more areas of the brain when they write than when they type. He also says longhand is part of our heritage. “The Constitution of the United States is written in cursive,” he told the Associated Press. “Think about that.”

CO-SLEEPING DANGERS
A Milwaukee mother who woke up to find her baby girl had died told authorities she was intoxicated when she took the baby to bed with her, fell asleep, and apparently rolled over and crushed her. It was the 10th infant death attributed to “unsafe sleep” in Milwaukee in 2013, following a similar toll in 2012, according to the Milwaukee Journal Sentinel. Representative Samantha Kerkman (R) of Wisconsin proposed legislation making it a felony to harm or kill an infant in the course of co-sleeping while intoxicated. It would also call for a public awareness campaign about co-sleeping dangers.

TATTOOS REMOVED
Human trafficking victims who were tattooed by their captors can have them removed with Crime Victims’ Compensation Act funds under an Illinois law effective Jan. 1. “One method offenders use to control their victims is to brand them with tattoos, often with the pimp’s nickname or motto,” Representative Kelly Burke (D), sponsor of the bill, told the Alton Daily News. Barcodes are also tattooed on victims’ backs to remind them they’re the pimp’s property, she said. Removing them can help victims heal, she said.
NO TRAPPING ZONE
Commercial trapping of bobcats on land surrounding California public parks and wildlife refuges is banned under a new law. Assemblyman Richard Bloom (D) introduced the measure following the discovery of traps set on private property along the boundaries of Joshua Tree National Park. A bobcat pelt brought about $78 in 2009 but brings more than $700 today, the Los Angeles Times reported. An estimated 1,813 bobcats were taken in California in 2011-2012, up about 50 percent over the previous season. Licensed trapper James Buge of Tehachapi told the Times that in cold countries such as China and Russia, the belly fur of California bobcats is prized for its color and warmth.

THE LONGEST COMMUTE
Maryland residents spend more time commuting to work—an average of 31.9 minutes—that do residents of any other state. South Dakotans, who averaged 16.7-minute commutes in 2012, had the shortest. Nationally, the average commute has inched up to 25.7 minutes, compared to 25.4 minutes in 2008, according to 2012 American Community Survey data. The percentage of workers who drive to work alone grew from 75.5 percent in 2008 to 76.3 percent, but the percentage of home-based workers increased from 4.1 percent to 4.4 percent.

NEW LOOK AT DISCIPLINE
A “trauma-sensitive” schools movement in Massachusetts and Washington would change how schools deal with bad behavior. Advocates and mental health experts say many children who have been severely traumatized by alcoholic parents, homelessness or abuse, often act out, skip school or seem unmotivated because they are stressed or frightened. Punishing them simply re-traumatizes them. A bill by Senator Katherine Clark (D) of Massachusetts would create a “Safe and Supportive Schools” program to help children feel safe. “We know that children cannot effectively learn if they are feeling threatened or scared or if underlying behavioral or emotional challenges go unacknowledged or unaddressed,” said Clark.

BOTTOM LINE
Child care is pricier than college in many states, according to Child Care Aware of America. Center-based care for an infant in Kansas, for example, averages $10,518 annually, while public college costs $7,277. Nationally, the average cost of full-time infant care in a center ranges from 7 percent to 19 percent of state median income for a married couple with kids. Some families spend more on child care than on food or rent, according to the child care advocacy group. The most expensive states for an infant in a child care center were Massachusetts at $16,500, followed by: New York $13,650 Minnesota $12,900 Hawaii $12,600 Colorado $12,400

PIPAINE PARTNERS
Alaska may spend $9 billion to $14 billion for part ownership of a planned pipeline from the North Slope to southern Alaska. The mega-project, estimated at $45 billion to $60 billion, calls for an 800-mile liquid natural gas pipeline to be operating by 2024. The state would partner with oil companies and the TransCanada Corporation pipeline company in the venture. Two lawmakers on opposite sides of the aisle—Senator Cathy Giessel (R) and Representative Beth Kerttula (D)—expressed initial support for the plan. Kerttula said the state has been at a disadvantage in dealings on the trans-Alaska pipeline. “I want to see a real ownership interest,” she told the Anchorage Daily News.
The legislative landscape was markedly different when State Legislatures magazine first began forecasting the top issues lawmakers were likely to tackle back in 1999. But the topics were amazingly similar.

Several state legislatures pondered whether to use their historically large budget surpluses on tax refunds or to bolster rainy-day funds. Talk about the good old days. But the focus for most everyone that year centered on one cataclysmic event: Would we survive Y2K?

The rest of the 1999 list, however, resonated with many of the same tough issues that comprise legislative agendas today: education, health care costs, taxes, Medicaid, welfare, technology. Indeed, every issue on our 1999 list maintains at least a measure of traction today. Well, maybe not the surpluses, but we can hope, can’t we?

If we were to list the top state policy issues of 2014, they would be tax reform, transportation funding, gun laws, the high cost of higher education, voter registration, distracted driving, teacher quality, hydraulic fracturing, juvenile justice realignment, Common Core educational standards, as well as Medicaid expansion, health insurance exchanges and other elements of federal health reform. But we’re not going to do that.

For this edition, we decided it would be more interesting to examine emerging issues—new ideas sure to gain more legislative attention in the year ahead. Some of them you may not have even heard about, but are sure to soon.

Americans love their privacy, and privacy concerns are woven throughout many of these emerging trends. New technology—from social networking to online shopping to drone surveillance—is threatening the cherished right like never before. Policymakers are being asked to balance security concerns with personal safety, and to decide where to draw the line at what’s enough. And although a majority of state legislatures considered some type of privacy law in 2013, the concerns are far from gone. What’s settled today is not necessarily so for tomorrow, as researchers continue to create technology capable of doing things most of us have not yet even imagined.

Debate over privacy rights will continue as lawmakers ask: What’s the best way to protect personal information collected by mobile apps and websites? Should limits be placed on biometric identifiers (measurable biological characteristics or traits used to identify individuals) collected by government? Should we give up some public safety security to limit the use of drones and surveillance cameras?

As many of the following emerging issues heat up, lawmakers will continue to look for the best ways to promote their benefits, guard against any possible downsides, and still protect individuals’ privacy and the public’s safety. No small task by any measure.

1. DRONES

When the discussion centers on privacy, the topic of drones inevitably comes up. Unmanned aerial vehicles, as they’re also called, are good at an impressive number of tasks, including a...
very controversial one—spying on people. At least 13 states have passed drone-related laws, many aimed at protecting residents from illegal snooping and unwarranted police surveillance.

Drones—pilotless aircraft that typically carry cameras or fire weapons—are used by the military to fight terrorists and by police to photograph crime scenes and look for suspects. They’re also being developed to film movies, spot wildfires, watch oil pipelines, monitor avalanches, survey crops and even herd sheep. Dominoes Pizza is testing a drone to deliver its pies, and the Bill and Melinda Gates Foundation uses drones to deliver vaccines to remote African villages.

But drones raise complex privacy, safety and regulatory concerns. Simple drones are easy to build and available in mail-order kits for a few hundred dollars. Many lawmakers worry they’ll fall into a number of undesirable hands—from inconsiderate neighbors to international terrorists. Others fear drones are ripe for abuse by police and Big Brother governments.

Lawmakers in at least 43 states have grappled with such issues, introducing some 118 drone-related bills and resolutions in 2013 alone.

Among the 13 states with drone laws already on the books, Florida’s allows police to forgo a warrant in emergencies such as terrorist attacks or “when swift action is needed to prevent imminent danger to life or serious damage to property.” Illinois’ drone law is similar to Florida’s, but it stipulates that police must destroy all drone-gathered information within 30 days. Texas’ law enumerates 19 lawful uses for unmanned aircraft and creates two new crimes: the illegal use of an unmanned aircraft to capture images and the offense of possessing or distributing the image, both class C misdemeanors.

Meanwhile, the drone industry is taking off. The global market reached nearly $90 billion in 2013, according to the Teal Group, analysts of the aerospace and defense industry. And, the FAA is setting up drone test sites in six states. For lawmakers, it means eyes on the skies for years to come.

