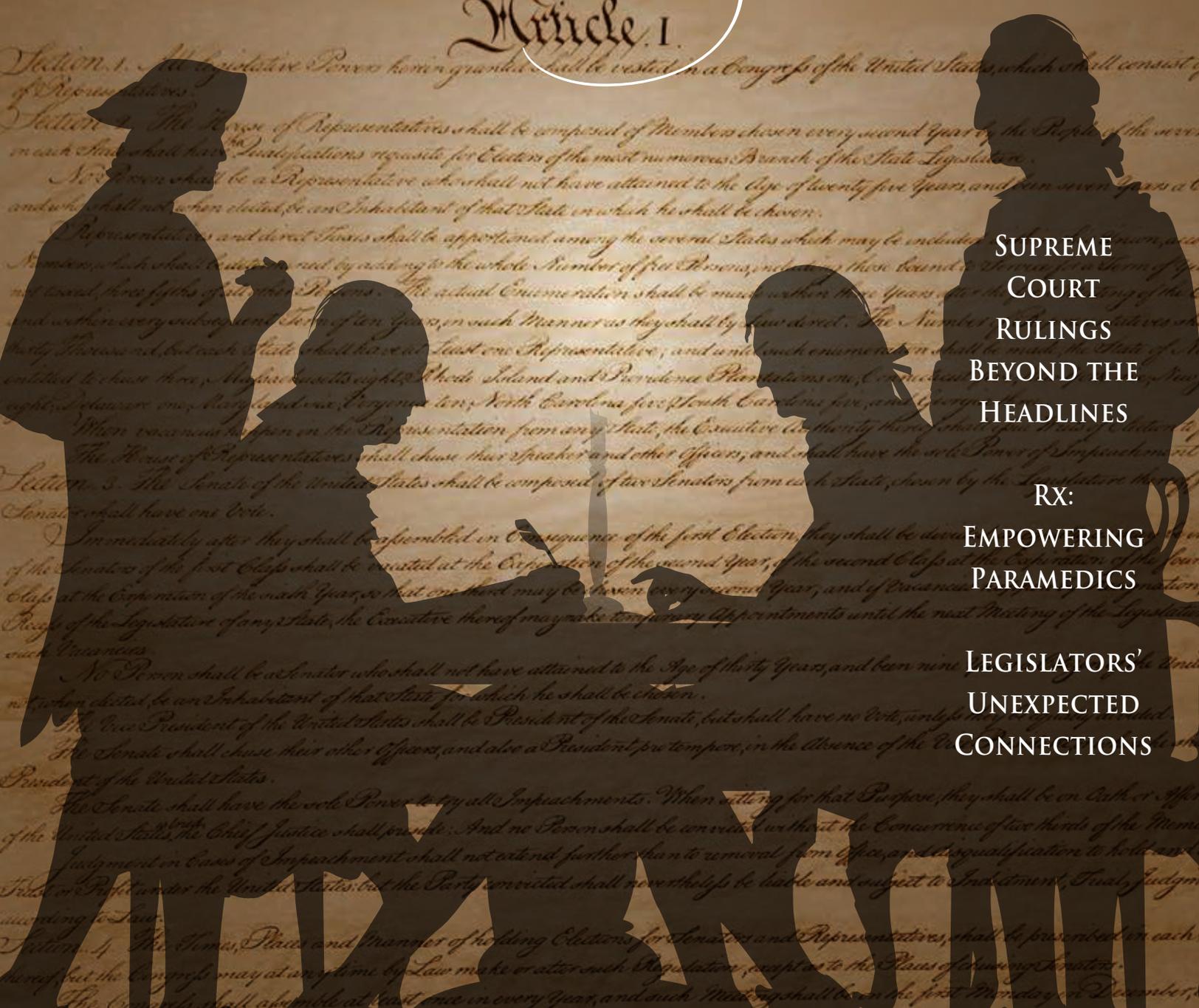


STATE LEGISLATURES

NATIONAL CONFERENCE of STATE LEGISLATURES

Constitutions: Amend with Care

Article I



SUPREME COURT RULINGS BEYOND THE HEADLINES

RX: EMPOWERING PARAMEDICS

LEGISLATORS' UNEXPECTED CONNECTIONS



AMERICA'S DIABETES

CHALLENGE GET TO YOUR GOALS

America's Diabetes Challenge: Get to Your Goals is a program from Merck and the American Diabetes Association that urges people with type 2 diabetes to pledge to work with their doctor to set their individual A1C goal and maintain it. Through the program, people can also learn if they are at risk for hypoglycemia and how to help reduce that risk. The program encourages friends and caregivers to help support the nearly 30 million Americans living with diabetes by challenging their loved ones to take the pledge.

"I've seen first-hand how type 2 diabetes impacts Americans from all walks of life. It's affected my family, friends and fans. I'm a strong believer in making healthy choices, so I'm encouraging all Americans to join me and challenge their family and friends with diabetes to work with their doctor to get to their A1C goal. Together, we can make a difference."

- TIM MCGRAW



**TAKE THE PLEDGE
TO GET TO YOUR A1C GOAL**

TIM MCGRAW

Visit AmericasDiabetesChallenge.com
to pledge and for helpful resources and tips.



STATE LEGISLATURES

NCSL's national magazine of policy and politics

FEATURES

DEPARTMENTS



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BY JENNIE DRAGE BOWSER

As talk of changing the U.S. Constitution stirs up again, state constitutions serve as examples of what it can mean to alter these documents.

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Recent Supreme Court rulings were game-changers for the states—and not just because of the decisions on health care and same-sex marriage.

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NCSL's new president, Utah Senator Curt Bramble

A National Conference of State Legislatures Publication

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SHORT TAKES ON NCSL NEWS

NCSL EXPERTISE



“Some of the proposed measures would allow for certain ordinances ... but would prevent outright bans.”

—Kristine Hartman, on state efforts to prevent cities from banning fracking, in Newsweek.



“The idea is that you can at least get a face-to-face interview and be considered on merit, not on your record.”

—Alison Lawrence on “ban the box” laws, which prohibit asking about criminal records on job applications, The Huffington Post.



“We have seen the level of legislation around retirement security increasing among state legislatures year after year.”

—Luke Martel on proposals for state-sponsored retirement plans to cover private-sector employees, on CNBC.



“We had to shift the paradigm from allowing some kids to drop out to recognizing that

a high school diploma was now the bar.”

—Sunny Deye, on efforts over the past two decades to improve high school graduation rates, on NPR.



“These low-turnout elections can be hijacked, and that’s a constant concern

for leaders.”
—Tim Storey, in a Governing article about legislative leaders facing primary threats in the era of super PACs.

Clarification

The story “Sentinel Landscapes,” in the July/August issue, should have named the U.S. Departments of Defense and Agriculture as partners, with the Department of the Interior, in the Sentinel Landscapes Partnership.

FOCUSED



New Trends in Juvenile Justice

Lawmakers from 10 states learned about the latest trends in reforms, mental health and other issues during NCSL’s Juvenile Justice Model Site Visit in Charleston, South Carolina, in June. South Carolina Senator Michael Fair (R, third from right) poses with AMIKids participants in Beaufort, after they led a tour of their facility—part of a nonprofit residential placement program that provides learning opportunities for troubled youths. The young men pictured above were earning certificates in welding. Anne Teigen, right, received a resolution from the state Senate thanking NCSL for organizing the meeting.



Task Force Travels to Alaska

Joint Base Elmendorf-Richardson in Alaska was among the site visits made by NCSL’s Task Force on Military and Veterans Affairs, which consists of 54 state legislators and legislative staff from 26 states. The task force conducts several such visits each year to share information about enhancing relationships between military bases and surrounding communities.

Staffers Meet in Denver

The Legislative Staff Coordinating Committee met in conjunction with the NCSL Executive Committee spring meeting in Denver. Staffers discussed the work of the various LSCC subcommittees, with topics ranging from the budget to the legislative institution to member outreach.



Raúl Burciaga, director of the New Mexico Legislative Council Service.



From left, Russell Humphrey, chief clerk of the Tennessee Senate; Diane Chaffin and Kae Warnock of NCSL; and Nathan Hatfield, assistant clerk of the Virginia Senate.



From left, Martha Carter, legislative auditor for the Nebraska Legislative Performance Audit Office; Melissa Calderwood-Renick, assistant director of research at the Kansas Legislative Research Department; and Stephanie Barrett, associate fiscal officer for the Vermont General Assembly Joint Fiscal Office.

READING MATERIAL

Keep It Brief

Name the topic—we've got the best information on it. Read concise summaries of the latest policy trends in four monthly LegisBriefs. September's subjects include EPA regulations, fantasy football, employment discrimination, and college and career readiness—coming to your Inbox soon. For hundreds of more detailed NCSL reports on issues facing state lawmakers, visit ncsl.org.



YOUR TURN

Ground Support

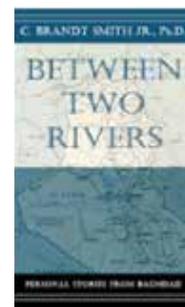
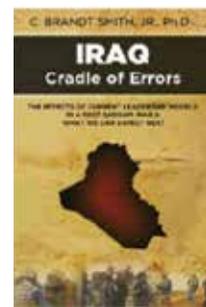
NCSL has spent years pushing marketplace fairness, advocating for federal legislation to allow states to require remote retailers to collect and remit state sales taxes. With that in mind, NCSL's Mark Wolf couldn't resist snapping a photo when he came across this sign along his commute. Our own Max



Behlke insists it's only a matter of time before e-fairness legislation passes.

Author-Lawmakers

Arkansas Representative C. Brandt Smith Jr. (R) has three books to his credit: "Look Out for the Headhunters!" about working in countries that restrict religious missionaries' access, and "Iraq: Cradle of Errors" and "Between Two Rivers," both based on time Smith spent in Iraq.



SUMMIT SUMMARIES



If you weren't able to attend NCSL's annual Legislative Summit last month in Seattle, or would like to revisit a session, we've got you covered. Go to ncsl.org/magazine to find PowerPoints, handouts, and audio and video recordings from the nation's biggest and best meeting of state legislators and legislative staff. See you next year in Chicago!

2015

Legislative Staff Professional Development Seminars



Sharpen your professional skills while connecting with legislative colleagues from around the country

National Legislative Services and Security Association (NLSSA)
September 13-17, Santa Fe, N.M.

American Society of Legislative Clerks and Secretaries (ASLCS)
September 20-25, Raleigh, N.C.

National Association of Legislative Information Technology (NALIT)
September 29-October 2, Sacramento, Calif.

**Legal Services Staff Section (LSSS)
Legislative Research Librarians (LRL)
Research and Committee Staff Section (RACSS)**
October 4-7, Austin, Texas

National Legislative Program Evaluation Society (NLPES)
October 11-14, Denver, Colo.

National Association of Legislative Fiscal Offices (NALFO)
October 13-16, Portland, Maine

**Leadership Staff Section (LSS)
Legislative Information and Communications Staff Section (LINCS)**
October 18-21, Phoenix, Ariz.

National Seminar on Human Resource Management
November 1-4, Alexandria, Va.

Find more information and register today
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Where the Jobs Are

The Working Life By the Numbers

157 million
Number of people 16 and over in the nation's labor force in June 2015.

\$50,033 and \$39,157
The 2013 real median earnings for male and female full-time, year-round workers, respectively.

15 million
Number of female workers 16 and over in service occupations in 2013; male workers numbered 11.6 million.

86.1
Percentage of full-time, year-round workers ages 18 to 64 with health insurance during all or part of 2013.

76.4
Percentage of workers who drove alone to work in 2013.

25.8
Average time in minutes it took workers to commute to their jobs in 2013.

4.4
Percentage who worked from home in 2013.

Sources: Bureau of Labor Statistics; Census Bureau.

