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STATE LEGISLATURES
National Conference of State Legislatures

Moms & Substance Abuse
Nuclear Waste
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**VICKY BAILEY**
ENERGY LEADER & ENTREPRENEUR

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The data states collect can be a force for creating good policy.

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States are balancing the rights of addicted women with the health needs of their developing babies.

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STAFF BOOK REVIEWS
Former lawmakers and a staffer share hard-won insights on making government work better.

Correction: The home state of Representative Susan Almy (D) was misidentified in April’s Newsmakers department. She is from New Hampshire. In addition, New Hampshire Representative Norman Major (R) is the primary sponsor of a bill to impose a fee on fuel-efficient vehicles.
NCSL EXPERTISE

“Early retirement incentives rarely live up to their promises, in terms of how much they will save.”
Luke Martel on proposals to offer public employees early retirement as a cost-savings measure, in the Pittsburgh Post-Gazette.

“Typically, this issue comes up in about 10 states each year. This year, that number has doubled.”
Amanda Essex on requiring seat belts in school buses following federal recommendations to do so and a fatal bus crash, in Stateline.

“The role of state and local law enforcement in federal immigration policy has returned to the forefront of public debate.”
Ann Morse on the conflict over sanctuary cities, in The Daily Signal.

“Higher education is called the balance wheel of state budgets.”
Dustin Weeden on the discretionary nature of higher education funding, on NPR.

“I think you can expect to see more law enforcement protective measures introduced...we’re also seeing more protection for the homeless.”
Sarah Brown on state efforts to extend hate-crime protections, on komonews.com.

CONGRATULATIONS
Wisconsin Winners
NCSL presented the Kevin B. Harrington Award for Excellence in Democracy Education to the Wisconsin Legislature in a ceremony at the state Capitol. The Harrington Award is given annually to an individual or organization for advancing public understanding of state and local representative democracy. Wisconsin won for its user-friendly website and variety of publications, video productions and electronic communication channels that assist the public in understanding the Legislature and the legislative process. Pictured in the front row, from left, are Assembly Speaker Robin Vos, Assembly Minority Leader Peter Barca, Senate Majority Leader Scott Fitzgerald, NCSL’s Angela Andrews and Senate President Roger Roth. In the back row, from left, are Fiscal Bureau Director Bob Lang, Legislative Reference Bureau Chief and General Counsel Rick Champagne, State Auditor Joe Chrisman, Senate Chief Clerk Jeffrey Renk, Legislative Technology Services Bureau Director Jeff Ylvisaker and Legislative Council Director Terry Anderson.

CONNECTIONS

Half a Century of Service
Happy 50th anniversary to the Indiana Legislative Services Agency! Celebrating the occasion is Senior Staff Attorney and former NCSL Staff Chair Peggy Piety, posing with the introduced bills drafted by the Office of Bill Drafting and Research for the 2017 session. Piety estimates the agency has drafted an average of 7,289 bills, amendments, motions and committee reports in each of the last six years. Celebrating an anniversary in your legislature? Email magazine@ncsl.org and let us know.

Strategizing for States
The Missouri Capitol was the setting for a meeting with, from left, Ohio House Speaker Cliff Rosenberger, NCSL’s Brooke Oleen Tieperman, Missouri House Speaker Todd Richardson, NCSL’s Max Behlke and Wisconsin House Speaker Robin Vos. Rosenberger’s Facebook post summed up a successful state visit: “Appreciated the hospitality in the Great State of Missouri! We discussed important issues such as federalism and balanced budget amendments. We can learn a lot from each other and find solutions to common problems that will make our respective states and our entire country stronger!”
The Newest Net Threat

Sextortion” is the latest troubling trend involving sexually explicit photos or videos and the internet. After acquiring explicit images, sometimes by stealing them through computer hacking, sextortionists use them to blackmail victims into sexual activity or into sending more sexually explicit pictures.

Lawmakers first tackled sexting—when minors send nude photos of themselves to each other, not knowing they could face child pornography charges. About half the states have passed laws that reduce penalties or provide alternative punishments for minors charged with sexting.

Then came nonconsensual pornography, or “revenge porn,” when people send or post sexually explicit photographs or videos of former friends without their permission even if they were taken with their consent. State legislators in 35 states and D.C. have passed bills on revenge porn.

Now, the growing number of sexual extortion crimes are catching lawmakers’ attention. Research into criminal cases by the Brookings Institution found sextortion to be “surprisingly common” and “brutal.” A U.S. Department of Justice report called sextortion “by far the most significantly growing threat to children.”

Sextortionists can easily victimize hundreds of people using nothing more than a computer. In one high-profile case, Michael Chansler, a young Florida man, persuaded hundreds of teenage girls in 26 states, Canada and the United Kingdom to send him sexually explicit video of themselves. He then threatened to send the images to the girls’ parents or post them online unless they agreed to send additional images. Chansler was convicted under child pornography laws and sentenced to 105 years in prison.

Although these crimes could potentially be prosecuted under a number of current child pornography, cyberstalking or extortion laws, a half dozen states are targeting sextortion expressly. In Delaware, for example, a person who induces another to engage in a sexual act by threatening to expose a secret, to cause property damage or physical injury, or who intends to “subject the person to hatred, contempt or ridicule; or other acts that are calculated to harm another person’s health, safety, business, calling, career, financial condition, reputation or personal relationships,” can be charged with a felony. The law also imposes more severe charges for the sexual extortion of a child.

Arkansas and Utah enacted similar laws in March, adding provisions that apply if someone coerces a victim to provide or distribute a nude image or a video of a person engaged in sexually explicit conduct. Utah also imposes a harsher felony charge when the victim is a child or a vulnerable adult, and the law applies only to adults who commit sexual extortion, not minors.

Representative Steve Eliason (R), sponsor of the Utah bill, told his colleagues on the House floor how his son’s cellphone was stolen and used to send text messages demanding sexual images. To get the phone back, the thief made additional demands of Eliason’s son. “It was deeply troubling, both for those who were receiving those and for my son who didn’t know it was happening.”

Lawmakers in at least five other states have introduced sextortion legislation, as of April 1. The bills in Alabama, California, Rhode Island and Texas are pending; Mississippi’s has died.

—Pam Greenberg

Changes to Education Law

U.S. Education Secretary Betsy DeVos issued a revised template in March for state education plans under the Every Student Succeeds Act (ESSA) to ensure greater flexibility for state and local education leaders. There are three new requirements in the revised template, but the main goal of the revision was to require state consolidated plans to include only those descriptions and information that the secretary has determined are “absolutely necessary,” as indicated by ESSA.

“The updated state template will ensure states are able to better serve students with the freedom and flexibility they deserve, and which Congress requires,” DeVos says. “My philosophy is simple: I trust parents, I trust teachers, and I trust local school leaders to do what’s right for the children they serve. ESSA was passed with broad bipartisan support to move power away from Washington, D.C., and into the hands of those who are closest to serving our nation’s students.”

The law still requires input from state legislatures when creating plans, but the new template drops the requirement that each state education agency provide evidence that it consulted with a wide range of stakeholders, including state lawmakers. Because evidence of consultation is not required, it might be advisable for state legislators to take the initiative when it comes to their statutory right to be consulted. State agencies that missed the April 3, 2017, deadline have until Sept. 18, 2017, to submit plans.

—Lucia Bragg
Plastic bags clog up local waterways, litter roadways and get swallowed up by unsuspecting fish. They can gum up conveyor belts, slowing down productivity at recycling centers. And they can take ages to degrade—if they ever do. Paper bags have their problems, as well. They require millions of trees to make and consume more than four times as much energy to manufacture than do plastic ones.

Businesses, consumers and almost all of us depend on these bags to some extent. We love their convenience, light weight and low cost. More and more lawmakers have come to believe they are also good for business, that banning bags—as several large cities and two states have done—is not the solution. Instead of banning bags, some states are now banning bans.

Michigan lawmakers passed a new law at the end of last year, for example, that prohibits local governments from banning, restricting, regulating or imposing a tax or fee on the use or sale of plastic bags, cups, bottles and other containers, including paper bags.

