HOT TOPIC: 2012 Legislative Session

What Can You Afford?

State Pensions On the Rebound

Heated Rhetoric in Abortion Debate

Walking the Line Between Sex & Politics

Reforming from Within

“We were willing to listen to anybody and everybody who had an idea of how to be more efficient in daily functions.”

—Minnesota House Speaker Kurt Zellers

PLUS: Supreme Court Ruling on Federal Health Care Reform
DON’T SETTLE FOR JUST A SNAPSHOT

get the big picture on education in the September/October Capitol Ideas.

To view the current & past issues of the magazine, visit www.csg.org/capitolideas.
ON THE COVER
Minnesota House Speaker Kurt Zellers rose to leadership following the 2010 elections that saw the Tea Party influence sweep Republicans into leadership across the country. In Minnesota, Zellers said, the Republican takeover of the House had more to do with the candidates that ran and the issues on which they ran.
Photo by Tom Olmscheid

JULY/AUGUST 2012

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44 NLGA 50TH ANNIVERSARY
The National Lieutenant Governors Association is celebrating 50 years of service to those state officials who are first in line of succession to the governor’s office.
On the morning of June 28, on the last day of the Court’s term, I stood on the steps of the U.S. Supreme Court in Washington, D.C., and watched history unfurl. A phalanx of reporters and cameras were positioned to capture the Court’s ruling on the constitutionality of the far-reaching Patient Protection and Affordable Care Act, the signature legislative enactment of President Barack Obama’s administration.

By the narrowest of margins, the act was upheld as constitutional. Despite months of intense rhetoric, millions of dollars spent to shape public opinion and the high stakes of a presidential campaign looming large, the Court’s ruling did not set off riots or violence of any kind. Troops were not stationed around the Court. Indeed, the majesty of our system of government was in plain view for the world to see. The institutions of a government of laws worked.

While the Court’s ruling settled the legal status of the act, it is clear that the fate of health care reform in the United States remains unsettled. States are now in the hot seat to determine whether and how to move ahead with creating insurance exchanges and whether to expand Medicaid eligibility. It is also clear the presidential campaign will be waged in part as a referendum on the act itself. This is an exciting and challenging time to be involved in politics and public service.

The ruling of the Court showed great respect for the role of the states in our federal system. It specifically struck down as overly coercive the provisions of the act denying all Medicaid funds to a state that elects not to expand eligibility. The decision also limited the expansive Commerce Clause power by ruling the mandate to purchase health insurance was not a permissible exercise of that power. We review the impact of the decision for our member states in the pages that follow.

In 2012, state legislatures considered and enacted many laws that will likely be the subject of future legal challenges. Controversial issues such as voter ID, abortion, same-sex marriage, contraception and guns provided the flash points for contentious debates in many state capitols. How states addressed these issues is featured as our hot topic.

Whether at our nation’s highest court or in the halls of our state capitols, state leaders play a pivotal role in shaping the future. CSG is honored to partner with you as we explore the frontiers of the future together.

Very truly yours,

David Adkins

“States Play Pivotal Role in Shaping the Future”

“The government of the United States has been emphatically termed a government of laws, and not of men.”

—Chief Justice John Marshall in Marbury v. Madison, (1803)
“These two positions are almost diametrically opposed to each other. And there’s no common ground it seems.”

— Sung Won Sohn, a California State University economics professor, quoted by The Associated Press contrasting the differences between Democrats’ and Republicans’ evaluation of the economy

“I think same-sex couples should be able to get married.”

— President Obama, in an interview in May with “Good Morning America,” discussing the evolution of his support for gay marriage

“You can’t vote because you’re dead. You passed away, according to our voter rolls.”

— Florida Gov. Rick Scott, in a story on Politico, recounting what a poll worker told him when he tried to vote in 2006

“We’re going to see this court decision come down, and then we’re going to have to determine where we go from there.”

— Iowa Gov. Terry Branstad in the Des Moines Register saying what comes next after the Supreme Court rules on the constitutionality of the Affordable Care Act

“We value diversity. We value inclusion. We always have … and we always will.”

— Ken Charles, vice president of global diversity and inclusion for General Mills, in the Minneapolis Star Tribune opposing the anti-gay marriage amendment on the November ballot

“I felt it was a no-brainer. If you are on your own property, protecting your own stuff, you should be able to carry a gun.”

— Kentucky Rep. Dennis Keene, who co-sponsored House Bill 484, which would not require people to have a license to carry a concealed deadly weapon in their home or business that they own
Connecticut Hopes to Restart GPS Monitoring of Domestic Violence Offenders

Connecticut officials are trying to figure out how to restart a successful pilot program designed to aid victims of domestic violence. The program used GPS monitoring devices to keep track of 119 high-risk offenders in Hartford, Danielson and Bridgeport, The Hartford Courant reported.

The program began in October 2010 and was funded by $140,000 in federal stimulus money. After the stimulus money dried up, the state was unable to continue the program. The last devices were placed on offenders in July 2011 and a GPS unit was taken off the last offender in March 2012 when his case was closed.

Connecticut House Speaker Christopher Donovan has created a task force to look for a solution to the funding problem. The Speaker’s Task Force on Domestic Violence, chaired by Rep. Mae Flexer, has been working with Congress to find federal funding to restart the program. It would require an estimated $2 million to expand the program statewide, according to The Hartford Courant.

Donovan said that while the state has been unsuccessful in securing federal funding, legislative staff has been studying ways to restart the program on a smaller level using state money.

A Connecticut judicial branch study showed the GPS monitoring program was successful.

“The program … led to apparent behavior change for defendants and an increase in victim safety,” the report stated.

Courts used an 11-question assessment form to determine offenders who were most likely to harm a domestic partner, according to Stephen R. Grant, director of family and juvenile services for Connecticut’s judicial branch.

Grant told The Hartford Courant that offenders’ behavior was definitely affected by the monitoring devices.

“It’s literally, ‘Big Brother is watching.’ The hookup is a very intimidating process,” he said.
USDA Invests in Conservation Efforts in Mississippi River Basin

The U.S. Department of Agriculture in May announced the Natural Resources Conservation Service and its partners will invest $32 million toward water quality and wetlands improvement projects in seven Mississippi River Basin states.

Of the seven states to receive this funding, six—Arkansas, Kentucky, Louisiana, Missouri, Mississippi, Tennessee—are in the Southern region. Nearly $20.2 million will fund the restoration of hardwood bottomland along the river from Kentucky to Louisiana, according to a USDA press release. Arkansas and Iowa will receive $5.4 million and $6 million, respectively.

“These projects are great examples of USDA working with partners to improve water quality in the Mississippi River Basin,” U.S. Agriculture Secretary Tom Vilsack said in the release. “Through these projects, agricultural producers are voluntarily taking action to restore and protect wetlands on private lands in watersheds that USDA has identified as being critical to water quality restoration in the basin.”

Once established, these projects will prevent sediment from entering waterways, decrease flooding and enrich the wetland ecosystem. The USDA estimates this investment will restore 11,400 acres to wetland habitat. Since 2010, the USDA’s Natural Resources Conservation Service has financed approximately $17.8 million in ongoing conservation and wetland restoration projects along the Mississippi River Basin.

The service provides funding for these projects through its Wetlands Reserve Enhancement Program. The USDA works with state and local governments and private landowners to conserve and protect our nation’s natural resources—helping preserve our land, and clean our air and water.

ADDRESSING DYSLEXIA
Mississippi Gov. Phil Bryant, a 1998 Toll Fellow, in May signed into law a bill that requires kindergartners and first-graders to be screened for dyslexia, a reading disorder that occurs when the brain does not properly recognize and process certain symbols—like letters in the alphabet, according to The Clarion Ledger. The measure also permits dyslexic students in grades K–6 to transfer to another public or nonpublic school that staffs a dyslexia therapist. Bryant signed a separate bill to provide scholarships toward the study of dyslexia therapy.