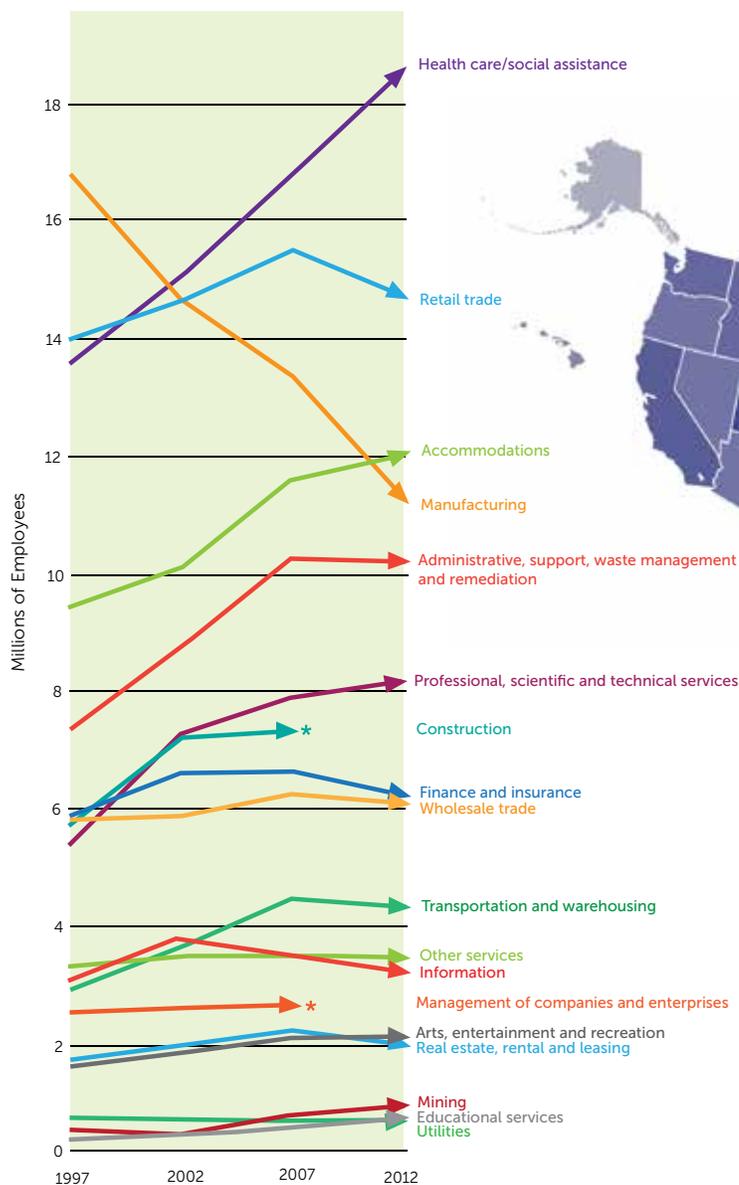
It's probably no surprise that health care produces more jobs than any other sector. The field added 5 million workers from 1997 to 2012, a 37.1 percent increase, according to the most recent Economic Census. A more surprising area of growth? Mining. It grew by 77.5 percent and now has some 900,000 workers.

All states have added jobs since their economies hit bottom during the Great Recession, but the gains are far from evenly distributed. The Pew Research Center compared each state's lowest employment rate after January 2008 with its rate in March 2015. The average growth rate during that period was 8 percent nationally, but individual results varied wildly, from 28.86 in North Dakota to 2.16 in West Virginia.

—Kevin Frazzini

Which Fields Are Growing?

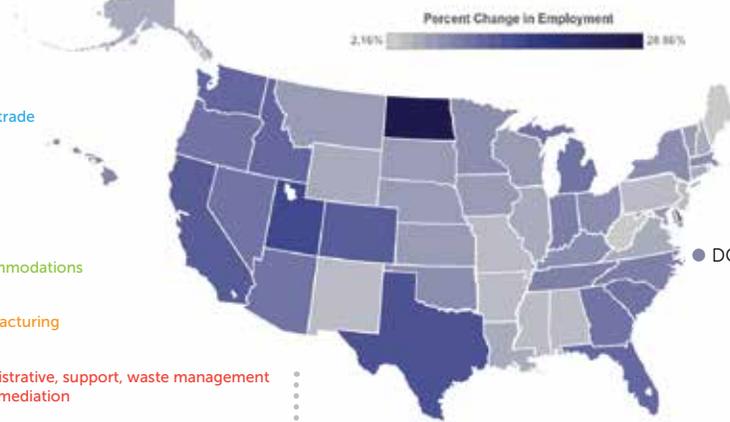
Below are employment trends in major areas of the economy from 1997 to 2012. Health care had the biggest gains, adding 5 million workers for an increase of 37.1%.



* 2012 data not available. Source: U.S. Census Bureau.

Which States Are Hiring?

The map below shows percentage change in the employment rate, from each state's lowest point after January 2008 to March 2015. North Dakota was the top performer at 28.86%, but the recent collapse in oil prices brought the state's growth to a halt. Utah (16.70%), Texas (15.12%), Colorado (13.45%) and California (13.18%) also performed well in early 2015.



Source: Stateline analysis of Bureau of Labor Statistics figures.

5 million

Increase in health care jobs



NEWSMAKERS



"It's good to be done."

—Alaska freshman Representative **Matt Claman** (D) when the Legislature adjourned after eight weeks of wrangling over the budget, in the Alaska Dispatch News.

"Rather than tenure being about academic freedom, it seems to be more about job protection."

—Wisconsin Assembly Speaker **Robin Vos** (R) on proposed changes to the University of Wisconsin System, in the Milwaukee Journal Sentinel.



Harbin

Veteran Georgia Representative **Ben Harbin** (R) resigned his seat in July after 20 years in the Legislature to take a job as a lobbyist. Harbin, who for many years was chairman of the House Appropriations Committee, said he will work as a consultant for a time to comply with the state's prohibition against former lawmakers lobbying colleagues for a year after leaving office. Harbin served under five speakers and four governors. "I always tried to vote for my district, and I want to take that perspective with me to the clients I represent and try to make sure that the good guys are winning," Harbin said. He is the latest in a string of Republicans to leave the House at the end of the session. Governor Nathan Deal (R) tapped former House Majority Leader **Larry O'Neal** (R) as a tax judge and appointed Representative **Mike Jacobs** (R) a state judge. Representative **Mark Cumming** (R) left for a job in Tennessee. Other resignations include Representatives **Lynn Riley** (R), **Mickey Channell** (R), **Mark Hamilton** (R), **Jay Roberts** (R) and **Tyrone Brooks** (D). The governor is required to declare a special election to fill the seats.



Badon

"This is a compassionate, smart and just reform."

—Louisiana Representative **Austin Badon** (D) about a bill to reduce criminal penalties for marijuana possession, in the Times-Picayune.



"This might be two terms in one for me—my first and last."

—South Carolina Representative **Neal A. Collins** (R) after he voted to remove the Confederate battle flag from the Statehouse grounds, in The New York Times.



Collins

"I believe people should have a choice. This debate should be brought to the public square."

—Maine Representative **Ellie Espling** (R) on a bill to end the state income tax, in the Portland Press Herald.



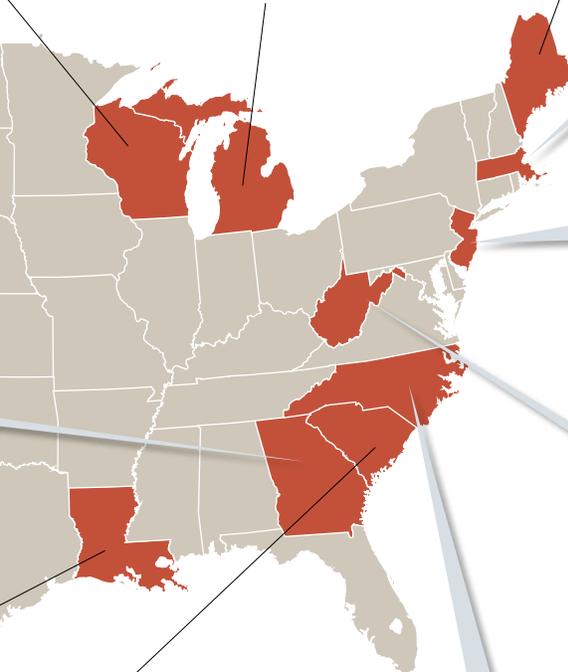
Espling



Santana

"[It] seems to be one of those extreme ideas to throw out there. No one I've talked to has even thought about starting that type of conversation."

—Michigan Representative **Harvey Santana** (D) on a suggestion to dissolve the Detroit Public Schools as a way to solve the system's financial problems, in the Detroit Free Press.



Massachusetts Senator **Thomas Kennedy** (D), who overcame a disability to serve in the legislature for 32 years, died in June. He was 63. Kennedy became a quadriplegic after a fall while he was studying for the priesthood. But his political career took shape when he was elected to the Brockton City Council and later worked for then-Congressman Brian Donnelly. He was elected to the House in 1983 and served there until his election to the Senate in 2008. "He was a great friend, colleague and public servant," said Senate President **Stan Rosenberg** (D). "His voice will be missed in the Senate." Governor Charlie Baker (R) said Kennedy's "perseverance in overcoming his disabilities served as an inspiration for all those who knew him and for many more who are also working to surmount their own challenges in life."

David Rosen, acting director of the New Jersey Office of Legislative Services and longtime chief fiscal officer, is stepping down in October. Rosen, whom Governor Chris Christie (R) once famously dubbed the "Dr. Kevorkian of the numbers" because of his gloomy—but accurate—budget projections, has served in the OLS since 1984, when he was hired by the father of Supreme Court Justice Samuel Alito. The Legislative Services Commission selected Peri Horowitz as the new director and Jason Krajewski as legal counsel, and it promoted assistant budget director Frank Haines to succeed Rosen as budget officer.



Rosen

West Virginia House Speaker **Tim Armstead** (R) has thrown his support behind Senate President **Bill Cole's** (R) campaign for governor in 2016. Current Governor Earl Ray Tomblin (D) is term-limited. Armstead said Cole has demonstrated "the type of bold and decisive leadership that is truly needed to move our state's economy forward." Both Armstead and Cole became leaders when Republicans took control of the West Virginia Legislature in 2014.

North Carolina Senate President **Phil Berger** (R) and Speaker **Tim Moore** (R) squared off against Governor Pat McCrory (R) and two former governors, Jim Martin (R) and Jim Hunt (D), at the state Supreme Court in what has been called a landmark case on the constitutional separation of powers in the Tar Heel State. The case stems from the legislature's creation of three commissions, including the Coal Ash Management Commission, to which it named six of the nine members. Several months ago, a three-judge panel struck down the appointments, siding with the governors in ruling that the General Assembly violated the state constitution when it created the commissions and made the appointments. Berger and Moore called the opinion "a dramatic shift in the historical constitutional balance between the three branches of government." They appealed to the state's high court, arguing that the legislature has an inherent constitutional power to make appointments. A ruling is expected this fall.



Berger



Moore



Cole

Luring Cybersecurity Industry Is Big Business

States anticipate a boom in the cybersecurity industry, and many want in. With data collection and costly database breaches both on the rise, states have taken notice.

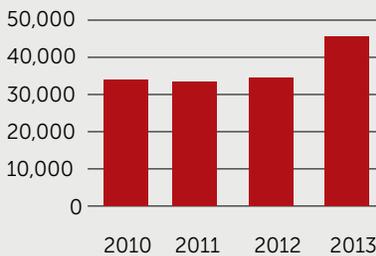
“We’ve seen it in private industry, we’ve seen it with Sony, we’ve seen it with foreign governments, we’ve seen it all over the place and what I’m afraid of is that we are going to see a much more serious attack,” said Florida Representative Ray Pilon (R).

That fear has made cybersecurity one of the nation’s fastest growing industries. Demand for information security professionals is growing 12 times faster than that for other jobs and is expected to increase by 53 percent in the next three years, according to Stanford University’s Peninsula Press, which covers Silicon Valley. However, there are not enough workers in the pipeline to meet the demand.

Lawmakers hope that through education and the formation of public-private partnerships, they can help the industry grow—along the way boosting their economies, increasing the number of stable, attractive jobs and encouraging graduates

A Growing Threat

Cyber incidents reported by federal agencies to the Department of Homeland Security’s Computer Emergency Readiness Team, 2010-13. A cyber incident is defined as a violation of an explicit or implied security policy.



Source: GAO analysis of U.S.-CERT data for fiscal years 2010-2013.

with degrees in cybersecurity and related fields to come to their states and stay.

In Florida, for example, the Legislature enacted a statute creating the Florida Center for Cybersecurity at the University of South Florida last year. The center plans to expand cybersecurity degree programs statewide, including a master’s program at the university, and create partnerships among businesses, higher education communities and

industries where cybersecurity is a major player: finance, health care, utilities and the military.

During the 2015 session, at least 24 states considered cybersecurity bills. Nine of those states—Arkansas, Connecticut, Kansas, Maryland, Nevada, North Dakota, Texas, Utah and Virginia—enacted legislation, while Georgia and Rhode Island issued executive orders. Several of the bills authorize studies on cybersecurity breaches, the growth of the cybersecurity industry or measures to drive state economies through education and partnerships. The Maryland and Utah bills create commissions to look at the effects of breaches on infrastructure and develop data-security best practices. In Washington, pending legislation would create tax incentives for cybersecurity businesses and offer convertible debt and loan programs for students pursuing cybersecurity degrees.