“We want to continue to have a consistent standard across the state to help our business community that has made significant investments here already, as well as attract new business to Michigan,” says Senator Jim Stamas (R), sponsor of the bill.

Business groups agree that following a patchwork quilt of regulations across a state can be time-consuming and costly. Opponents of these local bans are concerned not only with the environmental damage the bags inflict, but also with the overreach these bills impose on local control.

Florida lawmakers passed the first ban on cities’ bans in 2008. Their colleagues in Arizona and Missouri followed in 2015; Idaho, Indiana, Michigan and Wisconsin passed similar laws in 2016. Legislation is pending this year in Minnesota, South Carolina and Texas. And North Carolina lawmakers are considering repealing the current ban on plastic bags in coastal communities passed in 2009.

Not all states are trending toward banning bans, however. Ten have had bills introduced this year to limit the use of bags, although none have yet passed.

Bans on bags are not that old. The California Legislature was the first, in 2014, to pass a statewide ban, which went into effect after voter approval last fall. It applies to big retail stores using plastic bags. In Hawaii, a de facto statewide ban resulted in 2015 after all the most populous counties passed bans on bags made of nonbiodegradable plastic or less than 40 percent of recycled paper.

Whether it’s banning bags or banning bans, this issue is sure to cling to legislative agendas for some time.

—Jennifer Schultz

It wasn’t unusual to think that legislatures would address some of the many election controversies that arose in 2016. From primaries and caucuses to cybersecurity and voter fraud, there is no shortage of election issues for lawmakers to consider this year. But one issue that perhaps wasn’t expected has become a strong legislative trend in 2017.

As of April 1, legislators in 25 states had introduced bills to require prospective presidential candidates to disclose recent tax returns as a condition of being placed on the ballot. Across the states, the number of returns required ranges from as little as the most recent year to up to 10 years’ worth of returns. Many require that the returns be redacted and posted publicly for inspection.

Nearly every bill has been introduced by Democrats, in reaction to President Donald Trump’s refusal to release his tax returns as per the custom of previous presidential candidates.

Some of the bills address concerns over the constitutionality of such a requirement by focusing on presidential electors, prohibiting them from voting for a candidate who has not provided the required tax returns.

So far only two bills have moved far in the legislative process. The New Jersey legislation passed both chambers and now awaits action by Governor Chris Christie (R). In Hawaii, legislation passed the all-Democratic Senate and is now before the House.

Whether any of these bills become law remains to be seen. What is clear is that political theater is alive and well, just as it was in 2011 and 2012, when Republicans in at least eight states introduced bills requiring presidential candidates to provide copies of their long-form birth certificate as a condition of getting on the ballot.

—Dan Diorio
Unauthorized Immigrants

The number of unauthorized immigrants in the U.S. has stabilized in recent years after decades of rapid growth. But where they come from has changed. The number from Mexico has been declining since 2009, while the number coming from elsewhere has been rising. Here are five facts about unauthorized immigrants in the U.S. from the Pew Research Center’s Fact Tank.

1. There were 11.1 million unauthorized immigrants in the U.S. in 2014, about the same as in 2009. They account for 3.5 percent of the nation’s population and about one-fourth of the nation’s foreign-born residents.

2. The U.S. civilian workforce included 8 million unauthorized immigrants in 2014, accounting for 5 percent of those who were working or were unemployed and looking for work. Unauthorized immigrants are overrepresented in farming (26 percent) and construction occupations (15 percent).

3. There were 5.8 million Mexican unauthorized immigrants living in the U.S. in 2014, down from 6.4 million in 2009. Ninety-three percent of them, in 2014, had been in the U.S. for more than five years compared with 78 percent of those from all other countries. The number of unauthorized immigrants from Asia, Central America and sub-Saharan Africa increased the most between 2009 and 2014.

4. Six states were home to 59 percent of all unauthorized immigrants in 2014: California, Texas, Florida, New York, New Jersey and Illinois. From 2009 to 2014, the unauthorized immigrant population decreased in seven states and increased in six.

5. An increasing share of unauthorized immigrants have lived in the U.S. for at least a decade. About two-thirds (66 percent) of adults in 2014 had been in the U.S. at least 10 years, compared with 41 percent in 2005.

— Ann Morse

Go to ncsl.org/research/immigration for more information.
The information states collect can be a force for creating good policy.

BY ALLISON HILTZ

Your phone dings. You pick it up, knowing the familiar sound indicates a new email because you customized the settings yourself. You swipe to open the message and see it’s from a constituent, so you quickly respond. But before you close out, you toggle over to view your personal emails. They’re all in the same app, after all.

It wasn’t so long ago, in the days before smartphones, that you had to log in to and out of individual email accounts and memorize passwords. The accounts were stored separately, requiring independent access. But technology, aided by software development, brought it all together, streamlining your email and, ultimately, your life.

It is a similar integration and improved efficiency that many argue are needed in state governments, particularly when it comes to data.

The Importance of Data

It’s no secret that data can help lawmakers improve existing programs and allocate resources. High school graduation rates shape education policies, financial data inform budget decisions and usage statistics guide the delivery of public services. The list goes on.

Used properly, data can improve the effectiveness of state government. Washington’s Department of Social and Health Services, for example, used state Medicaid data to target women’s tobacco use because it showed that pregnant women enrolled in the program had a higher prevalence of smoking. The result? Healthier mothers and children.

The biggest challenge for many states is not collecting data but figuring out how to use it. Preliminary research by The Pew Charitable Trust’s Data as a Strategic Asset initiative found that, while all 50 states incorporate data to some extent to inform decision-making, they all face similar obstacles, including silos, data quality, and security and privacy concerns.

The Challenge of Sharing Silos

Many state government agencies across the country have access only to their own electronic files, creating data “silos”—troves of information that cannot be shared easily across agencies. The left hand sometimes doesn’t know what the right hand is doing, creating gaps in services when several agencies are involved in implementing a policy.

Reducing teen pregnancy, for example, might involve the departments of education, health and human services, and child welfare. Similarly, crime prevention might include all those departments, along with mental health and welfare programs. The challenge, then, is to knock the silos down, integrate the data and deliver
more efficient, effective programs.

Why are the silos so hard to break? First, building and sustaining the human and technical capacity to support data sharing and analysis often requires funding investments.

Second, rules often prevent sharing data, such as tax and employment records, among agencies. Adopting collaborative approaches that bring together people from different agencies—and the agencies themselves—to share and integrate data can address this challenge, according to Pew and the Center for Regional Economic Competitiveness.

Data Quality Matters

Bad data can mean big trouble. Maryland learned this lesson in 2007, when a simple typo by the state’s Department of Assessments caused one school system to be shortchanged by $24 million, while 17 others were overpaid. Because the schools that received the extra funding were not asked to return the money, the mistake cost the state $31 million.

Last year, Mississippi’s Legislative Budget Office identified an accounting error that overestimated general fund revenues by almost $57 million for fiscal year 2017, leading to cuts that resulted in a 1.63 percent funding decrease for most agencies.

Especially challenging are data from surveys, particularly when self-reported. A 2015 study by the National Institutes of Health on self-reported adherence to medication cited memory biases and discomfort answering sensitive questions as barriers to accurate self-reporting. Even when unintentional, inaccuracies can affect reported health outcomes and, subsequently, funding for health-related policies.

Cybersecurity and Data Privacy

Legislators and cybersecurity professionals differ in their opinions on the effectiveness of current data-security measures, with the latter being less confident than the former that their states are prepared to handle threats. Although 66 percent of legislators say their state is doing enough to address cybersecurity, only 27 percent of chief information security officers do, according to a 2016 report by the National Association of State Chief Information Officers and Deloitte & Touche.

“We are facing a new era of data and information, and with clearer data to make informed decisions come consequences,” says Montana Representative Daniel Zolnikov (R). “The more information gathered, the larger the risk of this data being stolen or misused. Privacy is a real concern, and we should be asking ourselves why we are collecting the data, how sensitive is the data and how long should we be holding on to individual information.”