2. BIG DATA

The amount of personal information collected in this day and age is massive. Use a credit card? Have a Facebook account? Talk on a cell phone? Attend school? Shop online? If the answer is “yes” to any of these, you’ve contributed to the explosion of “big data” being used by both the public and private sectors in a process called “data mining.”

Data miners search computerized information to uncover patterns and relationships that can guide decision making and save businesses money. Companies use big data to tailor services, like the book recommendations on Amazon. The possible applications are numerous and include government uses. For example, Maine and New Jersey were the first to analyze Medicaid and insurance claims data to zero in on where the most costly patients live in order to target care more efficiently. It’s called “hotspotting,” and lawmakers hope it will help in coordinating care, keeping chronic conditions in check, controlling costs and improving the quality of health care.

Issues of protection, security and the overall stewardship of personal data are at the heart of the big data debate. Consumers often cannot “opt out” of data collection on websites. Some big data critics worry about the risk of drawing flawed conclusions based on personal data and whether there should be more transparency over what is collected, how it is collected, where it is stored and to whom it is sold. Finally, many are concerned about cyber security since there are few state laws and no federal law that establishes minimum security standards for protecting the vast amount of personally identifiable information already collected.

Nonetheless, data mining is transforming all sectors of society, from helping combat cyber crime and fraud with predictive analytics to saving consumers from a bombardment of unwanted advertisements. As the volume of big data shows no signs of shrinking anytime soon, legislators most likely will be reexamining traditional approaches to regulating and protecting personal data in the year ahead, trying to balance its benefits against the concerns about security and personal privacy.
3. CLOUD COMPUTING

Where does all this big data live? In the cloud, of course. “The cloud” isn’t some ethereal entity up there somewhere—it’s a worldwide network of remote servers with a wide array of hardware, software and services that allow businesses and individuals to store and manage their data through the Internet. We are in and out of the cloud all day through our computers, tablets and smart phones. Small businesses to large corporations are shifting to cloud-based computing to cut costs and improve efficiency. In fact, roughly half of the nation’s businesses are now using one or more cloud-based services, according to Forbes magazine.

With a recent report by Forrester Research predicting the global market for cloud-based services will reach $240 billion by 2020, states are faced once again with the fact that most of their sales tax codes don’t address 21st century realities like the cloud. Sales and use taxes are most state governments’ second most important source of tax revenue, exceeded only by personal income taxes, but it has entered a period of slowly declining importance as a growing share of personal consumption is for untaxed services and goods via the Internet.

In the last 10 years, more than half the states have imposed sales taxes on certain digital transactions, but only half of them have expanded their definition of taxable digital products to include cloud-based services. For a thorough look at the issue, turn to the article on page 27.

4. THE SHARING ECONOMY

Whether it’s a vacationer renting a home on the beach or a bride renting a “gently worn” dress for her wedding, the “economy of sharing” is increasing. Time magazine describes this proliferation of people renting their personal possessions and services—such as cars, houses and skills—as one of the “10 Ideas That Will Change the World.”

Greater choice, convenience and savings are fueling this new collaboration, made possible by the Internet and its ability to connect people directly and immediately. Forbes estimates this sector is growing by more than 25 percent, earning participants more than $3.5 billion in 2013.

For example, Avis recently purchased the car-sharing service Zipcar for $500 million. Google funded Uber to the tune of $258 million. Airbnb was valued at $1.3 billion in July 2012 and claims more than 2 million total online housing bookings. And new companies like Task Rabbit, Getaround and RelayRides have been created within the last five years to produce web platforms to sort and vet individuals’ goods and services.

State lawmakers already are trying to balance protecting consumers with cultivating a competitive business environment in this peer-to-peer marketplace. Lawmakers from California, Colorado, Illinois, Massachusetts, Oregon and Washington have enacted legislation to regulate or encourage car-sharing services. California, Oregon and Washington’s laws require a vehicle owner who is renting out his personal car to be a member of a vehicle-sharing program to ensure that insurance, safety and financial reporting requirements are met. Legislation supporting car sharing has attracted bipartisan support for the same reasons it’s become so popular: It’s affordable, flexible and eco-friendly in both urban and rural settings.

Sharing comes with a couple of concerns, however. The New York attorney general is battling with Airbnb over whether its services violate state law that prohibits unregulated hotels. And a recent fatal car crash involving a driver of a “peer-rented” car is raising questions about insurance liability. Policymakers will continue to refine the oversight of these businesses as they spread to more sectors.

5. MOOCS

“Massive open online courses” have caught the attention of policymakers concerned about repeated funding cuts and skyrocketing tuition increases at colleges and universities. MOOCS offer an available and affordable higher education option to many people who believe college is not within their reach. The idea is to make classes with the best professors in the world available to students worldwide. Professors from Harvard to Stanford have joined the effort and their web-based lectures and interactive courses are gaining in popularity, attracting millions of students. Along the way, they are spurring development of for-credit online courses as well.

Everyone is talking about them, but it is too early to know how effective they are. Concerns are the same as those for online classes in general: the lack of personal contact and isolating
effect online courses can produce and the higher “drop out” rate they have compared to regular college classes.

Whether MOOCS have the power to change the higher education landscape significantly is unknown, but certainly something lawmakers may want to keep an eye on. Meanwhile, grab some popcorn and a notebook and watch a MOOC. “Was Alexander Great? The Life, Leadership & Legacies of History’s Greatest Warrior” sounds interesting.

6. ELECTRONIC CIGARETTES

Electronic cigarettes, or vapor cigarettes, are a relatively new “alternative nicotine delivery device.” They look like extra large plastic or metal cigarettes, but they don’t burn tobacco or nicotine in the traditional way. Instead, they use liquid cartridges that contain various ingredients, including tobacco-derived nicotine, synthetic nicotine, and other flavorings and chemicals. A battery heats the cartridge in an atomizing chamber, which produces an inhalable vapor.

Very little research has been conducted in the United States on the health effects of both the inhaled vapor and “second-hand vapor” produced. Some public health advocates believe that inhaling these chemicals may be harmful, while others believe they are less risky than traditionally combustible tobacco because they lack the tar and other chemicals used to process tobacco.

Makers of e-cigarettes argue that, since the devices emit vapors, not smoke, they should not fall under smoke-free laws and should be allowed everywhere except schools and child-care facilities.

The federal Food and Drug Administration has the authority to regulate the sale and production of traditional tobacco products, but has not yet ruled on e-cigarettes. The Department of Transportation is expected to prohibit their use on airlines soon, although several airlines already have banned them.

Some state legislators are concerned that a few companies have named the liquid cartridges after flavors appealing to young people (gummy bears and cotton candy, for example) and have approved legislation to include vapor products in their existing definition of tobacco. Others have created new laws to ban targeting sales or the use of vapor products to children specifically. Some states have clarified how vapor products relate to clean indoor air restrictions. Still other concerns center on the use of the devices to vaporize illegal drugs.

7. HIGH-TECH VOTING

Technology in the elections world has lagged behind in the commercial world for many reasons, but it may catch up soon. New voting equipment and new uses of the Internet, tablets and social media are emerging that will influence the voting experience.

Technology can make it easier to vote—especially for people with disabilities, the elderly and people overseas. As for younger people, some of the “new” technologies are very appealing and easy to use.

The biggest concern whenever the Internet is involved can be summed up in one word: security. Voting is unlike many transactions, such as banking and buying online, and more difficult to protect than one would think. Another serious concern is who’s going to pay for new voting technology? Can counties afford such an expense? How much are state legislatures willing to help?

Adopting new technologies often requires legislative action. Eight states passed 10 laws on the electronic transmission of ballots in 2013, and seven states passed 11 laws last year on online voter registration. Expect to see more.

8. AFFORDABLE SOLAR ENERGY

A major challenge for solar energy has always been its high price tag. But costs have been dropping quickly, transforming affordable solar from an oxymoron into a real possibility. In the past 18 months, the price has declined by 60 percent. Improved technology, mass production and global competition have helped curb costs. These factors, along with a renewed concern over the reliability of the grid, have helped U.S. solar energy to nearly double in production in the last year.