It’s likely that only a few states will emerge as cybersecurity leaders, but in the meantime many will continue seeking ways to both protect their residents from online threats and lure this hot new industry.

—Samantha Moodie

Meter Readers Going the Way of Dinosaurs



Many utilities are saying good-bye to the analog meters they’ve used for decades to track customers’ home energy use. Instead, they’re turning to new “smart meters,” which, like analog meters, are usually installed in some out-of-view location at the home. But unlike the old meters, they record electricity consumption in real time and, like a smartphone, send the information via wireless signals to utilities for monitoring and billing. Utility companies like them because they eliminate the need to send someone out to read meters man-

ually, saving them money, and smart meters can help identify power outages more quickly, allowing for faster restoration of service. Customers can use the real-time data to evaluate their electricity use and make changes to reduce their energy bills.

U.S. electric utilities installed about 52 million smart meters as of May 2015, according to the Energy Information Administration. But not all customers are ready to make the switch. Some want out of their local smart-metering programs, citing concerns about health—like cell phones, the meters use radiofrequency, or

Altering Rules on Cannabidiol Therapies

The legalization of medical marijuana to treat various ailments has been a hot-button issue in a growing number of states in recent years. But the debate about cannabidiol, derived from marijuana plants, is just warming up.

Cannabidiol, commonly referred to as CBD, is an oil extracted from cannabis. It contains little, if any, THC (the psychoactive component that causes a marijuana “high”) and is commonly used to manage rare, treatment-resistant forms of epilepsy, among other debilitating conditions. Parents of some affected children say they have seen a dramatic reduction in the number of development-stunting seizures their sons or daughters suffer after beginning a CBD regimen.

Paige Figi’s daughter, Charlotte, suffers from an uncommon form of epilepsy called Dravet syndrome, which affects about 1 in 30,000 children. Charlotte had more than 300 seizures a week before her CBD treatment began. She now suffers only two seizures per month, says Figi, who lives in Colorado. Though research is lacking, scientists suspect that CBD dampens the excessive electrical and chemical activity in the brain that causes seizures.



“Charlotte’s Web” is a proprietary strain of cannabis named after Charlotte and used specifically to make CBD. The strain has very little THC—less than 0.3 percent—though other strains may also be used to make concentrated products. Charlotte’s Web is not widely available; most dispensaries choose not to stock it because of its limited appeal in the adult-use retail market.

The problem is, as a cannabis derivative, the oil extracted from any cannabis plant falls under the same legal restrictions as marijuana flower. By federal law, it is considered a Schedule I controlled substance, with no medical value, and cannot be prescribed.

Because Colorado has a comprehensive medical marijuana program, Figi can legally purchase CBD products. In most other states, the substance is still illegal. Fifteen states have Charlotte’s Web laws (some of which may not yet be operational) that allow families to acquire and use CBD

without fear of prosecution. But in a number of those states, legal clarification is still needed. The laws protect people who possess or use CBD products from prosecution for marijuana possession and use, but the state may not provide a clear way to produce or purchase the products in-state. This means a person could potentially break another state’s law by removing the products from that state.

Six more states have Charlotte’s Web legislation in the works, as does Congress.

The Figis have found themselves unwittingly active in the fight to allow families access to CBD treatment, which they say has more effectively managed Charlotte’s condition than conventional treatments. Charlotte’s mother stresses the difference between CBD and medical marijuana. “I don’t even say marijuana,” she says. “What we are talking about is so different.” Meanwhile, cannabis-based pharmaceuticals are already in use in Europe and are undergoing clinical trials in the U.S.

Those opposed to legalizing medical marijuana may see providing safe, legal access to cannabidiol products as an acceptable alternative. In the meantime, the conversation about it continues.

—Zita Toth

RF, transmissions to send information—data privacy and increased electricity bills. At least 17 states allow customers to opt out of smart-meter installation.

But as part of the opt-out, some states have created a tariff structure for customers who want to keep their analog meter instead of getting a smart meter. No surprise, customers oppose the idea of paying a fee to keep the meters they already have, but utilities contend the old meters are costly, requiring staff members and vehicles to perform readings. In Pennsylvania, which requires utilities to install smart meters, two bills (both pending) would allow customers to opt out of the smart-meter program and permit utility companies to issue one-time or monthly surcharges to recoup

costs. Opt-out provisions typically are ordered by state public utility commissions and can be found in Florida, Georgia, Illinois, Maine, Maryland, Michigan, Nevada, Rhode Island, Texas and Wyoming. An opt-out bill is pending in Oklahoma.

Other states and utility companies have chosen not to establish a tariff, allowing customers to select their meters freely—for now. State statute lets Vermonters keep their analog meters and requires utility companies to remove previously installed smart meters for free per customer request. Maryland, Massachusetts and Texas also are considering bills that would allow ratepayers to keep their old meters or have smart meters removed at no cost. In some cases, utility companies themselves

have chosen not to charge. Dominion Power of Virginia, for example, agreed to turn off the two-way communication and data-storage features of its smart meters for concerned customers.

Another very different approach to smart-meter rollouts can be found in New Hampshire, where statute requires that utilities receive written permission from ratepayers—an opt-in statement—before installing their smart meters. Similar bills are being considered in Ohio and New Jersey this session.

Whether states decide on opt-outs with fees, opt-ins or another option, all will try to balance individual choice and customer concerns with grid reliability, utility costs and energy efficiency.

—Alexander Mervak

STATELINE

1

GREAT STATE OF TWITTER

Texas is the first state to designate legislative, state and tourism hashtags—#txlege, #texas and #TexasToDo—making it easier to find and follow Twitter messages related to the Lone Star State.

Hashtags have popped up in many states. To find tweets about the North Carolina

General Assembly, check out the hashtag #ncga; for Louisiana, #lalege. In other states, try the two-letter state

abbreviation, followed by "leg," as in #nmleg or #waleg. The tweets aren't necessarily official, but you'll see what's trending at the moment. Texas Governor Greg Abbott wasted no time in flaunting the new handle: "I just signed a resolution that #Texas is the official hashtag of Texas. TAKE THAT #California," he tweeted.

3

NOT CLEAR FOR TAKEOFF

They're boats and you can drive onto them, but they're not exactly ferries. Washington Representative Jesse Young (R) wants to bridge the Sinclair Inlet, which separates the cities of Bremerton and Port Orchard, Washington, with old aircraft carriers. Young says three carriers joined end to end should do it—though he prefers a two-carrier setup with on-ramps and a span across the gap in the middle. "I know that people from around the world would come to drive across the deck of an aircraft-carrier bridge," he said. Not so fast, says the Navy. The carriers in question—the USS Independence and the USS Kitty Hawk—are set for recycling and reserve status, respectively, a spokesman said. Undeterred, Young has proposed a \$90,000 study to investigate the idea further.

2

YES MEANS YES

New York is the 11th state to pass legislation aimed at preventing campus sexual assault. The new law, titled "Enough Is Enough," was passed unanimously by the Legislature and requires both parties to obtain consent for sex—and everything leading up to it during an intimate encounter. The law applies only on college campuses and is based on the idea of "affirmative consent," or "yes means yes." It arrives as the U.S. Department of Education is investigating 11 New York colleges for mishandling sexual assault allegations. Nationally, 5,000 allegations of forcible sex offenses were reported by colleges to the department in 2012. Violating the law could result in criminal charges and disciplinary action by the school. Critics say bringing such a law into situations where sexual cues can be honestly misread is a risk, and that the law doesn't address binge drinking on campuses, except to say that a person cannot give consent if he or she is under the influence.



5

SWEET TAX

A sugary fix is costing Vermonters a bit more these days. A new 6 percent sales tax on soft drinks, part of a \$30 million package of fees aimed at closing a \$113 million budget gap, took effect July 1. The tax is estimated to generate revenue of \$7.9 million, of which \$5.1 million will go to general operations and \$2.8 million to education, according to the Vermont Department of Taxes. Customers who use food stamps are exempt from the tax. Lawmakers hope that, besides creating revenue, the tax will discourage unhealthy food consumption, which contributes to health care costs. But not everyone is on board with the measure. "Where you'll see that first impact (of the soft drink tax) is actually at the car dealerships, because people are going to be trading in their subcompact cars for larger trunk space so they can go to New Hampshire, or New York, and bring back cases of soda," said Representative Adam Greshin (I).

4

GIVE 'EM A BRAKE

Drivers often speed past emergency vehicles on the nation's highways, despite all 50 states—though not the District of Columbia—having "move-over" laws requiring them to switch lanes or slow down when emergency vehicles are on the scene. Failure to heed the laws can result in fines and criminal charges if someone is killed. Since 2010, state legislatures have approved 44 new measures enacting or strengthening move-over laws, with some adding protections for emergency vehicles, including tow trucks. In July, Wyoming became the 48th state to include tow truck operators in its law.

Representative Harlan Edmonds (R) said he sponsored the Wyoming law after a number of near misses involving tow truck operators in his state.





7

RETHINKING SENTENCING

With their state’s prison population growing at rate of 45 percent while the rest of the country’s was growing at 13 percent, Kentucky lawmakers decided to act. “Kentucky was the prison capital of the world,” Representative John Tilley (D) said during NCSL’s Western Fiscal Leaders meeting in June. The state’s prison population changed course after a 2011 law required diversion and treatment of some drug offenders, improved probation and parole supervision and graduated sanctions for rule violations. At least 25 states have made significant changes to their sentencing and corrections laws since 2009. Many of the new laws are part of “justice reinvestment” efforts, a partnership of The Pew Charitable Trusts and the federal Bureau of Justice Assistance that helps states with reforms.

6

GROUSE ANTICIPATION

If you’re from the East Coast, you may not be familiar with the greater sage grouse, but it’s been making a lot of noise in the Western states, and not just because of its distinctive mating call. Since 2010, when the U.S. Fish and Wildlife Service determined the population of Western sage grouse was declining and may require federal protection, the flightless bird has become one of the most important issues for the Department of the Interior, Western land owners, the energy industry and environmentalists alike. In 2011, after a lengthy court case, FWS was directed to further study the grouse and decide whether to label it an endangered species. Meanwhile, Western states have been working with the feds and interested parties to provide protections for the bird in hopes that it will not have to be listed. The decision is expected later this month.

Sage Grouse Population

Four states account for most of the Western sage grouse population.

Population distribution, by percentage of total:

- Wyoming 37
- Montana 18
- Nevada 14
- Idaho 14



8

GOOD FLAG, BAD FLAG

Turns out flags are like a lot of things in life. The best ones tend to be simple, according to the North American Vexillological Association, which is dedicated to the study of flags. In an online survey, the association asked its members and the public their opinions of flag designs for U.S. states and Canadian provinces. At the top of the list was New Mexico, with its stylized depiction of the sun, followed closely by Texas, Quebec, Maryland and Alaska. All received high praise, in part, because you’d know them at a glance. Not faring as well were the flags packing pictorial history lessons inside a state seal printed in the center. We’re not naming names.

9

JERSEY FAMILY VALUES

Garden State legislators are considering a bill that would require all New Jersey employers to provide paid sick leave to their workers. Workers would accumulate an hour of sick time for every 30 they work. Companies with 10 or fewer employees would have to allow workers to earn at least 40 hours of sick leave. Those with more than 10 workers would have to offer at least 72 hours. The leave could be used for an employee’s own illness, to care for a family member who’s sick, or to seek help if the employee or a family member is a victim of domestic violence. “This is what family values are all about,” said the bill’s sponsor, Senator Loretta Weinberg (D).

10

MAHALO FOR NOT SMOKING

Hawaii recently became the first state to raise the minimum age for tobacco purchases to 21. Similar legislation was passed by the California Senate. Proponents say that keeping an addictive product out of the hands of young people will reduce the number who become smokers. Less than one-third of smokers picked up the habit after age 18, and only 5 percent start after 24, according to a 2012 report from the U.S. Surgeon General. “Tobacco companies know that people are more likely to become addicted to smoking if they start at a young age,” said Senator Ed Hernandez (D), sponsor of the California bill. Opponents point out the incongruity of preventing people who are old enough to vote or fight in a war from buying tobacco. “You can sign contracts, you can get married, you can go to war and lose an arm or lose an eye,” Hawaii Senator Gil Riviere (D) told The Associated Press. “You can come back and you’re 20 years old and you can’t have a cigarette.”





Constitutions: Amend with Care

As talk of changing the U.S. Constitution stirs up again, state constitutions serve as examples of what it can mean to alter these documents.

BY JENNIE DRAGE BOWSER

Jennie Drage Bowser, former NCSL staffer, is a freelancer based in Portland, Oregon.