Costs are a major impediment to data security. Whereas 80 percent of security officers cited funding as a top challenge in combating cyber threats, according to the Deloitte report, most states spend less than 2 percent of their budgets on cybersecurity. But without a strong technological infrastructure, the odds of a successful cyberattack increase. A breach can place citizens’ personal and financial data at risk and could result in identity theft, financial losses and more.
Case Studies

Pew identified three states where investing in and harnessing data improved outcomes and savings in postsecondary education enrollment, unemployment insurance and homelessness.

Delaware

Delaware in 2009 became one of 11 states to receive grant funding from the federal Race to the Top program, which aimed, in part, to use data to increase college enrollment. Though Delaware had been collecting longitudinal data on students since 1994, it lacked the analytical capacity to put the information into a usable format. Much of it was stored in several different systems, or data silos, making it difficult to access and analyze.

After receiving the grant and additional personnel through a partnership with the Strategic Data Project at Harvard University’s Center for Education Policy Research, the old silo system began to change. The first step was improving the state’s technology and data analysis.

Delaware officials decided to use the enhanced data system to address the fact that many “highly qualified” high school seniors (those with SAT scores at 1550 or higher) were not enrolling in college. “Only 30 percent of first-time ninth-grade students completed high school on time, seamlessly enrolled in college the fall following graduation and continued to their second university year,” according to Pew. In addition, only 51 percent of recent high school graduates enrolled in college the following fall, compared with a national average of 68 percent. The numbers were even lower for low-income families.

The data were in, but the question remained: What could Delaware officials do about it? Plenty, they decided. They could:

• Improve school counselor training and assistance in financial aid applications.
• Increase applications by first-generation and low-income students through a public education campaign that included then-Governor Jack Markell’s proclaiming October and November official College Application Months.
• Develop a text-messaging service to
disseminate information and answer questions in real time.

The efforts paid off. In 2015, 100 percent of highly qualified students applied to a postsecondary institution. In 2016, the state expanded its definition of highly qualified to include AP scores, dual enrollment and other factors. Even with the expanded pool, all eligible students applied to a postsecondary institution that year.

**New Mexico**

New Mexico received a federal grant to help root out overpayments and fraud in unemployment insurance in 2011 and ’12. At the time, the state’s data, like that in many states, sat in separate silos, with business tax information in one system and unemployment claims and job-separation details in another. Because the systems didn’t “talk” to each other, the state could not easily verify that employer and employee claims matched nor compare applicants’ Social Security numbers against death records.

Using the grant, New Mexico’s Department of Workforce Solutions combined the two systems and set up data-matching capabilities across various agencies, which proved successful. By 2013, the state reduced its unemployment insurance fraud by 60 percent, saving $10 million. Savings leveled off once the initial identifications had been made, so New Mexico took things a step further.

The workforce department partnered with Deloitte Consulting LLP in 2015 to use other data, including work history and prior claims, to curb potential fraud associated with the online unemployment insurance application. Because inaccurate answers to questions on the form—intentional or not—were costing the state money, the focus was on ensuring accuracy.

Deloitte designed a system that uses previously collected data to identify applicants’ potentially inaccurate responses. Throughout the process, the system displays a pop-up message, known as a “behavioral nudge,” encouraging the applicant to be truthful. Testing showed that personalized messages, such as how fellow county residents responded, were far more effective than generic messages containing threats about laws and penalties.

Equipped with better information, New Mexico reduced its benefit-year earnings overpayments (when someone returns to work but still claims unemployment benefits) by 2 percentage points, more than double the national average. The system also yielded more precise information about claimants’ reasons for not working, thus reducing unqualified payments.

New Mexico is now looking for other areas where harnessing data can realize similar benefits, such as health and human services.

**Virginia**

Concerned about homelessness, then-Governor Bob McDonnell (R) brought together multiple departments and agencies in 2010, and in 2014 newly elected Governor Terry McAuliffe (D) decided to focus on veterans. At the time, veterans made up 10 percent of the adult population but represented 16 percent of the homeless population.

The state analyzed its data, first, to learn about each homeless veteran. Officials then collaborated across departments and agencies to customize services based on their individual needs. The integrated effort allowed them to understand why they became homeless in the first place and to target solutions accordingly.

By 2015, Virginia’s homeless veteran rate was the lowest in the nation.

“Data integration is key to ensuring that we can identify veterans experiencing homelessness and quickly move them into permanent housing,” says Senator Jennifer McClellan (D).

“Sharing data across providers and systems has allowed us to better assess the needs in the Commonwealth, communicate more effectively with partners, and target and prioritize resources to ensure veteran homelessness is rare, brief and nonrecurring.”

Bolstered by their success, officials are working to prevent others from becoming homeless by integrating and analyzing data from jails, hospitals and law enforcement agencies.

**Where to From Here?**

Delaware, New Mexico and Virginia, of course, are not the only states using data in their decision-making processes.

Twenty-three states integrate data into budgeting decisions through the Results First Initiative, another program created by Pew and the John D. and Catherine T. MacArthur Foundation.

As states harness the power of their data, program administration is likely to change—and it won’t always be easy, something Jonathan Ball, director of Utah’s Legislative Fiscal Analysts Office, has witnessed firsthand. Earlier this year, Utah lawmakers opted to re-evaluate some tax reform proposals. “While we did a ton of work,” Ball says, “it didn’t do what it needed to do, so we needed to take a step back.”

But overcoming challenges is something states are equipped to do. And despite the time, the money and, for some, the culture shift required, many are charging ahead.
“Effectively, this is about a $14,000 cut to my salary.”

Alaska Representative Jason Grenn (I) on his budget amendment to cut legislators’ pay, in the Juneau Empire.

HAWAII REPRESENTATIVE BETH FUKUMOTO IS MOVING ACROSS THE AISLE. She left the Republican Party for the Democrats two months after her opposition to President Trump prompted a caucus vote to oust her as minority leader. She held the post since 2014. Her move puts the Democratic majority at 46-5.

OHIO SENATE MINORITY LEADER JOE SCHIAVONI (D) ANNOUNCED HE WILL RUN FOR GOVERNOR IN 2018. Schiavoni was first appointed to the Senate in 2009 and became Democratic leader in 2013. The GOP controls the chamber 24-9.

PATSY SPAW, SECRETARY OF THE TEXAS SENATE, WAS HONORED FOR HER ACCOMPLISHMENTS AS A PUBLIC SERVANT by the Executive Women in Texas Government and the Lyndon B. Johnson School of Public Affairs at the University of Texas. Spaw, who began her career in the Texas Senate in 1969, was elected secretary in 2001 and has served under three lieutenant governors. A resolution commends Spaw for her “exceptional work and leadership” and her “incomparable work ethic, exceptional diplomacy and poise.” Spaw served as NCCL’s staff chair in 2012-13, and was president of NCCL’s American Society of Legislative Clerks and Secretaries in 2007-08.

TEXAS LIEUTENANT GOVERNOR DAN PATRICK (R) HAD A HAND IN RECOVERING THE PURLOINED JERSEY OF NEW ENGLAND PATRIOTS QUARTERBACK TOM BRADY. Patrick asked the Texas Rangers and Houston Police Department to investigate the missing jersey, which was stolen from Houston’s NRG Stadium and located in Mexico in the possession of a credentialed member of the international media. “I always suspected someone in the media grabbed it...,” Patrick said. “Note to international media: Don’t mess with Texas.”

“We want to make electric vehicles a mainstream option.”

New York Assemblywoman Amy Paulin (D) on the state’s newly launched rebate of up to $2,000 for zero-emission and electric hybrid vehicles, from The Associated Press.