Solar power now produces approximately 0.2 percent of the nation’s electricity. And although the electricity from most large, utility-scaled solar installations still costs about 35 percent more than electricity from natural gas plants, in some sunny regions of the West and Southwest, the price of solar is starting to become competitive with that of natural gas or coal.

States have encouraged solar energy use through net metering and renewable portfolio standards. Net metering, available in most states, allows utility companies to pay owners of small solar systems for electricity they contribute to the grid, often at the same rate they are charged for the electricity they buy from the utility.

Renewable portfolio standards in 16 states require that a
specified percentage of electricity sold by utilities comes from renewable sources by a certain date. Percentages and deadlines vary by state. For example, Minnesota requires investor-owned utilities to obtain 1.5 percent of their electricity from solar by 2020. New Jersey requires 3.47 percent by 2021 and 4.1 percent by 2028. New Mexico requires 4 percent by 2020.

If this trend continues and solar energy becomes as financially competitive as other energy sources, the nation—from the energy exploration giant to the local utility company to the average home owner—is in for some serious changes.

9. SELF-DRIVING CARS

Most of us chuckled as late-night TV comedians joked about the first self-driving car developed by Google just a couple of years ago. Yet several emerging transportation technologies—like autonomous, or self-driving, vehicles—could soon change how we get to school and work.

With the development of this new driving technology comes safety concerns and policy challenges.

In 2011, Nevada became the first state to allow autonomous vehicles on its roadways. Nevada’s law defines an autonomous vehicle as one that “uses artificial intelligence, sensors and global positioning system coordinates to drive itself without the active intervention of a human operator.” Lawmakers in California and Florida followed and passed similar legislation in 2012.

Proponents of this new technology note that around 35,000 people die each year in highway crashes, with at least 95 percent of the accidents caused, at least in part, by driver error. Self-driving cars are designed to remove those human errors by recognizing objects, other cars and hazards, and choosing the best route.

There are a number of legal, policy and social challenges that need to be addressed before autonomous vehicles are seen on every street corner. Current laws—from operating a vehicle to having car insurance—in every state make one big presumption: A human is behind the wheel, operating the vehicle. Lawmakers will be debating still-unanswered questions such as: How do these cars interact with standard, driver-operated vehicles? Do you need a driver’s license to “ride” in one? How might computer viruses affect these vehicles?

Michigan could become the next state to allow these cars to be tested on public roads if the House approves legislation already passed by the Senate. More states will likely follow, since 13 states considered, but did not pass, legislation last year. It will be difficult to steer clear of this emerging issue in 2014.

10. BRAIN RESEARCH

The brain is an extremely complex organ that scientists are just beginning to understand. Research is teaching us how our brains develop, differ, decide, differentiate and deteriorate. What’s emerging is not only helping the medical community, but also has lawmakers reconsidering some policies, especially in the areas of early childhood development and juvenile justice.

Research has discovered that, if nurtured, especially in the first three years of life, the brain develops all-important “executive function skills” essential to several areas of life. These include the ability to focus, plan ahead, adjust to changes, control impulsivity and organize information.

Washington was one of the first states to apply some of this brain science to early childhood development policy and teacher training programs. Other states are beginning to follow Washington’s lead. Read more about the research and the policies on page 24.

In the area of juvenile justice, brain research has differentiated how teenage brains think and reason (or don’t) compared with adults, moving some states to adjust policies that harshly punish without rehabilitating young offenders.

Many states are looking at policies that divert young offenders from expensive, secure correctional facilities into local community programs. Some evidence suggests youth are more successful when supervised and treated closer to their homes and families.

The Horizon is Here

As 2014 begins, being aware of emerging technologies, policies and products is important. Learning their hoped-for benefits, yet being informed of their possible downsides, will help in discerning what role they should play in the future.

Welcome 2014—we’re ready.
By Todd Haggerty

Driven by improving revenues and on-target expenditures, states entered fiscal year 2014 in better economic shape than they have been in years. Despite this good news, lawmakers remain cautious about the budget outlook for the year ahead, unconvinced the stronger revenue growth rates of last year are sustainable.

Revenue forecasts for this year reflect this concern and indicate that states are likely to continue along a path of slow and steady revenue growth that has distinguished the current economic recovery from previous ones. And with spending needs expected to continue to outpace revenue growth, lawmakers will receive little relief from the many fiscal challenges states face.

The Real Thing?

Partway into FY 2013, lawmakers learned that tax collections were outpacing projections, in some cases by substantial amounts. This was due in large part to a healthy performance by the personal income tax that, by March 2013, had met or exceeded the forecast in nearly every state. The reports were even better after the April personal income tax receipts were tallied.

Although stronger revenue collections were a welcome relief from the financial drought of recent years, they were somewhat unexpected. When states developed their FY 2013 budgets, total revenues were estimated to grow 3.7 percent from FY 2012. But actual growth reached 5.3 percent, and 41 states, the District of Columbia and Puerto Rico reported year-over-year general fund revenue growth. In nearly half these states, revenues grew by more than 5 percent, and in five, growth exceeded 10 percent. Many states used the unexpected excess to supplement appropriations or fortify their rainy day funds.

Revenue growth is not always what it appears to be, however. It can result from several factors. The strong revenue growth in FY 2013 was partially a result of taxpayers pushing as much of their income into tax year 2012 as they could to avoid an anticipated increase in federal tax rates in 2013. Lucy Dadayan, a researcher with the Rockefeller Institute of Government, remarked that this “bubble in personal income tax receipts would most certainly burst. Fortunately, forecasters in many states did not treat the growth as recurring money and instead projected

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much slower growth in income tax receipts in fiscal 2014 and beyond."

State fiscal officials projected general fund revenues to grow, on average, by only 1.3 percent in FY 2014. (Although officials in New Jersey, North Dakota, Oklahoma, the District of Columbia and Puerto Rico forecast revenues to increase by more than 5 percent.) The silver lining for states with slow growth is that, for most of them, it will be the second year in a row on the uphill swing.

**Fiscal Favorites**

Legislative fiscal officers are keenly attuned to the budget demands and fiscal pressures confronting legislatures. They identified the following issues as high priorities for lawmakers in the 36 states with regular legislative sessions in 2014. (Montana, Nevada, North Dakota and Texas meet only every other year.)

**Medicaid and Health Care**—Lawmakers in at least 29 states will focus on how to pay for expanding Medicaid, an optional provision in the federal Affordable Care Act. States will also be dealing with changes made to the percentage of costs they must cover in certain federal programs.

**Pensions and State Employee Compensation**—Funding for retirement systems will be on the table in five states, while lawmakers in another four states will consider adjusting employee salaries.

**Education**—Principals will command attention in 12 states, along with adequate funding levels, school finance formulas and increased student enrollment.

**Taxes and Revenues**—Lawmakers in at least 11 states will be reviewing tax expenditures, addressing the end of temporary tax increases, or debating the pros and cons of various tax reform measures.

**Other Issues**—Other concerns expected to top fiscal agendas include how to finance infrastructure improvements, fund corrections, tackle structural budget problems, and save for a rainy day.

**Spending Pressures Continue**

Any discussion of state expenditures usually starts with the biggest components of general fund budgets: elementary-secondary (K-12) education and Medicaid. Together, these two categories receive 53 percent of all states' general fund spending.

Last year, K-12 education spending increased 5.5 percent. In FY 2014, growth is budgeted at 2.4 percent, and total state support for K-12 education is budgeted to grow in 46 states, the District of Columbia and Puerto Rico.

Propelling K-12 spending are changes to funding formula, development of new programs, increases in per-pupil rates, higher pension costs, the use of state money to replace one-year grants, and increases to the state share of education funding.

In Nevada, for example, lawmakers increased funding to boost the English Language Learner Program, expand full-day kindergarten and reduce class sizes.

Medicaid constitutes the second largest share of general fund budgets and is currently the fastest growing category of state spending. States have budgeted for an average 6 percent increase in general fund support for Medicaid this year.

Driving up the cost of Medicaid in several states are the expansion options in the Affordable Care Act. In Minnesota, for example, the growth rate is expected to increase 13.7 percent not only because of expanded eligibility requirements in the ACA, but also because of a general increase in the number of people who qualify and enroll. Elsewhere, general medical inflation, more frequent use of benefits by enrollees and a spike in the number of caseloads have pushed Medicaid costs upward.