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

PREAMBLE TO THE UNITED STATES CONSTITUTION

The U.S. Constitution is nearly 230 years old, and its longevity and seeming immutability are both a cause for celebration and a source of debate. You'd be hard-pressed to find a government document more revered. John Adams referred to its creation as “the greatest single effort of national deliberation that the world has ever seen.” Benjamin Franklin teared up while signing it. George Washington called it “the guide which I never will abandon.”

Most Americans agree with the sentiments of our forefathers and the values spelled out in

the preamble. But not everyone agrees the U.S. Constitution should be so cherished that it's untouchable. Critics argue the country would benefit from a constitutional overhaul, or at least an update, but lament the arduous path to amending it.

Indeed, the U.S. Constitution has been amended only 27 times—a testament to just how difficult the process is. Either both houses of Congress must pass an amendment by a two-thirds vote, or two-thirds of the state legislatures must call for what's known as an Article V Convention. The amendment must then be ratified by three-fourths of the states, either

by the state legislature or by a convention, and Congress can choose which.

Among those pressing for a convention today are some who would rein in the federal government, others bound to a particular cause—balancing the federal budget or overturning what they view as unpalatable Supreme Court decisions—and still others who simply see the Constitution as outdated. Would-be changemakers might want to consider the experience of the states, where amending constitutions is relatively easy and has been done, with mixed results, frequently.

Antiquated or Timeless?

Georgetown University law professor Louis Michael Seidman has been vocal in his criticism of Americans' strict adherence to the document, referring to their reverence as "Constitution worship." Others defend the Constitution's relevancy, arguing its longevity reflects the genius of the Founding Fathers. Its general principles have stood the test of time and continue to reflect the values for which this country stands.

When asked whether our Constitution is still relevant hundreds of years after it was written, Richard Epstein, a professor at the New York University School of Law, says yes—at least mostly.

"Sections like the Fugitive Slave Clause are emphatically not relevant, but much of the document is a coherent institutionalization of structures and protection of rights that harness the good in self-interest, while controlling for avarice and fraud."

And on the question of whether our Constitution should be easier to amend, Epstein says no.

The strict amendment process prevents the adoption of short-lived changes and ensures the approval of only those amendments that enjoy broad support, he argues. If amendments were easy to make the result would be a document cluttered with frivolous changes. "Most amendments, especially if they themselves are amended, will make matters worse," Epstein says.

Seidman and others disagree. They argue that the difficulty of adapting the document to a changing world is out of step with contemporary needs.

The Article V Alternative

An Article V Convention is the "other" way to amend the U.S. Constitution. James Madison pushed to include it as a way to empower states and protect their rights. It says that if 34 states call for an amendment, then it's up to Congress to convene a convention of the states.

The method has never been used, says David Long (R), the Indiana Senate president pro tempore, "because people are afraid of a runaway convention. They fear that if you created this, there would be no way to control it and we might rewrite the Constitution."

Long is a leading voice in a group of legislators promoting the use of a convention as a way to fix problems in the federal government that Congress is just too broken to fix itself. For Long, the issue is the "serious amount of debt that's being accumulated right now."

Before specific amendments are debated, Long's group, The Assembly of State Legislatures, is attempting to first establish a structure—the rules and regulations—on how a convention would run. According to the group's website, it is committed to ensuring the states stay in charge, that any convention that gets called be controlled and be limited to the subject proposed by the states.

Driven by the belief that it's doing exactly what the founders had in mind when they wrote Article V, the group continues to seek support from lawmakers on both sides of the aisle who believe it's time to stand up to the federal government.

According to Seidman, problems arise because some of the Constitution's provisions are simply unclear. Political actors end up interpreting what these clauses mean, resulting in "political rather than practical" debates, he says.

To illustrate this, he points to the Affordable Care Act. The debate over its constitutionality under the Commerce Clause forces discussions, he says, that are "away from practical matters, like whether the statute will increase coverage at acceptable costs or force people into coverage they don't want. Instead, we are talking about who is a true American and who is a traitor to our foundational document."

It's simply too difficult to apply a document that's hundreds of years old to our vastly different modern world, he argues. "A lot of the problem would be solved if we better understood that the Constitution was written by ordinary human beings who suffered from the prejudices, narrowness of vision and inability to foresee the future that all of us suffer from," he says.

Amend What?

Many argue the amendments adopted so far were necessary, proof that the amendment system can work. "Today's Constitution is a realistic document of freedom only because of several corrective amendments," Thurgood Marshall, the first Afri-

can-American U.S. Supreme Court justice, wrote after successfully challenging the doctrine of "separate but equal" as a violation of the 14th Amendment."

Many changes suggested over the years, however, never made it into the document. The list is long, with some proposals breaking sharply along partisan lines. Recently debated ideas include a ban on burning the U.S. flag, statehood for the District of Columbia and proposals from various points of view concerning marriage and reproductive rights.

The most popular of all successful amendment topics has been elections. Ten amendments relate to elections in one way or another, and the topic continues to come up in amendment conversations today. Current election proposals would allow foreign-born citizens to run for president, reverse the controversial *Citizens United* Supreme Court decision on campaign financing at the federal level, restructure or abolish the Electoral College and limit terms for members of Congress.

For Seidman, one of the most important changes needed—besides doing away with equal state representation in the Senate, which he says is the Constitution's most egregious flaw—is to the amendment process itself. We need to correct a system that allows "a tiny percentage of the population to block an amendment," he says.

The Florida Model

Florida’s Constitutional Revision Commission was created when the state adopted its current constitution in 1968. It convenes every 20 years to evaluate the document.

Florida’s commission is unique in two ways. First, it’s the only commission permanently established by a state constitution to convene at regular intervals. Second, it’s the only state commission empowered to place recommended constitutional amendments and revisions directly on the ballot. Legislative approval isn’t required, and neither is a petition process.

During 1997 and ‘98, the commission placed nine proposed amendments on the ballot, and voters adopted all but one. The work of the commission in 1977 and ‘78 wasn’t so well-received. Voters rejected all eight of the proposed amendments.

The next commission will do its work in 2017 and ‘18. Its 37 members will be appointed before the 2017 Legislature convenes and will mostly reflect the partisan makeup of their appointers. The governor will choose 15 members; the Senate president and the speaker of the House each will choose nine. The attorney general is an automatic member, and the remaining three will be chosen by the chief justice of the Florida Supreme Court.

Of course, Florida voters will have the final say on what is adopted, regardless of the commission’s makeup.

State Differences

Like the U.S. Constitution, state constitutions provide a framework of government that includes three branches. And, like the U.S. Constitution, state constitutions reflect the time period in which they were written. For instance, every state constitution written during the Progressive Era (roughly 1890 to 1920) enumerates the rights of workers, and those written after 1979 include environmental protections, points out Alan Tarr, director of the Center for State Constitutional Studies and professor of political science at Rutgers University.

From a state legislator’s perspective, what may be the most important difference between state constitutions and the federal one, Tarr says, “is that, while the federal Constitution grants various powers to the legislative branch, state constitutions tend to restrict legislative powers.”

Article I of the U.S. Constitution grants a long list of specific powers to Congress, such as the rights to borrow and coin money, regulate commerce, establish post offices, and define and punish “piracies.”

On the other hand, state constitutions restrict legislatures’ ability to enact local or special laws, create new taxes, increase existing taxes, authorize gambling or regulate the business of local governments without voter approval.

Tarr believes the authors of state constitutions put more trust in people than

in politicians. By limiting the power of elected officials, they reflected a “tradition of being skeptical of the people we put into political office.”

Amendment Paths Vary

There are several avenues for amending state constitutions, which are, by and large, far easier to amend than the U.S. Constitution. While the U.S. Constitution contains only 27 amendments, Alabama’s has nearly 900. California’s has more than 500, and Texas’ 484. The average number of amendments for a state constitution is 115.

Delaware is the only state that allows the legislature to amend the constitu-

tion without a popular vote. It has done so about 100 times. Approval comes not through a simple majority vote, but only with the support of at least two-thirds of each chamber in two votes, with an election intervening.

The other states require voters’ approval before a constitutional amendment can be adopted by the legislature. In 34 states, it takes a simple majority of voters to approve a change. The requirement is a bit tougher in Florida, where 60 percent of voters must approve proposed changes, and tougher still in New Hampshire, where two-thirds of voters must approve them.

State constitutions also can be amended via a constitutional convention, which most states allow the legislature to call, sometimes requiring voter approval. The convention’s members typically are elected by the voters. In Arizona, Florida and Montana, citizens can bypass the legislature entirely and call a constitutional convention themselves.

Constitutions in 14 states require voters to be asked at regular intervals, usually every 10 or 20 years, whether they’d like to hold a constitutional convention. And a few state constitutions make no mention of conventions at all—among them Indiana, New Jersey and Vermont.

In reality, state constitutional conventions are rare. Massachusetts has held five, Michigan and Missouri each have held four, and the last state to hold one was Rhode Island, in 1984.

A Little Trivia on the Bill of Rights

The U.S. Constitution didn’t last long before it was amended in 1789. Just two years after the document’s ratification, Congress adopted a resolution proposing a set of amendments called the Bill of Rights. Freedom of speech was not originally in the top spot. It moved up to No. 1 only after the original First and Second amendments failed to be ratified by the required 10 out of 14 states at the time.

The original First Amendment proposed a way to determine how the House of Representatives would grow to reflect increases in the U.S. population. It started at one representative for every 30,000 citizens and ended at one for every 50,000. Using the U.S. Census Bureau’s Population Clock, that would amount to 6,418 members in today’s U.S. House. Yikes! If having 435 members makes it tough to get work done, imagine what it would be like with nearly 15 times more.

The original Second Amendment would have prevented members of Congress from giving themselves pay raises. Although dropped from the original Bill of Rights, it was eventually adopted in 1992 and is currently the last amendment to the U.S. Constitution.

“A constitution should be a foundational document. It should not be a place for making detailed policy changes.”

Colorado Representative Lois Court

A Direct Change

The initiative is by far the most controversial tool for amending state constitutions. Available in 17 states (and Massachusetts in a more limited way), the process allows citizens, after acquiring enough signatures of support, to place an amendment on the ballot. The heavy users are California, Colorado and Oregon; more than 150 constitutional amendments have been proposed this way in each state. In all cases, the legislature and the governor are bypassed.



Representative
Lois Court
Colorado

Although Colorado Representative Lois Court (D) supports the idea of a citizen initiative, she’s concerned the process makes it just as easy to change the state constitution as it is to change the statutes. In Colorado, the signature requirements for getting each on the ballot are identical.

“A constitution should be a foundational document,” she says. “It should not be a place for making detailed policy changes, such as the amount our minimum wage should be, or the dollar amount of a tax on marijuana, or the way we regulate wildlife.”

The problem with putting the details into the constitution, Court says, is that it’s too hard to change later. She points to Colorado’s Amendment 64, which legalized recreational use of marijuana, as an example.

When concern grew over the danger marijuana edibles posed to children, some voters wanted a ban on that form of pot, but lawmakers were limited in how they could respond because Amendment 64 specifically legalized marijuana “in all its forms.” Lawmakers eventually chose to regulate the packaging and sale of edibles, as a way around their inability to alter the amendment passed by voters.

Court would like to see proponents encouraged to pose their policy changes as statutes, rather than amendments.

Use of the initiative process varies greatly, however. In Illinois, where it is limited to just one article of the constitution, voters have been faced with exactly one constitutional initiative in state history. On the ballot in 1980, it asked voters to reduce the size of the House of Representatives from 177 to 118. Voters approved, and since 1982, there have been 59 fewer seats in the House.

Do-Over Constitutions

Citizens and lawmakers have been far more willing to make serious changes to state constitutions than to the federal one. Every so often, in fact, a state decides to toss out its constitution entirely and write a new one.

Nine states drafted new documents during the turbulent years between 1964 and 1975. Only two states have adopted new constitutions since then: Georgia in 1983, and Rhode Island in 1986.

Alabama is often mentioned when the idea of a constitutional convention comes up. The state’s current document dates to 1901 and at 376,000 words is about 80 times the length of the original U.S. Constitution, making it by far the longest and most amended of state constitutions. Amendments make up about 90 percent of it. Many local government functions are established by the constitution, and it often takes an amendment proposed by the Legislature to make changes to policies affecting a single county, or even a single town.

According to Nancy Ekberg, vice chair of a group called Alabama Citizens for Constitutional Reform, the state’s current constitution simply doesn’t serve the social and economic realities of the 21st century. She blames the document for numerous injustices, including “keeping those who can’t drive or can’t afford a car from job training, health care, schooling, shopping and jobs” because it prevents the state from using any vehicle fees or gasoline taxes to establish a statewide public transportation system.