MASSACHUSETTS SENATE PRESIDENT STAN ROSENBERG (D) WENT TO WASHINGTON, D.C., TO ADVOCATE AGAINST PRESIDENT TRUMP’S PROPOSAL TO ELIMINATE THE NATIONAL ENDOWMENT FOR THE ARTS. A longtime arts backer, Rosenberg is a fellow with Americans for the Arts. The $147 million NEA budget, he says, leverages state, local and private funds to support state arts projects.
RHODE ISLAND SENATOR TERESA PAIVA WEED (D) STEPPED DOWN FROM HER POST AS SENATE PRESIDENT TO BECOME PRESIDENT OF THE HOSPITAL ASSOCIATION OF RHODE ISLAND. Weed, first elected in 1992, became the state’s first female Senate president in 2009. The chamber unanimously elected Majority Leader Dominick Ruggerio (D), the Senate’s longest serving member, as Weed’s successor. Michael McCaffrey (D) is the new majority leader.

“Marriage is a legal contract and it should be reserved for adults.”
New Jersey Senator Nellie Pou (D) on a bill she co-sponsored that would make the Garden State the nation’s first to remove all exceptions to laws requiring minors to be 18 years old to marry, on nj.com.

“It’s going to be completely nonpartisan issues, more of just a think tank.”
West Virginia Delegate Sean Hornbuckle (D), 31, on how a newly created caucus of millennials, who make up 13 percent of the Legislature, is approaching public policy, on WMKY.

“You look at the jobs that were lost, you look at the production of coal and how that has declined ... and we’ve got to have a third option.”
Kentucky Senator Danny Carroll (R) on his bill to lift the state’s decades-long moratorium on nuclear energy, from The Associated Press.

“This is putting the parent in the driver’s seat.”
Tennessee Representative Roger Kane (R) on his education savings account proposal, which would allow parents to use public funds for private school tuition and other education-related expenses, from The Associated Press.
BYO Bud Clubs
The Colorado Senate passed a bill permitting marijuana clubs, as long as they do not serve alcohol or any food beyond light snacks, The Associated Press reports. Supporters of the first-in-the-nation measure say it could help towns regulate underground clubs, which have grown in number, and address a perception that Colorado’s parks and other public areas have become havens for weed smokers since the state legalized recreational marijuana in 2012. The bill does not expressly ban indoor smoking at the bring-your-own clubs, which Governor John Hickenlooper (D) has hinted might make the measure a target for his veto pen.

Less Rest for the Weary
Are rest-stop picnics a thing of the past? Truckers, travelers and interstate drivers of all kinds already are covering greater distances between traditional rest stops, if they find them at all. With the growth of commercial travel centers and their gas stations and restaurants, not to mention the cost of staffing and maintenance, some states have shuttered their rest stops permanently, Pew’s Stateline reports. Among the states closing rest areas in the last two years are Florida, Michigan, Ohio and South Dakota. Connecticut lawmakers are mulling a proposal to shut down all seven of the state’s interstate rest stops to save money. Nostalgia aside, federal law limits the number of hours truckers can drive without rest, making the stops vital to drivers’ safety, an industry trade group says.

Divided, but Not on Everything
For all our divisions, there’s agreement among Republicans, Democrats and independents on what makes for a healthy democracy, the Pew Research Center reports. In a survey conducted in February, large majorities of Republicans and Republican-leaning independents (92 percent) and Democrats and Democratic leaners (90 percent) said fair, open elections were very important to maintaining a strong democracy. Large portions of both parties (83 percent of Republicans, 85 percent of Democrats) also said a system of checks and balances dividing power among the president, Congress and the courts was very important. There was less consensus, however, on the freedom of the press to criticize politicians, which Democrats (76 percent) were far more likely than Republicans (49 percent) to view as very important.

‘You Can Take Dat to da Bank’
“Don’t do the crime if you can’t pay for a special election,” as 1970s TV Detective Anthony “Tony” Baretta might have said, if he’d worked the statehouse beat. A South Carolina measure, which is likely the first of its kind, could require elected officials convicted of felonies to pony up the costs of filling the seats they would be forced to vacate, The Associated Press reports. A special state Senate election can run about $85,000, and a House election about $35,000, a State Election Commission spokesman says.

Reining in Runoff
Enough of the runoff from Midwestern farms is making its way into the region’s waterways that, in some areas, it threatens the safety of drinking water. Minnesota is taking the lead as the first state to require farmers to maintain a strip of grass, an average of 50 feet wide, along many of the state’s streams, NPR reports. The strips help filter nitrates, phosphorous and other chemicals out of farm runoff. In Iowa, the effort to protect water has been more contentious. The Des Moines Water Works sued nearby counties to force them to clean up farm drainage flowing into the Racoon River, which supplies drinking water to the city. Farmers were not happy, and a measure now in the Iowa Senate would dismantle the utility and replace it with a regional water authority that would likely drop the lawsuit.
New Supply of Lethal Drug
Having acquired a new supply of a drug used in executions, Arkansas was set to resume using the death penalty for the first time since 2005, The Associated Press reports. Eight inmates were scheduled to receive lethal injections last month. The state ran out of potassium chloride, one of three drugs used in the lethal injection “cocktail,” in January. The new supply, and the U.S. Supreme Court’s decision in February not to review the state’s lethal injection law, cleared the way for executions to resume.

So Close, Yet so Far
A mere 100 miles of the Gulf of Mexico separate the United States from Cuba. Miami is closer to Havana than it is to Jacksonville. Still, proximity and improved diplomatic relations at the close of the Obama administration haven’t made it easier for Cubans to visit their northern neighbor. Cuba has the highest U.S. visa refusal rate of any country in the world, the website Statista reports, citing U.S. State Department data. The U.S. turned down 81.9 percent of all Cuban tourist and business applications (B visas) in fiscal year 2016. Afghanistan (73.8 percent), Mauritania (71.5 percent), Liberia (70.2 percent) and Gambia (69.9 percent) round out the top five.

Curbing Contributions
Lawmakers in Connecticut, Massachusetts and Washington are considering measures that would bar political spending by businesses in which non-U.S. citizens have a significant ownership stake, The Pew Charitable Trusts reports. The bills follow reports of ride-hailing companies Uber and Lyft, with their respective Saudi Arabian and Chinese investors, spending $9 million on a 2016 ballot measure in Austin, Texas, and more general concerns about Russian election interference. Supporters say the measures would augment federal laws barring noncitizens and foreign companies from donating directly to candidates or political parties at the federal, state and local levels. Opponents question what amounts to “significant” ownership and argue that businesses with some, particularly minimal, foreign ownership shouldn’t be shut out of the political process.

Time Expiring on N.D. Meter Ban?
So incensed was North Dakota farmer Howard Henry after getting a parking ticket that he led a successful effort to ban parking meters in the state. The ban, which went into effect in 1948, is still on the books, making North Dakota the only state to prohibit the meters on all but state or private property. Some, including Governor Doug Burgum (R), want to lift the ban to encourage more parking turnover, which they say will yield more sales for businesses and more revenue for communities and the state, the Bismarck Tribune reports. Not pleased is former state Senator JoNell Bakke (D), Henry’s granddaughter, who said she will lead a fight to restore the ban if it’s repealed.

Unhealthy Return on Investment
Americans pay a lot more for their health care than the rest of the world does. At $9,024 per capita annually, U.S. spending is twice that of other developed countries, the website Our World in Data reports, and nearly three times above the average ($3,620) for countries in the Organization for Economic Cooperation and Development. That spending has not led to greater life expectancy, which is 78.9 years in the U.S., nearly identical to that of the Czech Republic, which spends $3,386 a year per capita. Nor has it helped certain segments of the U.S. population. For men with a high school diploma or less, mortality rates are up 130 percent from 1998, according to the Brookings Institution.
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Ted / Cancer Researcher

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Welcome to the future of medicine. For all of us.

Matt / Cancer Patient
Lawmakers must overcome the “not in my backyard” mentality to find a site for the nation’s nuclear waste.

BY KATIE MEEHAN

Fifteen billion dollars were invested and a 5-mile tunnel was built in preparation for Yucca Mountain in Nevada to serve as a deep geological repository, designed to receive and store shipments of spent nuclear fuel and high-level radioactive waste. But the project in Nevada has lain dormant since the Obama administration stopped funding the licensing process in 2010. The facility has never received any waste.