As Medicaid spending grows, so does the program's share of state general fund budgets. In FY 1994, Medicaid consumed 13.9 percent of state general fund budgets. Two decades later, that proportion has increased to 20.4 percent. Not surprisingly, state officials are concerned about this trend.

“in FY 2004, Alabama spent $270 million on Medicaid," says Representative Greg Wren (R). "This year, the figure is close to $615 million. In the last 10 years, the percentage of general fund spending on Medicaid has doubled from 17 percent to 34 percent.

“At this rate, in eight years, Medicaid will consume three-quarters of the state’s general fund budget. Inevitably, as the share of state funds for Medicaid grows, funding for other programs is likely to become scarce,” he says.

**The Other Half**

Although K-12 education and Medicaid attract a lot of attention and receive the lion’s share of spending, there is still the rest of the state budget to consider. Having weathered years of cuts or flat funding, higher education received the second largest increase in FY 2014 general fund appropriations. This underscores a cyclical trend unique to higher education: When fiscal
conditions weaken, higher ed funding takes a disproportionately harder hit, but when state budgets recover, higher ed experiences more robust growth than other programs.

Until recently, growth in corrections spending had been steady—requiring 5 percent to 6 percent of general fund budgets every year over the last decade. After essentially no growth in FY 2013, spending on corrections is projected to increase by 2.4 percent in FY 2014, driven by increases in inmate health care costs, the opening of new facilities and other factors.

The Next Rainy Day

The basic concept of a rainy day fund is straightforward: Save surplus money when finances are healthy to use when the economy falters. Strong economic conditions in the late 1990s, for example, helped saturate rainy day funds so when the fiscal drought hit in 2001, and revenues dried up, lawmakers were able to tap these funds to help balance their budgets.

State officials drew from these funds again during the Great Recession. The collective state rainy day fund balance declined from $34.1 billion in FY 2008 to $28.9 billion in FY 2010. These collective amounts appear relatively high, thanks to large reserves in the Alaska and Texas funds throughout the recession and slow recovery, which skew the totals. In FY 2007, these two states together accounted for 13.1 percent of all rainy day fund balances, but by FY 2012 this figure had climbed to 63 percent.

When the balances of Alaska and Texas are removed from calculations, the states’ rainy day fund total falls from $25.9 billion in FY 2007 to $10.4 billion in FY 2010.

As state budgets have stabilized, rainy day fund balances have grown, even when accounting for Alaska and Texas. Last year, the aggregate rainy day fund balance grew 13 percent, from $36.5 billion at the end of FY 2012 to $41.3 billion. When the current fiscal year ends this summer, rainy day fund balances are projected to have grown by 6.8 percent and total $44 billion.

In some instances, the growth in these funds is because of deposits from year-end budget surpluses, or repayment requirements as a result of a previous withdrawal. Other states have built up their reserve balances to offset the budgetary hits from federal sequestration, which applied automatic, across-the-board cuts of 10 percent to most appropriations beginning March 1, 2013.

Sequestration hits Maryland harder than most states. Not only does the state budget feel the impact of federal aid being cut, but revenues could drop as federal agencies and contractors in the state reduce their spending on employees and procurements. “Because of this threat to our budget,” says Maryland Senator Richard Madaleno (D),”the General Assembly created a special $100 million add-on fund to our existing reserve accounts as a rainy day fund to offset potential repercussions from the congressional budget stalemate. … While this will help us survive the current fiscal year, continued congressional inaction will do significant damage to the regional economy and the budgets of D.C., Maryland and Virginia.”

The New Normal?

Although state fiscal conditions are better than they have been in years, several questions remain. Have states made a full recovery from the Great Recession? Will state economies ever return to their previous highs or is this the new normal? Have state officials done enough to prepare for the next downturn? Are there risks that could derail state efforts to shore up their economies?

Unfortunately, these questions, like most fiscal ones, do not have easy answers. In the short term, most state budgets look set to return to a trajectory of modest but stable growth. In the long term, states still face myriad challenges that are likely to occupy lawmakers during this year’s legislative sessions and beyond.
A former two-term Arizona state senator, Sandra Day O’Connor was nominated to the U.S. Supreme Court by President Ronald Reagan in 1981 and was confirmed unanimously by the U.S. Senate. She became the first woman Supreme Court Justice and one of the most influential members of the court who was often the swing vote. She retired from the Court in 2006 and turned her energy to writing and civic education. Today, she is the author of five books, including Out of Order: Stories from the History of the Supreme Court, published this year. President Obama honored her with the Presidential Medal of Freedom in 2009.

State Legislatures: What do you think the average reader will be most surprised to learn from your new book, Out of Order: Stories from the History of the Supreme Court?
Justice O’Connor: I think people generally don’t know that for a long time in the Court’s history, the justices had to ride the circuit. They had to go around the country and sit on cases. And they weren’t sitting in Washington, D.C., all the time as they are now. That was extremely challenging for the justices. None of them liked it, and it was very burdensome.

SL: When you were doing the research for your book, did you wonder how the Court survived with all the things that went on?
Justice O’Connor: It had to survive. We had to have a Supreme Court. But the challenges in those days were so substantial that it made it difficult to get justices and a work pattern that doesn’t just kill you. And that one almost did.

SL: In a culture that seems to demand instant accountability from everyone in public life, how confident are you that we can pull judges out of politics?
Justice O’Connor: For heaven’s sakes, the justices have no interest in being political figures. They don’t want it. But for members of the public, it is hard for them to think of any high official in government as not being some kind of a political figure.

SL: Is the current Supreme Court viewed as politicians with black robes?
Justice O’Connor: That’s hard to say. You’d have to take a nationwide poll to have the answer to that. I’m sure there are citizens who still think that way. We hope that through education over the years that a majority, perhaps, understand that is not the case.

SL: Would better civics education contribute to a better view of the judiciary and more informed public?
Justice O’Connor: It isn’t inherited through the gene pool and it isn’t taught effectively in enough of the schools. So this becomes a very important task that we have as adults in this country to try to educate young people about how the government is structured, how it works and how every citizen is part of it.

SL: How did your tenure as a state legislator shape your view from the bench?
Justice O’Connor: My time as a state legislator was a wonderful experience for me. I learned to deal with the other agencies of state government and to work with them to see what we could do to make the state function more effectively.

SL: Do you believe permitting cameras in the Court or allowing live transmission of the decisions would make the Court more transparent?
Justice O’Connor: I really don’t think so because the Supreme Court issues written opinions saying everything they are saying that affects the cases they decide. Now you can’t have more clarity than that. Tell me what other branch of government puts in writing everything that it does and says. There isn’t one. You don’t see the president writing a full explanation of everything he does and why. You don’t see the Congress doing that. You just see laws they pass. And so it is hard to be more open than the Supreme Court is—it is certainly the most open of the three branches. The only thing that the court has not done is to allow cameras in the courtroom, and I can’t see that. That makes the least bit of difference in understanding what the court is doing.

SL: During your tenure on the court, you were described in media as a centrist, a moderate centrist, a classic conservative and even as a moderate establishment progres-
sive. Were any of those labels right?
Justice O’Connor: No, for heaven’s sakes. It is the job of the press to try to describe for the public what the press thinks it sees in the nine justices. I don’t think it is very helpful because the Supreme Court is the only agency of the government, as I said before, that explains everything it does in written form and every justice is out there explaining in full the justices’ thinking on these issues. And that’s impressive.

SL: You were described in your time on the Court as the most powerful woman in America. Did you feel that way?
Justice O’Connor: No. Certainly not. But every member of the Supreme Court has a certain ability to express one’s self in writing about the merits of the issues we’re deciding. That’s special, that’s unique, and everybody does that on the court. I don’t think that the members of high courts in other nations do the same thing. They don’t explain themselves in written opinions as we do. So I think we have quite a special system in the United States.

Editor’s note: This interview is part of a series of conversations with opinion leaders. It has been edited for length and clarity. The opinions expressed are of those interviewed, and not necessarily NCSL’s.
A simple marshmallow test can tell us a lot about brain development. The test goes like this: An adult seats a young child at a table with one marshmallow on a plate and says, “Sit here with the marshmallow for a few minutes, and when I return I will bring another marshmallow and you can have both to eat.”