In 1983, the Alabama Legislature rewrote the entire 1901 constitution and proposed it as a single amendment. But before it went to

This Is Jeopardy!

How well would you do?



ANSWER: 4,543

QUESTION: How many words are in the original U.S. Constitution?

ANSWER: One

QUESTION: How many amendments to the U.S. Constitution have been repealed? (The 18th, establishing Prohibition, was repealed by the 21st Amendment.)

ANSWER: Vermont

QUESTION: Which state has the shortest constitution? (about 8,500 words)

ANSWER: Alabama

QUESTION: Which state has the longest constitution and the most amendments? (376,000 words and 892 amendments)

ANSWER: Massachusetts

QUESTION: Which state has the oldest constitution? (ratified in 1780)

ANSWER: Georgia and Rhode Island

QUESTION: Which states have the newest constitutions? (Georgia’s was ratified in 1982; Rhode Island’s was amended and rewritten in 1986.)

ANSWER: Illinois

QUESTION: Which constitution has been amended the least? (13 times)

ANSWER: Louisiana

QUESTION: Which state has adopted the most constitutions? (11)

Sources: National Archives and Records Administration; National Constitution Center; ConstitutionFacts.com; and Center for State Constitutional Studies.

TABOR: A Tiger of an Amendment

TABOR—the Taxpayers’ Bill of Rights passed by citizen initiative in Colorado in 1992—amended the state constitution to restrict tax increases and spending, control the size of state government and give citizens a greater say in fiscal policy.

Love it or hate it, TABOR has had a profound effect on the state’s budget. It requires all tax or fee increases to be approved by the voters and ties revenue growth to population growth and inflation. It requires the state to refund excess revenue back to taxpayers, including revenue from any new tax that exceeds original estimates. The legislature, however, can ask for voters’ permission to keep the change. That’s happening for the first time this year with Colorado’s new tax on recreational marijuana sales exceeding expectations.

Arguments for TABOR

- It empowers citizens to choose how and when the state raises revenue, promoting stricter fiscal discipline.
- It limits the size of state and local governments.
- It keeps more money in taxpayers’ pockets.

Arguments against TABOR

- It limits the state’s ability to fund critical programs and services.
- It prevents the state from saving for a rainy day.
- It limits the flexibility of the legislature to respond to changes in the economy.

Although there’s a move toward asking voters to permanently end the taxpayer refunds, TABOR is probably here to stay. A constitutional amendment proposed by the General Assembly and approved by voters in 1994—two years after TABOR’s passage—limited all future amendments to a single subject. TABOR’s complexity is such that it would now take many separate constitutional amendments to repeal it.

the voters, the state Supreme Court stopped it on the grounds that a new constitution could be proposed only through a convention. That gathering has yet to occur, though not for lack of trying.

An effort to call a convention failed in the 1990s because there was too much uncertainty about how it would work, says Representative Randy Davis (R), who chairs the House Constitution, Campaigns and Elections Committee. The idea was to include two people from each of the 105 House districts as members, but it wasn’t clear who they would be or how they’d be appointed. How long would they meet? Where? How much would it cost? (It was looking to be very costly.) Who would control it and staff it? In Alabama, the only mechanism for calling a convention is via the Legislature, and when it came down to it, lawmakers just weren’t willing to relinquish control over what had the potential to become a “three-ring circus,” Davis says.



Representative Randy Davis Alabama

“There’s not much glitz in modernizing the constitution—it’s just a lot of housekeeping work.”

Alabama Representative Randy Davis

Fast-forward to the present. The effort to revise the constitution continues, but the idea of calling a convention has been set aside. Instead, the Constitutional Revision Commission, which includes Davis, meets publicly and frequently, in different locations around the state. The group takes up one article of the constitution at a time, and decides how to re-craft it. A House member writes the bills necessary to make the amendments and shepherds them through the legislative process. It then goes to the voters. Three amendments made it onto the ballot in this way in 2012; two passed. The next batch, dealing with state government, will appear on the ballot in March 2016. So far, the commission has picked what Davis

calls the “low-hanging fruit,” the non-controversial issues that are fairly easy to pass. The group hopes to address a tougher topic, education, on the 2018 ballot.

By rewriting the constitution’s core elements—such as the state government sections that the 2016 amendments will address—the commission hopes to bring the 1901 document into the 21st century, and perhaps reduce the need for future amendments. It’s an approach that has bipartisan support and has achieved vital change, Davis says.

“There’s not much glitz in modernizing the constitution—it’s just a lot of house-keeping work—but it’s really important to the future of Alabama. We live in a global economy, and our constitution was getting in the way of doing business.”

Built to Last

Given the procedural hurdles required for amending the U.S. Constitution, not to mention the highly politicized nature of most amendment proposals floating around these days, it’s unlikely we’ll see a successful effort to amend our foundational document anytime soon. More likely, we’ll keep arguing about issues on the fringes but continue to let this document, so widely admired around the world and throughout history, hold together our basic governmental structure and processes.

For all its faults, the U.S. Constitution has done a remarkable job of keeping a diverse and fractious society stable throughout wars, terrorist attacks, civil strife and economic crises, and is likely to do so for many years to come.

State constitutions, for their part, will continue to change at a much more rapid pace than their federal counterpart. The initiative process isn’t going anywhere in the states that have it. In fact, expect the process to gain momentum in the coming years, meaning there will be more citizen-initiated constitutional amendments on ballots nationwide.

No matter where you stand on the amendment process or the amendment proposals themselves, constitution-watching is part of our American heritage, not to mention good fun for political junkies everywhere.

Cases with Consequences

Recent Supreme Court rulings were game-changers for the states—and not just because of the decisions on health care and same-sex marriage.

BY LISA SORONEN

Lisa Soronen is the executive director of the State and Local Legal Center in Washington, D.C.

The U.S. Supreme Court’s recent rulings on same-sex marriage and Obamacare drew enormous interest from court watchers and the public alike. Several other cases—on redistricting, fair housing and Medicaid, for example—got less notice, but could have far-reaching consequences for the states.

Here’s a recap of what was decided and a note on what lies ahead as the court enters its 10th year with Chief Justice John Roberts in the center seat.

Redistricting

By a 5-4 decision in *Arizona State Legislature v. Arizona Independent Redistricting Commission*, the court held that the Constitution’s Elections Clause permits voters to vest congressional redistricting authority entirely in an independent commission. The ruling is an affirmation of direct democracy. NCSL filed an amicus brief supporting the Arizona Legislature.

Justice Ruth Bader Ginsburg’s majority opinion relies on the history and purpose of the Elections Clause, and the “animating principle of our Constitution that the people themselves are the originating source of all the powers of government,” in ruling that redistricting commissions may operate independently of state legislatures.

Founding-era dictionaries typically defined legislatures as the “power that makes laws.” In Arizona, that includes the voters, who may pass laws through initiatives.

EPA Regulations

In *Michigan v. EPA*, the justices held 5-4 that the Environmental Protection Agency acted unreasonably in failing to consider cost when deciding whether to regulate mercury emissions from power plants. Twenty-three states challenged the regulations.

The Clean Air Act requires the EPA to regulate air pollution from stationary sources based on how much pollution the source emits. But the agency may only regulate emissions from fossil-fuel-fired power plants if it finds that regulation is “appropriate and necessary.”

EPA found it appropriate and necessary to regulate mercury emissions, but did not consider costs when determining whether power plants should be regulated. The majority of the court, in an opinion written by Justice Antonin Scalia, concluded that the agency’s interpretation of appropriate and necessary to exclude costs wasn’t reasonable.

The opinion leaves unanswered questions, including how the EPA may account for costs and whether the agency may consider ancillary benefits in the cost-benefit analysis.

Fair Housing

In *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, the court held 5-4 that disparate-impact claims may be brought under the Fair Housing Act.

In a disparate-impact case, a

SUPREME COURT

plaintiff claims that a policy used by a government agency, private real estate firm or developer isn't intentionally discriminatory but nonetheless has a disproportionately adverse impact on a particular group.

The federal courts of appeals had ruled that such claims were possible. The Supreme Court, which had twice agreed to take up this question only to have the cases settle before the justices could rule, has finally resolved it.

While state and local governments are more likely to be sued under the FHA, they do occasionally sue others for violating it. Justice Anthony Kennedy pointed out at the end of his majority opinion that the city of San Francisco filed an amicus brief supporting disparate-impact liability under the FHA despite being a "potential defendant."

Same-Sex Marriage

Obergefell v. Hodges has been both celebrated and condemned.

In a 5-4 decision written by Justice Kennedy, the court held that same-sex couples have a constitutional right to marry. All state laws and court decisions banning same-sex marriage are now invalid.

The court relied on the 14th Amendment's Due Process and Equal Protection clauses in its opinion, rejecting the argument that sufficient debate had not occurred on this issue. It noted that "individuals need not await legislative action before asserting a fundamental right."

Kennedy wrote in his majority opinion that the "hope [of the same-sex couples in this case] is not to be condemned to live in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right."

Affordable Care Act

The third time was a charm for the Affordable Care Act. *King v. Burwell* is the first complete victory for the law. In a 6-3 decision, the court ruled that health insurance tax credits are available on the 34 federal exchanges. The court's opinion focused largely on the consequences of ruling to the contrary: the destruction of health insurance markets.

The ACA allows the states and the fed-

eral government to sell insurance on health care exchanges. The law states that tax credits are available when insurance is purchased through "an Exchange established by the State." So the technical question in this case was whether a federal exchange is "an Exchange established by the State" that may offer tax credits.

The court said yes, and as a result, the status quo remains unchanged. If a person otherwise eligible for a tax credit buys health insurance on a state or federal exchange, the tax credit will be available.

Free Speech and Governments

You know it's going to be a good day for state government when the Supreme Court begins the analysis portion of its opinion with this: "When government speaks, it is not barred by the Free Speech Clause from determining the content of what it says."

In *Walker v. Sons of Confederate Veterans*, the court held 5-4 that Texas may deny a proposed specialty license plate design featuring the Confederate flag, because specialty plate designs are government speech.

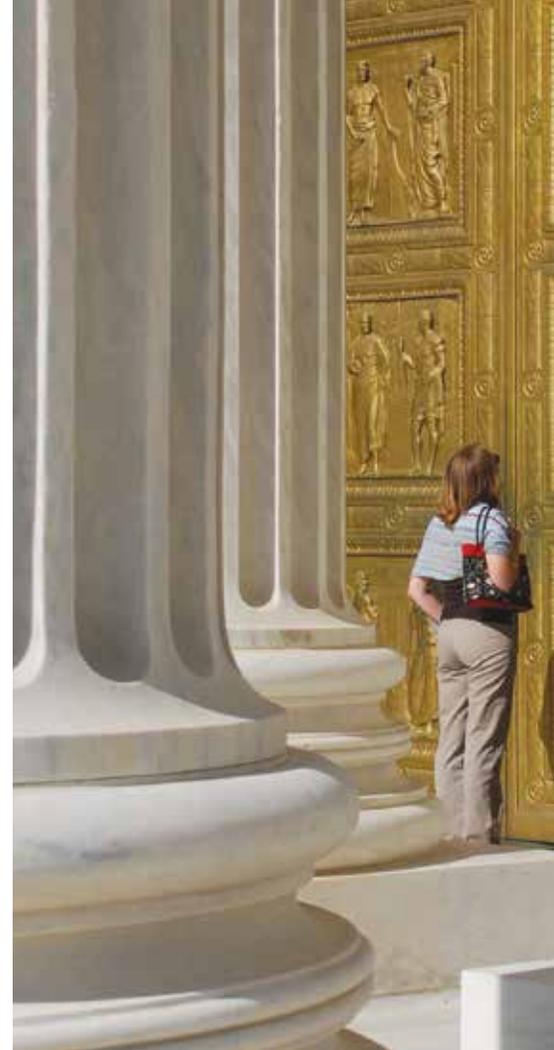
In a vigorous dissent, Justice Samuel Alito questioned much of the majority's analysis. He pointed out that only within the last 20 years has Texas allowed private groups to put messages on license plates, adding that the state allows messages on license plates to make money, not to convey ideas it supports.

Nine states—Alabama, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee and Virginia—allow Confederate flag specialty plates, according to *The New York Times*. States may ban these plates and others as a result of this decision.

State Boards and Commissions

In *North Carolina State Board of Dental Examiners v. FTC*, the court held 6-3 that state licensing boards whose members are market participants are not immune from antitrust laws. Immunity applies only if the state actively supervises the board.