But that may be changing. President Donald Trump and the House Committee on Energy and Commerce have been clear they want to reconsider the Nevada site. In his first initial budget proposal, Trump designated $120 million to restart licensing activities for the permanent and interim storage of waste at Yucca Mountain, although Congress ultimately will determine what happens.

Then in March, the state of Texas sued several federal agencies claiming the federal government had violated the Nuclear Waste Policy Act by failing to complete the licensing process at Yucca Mountain.

There was, and continues to be, significant support for using Yucca Mountain to store our nuclear waste. Support comes especially from states currently housing some of the waste and from small communities near the site hungry for new jobs.

Resistance as Well as Support

There is also substantial resistance. Generally speaking, Nevadans don’t want nuclear waste stored at Yucca Mountain and they...
The latest survey, conducted in January by the Mellman Group, showed 58 percent oppose and 33 percent support full development, according to the Nevada Independent.

Governor Brian Sandoval (R) responded to this renewed federal interest by joining with all legislative leaders in warning that, “Any attempt to resurrect this ill-conceived project will be met with relentless opposition, and maximum resources.”

“I am disappointed that the Trump administration is arrogantly choosing to ignore the fact that Nevadans don’t want dangerous nuclear waste dumped on our state,” Senate Majority Leader Aaron Ford (D) said.

Assemblyman Chris Brooks (D) wasted no time after Trump announced his budget proposal to introduce a resolution calling on U.S. Energy Secretary Rick Perry to find Yucca Mountain unsuitable for storing nuclear waste and to explore alternative strategies for dealing with radioactive waste.

“Storing nuclear waste 100 miles from Las Vegas, in an unstable and unsuitable environment, is incredibly dangerous, not to mention that it will threaten the lifeblood of our economy—tourism,” he said.

“Politicians from outside Nevada have tried for 30 years to dump their waste into our beautiful state,” said Senate Minority Leader Michael Roberson (R). “Their attempts to ‘screw Nevada’ have consistently failed, and I am confident they will continue to fail.”

With this kind of opposition from state government as well as ordinary Nevadans, the Timbisha Shoshone Tribe and environmentalists, winning approval of Yucca Mountain will be costly and challenging.

**Blue Ribbon Recommendations**

The Blue Ribbon Commission on America’s Nuclear Future, formed by former President Obama after he shuttered Yucca Mountain, was charged with developing recommendations for a long-term strategy to manage the nation’s nuclear waste. NCSL testified before the commission, which, among other things, recommended the U.S.:

- Use a consent-based approach to siting nuclear waste facilities.
- Create an organization with the authority and resources to focus solely on implementing the waste program.
- Allow the funds nuclear utility ratepayers are providing to be used to manage nuclear waste.
- Develop one or more geologic disposal facilities and consolidated storage facilities.
- Prepare for the eventual large-scale transport of dangerous waste.
- Support continued U.S. innovation in nuclear energy technology and workforce development.
- Lead international efforts to address safety, waste management, non-proliferation and security concerns.

*Source: Report to the Secretary of Energy, 2012.*
NUCLEAR WASTE

Unwelcome and Unwanted
Despite the controversy Yucca Mountain sparks, there is consensus on one inescapable fact: Tons of nuclear waste need a permanent home, and more is coming.
Nuclear reactors have generated more than 76,000 metric tons of nuclear waste since they first began producing electricity in the late 1950s. That’s the equivalent of a football field covered almost 30 feet deep in spent nuclear fuel, according to the Nuclear Energy Institute. And every year we generate between 2,000 and 2,300 metric tons more, primarily from commercial nuclear reactors.

The United States has been seeking a solution to nuclear waste for decades. With 100 reactors in 30 states currently producing almost 20 percent of the nation’s electricity, concern is building. Without a central facility to send the high-level radioactive waste to, energy generators have been storing it on site in steel canisters, in concrete-lined pools of water or in dry casks.

Some fear these growing piles of waste are an accident waiting to happen. Although the federal government is charged with finding a permanent disposal site, state lawmakers are responsible for regulating the “temporary” safe storage of this dangerous material within their borders.

For years, Congress has debated whether and where to establish both interim and permanent homes for the waste, with little success. The concern for many is not so much where the site will be—Yucca Mountain or somewhere else—but when it will be ready.

How Did We Get Here?
The Nuclear Waste Policy Act of 1982 established a national program for the safe and permanent disposal of spent nuclear fuel and high-level radioactive waste. It included a small fee utilities passed on to consumers to help pay for it all. In 1987, Congress designated Yucca Mountain, about 100 miles northwest of Las Vegas, to be the permanent disposal site for the waste.

The federal government would be required to store the waste for an expected time frame of 50 to 100 years.

Other states have made efforts to ensure that nuclear energy remains a vital part of their energy economy. Illinois and New York recently passed laws to prevent existing nuclear plants from having to close because of competition from other energy sources and a relatively low demand for electricity.

Several states and the Trump administration would like to see a temporary storage facility to combine the waste from various sites. California, Idaho, Illinois, Michigan and New Mexico have passed resolutions to encourage Congress and DOE to move forward with temporary sites or the technology to reprocess the spent fuel, as is done in some other countries. Interim storage sites would be designed to hold waste for the length of the Nuclear Regulatory Commission’s licensing (and relicensing) process—an expected time frame of 50 to 100 years.

And, finally, New Mexico and Texas are undergoing the licensing process for private companies to run temporary storage facilities. The private facility in New Mexico, is in the early stages of the licensing process to create a facility to temporarily store high-level nuclear waste. Another, in Texas, is in the process of gaining approval to expand its current low-level storage facility to host high-level waste until a permanent solution is found.

What Are States Doing?
Until a nuclear waste site is ready, legislators are faced with what to do with the waste currently within their states. Here’s a summary of where the waste lives and some of the actions states have taken.

Waste Piles and State Actions
Fifteen states have no nuclear fuel waste in storage, while Illinois harbors 9,950 metric tons, Pennsylvania 7,100 and New York 4,040.

Note: Numbers indicate metric tons of high-level radioactive waste in storage.

■ Have passed a resolution or other public opposition to hosting a nuclear waste site.
■ Require a waste solution or reprocessing technology before building new nuclear facilities.
■ Have other restrictions on constructing new nuclear facilities.

Sources: Nuclear Energy Institute, December 2015; NCSL, April 1, 2017
DOE Working Groups

NCSL provides staff support to the following working groups:

- **Nuclear Legislative Working Group:** State legislators with an interest in nuclear energy and waste management policies who craft the policies that guide NCSL’s advocacy efforts on behalf of states in the nation’s capital.
- **Nuclear Energy Tribal Working Group:** Tribal representatives with an interest in DOE Office of Nuclear Energy activities who engage in government-to-government discussions, build capacity related to nuclear research and development, and share their perspectives on sacred sites, cultural resources, energy infrastructure and tribal sovereignty.
- **Tribal Radioactive Materials Transportation Committee:** Tribal representatives who participate in the National Transportation Stakeholders Forum and are affected by DOE current and prospective shipments of radioactive waste and materials.

Want to know more?

☞ Go to ncsl.org/research/energy

### A Different Approach

Since then, DOE has been using a different tactic to identify communities that may be willing, if informed, to host a waste facility. The “consent-based approach,” encourages input from the public and from state, local and tribal officials. Proponents say it is designed to be a transparent process that considers the public as partners in managing the nation’s nuclear waste.

Using a consent-based approach to siting nuclear waste requires balancing national, state, tribal and local interests. To accomplish this, DOE hosted eight public meetings around the country to structure the process and determine what issues should be included. NCSL and others have suggested DOE rely on elected state and tribal representatives to determine community consent. People concerned about the transportation of spent nuclear fuel through their state, tribal area or community have argued consent should extend beyond the immediate surrounding area of a proposed repository.

DOE’s next step is to design a framework to educate communities about the pros and cons of siting a facility, including the increased national security of having all the waste in one location and the potential economic benefits to the host community. DOE hopes that by bringing states and tribes together, it can finally find a willing and informed community to host a storage site with a publicly acceptable system for transporting waste to it. Canada is undergoing a similar siting process and has identified nine communities with potential interest in hosting a facility.