RETIREMENT SYSTEM
The Louisiana legislature in May approved Gov. Bobby Jindal’s proposed 401(k)-type pension plan for future state employees. According to The Advocate in Baton Rouge, House Bill 61 will replace the existing defined benefit plan for new government hires. Contributions from employees and employers—state government agencies—would be invested by state retirement systems, with individual accounts credited with investment earnings each year.

RETIREMENT INVESTMENTS
A recent study by Auburn University economist Keivan Deravi estimated the Retirement System of Alabama has invested $4.6 billion into the state’s economy between 1990 and 2011. Those investments added about $28 billion to the state’s gross domestic product, $14.3 billion in earnings and 282,564 full-time jobs, according to The Montgomery Advertiser.

STATE REFORMS
Oklahoma Gov. Mary Fallin signed legislation in May to implement several changes to the operation of Oklahoma’s Department of Human Services, according to The Oklahoman of Oklahoma City. The changes include a $25 million Pinnacle Plan for expansion of child welfare service, public disclosure of cases involving child death or near death by abuse or neglect and realignment of department oversight, pending voter approval.

JUVENILE DELINQUENTS
Since 2006, Louisiana has transformed into a leader in providing programs that helps juveniles steer clear of future trouble, according to a national survey cited in The Advocate of Baton Rouge. The study identified Louisiana as one of the top four states in the nation using evidence-based programs for problem intervention. Louisiana also has one of the highest percentages of the relevant population utilizing the public services provided, The Advocate reported.

To learn more about these and other developments in the Southern Region, visit: capitolideas.csg.org and www.slcatlanta.org.
The Midwest

EXPANDED GAMBLING
The Illinois House in May passed a bill that would allow slot machines at horse racing tracks across the state. Five new casinos also would be permitted under the legislation. The bill represents the single largest expansion of gambling in Illinois in a generation, the St. Louis Post-Dispatch reported. It is uncertain what would occur if the bill is sent to Gov. Pat Quinn. He has previously indicated his opposition to any measure to put slots at racetracks.

STAGE SAFETY
In response to the deadly stage collapse at the 2011 Indiana State Fair, the state’s legislative council recently commissioned the Outdoor Stage Safety Committee, according to The Courier-Journal in Louisville, Ky. The committee will search for ways to prevent another stage collapse like the one that killed seven people last year. The committee was created by Senate Enrolled Act 273, passed during the 2012 legislative session.

INSURANCE PREMIUM HIRES
The Michigan House Government Operations Committee in May passed legislation that would double health insurance premiums for retired legislators, The Detroit News reported. Under House Bill 5548, retired legislators and some active legislators grandfathered into the retirement plan would be required to pay for 20 percent of health care costs. The current law, signed by Gov. Rick Snyder in 2011, set the cap at 10 percent for legislators.

TOURISM IMPACT
Heritage tourism—tourism tied to historic sites—brought in $196 million to Nebraska’s economy in 2011, according to a May report from the University of Nebraska-Lincoln’s Bureau of Business Research and the National Trust for Historic Preservation. The study looked at the economic impact of visitors who came to view historic sites, the operation of the sites and the contribution of Nebraskans who might have gone out of state if not for local historic sites, according to The Lincoln Journal Star. The report attributed 70 percent of the $196 million to out-of-state visitors.

ELECTRONIC POLL BOOKS
Three rural South Dakota counties planned to use electronic poll books and vote centers during the state’s June 5 primary, according to the Rapid City Journal. Workers in Hyde, Potter and Sully counties were trained to use the electronic poll books to check in voters on laptops. With the vote centers, residents are able to vote anywhere in their jurisdiction, not just in their precinct. The electronic poll books already have been used in Sioux Falls elections.

Ohio Supreme Court Upholds State’s Indoor Smoking Ban

The Ohio Supreme Court in May unanimously upheld the state’s workplace indoor smoking ban, the Cleveland Plain Dealer reported. Zeno’s, a Columbus bar, unsuccessfully argued the ban was unconstitutional.

Zeno’s had been cited and fined by the Ohio Department of Health 10 times for violating the indoor smoking ban between July 2007 and September 2009. The bar never paid any of the fines and was subsequently sued by the state health department for nonpayment.

The health department initially lost its case in Franklin County trial court. The court indicated Zeno’s should not be punished for something its customers were doing. The 10th District Court of Appeals later overruled the lower court’s decision. The appeals court ruled the bar intentionally violated the law by allowing patrons to smoke. Zeno’s appealed the decision to the state’s Supreme Court.

In its ruling against Zeno’s, the Supreme Court said the bar didn’t have a “proper constitutional argument” based on the fact it never appealed the 10 citations and fines through lower court. In the ruling, Justice Judith Ann Lanzinger said, “Our review of the act leads us to conclude that it is neither unduly oppressive nor arbitrary in its restrictions.”

The workplace smoking ban was a ballot initiative approved by voters in November 2006. The law bans smoking in any enclosure where employees are working. The law exempts private residences, outdoor patios, private clubs, tobacco shops, and designated smoking rooms in hotels and nursing homes, according to the Plain Dealer.

To learn more about these and other developments in the Midwestern Region, visit: capitoleides.csg.org and www.csgmidwest.org.
Colorado Gaming Commission Raises Casino Tax Rate by 5 Percent

The Colorado Limited Gaming Control Commission in May unanimously voted to raise the state’s casino tax rate by 5 percent, the Denver Business Journal reported.

The increase will bring the casino tax rate back to 2011 levels, raising the highest tax rate from 19 percent to 20 percent.

The commission cut the tax rate a year ago to help the state’s struggling casino industry. After that controversial decision, a disappointed Gov. John Hickenlooper replaced the entire five-member board.

The commission believes its decision to increase the tax rate will not substantially damage the state’s largest casinos and will help state agencies recoup revenue lost during the past year.

Commission Chair Robert Webb cited the passing of Amendment 50 as another reason behind the tax increase. Under the amendment passed by voters in 2008, the amount of taxes state casinos pay was reduced from 40 percent to a maximum of 20 percent. That factor, coupled with the reported $7.5 million in profits for the Colorado casino industry in 2011, made the decision clear for Webb.

“I’ve come to the inevitable conclusion that ... when you look at the profitability and the trend of profitability, it would seem to me to indicate clearly that if we restore the rates to where they were in 2011, then a reasonable profit can still be assured,” Webb told the Denver Business Journal.

The tax increase will take effect July 1. The Colorado Division of Gaming estimates the tax increase will produce an additional $6 million in revenue.

SCHOOL CALENDAR PROPOSAL
If California voters reject Gov. Jerry Brown’s proposed income and sales tax initiative in November, school districts may receive the option to cut up to 15 days from their school year. The San Francisco Chronicle reported in April that Brown recommended giving districts the option of reducing days to help offset automatic budget cuts.

Public schools would take a tremendous hit if the initiative fails, with close to $5.5 billion out of the $6 billion in involuntary cuts coming from education.

BYCATCH SALMON
Salmon that are incidentally caught by commercial fishing boats while going after other fish in Oregon will no longer be wasted, The Associated Press reported. Gov. John Kitzhaber in May signed the bycatch bill, which would give the normally discarded salmon to the state. Under the law, processors would keep some of the salmon to defray costs and food banks would buy the rest at a substantial discount.

JOBS RECOVERY
It will take Nevada more than five years to regain the estimated 170,000 jobs lost during the recession, according to a report released by forecasting firm IHS Global Insight. Nevada had the nation’s highest unemployment rate in May at 11.7 percent and is one of three states IHS Global Insight identified as not returning to pre-recession employment levels until sometime after 2017, the Las Vegas Sun reported.

CRIME STOPPERS
New Mexico Corrections Secretary Gregg Marcantel would like all state prisons to have Crime Stoppers and rape crisis hotlines for inmates to report sexual assaults, according to The Associated Press. Marcantel said the state will look at strengthening reporting policies and procedures, as well as pushing more laws intended to fight sexual assault in prisons. The secretary’s comments are in response to a lawsuit filed in early May by a former inmate, alleging a prison guard raped and threatened him.