The North Carolina's Board of Dental Examiners is a state agency mainly charged with licensing dentists. Six of its eight members must be practicing,



licensed dentists. After the board issued cease-and-desist letters to teeth-whitening service providers, who were not dentists, the Federal Trade Commission charged it with violating antitrust law.

In a previous case, the court held that states are immune from antitrust law when acting in their sovereign capacity. In this case, the court said that even though the board is a state agency, it must be supervised by the state in order to enjoy immunity. The "formal designation given by the States" does not necessarily create immunity, wrote Justice Kennedy. "When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest."

Although it's generally seen as a win for consumers, the case reduces the authority of state legislatures to compose state agencies, boards and commissions as they prefer and could require additional state resources to actively supervise boards.

Medicaid Reimbursement

In *Armstrong v. Exceptional Child Center*, the court held 5-4 that Medicaid

What's Ahead for the Court's Next Term?

- The court agreed to hear a major affirmative action case concerning a public university's use of race as a factor in student admissions. It will be the second time the court has heard *Fisher v. University of Texas at Austin*, a challenge from a Texas woman, Abigail Fisher, who is white, targeting the admissions policies at the school.
- The court will decide whether public-sector unions may require workers who are not members to help pay for collective bargaining. A ruling against them could deal a severe blow to organized labor. That case, *Friedrichs v. California Teachers Association*, was brought by California teachers who said that being compelled to pay union fees to subsidize activities they disagreed with violated their First Amendment rights.
- The court surprised observers when it decided to hear *Evenwel v. Abbott*. The issue in the case is whether state legislatures can use total voter population—rather than simply total population, which is the long-standing precedent—when apportioning state legislative districts. Over the last 25 years, the court has repeatedly refused to hear cases arguing that voter population must be equalized. The court will also decide two other redistricting cases next term.
- The court has accepted three death penalty cases and one case involving life in prison without parole.
- Although nothing was on the court's calendar as of press time, the justices also are likely to hear a case involving state restrictions on abortion.

Sources: CNN, *The New York Times*, SCOTUSblog, *The Week*.

providers cannot rely on the Supremacy Clause to sue states to enforce a Medicaid reimbursement statute.

Medicaid requires states to ensure that Medicaid providers are reimbursed at rates “consistent with efficiency, economy and quality of care” while “safeguard[ing] against unnecessary utilization of ... care and services.” Medicaid providers sued Idaho, claiming that its reimbursement rates were too low.

Congress did not create a private right of action in the Medicaid statute allowing providers to sue states to enforce the statute.

The court rejected the argument that the Supremacy Clause creates a private right of action. “It instructs courts what to do when state and federal law clash, but is silent regarding who may enforce federal laws in court, and in what circumstances they may do so.”

The court's rejection of a private cause of action under the Supremacy Clause has implications well beyond this case. Had the Supreme Court ruled otherwise, the Supremacy Clause would have provided a cause of action for every federal statute that arguably conflicts with state law.

Tax on Internet Purchases

In *Direct Marketing Association v. Brohl*, Justice Kennedy wrote a concurring opinion stating that the “legal system should find an appropriate case for this Court to reexamine *Quill*.”

In the 1992 case *Quill Corp. v. North Dakota*, the court held that states cannot require retailers with no in-state physical presence to collect a use tax.

To improve tax collection, the Colorado legislature in 2010 began requiring remote sellers to annually inform Colorado shoppers of their purchases and send the same information to the state Department of Revenue. The Direct Marketing Association sued Colorado in federal court, claiming that the notice and reporting requirements are unconstitutional under *Quill*.

The question the court decided was whether this case could be heard in federal court (as opposed to state court). Although the justices said yes unanimously, the case is significant for states because the court's most influential justice expressed skepticism about whether *Quill* should remain the law of the land.

Death Penalty

In *Glossip v. Gross*, the court held 5-4 that death-row inmates are unlikely to succeed on their claim that using midazolam as a lethal injection drug amounts to cruel and unusual punishment. Death-penalty opponents have persuaded manufacturers to stop producing sodium thiopental and an alternative, pentobarbital. As a result, Oklahoma and other states began using midazolam as the first of three drugs administered during executions. But prisoners claimed the state's use of midazolam violates the prohibition against cruel and unusual punishment because it fails to render them insensate. In Justice Alito's majority opinion, the court concluded that because the use of midazolam does not likely violate the Eighth Amendment, states may continue to use it in executions.

In his dissent, Justice Stephen Breyer, joined by Ruth Bader Ginsburg, called for a “full briefing on the basic question” of whether capital punishment is unconstitutional. His statement invites a case challenging the constitutionality of capital punishment, one that could have far-reaching and significant implications for states where the death penalty is used. 

Pinch Hitting



Doctor shortages in rural America have paramedics stepping up to the plate when needed.

BY MICHELLE
ANCELL

Michelle Ancell is a freelance writer based in Denver.

Three years ago Robert's diabetes was so severe doctors planned to amputate his leg. But because Robert lives in Minnesota, one of the first states to launch a community paramedicine program, emergency medical technicians got involved. Three times a week they stopped by to care for his wound, share diabetes management tips and evaluate his overall health.

Today Robert still has his leg and credits the North Memorial Medical Center's community paramedics for saving it.

"He loves us," says Community Paramedic Supervisor Peter Carlson. "He welcomed us from the beginning. He's happy to see us and offers us candy. And we provide care, propping him up literally and figuratively."

Beyond Emergencies

Community paramedicine systems are popping up in Colorado, Maine, Minnesota, Missouri and Nevada to provide health care where few services exist. Often, they save money for patients, hospitals and insurance companies, mostly in avoided costs. A leg amputation, for example, costs around \$76,000. That's about what it would cost to fund community paramedic home visits to Robert for 11 years. Minnesota reported that because of the paramedicine program there, Medicaid providers serving 100,000 residents spent \$10.5 million less in 2014 than analysts projected they would.

Community paramedicine broadens the role of emergency responders beyond the traditional paramedic training that has existed since the 1970s and that focuses on stabilizing patients as they are transported to hospitals. Community paramedics can perform health assessments, monitor chronic diseases, ensure patients use medication correctly, give vaccinations and follow up after hospital discharges. They are also a great source of information and help educate patients on the care and treatment of their illnesses, injuries and diseases.

"Paramedics are highly trained, highly regarded, trusted health care providers in their respective communities," says Nevada Assemblyman James Oscarson (R), whose bill authorizing and regulating community paramedicine services was signed into law in May. "Community paramedics will have an expanded role in health care, not an expanded scope. Now they can complement the services of the other health care professionals in the health care system."



Assemblyman
James Oscarson
Nevada

A Rural Lifeline

Community paramedics usually work in rural and isolated areas where physicians are scarce. Patients are often from underserved populations, meaning they are typically, but



Typical Training Requirements

A high school diploma or equivalent and CPR certification are prerequisites for most emergency medical technician and paramedic training programs. Most licensing requirements, which vary by state, require the following:

EMT

Skills include determining a patient's condition, handling trauma and cardiac emergencies, clearing obstructed airways and using field equipment. Courses include about 150 hours of specialized instruction. Some instruction may take place in a hospital or ambulance setting.

Advanced EMT

Programs typically require about 300 hours of instruction, based on the scope of practice. At this level, students must complete more advanced requirements, such as using complex airway devices and administering intravenous fluids and some medications.

Paramedic

Paramedics earn the highest level of education, completing EMT and Advanced EMT training along with courses in advanced medical skills. Paramedics' scope of practice may include stitching wounds or administering IV medications. Programs typically are offered at community colleges and technical schools and require about 1,200 hours of instruction, which may result in an associate degree.

Sources: U.S. Department of Labor's Bureau of Labor Statistics and the National Registry of Emergency Medical Technicians.

not always, low-income, elderly people. In Minnesota, community paramedics are specifically trained to care for patients who visit hospital emergency departments frequently, are at risk of needing nursing home care or are close to being readmitted to a nursing home or hospital.

The growing number of community paramedics reflects a larger demographic shift. Only 15 percent of the country's population lived in rural counties in 2014, according to



the Department of Agriculture.

"Thirty years ago there were more health professionals in rural areas, there were more volunteer firefighters and EMTs, and the rural population was younger and healthier," says Gary Wingrove, president of The Paramedic Foundation, using the common abbreviation for emergency medical technicians. Today, there are fewer health facilities, fewer qualified people to work in them and fewer resources to fund them. Increasingly, community paramedics are stepping in to help fill that gap.

The Rural Assistance Center, part of the U.S. Department of Health and Human Services' Rural Initiative, reports that rural Americans suffer from higher rates of chronic illnesses and worse health overall than city dwellers. They are less likely to have employer-provided health care coverage, or to be covered by Medicaid even if they qualify for it. They seek treatment in hospital emergency rooms and call 911 for non-emergency situations—a costly practice. Nearly 80 percent of adults who visited emergency departments did so because

"Community paramedics will have an expanded role in health care, not an expanded scope."

Nevada Assemblyman James Oscarson

they didn't have access to other providers, according to a 2012 report on emergency room use from the Centers for Disease Control and Prevention.

"Basically we are taking the resources that already exist in a community and expanding upon them to offer broader health care coverage," Wingrove says. "The specifics of how these programs operate depend on the communities they serve."

Who Pays?

Providing these services, however, isn't free. Pilot programs have used grant funds from foundations and the federal government to cover costs. Some hospitals that

HEALTH CARE

own ambulance services, in places such as North Carolina and Missouri, have started funding programs in hopes that the savings from fewer readmissions will cover the added costs. Elsewhere, local agencies fund emergency medical services for their communities, absorbing the added costs in their budgets with slightly higher fees.

The additional costs come from the advanced training community paramedics must receive and the higher salaries they earn for their education and additional time spent on community services. In advanced training they learn higher level health concepts such as the social determinants of health. When working with an elderly person, for example, community paramedics ask, Does the patient own a car? Can the patient walk? If the answer to both questions is no, how is the patient getting prescriptions? Such determinants can make a difference in a person's health.

Community paramedics with advanced training may earn about 10 percent more than traditional EMTs. But in many cases, employers pay for the additional training without offering greater compensation.

Minnesota created its new community paramedic profession in 2011. To earn a community paramedic certificate, a person must hold an emergency medical technician-paramedic certification, have worked two years as a full-time EMT-P and have

graduated from an accredited EMT course.

Minnesota reimburses community paramedic services through Medicaid. It was the first state to use a Medicaid payment and delivery system that shares savings and risks directly with provider organizations. To qualify for Medicaid reimbursement, the services must be ordered by the recipient's primary care provider and include monitoring blood pressure, assessing fall risk, setting up medication profiles and delivery, and coordinating care, referrals and follow-up.

Nurses, Doctors Have Concerns

Nurses and home health care groups throughout the country have expressed concerns that the expanded paramedic role infringes on the duties of their respective professions.

The American Nurses Association initially lobbied against Minnesota's program because of the overlapping patient care responsibilities. The nurses argued that since patient-centered care coordination is a core professional standard for registered nurses, they are the best prepared to treat underserved, rural patients.

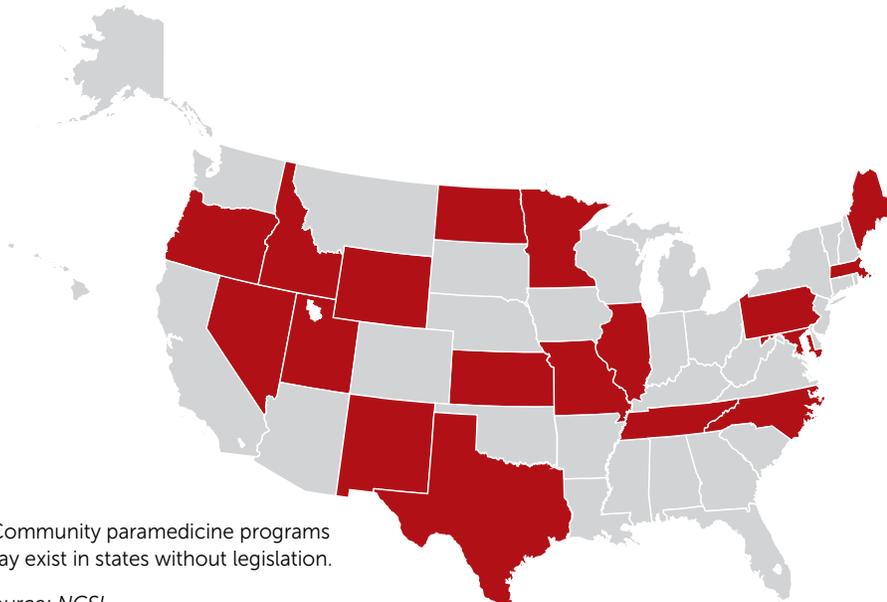
The nurses' association listed a set of principles for the community paramedicine industry to adopt and follow in order to gain its support. They included establishing minimum standards of education, clarifying roles between community paramedics



"We can provide people the care they need without the expense and inconvenience of going to a hospital."