### The Road Ahead Is Unclear

With the change in administrations come changes in priorities. There’s too much uncertainty to know for sure what the future holds for high-level radioactive nuclear waste, except for one thing. It will be around—somewhere. It takes tens of thousands of years for it to break down.
Yes, No, Maybe So

Social media is powerful. We’ve seen it grab national headlines and spawn months-long debate, analysis and no end of political pontification. But social media tools also streamline communication, information dissemination and advertising. For many legislators, they’re invaluable for connecting with constituents and colleagues, developing policies and staying informed when away from the capitol.

The benefits of Facebook, Twitter and other platforms have made them inseparable from our daily lives. With powerful tools come big responsibilities for everyone—but for legislators and their staffs, using social media ethically is imperative. From knee-jerk tweets and fiery debates to full-fledged meltdowns, lapses in judgment when using this unforgiving technology are carved into stone—documented and, for better or worse, saved for posterity.

The same rules of decorum and professionalism observed in capitols, committee rooms and district offices should apply to social media. With awareness comes deliberation, and with deliberation comes caution, which, in turn, can be your guide to ensuring that posts, likes, tweets and retweets are viewed in context and not misunderstood.

Use the following tips to avoid those regrettable, hastily concocted and way-too-late-to-delete social media proclamations.

**Avoid the appearance of impropriety.** Always do the smell test. On first sniff, does it seem like a good idea? What about on second sniff? If that little voice inside you questions your decision, you might want to listen to it. It is best to err on the side of caution. In many cases, inaction may be better than action. A failure to post or tweet, after all, can never be archived for all eternity.

**Think, think again, then act (or react).** First, and rather obviously, ask yourself whether your post, comment, like or tweet is proper. Can it be taken out of context? Is it in poor humor? But don’t stop there. Think again. That’s right, think again. Then, only after reflection, act. By avoiding knee-jerk reactions and giving yourself time to cool off, you’re less likely to fire off misguided or poorly worded tweets or posts that do nothing but make headlines the following day.

**Don’t be mean.** This may sound silly, but smart, ethical social media use depends on it. Treat others with respect. It’s too easy to feel safe or obscured behind the veil social media provide. But if you wouldn’t say something in an everyday professional conversation, don’t say it on social media. It’s the Golden Rule, folks. It’s as simple as that.

Now, go ahead and post or tweet. Social media certainly can be used to your benefit. And you’re practically guaranteed to find more friends and followers than you ever knew you had.

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**Are You Social Savvy?**

Here’s a quick quiz. With social media, every day is a test, and you’re always being graded.

**Are any posts or tweets truly “private”?**
An exchange might feel private, but consider that all tweets are archived in the Library of Congress. They aren’t going away. It’s always possible that a tweety chicken could come home to roost. And all posts—even email to someone you trust—can be made public, with or without your knowledge or consent.

**What’s more important, speed or accuracy?**
Both are important, of course. But because so many people post and tweet without thinking, it’s up to elected officials to set an example. If you cannot be sure of the accuracy of information you see on social media, it’s best not to share or retweet it.

**Is it OK for elected officials to debate constituents online?**
Elected officials and their staff must respond quickly to their constituents’ needs, but be wary of overcommunicating or being drawn into a heated exchange. It could come back to haunt you. It might make sense to invite a constituent to an offline conversation.

**When staff members post on social media, are they representing themselves or their agencies?**
Staffers have a right to their opinions, but they are also state employees. Having a social media policy is vital. Some policies, for example, allow staff to associate themselves with their employer when posting, but require that they indicate their posts are their own.

Sources: NPR; Santa Clara University Markkula Center for Applied Ethics

**Ethan Wilson is a policy specialist in the Center for Ethics in Government at NCSL. Have you dealt with an ethical dilemma recently? Perhaps on social media? We’d love to hear about that or other questions or comments on ethics. Email Ethan at ethan.wilson@ncsl.org.**
3 Things Research Staff Want You to Know

Research staff are masters of separating good information from the rest.

BY KAE WARNOCK

What Staff Know

This occasional series is dedicated to the little known and sometimes misunderstood work performed by the more than 30,000 legislative staff employees in state capitals across the country.

News websites and apps, newspapers, talk radio, TV broadcasts—legislators must filter more “noise” than ever as they consider today’s challenging policy issues.

As research staff, we provide well-written, accurate, objective data to inform these discussions. We take pride in knowing how to separate fact from fiction. Furnishing this service to the legislative institution is the reason many of us find our work so gratifying.

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We understand the value of good data.

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The people of each state elect their legislators to be their voice in the statehouse. Constituents may want to speak before a committee, or they may have a problem they need help solving. We’re there to make it happen.

Sometimes legislators want to recognize a constituent for his or her accomplishments or express sympathy on the death of an important community member, and we make sure it hits the right note.

Many of us help legislators serve their constituents by providing information on how citizens can participate in the legislative process. We investigate and resolve constituent questions or provide professional, comprehensive casework. Often, we produce congratulatory and memorial resolutions for legislators to present to their constituents.

≈3≈

We know how to work under pressure.

Legislators often do not have much lead time when requesting information; they need the research from us as soon as they realize there’s a question to be answered.

We produce and deliver our work efficiently so that it’s timely and useful. Meeting deadlines associated with legislative and committee work is critical to the success of any governing body. And we know that.

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Kae Warnock is a policy specialist with NCSL’s Legislative Staff Services Program and the NCSL liaison to RELACS.

What Is RELACS?

The Research, Editorial, Legal and Committee Staff Association, known as RELACS, fosters professional development and communication through NCSL among state legislative employees who research, edit, provide legal services, staff committees, draft bills, revise codes, review and compile administrative rules, analyze policy and perform constituent services. As a staffer working in one of these areas, you are automatically a member of the association.

Go to ncsl.org/relacs for more information.

Find professional development training designed for staff at the Legislative Summit, Aug. 6-9, in Boston. ncsl.org/summit
States are balancing the rights of addicted women with the health needs of their developing babies.

BY MARGARET WILE

Every three minutes, a woman shows up at an emergency room because of prescription drug misuse or abuse. Some of them are pregnant. And when they are, and they’ve been using opioids, it can mean death for the mother and painful withdrawal for the baby. A woman’s risk of dying during delivery increases fourfold if she is misusing or dependent on opioids, the American Society of Anesthesiologists reports.

It’s a $1.2 billion problem for states.

The devastation caused by opioid addiction is widely known. More than 33,000 people died from opioid-related overdoses in the United States in 2015, according to the Centers for Disease Control and Prevention.

Babies born “substance exposed” tend to eat and sleep poorly, potentially harming their development. The average hospital price tag to treat one of these babies is $93,400, the CDC estimates. The total annual cost in 2012 (the latest figures available) for caring for these newborns was $1.5 billion, of which $1.2 billion came out of state Medicaid budgets.

The consequences of addiction extend beyond mothers and babies to families, communities and states.

This is a national problem.

As this population of mothers grows, the challenge is protecting mothers’ rights while guarding the well-being of their future children. Some state legislatures and health departments are working hard to find a balance.

Pre- and Postnatal Care Is Vital

An estimated 86 percent of pregnancies among women who misuse opioids are unintended, and many don’t receive early or adequate prenatal care. A lack of prenatal care puts both mother and baby at risk. The chance that a baby will die before the age of 2 months is five times greater when a mother does not receive prenatal care than when she does, according to the Journal of Obstetrics and Gynecology. Lack of prenatal care also is associated with lower birth weight babies.

After the baby is born, the new mother and child still face dangers, especially when the mother is no longer covered by insurance or is unable to obtain daily maintenance medi-
cation, such as methadone. The National Institutes of Health recommend a daily dose of methadone for pregnant women who are trying to quit using opioids. Methadone is one of three medication-assisted treatments approved by the FDA. It reduces withdrawal symptoms and relieves the cravings associated with addiction without causing the euphoric and sedating feelings produced by opioids.