CAPITOL RENOVATIONS
Wyoming’s state budget that took effect July 1 includes $4.4 million to construct a new state office building. The new complex would accommodate some agencies currently housed in the Capitol as well as in various leased office spaces, according to the Casper Star Tribune. In addition to the new building, plans include a renovation of the current Capitol. The state hopes to eliminate much of the $6.3 million it pays each year to lease office space.

The West
EMERGING TECHNOLOGY TRENDS FOR STATE GOVERNMENTS

The past 12 months have been important for new developments in technology. Mobile phones helped activate the Occupy Movement across the U.S., while social networks brought down more than one elected official.

For those working in and alongside state governments, being aware of emerging technology trends is paramount to effectively serving any constituency.

At the recent CSG National Leadership Conference, I outlined technologies used for monitoring our behaviors and communications, tools for storytelling and technology that can be used to advance your position and agenda in both the digital and physical worlds.

Pictures of our faces—photos we’re posting to Facebook, for example—can now be used to digitally identify us by law enforcement and others. We are uploading millions of photos every day to social networks and, in the process, we’re attaching rich data along with them—who’s in the photo, where the photo was taken, even what equipment was used. Combined with social check-in services, which continually show our physical locations and who we’re with, a number of clever search tools have emerged that can effortlessly divulge a person’s name, age and interests simply by snapping a photo of his or her face.

While sophisticated users have expressed concerns about their privacy, younger mobile and social network users are more and more willing to share everything with everyone, even strangers. Many of these services change their terms of service often, but most users aren’t aware of what personal information is being shared with the outside world.

Image recognition algorithms have become sophisticated enough that we can simply wave our phones over someone’s face, and if she has a public Facebook profile, we can immediately learn numerous details, from her hometown to her spouse’s name to her whereabouts at that moment. With the right software, we can even predict her Social Security number with great accuracy.

Outside of image recognition, social proximity networks have become extremely popular and simple to use. It’s becoming easier to track people in the real world based on their mobile activities. New apps such as Sonar (www.sonarapp.com) and Rapportive (rapportive.com) can help you learn the identities and personal details of everyone within a given proximity.

Everyday people are using new tools to create groundswells in order to tell their own versions of an event. Websites such as Change.org (change.org), DoSomething (dosomething.org) and PopVox (popvox.com) offer creative ways to message constituents, while Storify (storify.com) has emerged as a fantastic, easy-to-use platform for aggregating social media content around an issue, candidate, cause or elected official.

The new technology presents an opportunity to identify, track and engage with influencers. Some new startups, such as Klout (www.klout.com) and PeerIndex (www.peerindex.com) are attempting to assign a numerical value to rank someone’s pull in the digital world. If you’re active on Twitter and Foursquare, and if others seem to amplify your message, you’ll achieve a high score. Recruiters and headhunters are now using these numbers, while political observers are paying close attention to who’s driving the conversation online.

I encourage you to look at these tools and to discuss emerging platforms, networks and technologies with your staff on a regular basis. Think about how those you serve are using them, and also be aware of how they can be used against you or your cause.

If you would like more information on these or other emerging tech trends for 2012, you can view or download a white paper at webbmediagroup.com/annual-report-tech-trends-2012.
A SOCIAL SESSION

As states continue to wrestle with a slow-growing economy, legislators looked to shrink the size of state government in an effort to get state finances under control. That meant action on state pensions, as well as finding new ways to make government more efficient. With little funding for new programs, legislators addressed several social issues, ranging from contraception and abortion to guns and voter ID. Policymakers also came up with some innovative ways to address issues in their states.
Wants & Needs Meet What Government Can Afford
States Strive to Find a ‘New Normal’ in Providing Services by Mary Branham

When Jennifer Granholm was governor of Michigan, she had to make cuts in state government—a lot of cuts.

“It was two terms of shrinking the size of government and dealing with the shrinkage of tax revenues … from the contraction in our economy,” Granholm said.

She cut nearly $15 billion of state spending, shrinking the size of Michigan state government by 13 percent, more than any state in the country, from the turn of the century to the end of her second term in 2011.

It was necessary, but it wasn’t easy.

Granholm and others believe many people elected with a promise of shrinking state government, cutting taxes and eliminating waste are finding out just how difficult it is.

“The kill government and drown government crowd, I just don’t think are living in reality,” she said. “We have to fund not just the jobs but the services those jobs provide.”

But states are required to balance their budgets, and funding those jobs and services takes an increasing amount of money, as everything from health care costs to fuel prices rise. With the Tea Party wave taking hold in state legislatures in 2010 with promises to cut or maintain current taxes, states across the country have had to find a way to shrink the government as well.

Cutting Taxes

As states pull out of the Great Recession, some policymakers have proposed slashing taxes or changing the tax code as a way to attract more businesses to the state and/or offer some relief to taxpayers.

But that’s treading on dangerous ground, according to economist Bill Fox, director of the Center for Business and Economic Research at the University of Tennessee. Fox studies state tax policy.

He said states are seeing an increase in tax revenues because of economic growth. Policy-makers can feel comfortable in cutting taxes now, he said, because revenues are growing pretty well and growth rates and revenues are pretty strong.

“This sort of happened—not to the same degree—after the previous recession of 2004-05,” he said, “where states were cutting tax rates because they were on the upside of the business cycle.

“When the recession came, it was, ‘Oh, shoot, what do we do now?’”

Business cycles happen, Fox said. “If you’re on the upside, there will be a downside. States may be sorry that they’ve made those adjustments.”

But several states have made such adjustments. The Kansas legislature passed a bill to reduce individual income taxes and eliminate state taxes on business income claimed on individual returns. Gov. Sam Brownback signed that bill into law in May.

In Oklahoma, however, “The political will to reform the tax code was just not there,” House Speaker Kris Steele told The Associated Press. Gov. Mary Fallin’s plan to slash the top rate of the state income tax from 5.25 percent to 3.5 percent failed.

North Dakota voters in June considered eliminating all property taxes in the state and depending on a commodity-based tax system.

“What the state has done is subsidize a share of residents’ local tax bills. That means the state is giving more money to the local school districts. Those districts, in turn, can’t raise rates, he said.

“The price tag keeps going up. We need to make sure we’re cutting taxes, not just padding budgets for people,” he said.

Miller, a Republican, isn’t opposed to cutting taxes.

“We need to cut taxes in this state because we do have the money to do it,” he said. “It’s very important that we cut taxes. We just have to make sure we do it in a way that is equitable, that somebody is not being penalized in the process.”

Miller was concerned about eliminating property taxes in the state and depending solely on a commodity-based tax system.

“The oil revenue that we’re getting needs to be used to fix our infrastructure, update things we haven’t updated in 50 years or more and sock it away for the future so we can keep

WHAT CAN STATES AFFORD?

As state policymakers strive to shrink the size of state government and costs, many must make tough choices about what they can afford. In California, Gov. Jerry Brown proposed eliminating the California Commission on the Status of Women. Academy Award-Winning Actress Geena Davis joined lawmakers at the state Capitol in Sacramento in April to announce new funding for the commission. At right is Assembly Speaker John A. Perez. In Missouri, the University of Missouri Press—where books are shelved in the front hallway of the Columbia, Mo., offices—wasn’t so lucky.

The press is scheduled to close this year due to budget cuts.
Wants & Needs Meet What Government Can Afford States Strive to Find a 'new normal' in Providing Services by mary branham

“It’s a matter of what you want to do, what you’re obligated to do and what your resources will allow you to do.”

—Stuart Drown, executive director
California’s Little Hoover Commission
taxes low for the future,” he said. “That’s the blessing we can get for the oil revenue, but we don’t want to become dependent upon it.”

Changing a state tax system isn’t easy, as policymakers in Oklahoma and Missouri learned this year.

Even in Kansas, where Brownback made cutting taxes his signature issue. The governor started the tax cut debate, but stressed the need for balance in a March news conference.