Colorado Senator Leroy Garcia

States with Legislative Action on Community Paramedicine*



*Community paramedicine programs may exist in states without legislation.

Source: NCSL

and nurses and fostering interdisciplinary cooperation through appropriate regulatory models.

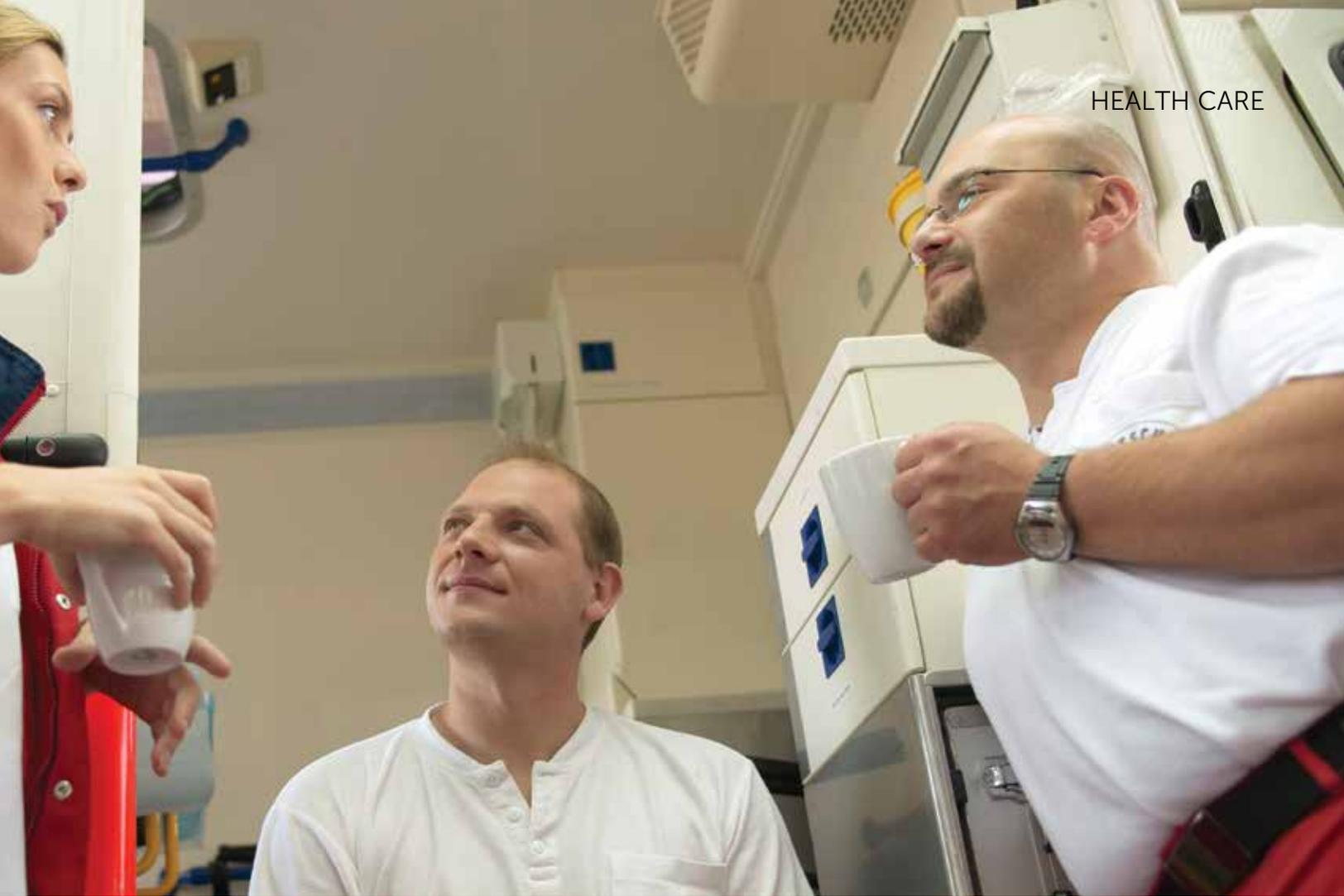
Minnesota community paramedic leaders agreed and still adhere to the nurses' principles.

Colorado Senator Leroy Garcia (D) works as a paramedic and as an emergency medical services instructor at his local community college.

As in Minnesota, paramedics in his community work with primary care doctors to care for residents in need.



Senator
Leroy Garcia
Colorado



Paramedics are involved from the minute a person dials 911. Current law allows them, in certain situations, to treat callers with a simple medication and a professional's reassurance that the patients will be fine until they can visit the doctor. Paramedics can even help set up the appointments.

"We can provide people the care they need without the expense and inconvenience of going to a hospital. They can recover comfortably at home, and it's a more personal connection," he says.

Garcia plans to draft legislation to develop the community paramedicine profession further in Colorado. The success of these programs hinges on the ability to tailor them to a community's needs, he says. The needs of a Vail ski resort community, for example, are very different from those of a small agricultural area.

"That is one of the challenges in creating legislation," Garcia says. "You don't want it to be so specific that it is limiting. You want it to be adaptive. This is a dynamic profession that needs to have some flexibility, especially as it develops."

Multifaceted Approach

In Nevada, where Oscarson's community paramedicine bill was recently signed into law, the program's multifaceted health care approach is designed to address rural and urban populations in very different ways. The bill:

- Allows licensed ambulance, air ambulance or firefighting agencies and certified personnel to qualify for an endorsement on their permits to provide community paramedicine services.
- Enables legislators to review how Nevada community paramedicine programs are addressing health care gaps in rural and urban locations throughout the state.
- Requires paramedicine departments to submit quarterly reports to the state outlining the services they provided and the estimated health and economic benefits of those services. Nevada's health department will summarize the reports and submit them to the Legislature and the Legislative Committee on Health Care.

Oscarson hopes the data collected will result in a compelling argument for a state

reimbursement component for community paramedicine in the future. Currently, community paramedics are paid by their governing agency, Oscarson says. In turn, those agencies submit data to regulatory bodies, such as the Nevada Division of Public and Behavioral Health emergency medical services office, with the objective of demonstrating cost savings.

"Agencies do this because it is the right thing to do as health care delivery changes based on the Patient Protection and Affordable Care Act of 2010," Oscarson says. The idea is to not put an hourly, monthly price on community paramedicine, but to determine a value based on savings in order to eventually pursue a reimbursement system.

"Community paramedicine and EMS as a whole are gaining a seat at the health care table," Oscarson says. "These programs have the ability to improve health care for the future because they navigate patients to the appropriate resource at the appropriate time, rather than to the highest cost entry point of the health care system—the emergency room."

Ties That Bond



In life and in the legislature, connections are more important than divisions.

BY MARK WOLF

Divisions abound in statehouses. Republicans on one side of the aisle, Democrats on the other. Conservatives vs. liberals. House and Senate. Yet, if you look beyond the obvious, you'll find invisible strings that connect lawmakers: a shared love of making music, a surprising family history with the same Founding Father, a childhood linked to the same small town.

A Love of Singing

When Vermont Representative Mitzi Johnson (D) was an eighth-grader, her new piano teacher asked her what kind of music she liked to play. She had been taking lessons for nine years, and it was the first time any of her teachers had posed that question.

"With his help, I found music that I loved, and I found a way to love music. That's the biggest gift I can give to the people who want to be part of our group: to help them find a way to love singing together, so we can find a way to make this connection in what can be a

"Singing builds relationships, and this business is all about understanding people."

—Vermont Representative Mitzi Johnson

very contentious profession," Johnson says.

The group she refers to is the Statehouse Singers, a collection of 25 or so lawmakers, staffers and the occasional lobbyist united by a love of singing.

The House has a tradition of daily devotionals, which can be performed by anyone from religious leaders and Vermont artists to children's groups singing the state song, Johnson says.

For years, Johnson and a handful of colleagues got together on Wednesday nights for sing-alongs around the piano. "One of us, I think it was Alison Clarkson, said we should put together a devotional. That was six or seven years ago. We probably started with the state song, a beautiful song called 'These Green Mountains,'" says Johnson, whose musical background made her the group's conductor.

Mark Wolf is NCSL's publications editor.

“We broadcast an email that says, ‘Everybody come and join us,’ and we probably do six hours of rehearsal to put something together,” she says. “It’s bipartisan—we get legislators and staff and members of the administration. We’re hoping to rope in someone from the judicial branch. We pick a song that is pretty neutral politically, something that has either to do with Vermont or just working together.”

A recent choice, “Turn the World Around,” by Harry Belafonte, included the lyrics, “We come from the mountain, living on the mountain / Go back to the mountain, turn the world around.”

“I got the idea from Counterpoint, a wonderful group of a cappella singers in Vermont,” Johnson says. “They sing this song, and we’ve done their

“When you sing as a group, one person’s little mistake is generally covered up quite nicely by the others.”

—Vermont Representative Fred Baser

arrangement of the Vermont state song as well. The message was really fun and upbeat, and the arrangement is fabulous. It was one of the most challenging pieces we’ve done. It has a five-quarter calypso rhythm. We had a few percussionists to fill it out a little. It was rhythmically difficult, and I needed something besides my flailing arms.”

About a month into the 2015 session, Fred Baser, a first-term Republican representative from Bristol, responded to the Statehouse Singers’ callout.

“I’ve sung off and on throughout my life in choirs and school and always enjoyed it, so I went to practice,” Baser says. “The state archivist is a bass, and I stood alongside him, and the clerk of the committee I’m on sings too.

“We get together when we can; sometimes early in the morning, lunchtime, whenever we can catch a half-hour practice here and there.

Mitzi is a great pianist and she’s just delightful. Everyone takes it seriously and we usually sound terrible right up until the day before, and then things seem to fall into place. If you follow good direction and hit your notes, it comes out fine. When you sing as a group, one person’s little mistake is generally covered up quite nicely by the others.”

Baser says being a part of the Statehouse Singers is “a good way to connect with other legislators. The bipartisanship is kind of cool. It’s always good to get to know people on the opposite side of issues from you.”

Truth be told, music helped bridge a gap between Baser and Johnson. He won his seat by defeating an incumbent who was a personal friend of Johnson’s and someone with whom

she worked closely. As fate would have it, Baser is a bass and some of the Statehouse Singers’ basses did not survive the election.

“He has some great questions, and he made me think about the budget process,” Johnson says. “It’s a gift to have my thinking questioned and challenged. He has some great business experience and we were able to have some good offline communication about what we spend money on and how things work, conversations that probably wouldn’t have happened without us having some different form of shared experience.

“What singing does very strongly is to open up conduits between people. It builds relationships, and this business is all about understanding people, knowing who you can go to for information, who you can talk to. You’re able to build common ground with other people,” says Johnson, “so talking about the harder stuff becomes easier.”

Common Ancestry

“You’re kidding me, that means we’re cousins.”

—Virginia Senator Chap Petersen

When many of us ponder the \$10 bill in our hands, we’re wondering how much change we’re due after paying for our venti skinny half-caff nonfat extra-shot latte at our favorite coffee shop. But for a pair of Virginia senators, a 10-spot is a green-backed leaf from a complicated family tree.

Senators Chap Petersen and Donald McEachin are Democrats and longtime friends who recently found out they might share a common ancestral connection to Alexander Hamilton, the Founding Father whose portrait graces the bill—at least for now. The Treasury Department is working on a redesign that could replace Hamilton’s picture or move it to a different place on the bill.

The possible connection was discovered during a dinner party.

“Virginia’s first lady, Dorothy McAuliffe, was sitting at our table during a caucus dinner and she was sharing something about her ancestry,” McEachin says, when “I piped up about being related to Alexander Hamilton.”

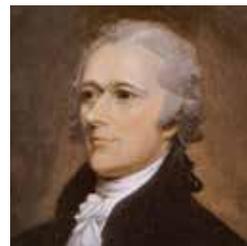
“You’re kidding me,” Petersen said to McEachin that night. “That means we’re cousins.”

The kicker: McEachin is black, Petersen is white.

“It was a lot of fun that night,” says McEachin.

Later that week, Petersen quipped during a floor speech that he was related to McEachin. Bill Sizemore, of the Associated Press, heard about the connection and reported the story, spreading it to a national audience.