The rates of maternal death directly linked to opioid use and abuse continue to increase, the CDC reports. Accidental overdoses were the leading or secondary cause of maternal death in several states. This issue can be difficult to track, however, since there is no standard process for collecting data on maternal mortality nationwide.

Planned or unplanned, pregnancy can challenge any woman. For those struggling with a dependence problem, even those in recovery, it can be a nightmare.

This was the case for Claire, a woman who was in sustained recovery with the help of daily buprenorphine, a narcotic approved by the Food and Drug Administration to help manage opioid-withdrawal symptoms.

When Claire found out she was unintentionally pregnant, she sought prenatal care. Inexperienced in substance abuse treatment, the ob-gyn took Claire off buprenorphine. This led to a full relapse that included intravenous drug use when she was 30 weeks pregnant. She ended up returning to a treatment facility to get help and delivered a healthy baby. But not every woman experiences a happy ending like Claire did.

**Mom’s Health Care Coverage**

Pregnancy is an ideal time to tackle substance abuse, says South Dakota Senator Deb Soholt (R), a registered nurse. “Pregnancy is a short window. We can measure different results and very quickly see what efforts work best,” she says. “If we tap into that mother-bear feeling, we could change our outcomes, but it will take partnerships to accomplish this goal.”

The four primary sources of health care available to pregnant women are insurance through an employer, commercial insurance through health exchanges, Medicaid and, in some states, the Children’s Health Insurance Program.

The Affordable Care Act includes maternity care as one of the 10 essential health benefits included in all new individual and small-group policies, but it doesn’t include pregnancy as one of the “qualifying life events” that trigger an open enrollment period in states’ health exchanges. Low-income women who are not eligible for Medicaid and do not have their own commercial insurance often are left with few or no options for coverage of prenatal care.

In 2015, New York lawmakers addressed this omission by passing legislation that includes pregnancy as a qualifying life event, allowing women to enroll in the state health insurance exchange at any time during their pregnancy. It’s the only state that has done so. “As a mother,” Assem-
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– Bo Watson
Speaker pro tempore of the Senate
Tennessee

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blywoman Aravella Simotas (D) said at the signing of the bill, which she sponsored, “I know firsthand how important prenatal care is, and this historic legislation ensures that women’s and children’s health are not placed at the mercy of an arbitrary date on the calendar.”

In 29 states, women who do not have commercial insurance and can’t afford it through their states’ health exchanges are eligible for Medicaid immediately through what is called “presumptive eligibility.” Presumptive eligibility allows hospitals and others to provide care and still get reimbursed before a woman’s paperwork has been processed and her full eligibility determined.

Once an eligible woman gives birth, she is covered under Medicaid for 60 days. After that, even if she no longer qualifies for Medicaid, her baby is still covered until his or her first birthday through the Children’s Health Insurance Program.

What States Are Doing

State lawmakers have taken several approaches to assist or intervene when a woman is misusing substances while pregnant. Twelve states require treatment providers to give priority to pregnant women.

West Virginia lawmakers passed legislation requiring Medicaid providers to prioritize substance-abuse treatment for pregnant women. Four state legislatures have passed laws protecting pregnant women in publicly funded treatment programs from discrimination.

Alaska reaches out to mothers who are at a high risk of abusing opioids during pregnancy through the federal Women, Infants and Children program, which provides supplemental food and nutritional education for low-income women who are pregnant or who have young children. WIC staff are trained to screen expecting mothers for substance misuse or abuse. This type of cross-agency work helps the state address women’s health needs no matter how or where they are receiving services.

It’s critical to provide services for women while they are pregnant, says Alaska’s chief medical officer, Dr. Jay Butler. “For some women,” he says, “becoming pregnant can be an opportunity for recovery readiness and openness to seek treatment.”

Physician-Mandated Reporting

Eighteen states require physicians to report pregnant women to child protective services if they suspect substance abuse. Iowa, Kentucky, Missouri and Oklahoma require physicians who suspect abuse to drug-test the woman.

Mandated-reporting laws, though well-intentioned, can have unintended consequences. Some pregnant women will avoid seeking prenatal care and treatment for substance use altogether because they fear what could happen to them or their babies. Tennessee lawmakers let a controversial 2014 law criminalizing substance abuse during pregnancy sunset after two years. The law allowed prosecutors to charge women with assault if a newborn’s “addiction or harm is a result of her illegal use of a narcotic drug taken while pregnant.” Its sponsor, Representative Terri Lynn Weaver (R), said the law urged women to choose between jail and treatment. But doctors and state officials noticed that pregnant women were not seeking prenatal care, and were delivering their babies in locations other than hospitals, out of fear of going to jail or losing their children.

Weaver said she believes the law had a positive impact and that available information doesn’t prove women were avoiding treatment. And she’s concerned about the future.

“Who is going to be the voice of these babies?” she said last year when the law expired.

It’s in the hope of finding voices for both the mothers and their babies that lawmakers are pressing forward, seeking solutions to one part of a complex and messy crisis.
Sometimes when the going gets tough, you’re just not sure how to get going. Like friends you can rely on for support, three recent volumes offer sound legislative perspectives from people who’ve been there. People who get it. People who have made a difference by working with others to get legislation passed or by finding ways to save money while maintaining high-quality government services.

Maybe one of these can be a friend indeed next time you need some sage advice.

**Why Are You Here? A Primer for State Legislators and Citizens**

By Franklin L. Kury

University Press of America, $26.99

“America’s state legislatures have never had more challenging work or been more important to the life of our nation,” writes Franklin Kury, a longtime member of the Pennsylvania legislature. His latest book, “Why Are You Here?” is a pep talk for state lawmakers and the constituents they serve—an effort to bolster the work of legislatures at a time when they need it most. Diligently navigating some of the states’ most pressing problems, Kury provides a concise, yet enduringly rich, source of knowledge and advice for anyone interested in the legislative process.

Kury, author of the 2011 autobiography “Clean Politics, Clean Streams,” brings 50 years of state legislative experience—14 as a member, 36 as a lawyer and government affairs specialist—to this slim, though weighty, volume. In just 100 pages, he covers a lot of ground, from the constitutional foundations of legislative government to the ethical dilemmas lawmakers are bound to face in office.

Addressing increasingly poor public opinion polls and calls for direct democratic practice, Kury reminds us that the legislator’s role is not simply to reflect his or her constituents’ desires, but to work for the greater good. He is an unabashed supporter of representative government, in the vein of Edmund Burke, the great Anglo-Irish politician whom he references several times. But he doesn’t dismiss contemporary calls for greater accountability. Indeed, he encourages the public to take an active role in the work of their legislatures, citing the influence of Pennsylvania music teacher Amanda Holt in that state’s Supreme Court decision calling on lawmakers to provide fairer, more efficient redistricting plans.

In line with that hands-on approach, Kury includes a “Legislative Toolbox” filled with resources and a selection of excerpts for those hoping to find or reawaken their “legislative spirit.” Whether consumed in an afternoon or consulted on a need-to-know basis, “Why Are You Here?” is both a trove of personal knowledge and expertise and a practical guide to the ins and outs of legislative practice.

—John Mahoney
When most people think of government employees, the words “innovation” and “initiative” don’t come to mind. Rather, they think of the eternally long line at the DMV or the soul-crushing experience of obtaining a parking permit. But “Peak Performance,” by Brian Elms with J.B. Wogan, shows that these terms can and do apply when government employees receive training to innovate and are empowered to act on it.

This quick, entertaining read (under an hour!) uses the real-life example of Denver Mayor Michael Hancock, who realized that outside innovation consultants actually had little impact on innovation in the city’s government. To change that, he created Peak Academy, which over four years trained 5,000 staffers to reduce waste and improve efficiency by using lean production techniques. Elms, a veteran of numerous state and local government agencies, was hired to lead the effort.