Each child is observed using a variety of cute and inventive strategies to cope with the command. Some children smell the marshmallow, many hold it, a few dance in their chairs and some just eat it. The older the child, the greater variety of strategies he or she demonstrates to resist the temptation.

What does this test tell us? According to neuroscientists, the marshmallow test illustrates how well-developed a child’s self-control is—one of a set of “executive function” skills that include the ability to focus, filter distractions, remember and use information, plan ahead, adjust, resist temptation, delay gratification and persevere for long-term goals.

“Having executive function in the brain is like having an air traffic control system at a busy airport to manage the arrivals and departures of dozens of planes on multiple runways,” is how the Center on the Developing Child at Harvard University describes it.

Research into how the brain develops has produced new evidence that these skills are “essential for school achievement, for preparation and adaptability of our future workforce, and for avoiding a wide range of population health problems,” according to a 2012 report by the Harvard center. A growing body of research indicates that the more developed these skills are, the more likely the child is able to process what he or she reads, writes or computes, and thus succeed at school.

In fact, these skills are a greater predictor for school achievement than “a child’s IQ score or social class,” says Deb Leong, a child researcher and retired professor of psychology at Metropolitan State University of Denver.

Increasing evidence of what works and how much money can be saved in the long term, coupled with this recent neuroscience research on how the brain develops, have combined to capture the attention of policymakers around the country.

State lawmakers are beginning to ask how this new knowledge can (or even if it should) influence policy decisions in early childhood development, spurring a growing interest in programs such as high-quality child care, pre-kindergarten and home visiting.

**The Developing Brain**

Scientists have discovered that the most rapid period of brain development occurs in the first few years of life. During this time the basic architecture of our brain is being constructed through an ongoing process that begins at birth and continues into adulthood.

To illustrate what is meant by brain architecture, think in terms of building a house. First the foundation is laid, then the basic frame goes up, followed by more complicated electrical wiring and plumbing. The construction goes from the basic to the complex. But it begins with the foundation; if it is unsteady, the entire structure is weak. The same goes for the brain.

According to Jack P. Shonkoff, director of Harvard’s Center on the Developing Child, the quality of the foundation built in early childhood, whether it is strong or fragile, affects future development, health, learning and economic success. With a strong foundation, babies move easily through more and more complex learning stages. And “although it’s never too late to learn new skills since the brain never stops developing, it’s just harder and less effective to build on a weak foundation than it is to get development right the first time,” says Shonkoff.

From birth, babies’ brains require responsive and caring relationships with adults in nurturing, stimulating environments. The type and quality of interactions a child has—from the earliest years of life—with his or her parents and other caregivers is one of the most important factors in building the brain’s foundation.

Scientists call these “serve and return” interactions. Like a game of tennis, babies “serve” opportunities to interact through
facial expressions and eye contact, coos and babbling. For healthy development, parents and caregivers “return” the serve with words, songs, facial expressions, any number of things. For many, these back-and-forth exchanges come naturally. But what science has confirmed is that they are not only natural, but critical to forming the connections between brain cells and across areas of the brain needed for building sturdy brain architecture.

These nurturing relationships buffer children from the affects of stress. Without these interactions, children’s brains are at risk of developing without a strong foundation. Normal stress is an inextricable part of life, even for young children, and learning how to cope with minor adversity is important for healthy development. But if the stress results from serious adversity such as abuse, neglect, parental mental illness or chronic poverty and continues for long periods of time, without supportive adult relationships, it can be toxic to young children’s developing brains.

This kind of extreme stress can disrupt the development of brain circuits that control emotions and executive functions and increase the risk for learning difficulties, behavior problems and stress-related diseases that can last into adulthood. On the other hand, when adults have strong executive function skills, they are better able to avoid family chaos, cope with adversity, and make needed adjustments.

But just as children are not born knowing how to read and write, neither are they born with fully developed executive function skills. These skills are built over time through modeling and practice, starting in infancy and building throughout childhood and well into adulthood.

**How Does Executive Function Affect Behavior?**

If nurtured, the brain develops all-important “executive function skills,” which include the ability to focus, filter distractions, self-regulate, plan ahead, adjust to changes, control impulsivity, resist temptation, delay gratification, and remember, organize and use information. These skills are essential in several areas of life by helping children and adults to:

**School**—remember and follow complicated instructions, avoid distractions and control rash responses.

**Behavior**—develop teamwork, leadership, decision-making and critical thinking skills.

**Health**—make good choices about nutrition and exercise, resist the pressure to engage in risky behavior and be conscious of others, including their children’s safety.

**Employment**—acquire good organizational and problem-solving skills and adjust to changes in circumstances.


**Practical Application**

Washington has taken the lead in incorporating brain science and the importance of executive function into its policies. The Washington Legislature, the governor and state agency department heads are now using a “science-based” perspective and approach when legislating or adopting early learning policies and laws. Guidelines were changed to incorporate the importance of promoting the development of executive function and self-regulatory skills in very young learners.

For example, some of the guidelines look specifically at how turn-taking games and certain kinds of directions given from early childhood teachers can encourage children to develop self-control mechanisms.

Washington also developed an online training program as part of its professional development requirements for early childhood teachers that includes an explanation of the brain’s executive function and describes the effects of trauma on child development. The online videos show preschool teachers in classrooms demonstrating the kinds of lessons that help develop self-regulation skills.

In addition, the Washington Health Care Authority incorporated executive function information into training materials for managed-care organizations that serve Medicaid patients. And to lessen the stress on families, the state’s Department of Social and Health Services has shifted to a greater focus on helping welfare families find a viable way out of poverty.

“We needed to recognize the damage toxic stress can have on children,” says Washington Representative Ruth Kagi (D), chair of the Early Learning and Human Services Committee. “We pay dearly when children are not ready to learn.”

Washington is also one of 17 states with a federal waiver to test innovative child welfare programs. Washington’s waiver allows the use of an alternative response to families...
at-risk of entering the child welfare system. Instead of having to follow a strict protocol when responding to reports of child abuse or neglect, the new procedures allow child protective services to respond more appropriately depending on the specific circumstances of each family.

Families determined to be at a low risk for child abuse or neglect, for example, are allowed to keep their children with them at home, but are offered alternatives to a traditional child welfare investigation such as treatment for drug or alcohol abuse.

“As our state legislature focuses on school readiness and achievement, plus workforce development, it is important that we consider what science tells us about how children’s brains develop,” says Kagi. She sponsored legislation in 2011 that put together a planning group that included the governor, state legislative leaders and agency directors to focus on policies and investments that would lessen the effects of harmful childhood experiences.

Legislative Interest Grows

Other states are beginning to follow Washington’s lead, acknowledging the sensitivity of early brain development and the harm that toxic stress can have on children’s development.

In 2010, Vermont lawmakers established the Building Bright Futures Council to act as an early childhood advisory body and promote policies based on research from the Center on the Developing Child.

Hawaii passed legislation that cites scientific research to support intensive home visiting services for at-risk families and hospital-based screening and assessments. And last year, Texas lawmakers as well created a home visiting program to help children at risk for abuse and neglect and other family difficulties. The program sends trained workers regularly to homes to provide support, guidance and training in good parenting skills, among other things.

Minnesota lawmakers considered reforms last year to the state’s Family Investment Program and the child care assistance program. The proposed changes were based on research that brain development during the first five years of life is critically important and that traumatic experiences can harm the way a child’s brain develops.

And most recently, Wisconsin lawmakers passed a joint resolution to base future policy decisions on the research findings of early childhood brain development and the effect of toxic stress on child development.

Investing in What Works

Improving the lives of children can also save states money down the road. Several rigorous studies have found that high quality early childhood programs for low-income families have the potential to produce long-term savings by reducing the demands for special education services and welfare benefits, preventing future criminal behavior and increasing future incomes. All this can amount to savings ranging from as low as $4 to a high of $9 for every $1 invested.

Nobel Laureate James Heckman, professor of economics at the University of Chicago, stresses that nurturing, positive early development is as important to children’s futures as is a good education. He claims that investing early in children’s lives increases productivity and personal incomes, improves health, supports greater upward mobility and reduces social costs.