He said the tax cuts had to be balanced with “pay-fors” to keep the package responsible.

“That’s where you get the tough piece of it,” Brownback said in that statehouse news conference. “It’s easier to say, ‘I’m just for cutting all of this,’ and then, well, what about the hole that’s here in the budget?”

That’s the dilemma that Fox, the Tennessee economist, sees as well.

“It’s foolhardy policy to create tax structures based on revenue performance on the upside of a business cycle,” he said. “There will be a consequence at the other end.”

Shrinking Government

The more responsible way to deal with tough budget situations, Fox believes, is to have a serious discussion about what the states should and should not be doing.

“We need to figure out what government should do and get some sense of that from the expenditure side,” he said, “and we need to set a tax structure to be able to do that and then get out of the way and let government happen.”

While states have talked about shrinking government, few have offered concrete plans about what that really means. Some propose across-the-board cuts that reflect the amount lost with a shrinking revenue stream that comes with cutting or freezing taxes or from contracting economic growth.

“Across-the-board cuts are cop-outs,” said Granholm, the former Michigan governor.

Her cuts came from a scalpel-like precision on the budget. The state fair, a part of Michigan’s long history—gone. The Department of History, Arts and Libraries—no more grants.

“In order to prevent senior citizens from being cut off from Medicaid, … I prioritized health care for senior citizens and children and people with disabilities over that,” she said.

Those are the challenges many governors and legislators are still facing.

Take California, where the state continues to face a $16 billion shortfall.

“This means we will have to go much farther and make cuts far greater than I asked for at the beginning of the year,” Gov. Jerry Brown said in an online video.

Brown is proposing a tax increase, and is asking California voters to decide the issue in November. If voters don’t approve the hike, it will force severe cuts to schools and public safety, Brown said.

Like all California governors, Brown must submit his plan to the state’s Little Hoover Commission, a state organization in its 50th year that is charged with making recommendations to the legislature and governor on how to increase efficiency in executive branch operations.

It’s not an easy task, said Stuart Drown, executive director of the commission.

“Some quarters of government have not accepted the new normal and that’s really complicated the discussion about how to restructure government to make it more efficient and to deliver the level of services that we want to with the resources that we have,” he said.

Part of the California plan shifts some state responsibilities to the county level along with some, but not all, current funding, Drown said. Counties haven’t had the discussion about prioritizing the services.

James Mayer, executive director of California Forward, a nonprofit organization whose mission is to work with Californians to help
create a “smart” government, calls the process “a devolution of responsibility.”

Some of it, like the statute that moves the responsibility for offenders from the state to county levels, is intentional, he said.

“Some of it is unintended because the state has stopped paying for things it had been paying for and they’re not necessarily things that people don’t want to do,” he said. “Often times, that means cities and counties are stuck trying to do it.

“The challenge is not just to be devolving, but to be truly realigning and re-engineering.”

Policymakers in some states are proposing to do just that.

Pennsylvania House Speaker Sam Smith, a Republican, proposed shrinking the size of his chamber from 203 seats to 153 seats and shrinking the size of the Senate from 50 to 38.

“In order to right-size Pennsylvania’s government, the legislature needs to put its own house in order,” Smith said in an April press release.

He argued that the legislature-constituent relationship wouldn’t be adversely affected.

“Real time communication with multiple friends and neighbors back in our legislative districts is as different from the telephone system of 1968 as that system was to the Pony Express,” he said in the release.

The Pennsylvania House approved the resolution in April. It is now under consideration in the Senate. Reducing the size of the legislature will require passage in two consecutive sessions, followed by approval from voters.

In other states, major reorganizations have been proposed or completed. In North Carolina, for instance, Gov. Bev Perdue combined three cabinet level agencies to create the Department of Public Safety, the largest agency in state government, that will employ 25,000 people. In Virginia, Gov. Bob McDonnell eliminated 19 state boards and commissions and combined 23 others.

Accepting the New Normal

While all that may help, many believe more action and serious discussions may be needed.

“It’s a matter of what you want to do, what you’re obligated to do and what your resources will allow you to do,” Drown said.

After those decisions are made, Granholm said, leaders must make sure everyone understands what they will get in the way of services.

“You have to be honest with citizens that they cannot have their cake and eat it too, especially in these tough times,” she said. “If they want good schools to send their kids to, then they are not going to be able to have zero taxes. It’s just not going to happen.”

Drown expects the tough decisions facing state policymakers will continue for some time.

“This is the new normal,” he said. “We’re going to have to be scrubbing this budget every year and coming up with new ways every year to do things better. That’s a lot of work and it takes a new approach to government.”

That said, Drown relates the words of former California Gov. Pat Brown at the inaugural meeting of the Little Hoover Commission that he believes are just as relevant today:

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

Across-the-board cuts are cop-outs.

—Former Michigan Gov. Jennifer Granholm

Cuts and Effects

California Gov. Jerry Brown discussed the cuts he has already made to help reduce the state’s budget deficit as he unveiled his proposed $92.5 billion 2012-13 state budget at a Capitol news conference in Sacramento in January. Those affected by state budget cuts often rally to fight for their cause. In photo at left, parents and child care providers from Illinois rallied for child care funding restoration and against massive budget cuts at the Illinois State Capitol in Springfield in May.
Many credit the shift in several legislative changes from Democrat to Republican control in the 2010 elections to the Tea Party. What do you think convinced voters to make these changes in general, and Minnesota in particular?

“I think there was a focus on the fiscal responsibility, managing the budget a little bit better than it had been done in the past. I would also give a lot of credit, especially in Minnesota, to our candidates. The now majority leader, Matt Dean, and I made a very concerted effort to go out and recruit people that probably weren’t the first to raise their hand and say, ‘Oh yes, I’ve been on city council, then I was mayor and county commissioner and state legislator is the next logical choice.’ We went and found people who were very reluctant.”

And the Tea Party influence?

“The Tea party movement and some of the influences around the country (were) in other states that didn’t have the majority. We had had the (House) majority in 2006. … Those other states hadn’t had Republican (majories) for decades or generations. … So I would say about 75 percent of our success was based on our candidates and then our candidates also carrying the message to their districts too, which was jobs, the economy, not spending the way we used to.”

What were some of your goals in this legislative session?

“A lot of it focused on reforming government. We had seen time and again, there’s a lot of duplication. … We looked at it from the broader concept of government should not force the taxpayer or business owner, somebody coming to the government for a permit or a license for some sort of objective that the government has to sign off on, they shouldn’t have to chase the government around. The government should tell them where to go. … Our driving principle was to balance the budget without a tax increase and then reform government.”

How did you work to reform government?

“We asked government to help redesign itself. There are a number of initiatives from the business community, from outside agencies, from foundations. We were willing to listen to anybody and everybody who had an idea of how to be more efficient in daily functions. … It was reforming from within. And we also spent a lot of time in the two years prior to being elected to the majority traveling the state and asking business owners, … what is it each and every day that makes it more difficult as a business owner? Without question, it was the bureaucracy. … There was just absolutely no consistency and it was across just about every different kind of agency or service or product.”

What is the best way to shrink government?

“Technology is almost always a good answer. … We have got to use technology and focus on a smaller workforce today because in the next five years to 10 years, (retirement of many state workers) will be here and then we’ll have to react to the 10 percent cuts or the 11 percent cuts, where this, we can do in a gradual way. If someone is going to retire, we can offer them an early retirement, and we know in six months they’re going to be leaving, it’s easier to then introduce technology or to consolidate those services into one office or one agency versus having them spread out over several (agencies).”

What challenges have you faced in getting some of the goals accomplished?

“With 33 freshmen out of a 72-member majority, there are lots of new people. … Almost half of our caucus has never been involved in putting together a budget at the Capitol, so we had to spend a lot of time answering questions and then building up trust. … Everybody being new to the process is great in a lot of ways, but it also does present those challenges.”
Rep. Kurt Zellers took the reins as speaker of the Minnesota House of Representatives after the 2010 elections put the Republicans in the majority. The shift in House leadership gave Republicans control of both legislative chambers for the first time in decades.