Here’s what they know. Hamilton was born to unmarried parents in the British West Indies and orphaned before he was a teenager. Some believe his mother was from mixed-race parents, but the family records are more Etch-a-Sketch than connect-the-



Petersen and McEachin

dots. But it's that Caribbean heritage that ties the McEachin family to Hamilton.

"My first name is Aston and my grandfather was Aston Hamilton, a Presbyterian minister in the Richmond area for 40 or 50 years," McEachin says. "He was born and raised on St. Kitts [where Hamilton lived before coming to New York] and, as the story goes, we are of that lineage of Hamilton. It's on his mother's side, but it's not that refined as it was passed on to me. We are a Caribbean Sea and a couple of generations removed.

"A lot of the older historical writings about Hamilton refer to him as a mulatto,

a mixture of both white and black, so it certainly fits. But at some time those writings disappear."

Petersen's ties to Hamilton also come from his mother's side. She is descended from Hamilton's wife, Elizabeth Schuyler.

"He married into the Schuyler family in upstate New York, and that family went on to become very prominent," Petersen says. Several of Petersen's relatives, including his sister, bear the Schuyler name.

Both Petersen and McEachin admire Hamilton's legacy.

"He came to us as a young man, fought under Washington at Yorktown and was

one of the early proponents of having a central banking system and a standardized treasury," Petersen says.

McEachin sees a strong connection between his views and Hamilton's. "I would have supported a central bank and a more centralized government and would have had the same arguments with Thomas Jefferson as he did. Whether that's imprinted in our DNA, I don't know."

Hamilton's portrait on the \$10 bill doesn't betray any African ancestry "but one can hardly blame him for trying to keep that secret given the time he grew up in," says McEachin.

A Shared History

As Republican leaders in the Arkansas legislature, Speaker of the House Jeremy Gillam and Senate President Pro Tempore Jonathan Dismang share a number of core values. Few, however, go back quite as far as "Go Badgers!" pride.

Gillam and Dismang were only three years apart at Beebe High School in the 1990s and both credit the school and the Beebe community as major influences on their lives and on their decisions to go into public service.

The town of Beebe had around 3,000 folks when they were growing up. It has more than doubled since then as a bedroom community 25 minutes from Little Rock.

"Our town was very community-service-oriented and I think that really imprinted on me and Jonathan as well. Growing up, we had constant examples of service and it made an impression on how we approach life and public service," Gillam says.

So connected was Dismang to his community that he brought a number of teachers, administrators and coaches from the high school to his first campaign announce-

"We campaigned on completely different issues, but we talked about what would be best for our district."

—Arkansas Senate President Pro Tempore Jonathan Dismang

ment. "A lot of people had a hand in raising me," he says. "We had a teaching staff that cared about kids, was really invested in the community and watched over us."

Unprompted and in separate interviews, both lawmakers named the same two instructors as having a lasting impact on their lives and careers: Bill Pruitt and Robin McClure.

"Coach Pruitt was the junior high football coach and taught agriculture and vocational/technical classes," Gillam says. "He was teaching us a lot of skills about what it was like to be young men and men of character and service. As selfless as he was, he inspired me at that age."

"Coach McClure was our civics teacher," Dismang says. "That was probably a jump-start for me in thinking about public service."

Dismang's strongest educational influences, however, were in his home. His mother, Nancy, was his kindergarten teacher and his father, Paul, was his intermediate school principal.

Gillam says his senior history teacher, Donald Ward, who went on to become Beebe's mayor, "really made a difference for me. He had a real passion for government and infused that into a lot of his lessons. I could see that passion. It was great to see someone who is so optimistic about what our system of democracy can do."

Both men had an eye on an open House seat in 2009, but Gillam's youngest son had just been born. He encouraged Dismang to make the run and supported his campaign. Dismang won and Gillam thought he might succeed him when Dismang reached his

"Growing up, we had constant examples of service and it made an impression on how we approach life and public service."

—Arkansas Speaker of the House Jeremy Gillam

term limit in six years. Instead, Dismang announced he was going to seek a Senate seat and urged Gillam to run for the House.

"I thought I was going to have six years, and it turned out to be more like six months," Gillam says.

The two frequently campaigned together. "We had a lot of conversations back and forth about what might be the best approach to a particular event and messaging," Dismang says. "We campaigned on completely different issues, but we talked about what would be best for our district."

They say their shared backgrounds have helped make them strong leadership partners.

"We both understand each other really well and know how we operate," Dismang says. "We've set up a very open line of communication for what is happening." 

More Stories

Our shared connections and experiences not only make for good stories, they can help us understand others' viewpoints—if not create consensus. Are there other interesting connections in state legislatures? Of course. Please send your stories of serendipitous or calculated connectedness to julie.lays@ncsl.org.

Wild Wisdom

Lessons in leadership can come from some of the most unexpected places, including the African plains.

BY KERSTIN PLEHWE

Domination and submission, survival of the fittest, constant adaptation to change—the African wilderness and a state legislature have many similarities. Looking at each—the routines, rules and ways of communication—the more obvious it becomes that legislators would be wise to take a few lessons from nature.

In most legislative arenas, there is little opportunity for a true wilderness experience, at least not literally. But you don't have to experience Africa firsthand to gain valuable perspectives on leadership from its majestic wildlife, from the lion and leopard to the cheetah and elephant.

The Triumph of Teamwork

Lions, the so-called kings of the bush, are not only a universal symbol of power and strength, they are masters in an area

Kerstin Plehwe, a former ranger in South Africa's Kruger Park, is an author and speaker on topics such as leadership, diversity, change and personal excellence. She's based out of Germany and often advises "global players" on how to innovate and excel as top executives and politicians. For more information, visit www.kerstinplehwe.com.

every manager depends on: high-quality teamwork that achieves excellent results. Lions excel in all aspects of teamwork. Males join forces to control their territories in what are called "coalitions." Working as a team makes it easier to fight intruders, control larger territories, dispossess older lions and secure female territories.

Female teamwork is best displayed during the hunt, and it is defined by the individual strengths of each team member. Whoever has the chance to witness these breathtaking, intelligent and efficient attacks, which are essential to the survival of Africa's largest carnivore, will never forget it.

Lionesses do most of the hunting and share family responsibilities within the group, or pride, while males assist with big kills and protect their territory against intruders. For lions, this intra- and inter-gender teamwork secures long-term survival and success.

To bring this example into the legislative arena, ask yourself: Where can the teamwork in my campaign, caucus or

committee be improved? Is everybody aware of and do they buy into the benefits of an increased level of partnership with colleagues? Does the team have a different focus for the outside-the-pride "enemy" than for the inside-the-company colleague?

The Benefit of Speed

The fastest land mammal is the cheetah. Within 90 seconds, these streamlined felines can reach speeds of up to 70 miles per hour. Their bodies, from their long legs and small heads to their sleek ears and large lungs, are built to go fast. Their spines remain flexible throughout their lives, and they carry no extra bulk, in contrast to some of our institutions and organizations, not to mention some of us individuals. These are great models for any institution evaluating what hinders it from moving faster. Ask yourself and your team, Do we carry extra bulk and, if so, how can we get rid of it?

In our very connected world, everything is speeding up, from changes in the media and society to the spread of diseases. The ability to respond quickly to changes in a highly competitive global marketplace



is essential. And although speed is not always desired in the deliberative environment of the legislature, when it is, it can be crucial. The question is, How well are we equipped as leaders, as legislators and as people to handle change?

The Advantage of Adapting

Leopards are not only among the most beautiful animals of Africa, they are also the ultimate opportunists, adapting well to change in their habitat. Excellent runners and climbers, they can attack from the ground or from trees and can hunt at night or during the day. Instinctively, they do what they need to do in order to thrive.

The leopard-based take-away for every lawmaker or staffer is this: In the legislative arena, be open and flexible enough not only to survive, but to succeed. Be ready to seize on opportunities to serve your constituents in new ways.

The Value of Focus

Without an outstanding ability to focus on their prey, African predators would starve. Be it a lion, leopard, cheetah or fish eagle, the hunter’s ability to zero in on one and only one target is worth some thought. In the legislative world and in our private lives, multitasking is the standard. We listen to the radio while we drive the car, we read our emails while we sit in meetings, we read the paper while we eat breakfast. We try to be all things to all people. We say “yes” often and “no” rarely. We cram as much as we can into every day and feel lost without our calendars to keep it all clear in our overcrowded minds.

During a hunt, Africa’s predators nar-

row their sights and energy on the most important thing in that second: securing food for survival. They remain “in the moment,” maximizing their effectiveness. If managers of all kinds, from businesspeople to school principals to state lawmakers, learned the importance of maintaining focus, it could reduce burnout while increasing productivity and effectiveness in the groups they supervise.

The Power of a Pause

The leaders of elephant herds often stand still and appear to be doing nothing. To the untrained eye, it’s unclear what’s taking place. But such moments of complete stillness could be our biggest leadership lesson from the plains of

Africa. Far from doing nothing, the lead cow is actually using her senses to the fullest. She is detecting the movement of the group, the activity in its surroundings and the location of every member. What a powerful tool this kind of focused observation could be in your legislative work. Great leaders are aware of what and who surrounds them. Yet too often we hear, “I’m sorry, I didn’t catch that, my mind was somewhere else.”

What if regularly, at the beginning of every meeting, you hit your personal pause button for a couple of intentional seconds? Take just enough time to focus on the group, the individuals, the mood, the energy, the task at hand. That suspended moment can make a big difference in your life by getting you focused on what’s most important.

You don’t have to go to Africa to reenergize your leadership qualities. But all of us can benefit from stepping out of our comfort zones, especially leaders who are loaded down with daily tasks and routines. Routines can kill creativity. Yet creativity can help us adapt to an ever-changing world.

So whether it’s a trip to the Serengeti or a drive across your state, step out of your safety zone. Beyond your routine lie lessons on what life and leadership are all about.



Curtis S. Bramble

Utah Senator and NCSL President

Curt Bramble (R) is in his fourth term in the Utah Senate, where he serves as president pro tempore. He took the reins as NCSL president last month at the Legislative Summit in Seattle and will serve until next year's Summit in Chicago. Bramble is a CPA who earned his bachelor's and master's degrees in accounting from Brigham Young University.

What is your vision for NCSL?

NCSL needs to set the example of how we can come together to solve problems without compromising our principles. That's why we're all elected to state legislatures and that is our mandate—to govern.

Why is NCSL important today?

Individually, we may be elected by a partisan organization called the Republican Party or the Democratic Party, but our mandate is to all the citizens, not just the team we play for. That's the strength of NCSL. It brings everyone together to share ideas and solutions so they don't have to reinvent the wheel. NCSL represents the collective voice of the states in working with the federal government and with members of Congress on policies. Our mandate is not partisan. It is to strengthen federalism, to generally oppose unfunded mandates and pre-emption.

Are there lessons from the past that apply today?

The Founding Fathers figured out how to stay in the room till they could work out their differences and put forward something that they could all agree to. How did those men—men of passion, men of compassion, men who in many ways were ideologues with entirely different views—sit in a room in Philadelphia from May through September and hammer out something they could all sign off on? They committed to stay in the room until they got it done.

What is your proudest accomplishment as a lawmaker?

I'm proud of what Utah has done on immigration,

Stacy Householder, a program principal at NCSL, conducted this interview. Responses have been edited for length.



energy policy, on discrimination, tax reform, on limiting government and strengthening individual freedoms. Who would have thought that Utah could pass a law against discrimination of the LGBT community in housing and employment that also strengthened religious liberties in the workplace? We've helped the far-left environmentalists and the far-right industrialists to find common ground, and the banks and credit unions to find a way to reform our pensions that our public employees and teachers could accept. It's all about this idea of staying in the room until you hammer out a solution that has become part of the culture we have built in the Utah Legislature.

What are the essential qualities of a leader?

Great leaders empower those around them to be the best that they can be. There's very little that you can't accomplish if you don't care who gets credit.

Has your business background benefited you as a legislator?

When it comes to fiscal matters, it's easy to get right to the heart of the matter, to peel back the layers and see things for what they really are. It provides another layer of analytic review that isn't all that common. I had some issues with our state's tax system and the response by the Tax Commission was, if you don't like the law, change it. And I took that quite seriously.

What would surprise people most about you?

My family has enjoyed spending not just quality time, but quantity time doing all kinds of adventurous things. That's what we live for—flying hot air balloons and small planes, mountain climbing, skydiving, skiing, backpacking, fishing, hunting, scuba diving. Early in our marriage, my wife and I decided that our common definition of success was to spend as much time as possible doing things with our family.

What's your final thought?

America is a pretty remarkable experiment and every citizen has an opportunity to contribute—to show up, stand up, speak up, and to participate. That's one of the greatest things about our country.



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