All this brain development “science provides hard data to help shape the decisions we make in Olympia,” says Washington Senator Steve Litzow (R), chairman of the Early Learning & K-12 Education Committee.

“We know that children do not begin learning when they enter kindergarten—it really starts at birth. If we want students to be successful in school, they need to be engaged and actively learning at an early age,” he says.

The ability to develop executive function skills is dependent on healthy brain development and the presence of caring responsive adults. How well children learn depends on their ability to pay attention, follow directions and manage their impulses.

“The longer a child can resist the marshmallow, the greater chance he or she has at succeeding in school, and leading a healthy, happy, successful life,” says Representative Kagi.

“And that is good for us all.”

For more information on how brain research is driving early childhood policies, go to www.ncsl.org/magazine.
Pennies From Heaven?

States look to cloud-based computing for tax revenues as old sources evaporate or move online.

More and more of what we do every day through our computers and smartphones takes place in “the cloud”—vast networks of servers that allow us to store, manage and process data remotely, via the Internet.

A growing range of activities takes us in and out of the cloud all day long. When we sync our iPhones, search Google apps and maps, read our e-mail, create a photobook on Shutterfly, download a movie from Netflix, withdraw cash from an ATM, or network on Facebook, Twitter or LinkedIn, to name a few, we are using the cloud.

At the same time, an increasing number of businesses, from small startups to large corporations, are shifting to cloud-based computing as a way of cutting costs and improving efficiency. Technological advances have created a wave of computing capabilities delivered as a service, and vendors are competing intensely to match the needs of different customers.

Cloud computing offers businesses on-demand software, storage, processing and other fundamental computing capabilities that can be purchased in units rather than requiring a large, upfront capital investment. In many cases, the use of the cloud

What’s in a Name?

Why “cloud”? Where did that come from? In the mid-1990s, the word “cloud” was used as a metaphor for the Internet, and a standardized cloud-like shape was used to depict the Internet in computer network diagrams. The term came into wider use a decade or so later, when Amazon introduced its Elastic Compute Cloud in 2006.
Where Exactly Is the Cloud?

Far from the vaporous celestial mass its name suggests, the cloud is as solid and earthbound as can be. Its infrastructure consists of thousands of data centers around the world, collectively housing an enormous and growing number of servers—several million, according to recent industry estimates.

Google, Amazon and Microsoft—among the biggest players in the cloud world—have consistently avoided disclosing details of the number, size and location of their data centers. But at Microsoft’s recent 2013 Worldwide Partner Conference, CEO Steve Ballmer provided an interesting tidbit about the scale of Microsoft’s server operations. “We have something over a million servers in our datacenter infrastructure,” Ballmer said, adding that Microsoft’s recently launched Xbox One video game console alone will be backed by 300,000 servers.

Major data centers—the largest of which occupy more than 2 million square feet—are industrial-scale operations using as much electricity as a small town. Computers in such facilities run 24/7 and consume large amounts of power, as do the sophisticated systems used to cool them.

Data centers can also be a significant source of air pollution in the form of exhaust from the huge diesel generators they are allowed to use as backup power. To address such concerns, some cloud providers are investing in computers and storage systems that are more and more power-efficient, and in innovative cooling and climate-control strategies.

For example, Facebook recently built its first data center outside the United States in a Swedish town near the Arctic Circle where the outside air will be drawn in to cool the tens of thousands of servers inside. All of the servers and other equipment will be powered by locally generated hydroelectric energy so reliable, Facebook spokesmen say, that the use of backup generators can be cut by 70 percent.

At the other end of the spectrum, Apple has built a 137-acre solar array in Yerington, Nev., that will not only supply renewable energy for its data center in nearby Reno, but also contribute to the local power grid through a partnership with NV Energy.

Google, too, has invested in several state-of-the-art data centers, and now posts on its website detailed information about the energy efficiency of its facilities.

For more resources on cloud computing, go to www.ncsl.org/magazine

has allowed businesses to eliminate the expense of maintaining an in-house IT department.

Roughly half of the nation’s businesses are now using one or more cloud-based services, according to Forbes magazine. And a recent report by Forrester Research predicted the global market for cloud-based services will increase from an estimated $50 billion this year to $240 billion by 2020.

The Tax Temptation

With so many business transactions being conducted through the cloud, small wonder that cash-strapped state governments are now looking closely at this rapidly developing market as a potential source of revenue.

“The thing that is being called cloud computing, while we’ve been doing pieces of it for some years, is now looking to be a new business model in a large way, and it affects every tax type you’ve got,” says Verenda Smith, director of administration and policy at the Federation of Tax Administrators, a Washington, D.C., group that represents state revenue departments.

Cloud computing is just the latest technological trend, however, to expose the deficiencies of 20th-century state sales tax systems created to generate revenue from face-to-face exchanges of tangible goods that are now being replaced by digital, downloadable products.

Online shopping has grown into a $226 billion-a-year business. Technically, consumers are supposed to pay taxes on out-of-state or online purchases—many states require them to disclose such purchases on their tax return forms. But most people don’t.

In 2012 alone, states lost out on a collective $23 billion as a result of not being able to collect sales-tax revenue on remote sales.

Over the last decade, 27 states and the District of Columbia have adopted laws or regulations imposing sales tax on certain digital transactions—primarily downloading music, books, movies and games. They have done so by either changing the definition of tangible personal property (TPP) or creating a new class of taxable transactions.

Roughly half of these states have taken an additional step, expanding their definition of taxable digital products or transactions to include cloud-based services.

Among them is South Dakota, which does not have an income tax and consequently relies heavily on sales-tax revenue. “If it moves, we tax it,” says Senator Deb Peters (R). “Our law makes it clear: Any product or service purchased online is taxed. There are no carve-outs—it’s all TPP.”

In some states, the taxation of cloud computing has come about not through legislation but “by tax administrators interpreting outdated laws,” says Stephen Kranz, a partner with the law firm of McDermott Will & Emery and an expert on state tax systems.

Ad hoc, piecemeal policies on taxing cloud-based services—in combination with scant case law—have given rise to dozens of skirmishes between businesses and governments across the country, Kranz says, adding: “I’m predicting that we’re on the front end of a lot of litigation.”

Just how thorny the issue can get is evident in a controversy in Vermont that began in 2010, when the state Department of Taxes issued a technical bulletin stating that prewritten software available through the cloud was to be subject to the state’s...
6 percent sales tax.

The technical bulletin didn’t cause much of a stir until it was followed up two years later by notices to scores of businesses demanding payment of sales tax on cloud-based transactions, retroactive to 2009.

That’s when legislators jumped in. “We had to address two issues,” says Vermont Representative Heidi Scheuermann (R). “First was the question of whether the companies should be billed retroactively. The other was whether the Department of Taxes had exceeded its authority by categorizing prewritten software as a product subject to tax, rather than as a service, which here in Vermont isn’t taxed.”

In 2012, the Legislature overruled the tax department on the issue of retroactive payments. It also established a one-year moratorium on taxing cloud-based services and formed a committee to study the issue.

But the study committee’s recommendation—to exempt cloud computing from taxation—was opposed by some legislators and, in the end, failed to win approval. So as of July 2013, when the moratorium ended, Vermont began collecting sales tax on transactions involving prewritten software.

Scheuermann, who sided with the study committee, says she thinks taxing cloud-based services “sends the wrong message to providers and clients,” and undermines Vermont’s efforts to nurture and expand its technology sector.

“I recognize that our economy is changing and our tax system needs to change, too,” she says. “But we need to step back and take a look at the bigger picture. We should deal with the issue of taxes more comprehensively, not picking and choosing as we go. To me, this issue isn’t all about the revenue—it’s about policy that promotes innovation and economic development, which are so vital to our future.”

Washington Goes Broad

Among the states that have addressed the issue of taxing digital goods and services, Washington is the first to have done so carefully and comprehensively.

The effort began in 2007 when the state revenue department created a task force, chaired by Representative Ross Hunter (D), to study a steadily growing problem: the erosion of the sales-tax base by the phenomenon of products going digital. Washington, one of seven states without a corporate or personal income tax, was projected to lose $100 million a year in sales tax revenue by 2015, according to Hunter.