**7 How has the working relationship changed with the other party?**

“In my entire time at the Capitol, on just about every one of the bills that I’ve authored, I’ve had a Democrat co-author on there. I have always worked really well with them whether we were in the majority or I was in the minority. … We have three rules: One, we act like we belong there; two, are no surprises; and the third is to be respectful of everyone at the Capitol, whether it’s our staff, whether it’s Democrat members, Republican members, House or Senate.”

**8 How does having a Democratic governor affect the ideas you present and how you present them?**

“It is a challenge in how you present ideas to him. He just looks at it from a different perspective. You have to know the limits and where they just can’t go. We knew that Gov. (Mark) Dayton could not go along with some of the labor reforms. Labor unions were the only people who endorsed him in his campaign. … We knew it would be very hard for him to do anything that would … severely cut or limit or reform the way those unions worked. My challenge is to explain to him that our members got elected, a majority of them … all ran on (the promise that) we’ll balance the budget without raising taxes.”

**9 There’s a lot of discussion about the growing partisanship in Washington, D.C., and spreading to state capitols. Is there still a good civil discourse in the legislative process?**

“If you were to ask some reporters or lobbyists, they would probably say it’s just as bad. … We have the same political ideological splits now. We have people on the far right and far left, just as they’ve had since the beginning of politics. … It’s a very serious business that we do, but there are a lot more important things in life than holding a grudge about somebody offering an amendment or the governor vetoing my bill. From my personal perspective, there are very few things that I will take personal, if anything, that would lead me to make sure that some Democrat bill doesn’t come up for a vote or to make it personal with anybody.”

**10 The fiscal situation seems to be improving in many states. What is the situation in Minnesota and to what do you attribute it?**

“We are on much better fiscal footing. … Again, it’s bringing the consistency to the business community, whether it’s the small businesswoman who has a small manufacturing plant in central Minnesota or a Cargill or 3M, two of our big legacy Fortune 500 companies. Bringing that consistency to the workforce and also the economy allowed them to feel comfortable that, ‘OK, I’m not going to have more rules. There aren’t going to be more regulations that I have to spend time and money dealing with accountants or lawyers and I’m also not going to have to take money out of R&D or new hires or new acquisitions for taxes.'
State Pension Systems on the Rebound

by Jennifer Burnett

Things are starting to look up for state pension systems.

“Conditions affecting public pension plans continue to improve,” said Keith Brainard, research director for the National Association of State Retirement Administrators.

That’s good news following years of warnings about the sustainability of state public pension systems. A Pew Center on the States 2010 report warned of a $1 trillion gap between what states had set aside for pensions and the real price tag for those benefits.

Economic conditions in general have been improving, especially on Wall Street, which is closely tied to the financial health of public retirement systems. Corporate stocks and bonds make up more than half of all cash and investment holdings for state and local public employee retirement systems.

But the improved health of pensions isn’t just because investment markets are on the rebound; states have taken decisive action that also has helped the ailing systems.

“States have taken on some major reforms over the last few years,” said Brainard.

Those reforms include higher employee contributions, a higher age or more years of service to qualify for retirement, and reductions in cost-of-living adjustments, or COLAs, for future or existing public employees.

Making Changes

Rhode Island employed many of the strategies Brainard cited in a complete overhaul of its pension system this year. It had taken three previous attempts during the past six years to get its pension house in order, Richard Licht, director of Rhode Island’s Department of Administration, said during a session at The Council of State Governments’ 2012 National Leadership Conference.

“We set out saying we’re going to do this comprehensively and (it is) the last time, hopefully, we ever have to do it,” said Licht.

The big changes took leadership, he said. The governor, treasurer, house speaker and senate president all made important contributions. While there were some disagreements, “there was a commitment to collaborate to get it done,” Licht said.

“This can’t be done from the bottom up,” he said. “This was a top down effort.”

Among the actions Rhode Island took to transform its pension system, the state:

2010 was the first year that public pension systems have shown positive earnings since 2007, just before financial markets—and public pension assets—took a dive. State and local public employee retirement systems held $2.7 trillion in total cash and investment holdings in 2010, a $257.2 billion, or 10.6 percent, increase over 2009. Those retirement systems saw a $722.2 billion loss in 2009 and a $178.8 billion loss in 2008.
• Changed the formula for cost-of-living adjustments from a 3 percent per year hike to a COLA based solely on investment return. No COLAs will be given until the fund is at least 80 percent funded, which could take as long as 19 years;
• Changed the retirement age. For those who are vested in the system, that went to Social Security retirement age, but no older than 67; and
• Created a hybrid plan, moving from solely a defined benefit plan to a combination defined benefit-defined contribution plan.

The need for change became obvious in 2010, when the funding status dropped from 82 percent in 1999 to 58.5 percent in 2010. Part of that could be attributed to the change in the assumed rate of return—the state had been using an 8.25 percent calculated return but changed it to 7 percent, Licht said. It also had been using the wrong mortality rates, he said.

Improving Credibility
California’s Public Employees Retirement System, or CalPERS, is the largest pension fund in the country, yielding $232 billion assets and serving 1.6 million members. It has seen its share of hardship and controversy during the past decade.

According to Grant Boyken, pensions and benefits officer in the California State Treasurer’s office, the state system experienced a “perfect storm” of events—increased benefits during boom times coupled with unprecedented market downturns, a decline in private sector pensions and individual losses in 401(k)s.

On top of all that, there have been a number of scandals related to placement agents, third parties paid by money managers to raise capital from institutional investors like pension systems. That’s not just in California’s system, although the state has had its share of very high profile cases.

In response, the state changed its laws to require more transparency, particularly in its use of placement agents.

“This is one of the issues that go to credibility of pension systems at a time when reform is such an important issue,” Boyken said.

Boyken said Gov. Jerry Brown’s office has proposed a number of reforms for the state’s pension system, including moving to a hybrid plan and increasing the retirement age.

“People are hopeful and the governor is really hopeful,” Boyken said about the proposal, which is under consideration by the Joint Conference Committee.

Legal Challenges
As states have moved to revamp their pension systems, some have been met with legal challenges—especially when policymakers make changes to existing employee benefits, which at least seven states have attempted recently. But the courts haven’t provided a lot of guidance for states.

“The results have really been a mixed bag, with some courts siding with states and others siding with the employees,” said Brainard.

Oregon Sen. Richard Devlin, co-chair of his state’s Joint Ways and Means Committee, has some advice for states making major reforms: “If you get involved in this, I hope you have the best legal counsel you can obtain and the best actuarial support you can obtain. Please don’t get people who want to agree with you, because you need to hear the entire story.”

“(Pension reform) can’t be done from the bottom up.”

—Richard Licht,
director of Rhode Island’s Department of Administration
Although abortion is always hotly debated in the public arena, the discussion among policymakers also seems to be turning more intense.

“Over the past 20 years or so, we have really seen a shift in the types of bills we are seeing and the debates at the state level,” said Elizabeth Nash, state issues manager for the Guttmacher Institute. “What we are seeing are new issues coming to the fore and they are more onerous on providers and women.

“The bills are more extreme. We’re seeing abortion bans,” she said.

“There is this demonization of abortion and, increasingly, there has been this rhetoric that really stigmatizes abortion. … When you get that kind of language flying around, it really makes it difficult to have civil conversations about abortion and about women’s health.”

Not Heated, but Emotional
Georgia House Whip Edward Lindsey Jr.

characterizes legislative discussion around House Bill 954 as “emotional” rather than heated. The bill, signed into law in May, outlaws abortion after 20 weeks. A late-night session ended with an agreement to include an exception that allows for abortions after 20 weeks in the event of gross fetal abnormalities or if the mother’s life or health is threatened; that provision was not included in the original bill.

Newspapers reported that a fight almost broke out in the Capitol between those who were for and those who were against the bill.