If you think employees and their directors would beat a path to the training room door so they could make their department or program the innovation leader, you’re wrong. Elms describes the pitfalls he experienced and the lessons he learned. What he conveys best, though, is how the Peak Academy graduates saved millions of dollars and customer service hours for the city and county of Denver. And they did it by sticking to two simple rules: You can change only what you can control, and you cannot purchase any new technologies to do so.

State governments, California’s among them, are now applying these lessons. “Legislative offices and agencies would benefit from streamlining bill drafting, creating a visual process board, handling constituent communications, and otherwise increasing capacity to do more good and be awesome,” Elms said in an interview with State Legislatures magazine.

Brutally honest, humble and inspiring, this book, written with Governing staff writer J.B. Wogan, is a must read for anyone who wants to innovate within their organization or state agency.

—Karmen Hanson and Tricia Simmons

Warning, this book contains words, like “negotiation” and “compromise,” that can make folks uncomfortable. It may be too much for some readers.

Following a fall election campaign in which much was made of outsiders, Bishop offers unapologetic encouragement to all who value the work of political professionals—the legislators, staffers and others who are informed about issues and are willing to work with their colleagues to get legislation passed.

That work is stymied at the state and federal levels by gridlock, Bishop writes, “caused by the excessive partisanship of individual ideologues and doctrinaire pressure groups that spend billions of dollars to influence elections. … I see little respect for the important process of genuine deliberation and group decision making on matters of common public interest. The solution is group work, the formation of alliances across chasms of political identifications and competing interests.”

Bishop knows a thing or two about working with others. He spent 20 years in the Minnesota Legislature, only six of them in the majority. Still, during his time in the minority, he guided more than 200 bills and amendments into law. Bishop dedicates chapters to the approaches that yielded his success, including building trust (basing alliances on respect and friendship, not political debts), sharing power (letting others take credit to move a good idea forward) and interacting with the media (treating them “almost as if they hold a gavel”). Each chapter includes real-world examples of how he used the approaches to help enact legislation.

Common Ground shows people really can get along when they want to.

—Kevin Frazzini

John Mahoney, Karmen Hanson, Tricia Simmons and Kevin Frazzini are NCSL staffers and avid readers.
Assessing Policy or Project Health Risks

Let’s say state officials want to build a new highway and need to know how it might alter noise levels and air quality, and who, if anyone, might be affected by the project. They could learn the answers by conducting an HIA, or health impact assessment—a process that uses data, analytics and community input to give decision-makers insight into how a policy, program or project might affect a community’s health and well-being. It then recommends ways to minimize risks (and the costs associated with them) and take advantage of opportunities to create healthier communities.

These assessments can be conducted without legislation, though some states have passed measures explicitly requiring them. The assessments can be done by government staff, by nonprofits or by private or academic contractors. Since 1999, more than 400 health impact assessments have been completed for a variety of policies, programs and projects in at least 42 states, the District of Columbia and Puerto Rico, according to the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts.

Kentucky, for example, wanted to know what effects a “worksite wellness tax credit” might have on childhood nutrition and obesity, job availability and communities’ overall health. An HIA concluded in 2012 the credit potentially could benefit 30,000 employees and their families and “would likely have positive impacts on the physical and social health of Kentuckians and the economy.” The tax credit was implemented and is available to employers who offer certain wellness programs to employees.

Since 2016, at least 26 HIA-related bills have been introduced in state legislatures in various policy areas.

—Ashley Noble

How HIAs Are Used  Government agencies have completed or contracted for 195 health impact assessments in the following project and policy areas since 2012.

<table>
<thead>
<tr>
<th>Project/Policy Area</th>
<th>Number of HIAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Built Environment*</td>
<td>84</td>
</tr>
<tr>
<td>Transportation</td>
<td>48</td>
</tr>
<tr>
<td>Natural Resources and Energy</td>
<td>15</td>
</tr>
<tr>
<td>Agriculture, Food and Drug</td>
<td>13</td>
</tr>
<tr>
<td>Housing</td>
<td>13</td>
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<tr>
<td>Labor and Employment</td>
<td>6</td>
</tr>
<tr>
<td>Climate Change</td>
<td>5</td>
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<tr>
<td>Economic Policy</td>
<td>4</td>
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<tr>
<td>Education</td>
<td>4</td>
</tr>
<tr>
<td>Physical Activity</td>
<td>2</td>
</tr>
<tr>
<td>Criminal Justice</td>
<td>1</td>
</tr>
</tbody>
</table>

*The built environment includes all the man-made spaces in which we live, work and participate in recreation (homes, buildings, streets, parks and infrastructure).

Source: Health Impact Project

Steps in a Typical Health Impact Assessment

1. **Screen**—identify the plan, project or policy decisions for which an HIA would be useful.
2. **Scope**—identify what health risks and benefits to consider.
3. **Assess**—identify affected populations and how much the decision could affect them.
4. **Recommend**—suggest actions to promote the positive health effects and minimize any negative ones.
5. **Report**—present results to decision makers, affected communities and others.
6. **Monitor and evaluate**—determine the effect the decision has had on health.

Source: Centers for Disease Control and Prevention

State Legislative Action on health impact assessments, 2012 to 2017

Source: Temple University, Law Atlas Project, March 2017
Florida native, attorney Joe Negron won a House seat in 2000 and a Senate seat in 2009. He was elected Senate president in 2016. A graduate of Stetson University and Emory University Law School, he earned a master’s degree in public administration from Harvard University.

What did growing up with six younger brothers teach you about working in a legislature? The importance of organization and compromise, and the value of competition when it is tempered with good will and graciousness. I come from a family modest in means but bountiful in love and opportunity. When you grow up in a big family, you learn that success is more about the group achieving its goals rather than one person trying to be the superstar.

Describe your leadership philosophy. One of my key guiding principles is that I believe in the supremacy of the individual. When I look at proposed legislation, I do so with an essential wariness and skepticism about government even though I’m now part of the government. I think it’s important for people in positions of public service to acknowledge the proneness of government to overreach and to intrude into individuals’ personal sovereignty.

What’s your advice for navigating the differences between members and chambers? I like to tell people that we’re in the persuasion business, not the hectoring and lecturing business. I find that if you approach an issue with a clear point of view but are willing to listen to objections and try to overcome them, that ultimately you’ll be able to build a coalition to get things done.

You are an avid sports fan. What do you like to play? If there’s a ball and they keep score, the Negron boys were interested. I like to play many different sports, although I’m mediocre at some and less than average at most. But if I had an opportunity to play something tonight, I would rank them in this order: basketball, golf, tennis, ping pong, softball.

What do you do to stay at the top of your game? I find that meeting with groups of senators informally throughout the day is a good way to unwind and hear what’s going on. I also try to get to Orange Theory gym at least four or five times a week.

What would surprise people most to learn about you? Probably that I know almost all of the dialogue from “Animal House” and that I’m a huge Chris Rock fan.

What book is on your night stand? One of the fun parts of this job is going to the archives to pick out some historical photographs to put in the president’s office. I chose the actual writ of habeas corpus that Clarence Gideon filed from prison in Florida to the Supreme Court asking for a right to have counsel. And then someone just gave me “Gideon’s Trumpet” by Anthony Lewis. It discusses how that filing led to a historic Supreme Court decision that people had a right to counsel if the government was going to try to put you in prison.

When you were a kid, what did you want to be when you grew up? I joke with my dad that the reason I decided to be a lawyer at an early age was the complete lack of due process in my family growing up, because you can imagine that with seven boys, my dad ran a very tight ship. I’ve been interested in government since I was a teenager. I have a picture in my office of me, when I was 14 years old, talking to Nancy Reagan, and then I had the opportunity to meet President Reagan and shake hands with President Ford. As a young person, I tended to read biographies about political figures or people in government, whether it was Alexander the Great, Winston Churchill, Robert Kennedy, Hubert Humphrey or Barry Goldwater.

What final words would you like to share? One of the best things we can do to improve the economy of any state is to have a strong university system where young women and men have an opportunity to prepare to compete for their dreams. I think there is a direct nexus between a strong, prominent university system and long-term economic growth and prosperity.
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