After 18 months of hearings, research and debate, the task force issued an 80-page report setting forth detailed options and recommendations to lawmakers, who in 2009 approved a bill based on the task force’s report.

Washington opted for a “broad imposition strategy,” says Hunter, in which the sales tax is no longer based on tangible personal property. “If you depend on taxing TPP, as TPP becomes a smaller and smaller part of the economy, you have to adapt. So we chose to create three new categories that look just like tangible personal property, but are called digital products, digital code and digital automated services. And then we created a set of exemptions for things we did not want to tax,” he says.

The bill passed with bipartisan support and enjoyed the backing of the business community, which Hunter says “likes this new tax regime because we’ve broadened the base, so we’ve been able to keep rates low and treat everyone the same.”

The new tax applies to downloaded and streamed digital goods; prewritten software provided via a network; and digital automated services, which include such things as search engines and photo-sharing services. It doesn’t include, for example, ATM transactions, payment processing, data processing services, help desks and website development and hosting.

Hunter says the broad imposition strategy adopted by Washington has the advantage of flexibility, accommodating changes in future technology and business practices without needing repeated legislative amendments.

“That’s important because they’re out there inventing stuff faster than we as legislators can write tax law,” he says. “And, yes, we’ll have to make exemptions—we’ve already made some in the past couple of years. But it’s a heck of a lot easier to get an exemption passed than it is to extend the sales tax to digital transactions on a piecemeal basis.”

The bottom line, says Hunter, is that “if the economy changes in a structural way, tax codes need to change. I’m not saying it’s an easy thing to do—it certainly isn’t. But most states instituted sales taxes generations ago, when there wasn’t anything you could buy that wasn’t physically handed to you.”

So states have a clear choice, he says: “Rise to the challenge of modernizing your sales-tax code, or stand by and watch your tax base erode year after year as more and more commerce moves online.”

The Power of Cloud Computing

Just how powerful is the cloud? Several years ago, The New York Times decided to convert 11 million scanned and archived documents into portable document format (PDF) files to make them available through the nytimes.com’s search engine. Rather than tackle the project in-house (an IT nightmare), the newspaper deployed 100 servers in the Amazon Web Services Elastic Compute Cloud (Amazon EC2) to convert data nonstop. Within 24 hours, all 11 million images were converted and stored on Amazon’s Simple Storage Service (Amazon S3) at a cost far less than if they had been converted in-house.
New Year, New Laws

Year 2014 rings in laws both quirky and predictable.

BY SUZANNE WEISS

Thousands of new state laws go into effect every Jan. 1. Some are attention-getters, some are quirky and some stand out for blazing new trails. This year is no different.

In Colorado, adults can now walk into state-licensed shops and buy up to one ounce of marijuana for recreational use. In Connecticut, the final piece of the nation’s strictest gun-control law clicked into place. And in California, transgender youth, Internet users and prison inmates serving long sentences for offenses they committed as juveniles have new rights and protections.

Here’s a glance at these and some other new state laws—on issues ranging from tanning salons to distracted driving to the federal Affordable Care Act.

Crime and Courts

Inmates serving long prison sentences for offenses they committed as teenagers will have a chance for re-sentencing under a new law in California. It establishes a special parole-review process in which such individuals are eligible for release after 15 years of incarceration, if they meet certain criteria. The law may affect the fate of as many as 5,000 California inmates.

In Connecticut, reforms stemming from the Newtown school shootings include mandatory registration of all assault weapons and large-capacity ammunition magazines purchased before April 2013, and creation of a statewide registry that will track parolees whose crimes involved the use of weapons.

Hawaii strengthened its human trafficking law, and a companion law makes prostitutes eligible for the state’s witness-protection program—an attempt to help law enforcement prosecute pimps and traffickers.

New laws in Delaware and Maryland forbid the possession, sale and distribution of shark fins. They join five other states and three territories that have cracked down on the practice of catching sharks, cutting off their fins and returning them to the water to die. The trade is spurred by the demand for shark fin soup, a Chinese delicacy commonly served at banquets and weddings.

In Texas, a victim (or parent or guardian of a victim) of certain sex offenses or stalking now has the right to terminate a lease without financial penalties.

Suzanne Weiss is a frequent contributor to State Legislatures.
Health
In all 50 states, under provisions of the Affordable Care Act that took effect on Jan. 1, newly issued insurance policies purchased through health exchanges began covering patient treatments. Jan. 1 also marked the start of expanded Medicaid coverage in the 26 states that have opted to extend benefits to adults with incomes up to 138 percent of federal poverty guidelines.

Missouri and Montana have joined 17 other states that require private insurance plans to cover telehealth services. Telehealth is the delivery of health-related services and information via two-way video, smartphones, e-mail, wireless tools and other forms of telecommunications technology.

Add Minnesota and Maine to the list of states that require home sellers to disclose in writing to the buyer any knowledge the seller has of radon concentrations in the home. Exposure to radon is the second leading cause of lung cancer among Americans, accounting for about 20,000 deaths a year, according to the U.S. Environmental Protection Agency.

Tanning salons are now off limits to minors in Illinois and Oregon. That brings to six the number of states that prohibit tanning salons from serving anyone under the age of 18.

Maine became the 48th state to require the inclusion of an organ-donation check-off on driver’s licenses as a way of promoting organ donor programs.

Internet
California is the first state to require websites that collect personal information about their users to specify in their privacy policies how they track users, how they respond to users’ “do not track” requests and whether third parties can collect personal information across sites.

Oregon joined the growing number of states in which employers can’t compel an employee or applicant—and colleges can’t require students or prospective students—to provide access to their social media accounts.

In Illinois, a new law makes it illegal to incite violent flash mobs or a riot via Facebook, Twitter or other social media.

Also in Illinois, it is now illegal for websites that post mug shots to solicit or accept money in exchange for removing the photos from their sites. Similarly, in Oregon, such sites must remove mug shots and other personal information, free of charge, if the person pictured provides documentation of acquittal or of charges being dropped.

Marijuana
In Colorado, anyone over the age of 21 can now purchase up to one ounce of marijuana at state-licensed retail outlets. In Washington, which has also legalized marijuana for recreational use, retail sales will not begin until March or April.

Oregon became the 13th state to license and regulate medical marijuana dispensaries. Previously, medical marijuana users could purchase pot, but had to buy it on the black market.

In Illinois, medical marijuana will be available for sale in 60 state-run dispensaries under a four-year pilot program.

Beginning Dates Vary
Not all new laws go into effect on the first day of the year—it depends on the state’s constitution and whether an effective date is written into the law itself. In California, Illinois and Oregon, new laws go into effect on Jan. 1 unless the bill specifies otherwise. These three states passed nearly 2,200 new laws in 2013. In other states, laws take effect July 1, or 90 days after passage. No matter when they begin, new laws number in the thousands every year. State Net, a LexisNexis company, estimates that nationwide, state lawmakers introduced around 150,000 bills in 2013, and passed less than a quarter of them.

Minimum Wage
Legislators in Connecticut, New York and Rhode Island—and voters in New Jersey—approved minimum-wage increases that took effect on Jan. 1. In Connecticut, the new minimum is $8.70 an hour; in New Jersey, $8.25; and in New York and Rhode Island, $8. That brings to 21 the number of states (plus the District of Columbia) that have established a minimum wage higher than the federal minimum of $7.25 an hour. The highest is in Washington state—$9.32 an hour.

Public Schools
In California, students must be permitted to participate in school athletic programs and use school bathrooms “consistent with their gender identity” regardless of their birth gender. Several other states have adopted policies designed to protect transgender youth, but California is the first to address the issue with a statewide law.

A new law in Utah mandates that high schools conduct annual earthquake-evacuation drills.

California joined several other states in requiring that financial literacy—learning how to budget, manage debt and protect against identity theft—be integrated into textbooks and courses for grades 7 through 12.

Transportation
Illinois became the 13th state (plus the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands) to prohibit motorists from using hand-held cell phones while driving.