“Abortion will always be something emotional, always be something difficult to discuss, because it sort of goes to the core of how we perceive ourselves and how we perceive our society,” said Lindsey, who supported the legislation. “It doesn’t mean we don’t talk about it; it means we talk about it. It’s important.

“What’s harder than talking about it is the listening, the acknowledgement the other side may have a point on one issue or another,” he said. “There are extremes on both sides of this issue that tend to shout the loudest. There are those of us in between, rolling up our sleeves. Our job is to make sure everyone listens.”

Georgia Sen. Nan Orrock voted against House Bill 954. After the Senate approved the bill, she and other Democratic women senators walked out of the chamber in protest. She said legislators ignored testimony of doctors and women who had been faced with the choice of a late-term abortion after discovering severe abnormalities in their fetus.

“It enraged us,” she said. “There is a line you draw and you will not stand quietly.”

Orrock, who was sworn into the Georgia House in 1987 and became a senator in 2007, said the turning point in political discourse was the 2010 election, which saw the rise
Legislators usually are less likely to introduce abortion-related bills during a presidential election year, but the 2011–12 legislative session seems to have been anything but usual.

“Generally, there seems to be, most of the time, a little bit of reluctance to discuss social issues, as opposed to trying to make sure the budget comes in at the right amount, it’s done early and we’re attending to bread-and-butter issues that are a high concern, like education or transportation,” said Elizabeth Nash, state issues manager for the Guttmacher Institute. “This year, I would say, was very busy around abortion issues.”

According to the Guttmacher Institute, which tracks and analyzes policies related to sexual and reproductive health:

- 13 states introduced legislation as of April 1 that would impose new regulations on abortion providers;
- 15 states considered bills to restrict abortion after a certain gestational age, usually 18 to 20 weeks; and
- 17 states considered legislation requiring women to undergo an ultrasound before receiving an abortion. In Virginia, Gov. Bob McDonnell signed an ultrasound bill into law in Virginia, but not before large protests at the Capitol.

of the Tea Party and nearly 800 Democrats swept out of office nationally. When people are unwilling to negotiate, she said, government stalls.

“It’s been kind of a wake-up call,” Orrock said. “People can’t turn their backs on the legislature and think they’re going to work things out.”

Southern Discomfort?

Mississippi legislators considered at least five abortion-related bills this session, ranging from prohibiting telemedicine in medication-induced abortions to prohibiting abortions after a fetal heartbeat can be detected. The legislature passed only House Bill 1390, which requires doctors who perform abortions to be board-certified obstetricians and have admitting privileges at local hospitals.

Rep. Bobby Moak, a 1986 Toll Fellow and ranking Democrat in the House, said he usually votes for legislation that tightens restrictions on abortion. This year, though, he voted against the bills due to the 16-point defeat last November of Amendment 26, which would have defined an embryo as a legally protected person from the moment of conception. Many of the things included in this year’s bills came from Amendment 26, Moak said.

“The politics on the issue have changed,” Moak said. “The voters have spoken and said, ‘Mississippi already has some of the toughest abortion laws on the books.’”

The discussion regarding abortion in Mississippi heated up in late April when newspapers reported Gov. Phil Bryant’s comments on a Internet talk show that the left’s “mission in life is to abort children.”

“Both sides of the aisle were just flabbergasted with that,” Moak said.

Mississippi Sen. Nancy Adams Collins, who supported House Bill 1390, said discussions in the Senate were mostly congenial this session. As a nurse and a woman, she said, she addressed the senators about the legislation, but the discussion was not heated. Although she understands Bryant’s feelings toward abortion, Collins said the language he is reported to have used is not good during a debate.

“That’s pretty direct,” Collins said. “The way I operate is, I’m continually trying to show others the facts and figures that I’ve got from my experience. I want their experience as well. In a debate, we have to be careful about accusations.”

Nash, of the Guttmacher Institute, said it is important to keep legislative debates calm and civil no matter how hard the topic.

“When people get so heated over specific issues, it makes it harder to have civil conversations around other issues as well,” Nash said. “Our states can’t really afford that either.”

Terri Herring, an anti-abortion activist, above left, held a photograph of a women’s clinic in Jackson, Miss., that performs abortions as she explained her disappointment with two abortion-regulation bills that died under a deadline in the Mississippi Legislature in April. In photo at right, demonstrators around the Georgia Capitol in Atlanta protested two pieces of legislation they say are unfair to women. The March rally after the Senate passed measures banning abortion coverage under state employees’ health care plans and exempting religious health care providers from having to cover birth control.
Parents and school personnel contacted Utah Rep. Bill Wright last year expressing concern that Planned Parenthood had posted on its website a curriculum for middle schoolers endorsed by the state Department of Education.

Wright said he was alarmed, as he had sponsored the legislation on the “maturation” health education program for middle schoolers and the human sexuality curriculum for high schoolers.

“The maturation program was designed for separate conversations with young men and young women,” he said. In addition, the Planned Parenthood website linked to materials on homosexuality that Wright said, “opened the door to the wrong path.”

So he met with representatives from the department of education who said they did not endorse the Planned Parenthood curriculum. After nine months, the endorsement language was not removed.

That’s how House Bill 363 was born. Wright’s bill would have allowed school districts to choose to drop sex education classes and would have prohibited any teaching about contraception, homosexuality or sexual activity outside of marriage. Wright intended to underscore the abstinence-only language already law in Utah. “To teach anything else opens discussion to other topics,” he told CSG.

Many lawmakers, Wright said, were not sure any health or sex education was necessary given the pressure on schools to cover more important curriculum areas.

Rep. Jennifer Seelig, a 2010 Toll Fellow, told CSG her constituents were “totally flabbergasted” over the bill. “Abstinence-only education is not consistent with the literature about best practices related to education on reproductive health,” Seelig said. “It is important to adopt science-based, peer-reviewed best practices in public policy matters, particularly in issues that have direct impact on reproductive health and even on criminal victimization.”

The bill passed both the Utah House and Senate. Pressure against the bill really started after it landed on Gov. Gary Herbert’s desk.

“It wasn’t on everyone’s radar,” Wright said. “The ACLU weighed in and then the local unions weighed in. Then the gay and lesbian community got excited and weighed in.”

The Salt Lake Tribune reported that Herbert received nearly 10,000 letters, emails and calls about the bill. Nine opposed the bill for each one who supported it, according to the paper’s analysis of correspondence reviewed under an open records request.

Ally Isom, a spokeswoman for the governor, told the Tribune that most of the correspondence was uniquely written as opposed to form letters from an organized campaign. “I’d certainly say the sheer volume creates an impression and one which cannot be ignored,” she told the Tribune.

Herbert vetoed the bill saying, “After careful review of existing law and following extensive discussions with stakeholders on both sides of the issue, I am convinced the existing statutory framework respects these two principles (the importance of abstinence and a parent’s right to determine how their children are instructed), while HB 363 simply goes too far by constricting parental options. I cannot sign a bill that deprives parents of their choice.”

Seelig praised the veto. “I was glad to know that the governor was responsive to parents,” she said. Wright called the veto “a calculated political decision.”

Planned Parenthood

Education wasn’t the only topic of legislation related to sexuality in the 2012 legislative session. Several states took action to limit state funding for women’s health care to organizations that provide abortions. The issue was highlighted in Texas, where Gov. Rick Perry stands steadfast behind a 2011 legislative vote to block any family planning funds to Planned Parenthood organizations.

The law, which took effect March 14, prohibits Planned Parenthood, or any other facility with ties to abortion providers, from delivering cancer screening, contraceptives and basic health care to low-income women under the Medicaid Women’s Health Program. About 130,000 women in Texas are eligible for the program and about 44 percent of them get care at Planned Parenthood clinics.
No state or federal money can be used to pay for abortions, but Planned Parenthood clinics had provided a range of other health services to women.

Federal Medicaid officials immediately notified Texas the new state law violated federal law.

Now, both the court of public opinion and the federal appeals court are weighing in. Women upset with Perry’s actions clogged his Facebook page in March, posting thousands of comments, many of them negative, about the governor’s policy stand. Protesters took to the streets in Austin three weeks in a row in March; they wore red to reinforce their message that they were seeing red over Perry’s move.

The Texas attorney general filed suit, alleging the federal action to stop Medicaid funding is illegal and violates the U.S. Constitution.

Planned Parenthood also filed suit to block excluding its programs from Medicaid funding and alleged that the exclusion violates the organization’s constitutional rights to freedom of speech and association. Three courts have ruled and, for now, an injunction allows Medicaid reimbursement to continue to Planned Parenthood clinics, pending a three-judge panel of the federal appeals court in New Orleans in June.

Texas has submitted the required transition plan to the federal government and the Perry administration has pledged that a fully funded state program will begin in November when all federal funding is withdrawn.

Other states passed legislation in 2011 to end funding for women’s health services to providers who also provide abortions. In Indiana, Kansas and North Carolina, judges have blocked state laws similar to the Texas law. Wisconsin has withheld funding for family planning and breast cancer screening. Arizona joined the list in 2012, while a similar measure in Iowa died on the final day of the 2012 session.

**Contraception Coverage**

President Obama’s call for insurance coverage—at no cost to enrollees—for any prescribed FDA-approved contraceptive and related services also drew a firestorm of controversy and prompted some states to take action.

Twenty-six states passed laws between 1998 and 2011 to mandate coverage of contraceptive services, while two additional states have mandates in place following an attorney general’s opinion and a human rights commission finding.

New Hampshire lawmakers revisited its 12-year-old law requiring contraceptive coverage. Rep. Terie Norelli, who had sponsored the original bill, told CSG, “There was no public outcry.”

Norelli credits the actions in her state to the fact that many Republicans don’t like the Affordable Care Act and it’s a presidential election year.

“It’s a political opportunity—they have another argument against the ACA, which is this religious exemption,” she said. “It’s really about contraceptive coverage. The New Hampshire (Republican) leadership was caught unaware of the state law and so they are now trying to repeal the state law.”

A religious exemption is included in 19 states laws, including Hawaii. The Obama administration’s compromise to exempt religious institutions is said to be modeled after the Hawaii plan.

In New Hampshire, Norelli had predicted the effort to turn back the state mandate would fail.

“I believe they are out of touch with public opinion. For most women, it is a matter of fairness,” she said. “Almost 98 percent of Catholic women use some kind of contraceptive, so there is a question of fairness.”

In fact, the measure did fail in the state. But similar efforts succeeded elsewhere.

Arizona House Bill 2625, approved by the legislature and signed by Gov. Jan Brewer, a 1995 Toll Fellow, gives all employers the right to refuse coverage of contraception in their health insurance plans, a right previously reserved for churches and faith-based institutions.

Missouri legislators passed a bill allowing employers to refuse to provide coverage for birth control in their employee health insurance plans.

In Georgia, a bill to exempt religious companies from providing contraception and one to ban abortion coverage from state employee health insurance both failed to pass before the 2012 session adjourned.

“Abstinence-only education is not consistent with the literature about best practices related to education on reproductive health.” —Utah Rep. Jennifer Seelig
Women's Health Care

Contraception
The requirement in the federal Affordable Care Act for insurance plans to cover contraception brought a firestorm of controversy at the federal level. But 30 states require insurers that cover prescription drugs to provide coverage of the full range of FDA-approved contraceptive drugs and devices, according to the Guttmacher Institute. Two states exclude emergency contraception from the required coverage and one state excludes minor dependents from coverage.

Abortion
While Roe v. Wade sets forth what states can do with regard to the regulation of abortion, 20 states have laws that could be used to restrict the legal status of abortion, according to the Guttmacher Institute. Four states—Louisiana, Mississippi, North Dakota and South Dakota—would ban abortion outright if the court decision was overturned, while 13 states retain their unenforced, pre-Roe abortion bans and seven states have laws that express their intent to restrict the right to legal abortion. In the meantime, however, 32 states provide funding under the joint federal-state Medicaid programs for low-income women in cases of life endangerment, rape or incest; five states also cover the procedure in the cases of physical health of the mother or fetal impairment. Seventeen states cover all or most medically necessary abortions, either voluntarily or through court order.
Arizona, California, New York and Oregon allow churches and church associations to refuse coverage. In Texas and Virginia, employers must be offered the option to include contraceptives within the health plan.
As the “everything but marriage” act was signed into law.

Although Washington state has extensive protections for same-sex couples, Murray said domestic partnerships have limitations.

“Our society understands marriage,” he said. “They understand what it means legally and the responsibility two people take for each other. Domestic partnership is just not something that’s worked very well.”

Sen. Dan Swecker, who led the floor fight against Senate Bill 6239, said he believes all sorts of people love each other, but only one relationship—heterosexual marriage—can impact so many government services if it fails.

“The only one of those that has unique differences from all the others is the one that produces children,” Swecker said. “There’s a huge incentive for government to sanction that one relationship. … If that is successful, it prevents all kinds of impacts on government institutions, like education and law enforcement.”

Murray is optimistic the same-sex marriage law will survive November’s referendum.

“I think we have a good chance,” Murray said.

While same-sex couples can walk down the aisle in only six states and the District of Columbia, that doesn’t accurately represent the number of gay people whose relationships have some type of recognition.

“In the majority of states, same-sex couples do not have any legal protection and state constitutions have been amended to prevent same-sex marriages,” said Jennifer Pizer, legal director of the Williams Institute at the University of California-Los Angeles School of Law. The institute researches gender identity and sexual orientation law and public policy. “However, when you look at the country by population, you have a somewhat different picture.”

Nearly half the U.S. population lives in a state that offers some kind of recognition for same-sex couples, either marriage, civil unions or domestic partnerships.

“That’s very confusing for lesbian and gay couples in this country,” Pizer said. “If you look at a map of the country, legally it’s a patchwork of different kinds of laws protecting same-sex couples.”

Same-sex couples now can marry in Connecticut, Iowa, Massachusetts, New Hampshire, New York and Vermont, as well as the District of Columbia.

Maryland and Washington could join those ranks after legislators approved laws recognizing same-sex marriages in the 2012 session.

Washington’s new law was to take effect in June and Maryland’s in January, but both will face challenges on the November ballot.

Although every same-sex marriage law that’s been placed on the ballot so far has been defeated, Pizer believes things could be different in Washington and Maine, where a citizen-led initiative is on the ballot, this year.

Washington State’s Journey

Sen. Edward Murray sponsored Senate Bill 6239, which legalized same-sex marriage in Washington. Civil rights for same-sex couples have evolved gradually in the state. A 2006 bill protected gays and lesbians from discrimination in employment, housing and financial transactions. Domestic partnership was passed in 2007, and in 2009, what came to be known as the “everything but marriage” act was signed into law.

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“I think we have a good chance,” Murray said.
“I think it will be close. I expect it to be ugly. But I think we will win.”

Maine’s Circuitous Route
Maine is no stranger to same-sex marriage. In 2009, the legislature passed, and the governor signed, a same-sex marriage bill into law. Later that year, voters repealed the law through a referendum. The issue will be on the ballot again in November, but this time a yes vote means you support same-sex marriage, which is a first in the country.

David Farmer, communications director for Mainers United for Marriage, said the organization has been conducting an education campaign since 2009. Farmer also expressed optimism for the November vote, citing polling that shows a majority of the state’s residents supporting same-sex marriage.

“The most important thing it means is loving, committed couples in Maine would be able to get married,” he said, “an opportunity they came very close to in 2009 and saw slip away. … In terms of national consequence, it would be a demonstration at the ballot box of what we’re seeing in the polls and attitudes of people. … We would see people can support this at the ballot box. That would be a major turning point in this issue.”

Carroll Conley, executive director of the Christian Civic League of Maine, which opposes same-sex marriage, believes there is some issue fatigue in Maine.