In Colorado, a new plug-in electric vehicle registration fee of $50 a year is part of a recent trend in which states are looking to capture more revenues from alternative fuel, high-efficiency and electric vehicles.

In New Hampshire, anyone driving with a passenger under the age of 7 must ensure that the child is properly fastened and secured by a child-restraint system. Previously, the age had been 6.

Let the Sessions Begin!
As 35 states kick off their regular legislative sessions this month, many of these new laws will be considered or reconsidered in other states. Some may spark lots of national interest, others very little. The only sure thing about the process is there are always surprises.
15 Tips

As sessions begin, reviewing this sage advice will help you be the best you can be.

1. Honor the institution.

Thomas Jefferson did it. So did James Madison, George Washington and Alexander Hamilton. They worked tirelessly to make representative government work—one of democracy’s worthiest pursuits. Preserve and protect your legislative institution so it remains a strong, co-equal branch of government. Tearing it down diminishes your ability to solve problems. To work well, government requires a bond of trust between citizens and their representatives. Tell them what you stand for and what you intend to do during your time in office, then work as hard as you can to fulfill those promises.

2. Take the high road.

Understanding legislative etiquette and ethical responsibilities is vital, not only to the institution and your constituents, but to yourself. Recognize the effect your behavior can have on the institution, and be prepared for the close scrutiny that comes with being a legislator. Avoid even the appearance of impropriety. Would you be embarrassed to see your actions reported in the newspaper? If it won’t “read good” tomorrow, don’t do it today—even if it’s perfectly legal, it might not be proper.

3. Master the rules.

You need to learn the rules of the game to be a serious player. Get to know experienced parliamentary experts (legislators and staff) and seek their advice routinely. Read the rules. Study them. But don’t ever fool yourself by presuming you have conquered the rules—there’s always someone in your chamber who can challenge you.

4. Know where to get help.

Get acquainted with staff, not only legislative staff but key people in the executive branch agencies as well. Look for expertise from both sides of the aisle. Turn to them for advice and counsel. Lobbyists can serve as resources, but be sure to obtain information from all sides of an issue. Surround yourself with the most intelligent, dedicated staff you can find. To help you prepare for committee meetings, spend time with staff reviewing the bills on the agenda. Listen to them, and trust them.

5. Manage your time.

Organize, prioritize, commit to those things you consider important. An effective legislator is punctual. Get to the floor on time, get to your appointments on time, get to your committee meetings on time. Meet deadlines. If you miss a bill filing, it could be a whole year before you can try again. If you’re late in filing campaign contributions—or don’t file at all—you might read about it in the paper or see it used against you in the next campaign. Housekeeping chores matter; attend to them.

6. Develop a specialty.

Don’t try to be all things to all people. Be selective in the bills you introduce. Focus on two or three issues to specialize in. Pursue committee assignments in those areas, get on a task force, help negotiate a compromise. You will develop your negotiating skills and become the expert members turn to for help and information. By doing a few things well, you will build your reputation—inside and outside the legislature—as a serious lawmaker.

NCSL’s popular “15 Tips for Being an Effective Legislator” has guided lawmakers for more than 20 years with its timeless advice.
7. Vote your conscience.
You are a trustee of your entire state, but you must also represent your constituents. Sometimes this presents an irreconcilable conflict. But by electing you, the voters chose to place their trust in you. So vote your conscience. Then communicate clearly how you evaluated the issue and arrived at the decision. This allows you to represent not only by listening, but also by leading and by shaping opinions. It will gain you respect from people who may not always agree with you, but who will appreciate you for thinking through issues.

8. Don’t burn bridges.
Learn how to disagree without being disagreeable. It’s going to happen. You’re going to argue, get frustrated and become upset, even dislike another legislator. Don’t react emotionally or in anger on the floor. The things you blurt out may come back to haunt you. You might create an unnecessary enemy, one thing you don’t need in the legislature. Remember, today’s adversary may be tomorrow’s ally.

9. Keep your word.
Ben Franklin was right. Honesty is the best policy—in life and in the legislature. A legislator’s effectiveness and reputation are only as good as his or her word. Without truth, there can be no trust. If you promise someone your vote, deliver. A good working relationship, with fellow legisla-

tors and constituents, depends on their ability to believe what you say. If new information changes your mind, tell your constituents why. Credibility is important around the legislature; you can’t be effective if you are perceived as untrustworthy.

10. Be careful what you agree to.
The casual co-sponsorship of numerous bills promises minor rewards and major headaches. When in doubt—don’t. Be careful not to let friendship or even trust stop you from scrutinizing every bill you choose to sponsor. If you don’t, you’ll end up having to vote against a bill you’ve agreed to sponsor. No matter how much you like a person and normally trust his or her views, make sure you understand the bill. One protection is a 24-hour waiting period. Take time to decide. If someone really wants you as a sponsor, he or she will wait a day.

11. Don’t hog the mike.
Always prepare in advance when you are going to make a speech on the floor. Make sure your topic is something that’s important to you. Don’t talk about everything; you risk wearing out your welcome. Sometimes, the most effective legislators are the ones who speak only three or four times during the session. Yet when they do, all eyes are on them and everyone listens.
12. **Stay in touch.**
Communicate with your constituents. This is critical. Return phone calls, answer letters, have town meetings. Write a weekly column for the local news media, start a blog, tweet your views, post on Facebook. Get to know the people you represent. Explain to them how you think through issues and decide how to vote. Let them know who you are, that you’re approachable and responsible, that you really do want to represent them.

13. **Be a problem solver.**
Use your skills and your office to help your community find solutions. When controversial, even inflammatory, problems arise in your district, work with state agencies and local governments to find the best solution. Call on the experience and knowledge of veteran lawmakers and staff. Ask questions, do research, show you can be a positive influence in the community.

14. **Work with the media.**
Don’t assume the media are your adversaries. Reporters have a responsibility to inform the public. Be proactive by contacting them regularly about your work. Focus on the process and the issues, not on partisan differences and conflict. Present information that is easy to understand and use. Honor your local newspapers’ deadlines. Call writers back promptly. Don’t expect them to use your press releases if you avoid their phone calls. When reporters do a good job, acknowledge it. At the same time, ask for corrections when they make errors.

15. **Stop and smell the roses.**
In politics, it can be a struggle to resist self-importance, maintain a normal private life and not take family members for granted. The grand responsibilities and acclaim that come with holding public office, however, are no substitutes for reflection, ordinary friendships and meeting the simple responsibilities of life. Make time for your friends and family. But don’t forget to take care of yourself. Eat right. Exercise. Read State Legislatures magazine.
“When I first got elected, I received 70 percent of the vote in my part of town. I don’t think people were looking at me as a Republican or a Democrat. I was Vinny, the local guy at the gas station who was one of us.”

—Eight-term Representative Vinny deMacedo of Massachusetts, one of 30 Republicans in the 160-member House and owner-operator of a Plymouth gas station, as reported in The Patriot Ledger.

“I think we need to send a message that this kind of violence is unacceptable in Oklahoma and will get you into serious trouble.”

—Representative Bobby Cleveland (R) Oklahoma on his call for stiff penalties in the “knockout game,” a craze in which an assailant punches an unsuspecting victim while a buddy records it on video, in The Oklahoman.

“We’ve been told as young people that we can do anything we want to do, and tonight we’ve proven that to be true.”

—Representative Jeramey Anderson (D) Mississippi, 21, to supporters after winning a runoff to become the youngest House member, in the Biloxi and Gulfport Sun Herald.

“We’re making progress. By the end of the day we’re hoping the teacher compensation system is something that’s fair.”

—Senator Anitere Flores (R) Florida, author of a Student Success Act amendment mandating teacher evaluations be based on their own students’ performance—not that of new students, as reported in the Miami Herald.

“Someone comes in and I’m like, ‘Did you know your husband or boyfriend engaged in domestic violence three times?’”

—Assemblyman Reed Gusciora (D) New Jersey and Trenton city prosecutor, in a Star-Ledger story about his bid to create a public registry of domestic violence offenders.

“This decision has been difficult to make.”

—Senator Evie Hudak (D) Colorado, resigning days before gun-rights activists were to submit petitions seeking her recall. Two other lawmakers have been ousted by the group.
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