“I do believe there would be people in the state of Maine that feel we spoke clearly … on the referendum just three years ago,” Conley said.

He said the state could consider an amendment, like the one that North Carolina voters overwhelmingly passed in May.

“Certainly that’s going to be something we hope would happen,” he said. “We very much look forward to the opportunity to make the case to the people of Maine about what we think are the perils of redefining an institution … seen as this building block of civilization.”

Pizer, of the Williams Institute, said she expects same-sex marriage laws in the states eventually will become more consistent.

“I think most of us anticipate, as years pass, it will go from this complicated set of arrangements to a simpler, more consistent set of laws,” she said. “We’ve seen some similar developments with family law on other issues. … For example, divorce is universally available in all the states. A few generations ago, that was certainly not the case. Common law marriage was common a few generations ago, now it’s not.”
The Right To Bear Arms and the Laws That Control It

by Mary Branham

Louisiana Rep. Chris Broadwater says he cares passionately about the rights established by the country’s founding fathers—those explicitly stated in the Constitution and the Bill of Rights.

“Any of those rights are so essential to the core of who we are as a country,” Broadwater said.

That’s one reason he sponsored Senate Bill 303 in the Louisiana House of Representatives in the 2012 legislative session. The bill removes language from the state constitution specifically allowing the state to regulate concealed weapons. That language, he said, was unnecessary and superfluous.

“The absence of that permissive language does not mean that permission is gone,” Broadwater said.

The National Rifle Association backed the legislation, and spokeswoman Stephanie Samford said the amendment, if voters approve in November, “will be the strongest right to keep and bear arms constitutional amendment in the country.”

The legislation also sets forth a “strict scrutiny” review of any laws that would infringe upon a person’s Second Amendment right to keep and bear arms. Strict scrutiny is a form of judicial review that courts use to determine the constitutionality of certain laws, according to the Legal Information Institute at the Cornell University Law School.

Broadwater said the fact that the amendment includes the standard for review makes it clear the legislature has the right to regulate guns.

But raising the standard of review for such laws will make it much easier for the gun lobby to challenge any gun laws on the books, said Laura Cutiletta, senior staff attorney for the Legal Community Against Violence, a California-based public interest law center dedicated to preventing gun violence.

“In Louisiana, the legislature has handed (the gun lobby) basically a free pass by making it much easier to prevail in court,” Cutiletta said. “It’s a very, very high standard of judicial review that no other state requires for gun legislation. Every state that has a right to bear arms evaluates the laws under that provision with something lower than strict scrutiny.”

Even the U.S. Supreme Court, she said, has issued rulings that did not require strict scrutiny to evaluate firearms laws.

But Broadwater believes current Louisiana law will stand.

“The statutes we have on the books are drafted very well and I’m not concerned about them being undone by this proposed constitutional amendment,” he said.

The Louisiana legislation was one of many different gun laws considered and passed during the recent legislative sessions around the country.

Claiming Self-Defense

The Trayvon Martin case in Florida brought attention to self-defense laws around the country. Several states—including Michigan, Mississippi, North Carolina and South Carolina—considered legislation to repeal so-called “Stand Your Ground” laws, Cutiletta said. Such laws expand a person’s right to use deadly force for self-defense, and 26 states have them.

Texas is one of those states. The legislature wasn’t in session this year, but Rep. Garnet Coleman already has plans to file legislation to repeal that law next year. He believes it goes far beyond the common law on self-defense.

“The language is subjective,” he said. “It expands the idea of protecting one’s home and family to anywhere. It means something that was a narrow case of use of force has now become a license to shoot first and ask questions later.”

A Texas A&M study released in May found “Stand Your Ground” or “Castle Doctrine” laws increased total homicide rates in the 23 states that had adopted them by 2009.

“The additional homicides induced by castle doctrine could be due to victims practicing self-defense under the terms of the new law, an increased propensity by criminals to use lethal force when committing crimes or encountering resistance, the escalation of other conflicts, or some combination of the above,” the study’s authors—Cheng Cheng and Mark Hoekstra—wrote.

“That is what the change in the law actually does,” Coleman said. “It doesn’t protect people; it causes death.”

Massachusetts, Nebraska and Virginia considered “Stand Your Ground” laws this session, according to the NRA website.

Samford, the NRA spokeswoman, said these laws ensure “the law-abiding gun owners have legislation in their favor.

“The NRA’s overall goal is to make sure that we protect the right to keep and bear arms and defend the Second Amendment,” she said.

Meanwhile, the Indiana legislature added a new dimension to the self-defense aspect of gun laws. Senate Bill 1 addresses a May 2011 state Supreme Court decision that individuals could not use force against law enforcement officers, even if the officers are acting unlawfully, said Rep. Jud McMillin, who sponsored the bill in the Indiana House.

“What gave rise to this was a groundswell of voices of opposition from constituents saying, ‘We don’t want to be able to resist police officers or assault them when they’re acting lawfully; we shouldn’t,’” McMillin said. “But we also don’t think law enforcement officers should be given a law that says no matter what you’re doing, people can’t use force against you.”

McMillin said the bill was about maintaining the appropriate balance between government and individual rights.

“Our system of government is set up to protect individuals from the government, not the government from individuals,” he said.

“While our government does have the authority to do a lot of things, we have to make sure
that we don’t give more than is required to do their job.”

Cutiletta, with the Legal Community Against Violence, said a law such as this can bring with it a lot of unintended consequences.

“If a public official is entering your home and you believe it’s an unlawful entry, you can now use force against that person,” she said.

The new law could have a chilling effect on law enforcement handling of particularly volatile cases, such as domestic violence, she said. Indiana is the first state that specifically allows force against officers, according to the Association of Prosecuting Attorneys in Washington, which represents prosecutors.

Concealed Carry

Policymakers also considered legislation that would have expanded the rights of people to carry concealed weapons. Forty-nine states permit residents to carry a concealed weapon in some form; only Illinois and the District of Columbia have no concealed carry allowances, according to the NRA website.

Minnesota legislators approved a bill to allow reciprocity for people with concealed weapons permits from other states to carry a concealed weapon in Minnesota. Gov. Mark Dayton vetoed that legislation.

In South Dakota, legislators approved legislation that would have allowed any resident over 18 with a valid state driver’s license to carry a concealed weapon, even without a permit. Gov. Dennis Daugaard vetoed that legislation, House Bill 1248, saying the state’s permitting laws are already “fair and reasonable.”

“What this was about was maintaining the appropriate balance between government and individual rights.”

—Indiana Rep. Jud McMillin | House Sponsor of Senate Bill 1
Viviette Applewhite has voted in every presidential election since she cast her first ballot for John F. Kennedy in 1960.

But the 93-year-old Philadelphia resident’s streak may end this year.

“I’m going to miss this one, though, because I don’t have any ID,” she explained in a video statement aired at a May 1 news conference at the Capitol. That’s because of a new Pennsylvania law that requires her to present photo identification at the polls.

Someone stole Applewhite’s purse—which held her birth certificate and Social Security card—several years ago. She has never had a driver’s license and has been unable to get a replacement copy of her birth certificate.

“It stinks. They are taking our rights away,” she says in the video. Applewhite is the lead plaintiff in a lawsuit seeking to throw out the new law.

Under the legislation signed by Gov. Tom Corbett in May, voters will be required to present photo identification at the polls in order to vote. Acceptable ID cards include state-issued driver’s licenses and non-driver identification cards and certain other government-issued employee ID cards that include expiration dates. This excludes many student identification cards and those issued by the U.S. Department of Veterans’ Affairs, which do not have expiration dates.

The lawsuit filed by the ACLU and NAACP, of which Applewhite is a lead plaintiff, is seeking an injunction blocking enforcement of the law before the November election. The trial in the case is scheduled for July 25.

Supporters of the legislation argue the bill will protect the integrity of elections by preventing fraudulent voter impersonation, double voting, and voting by illegal immigrants and fictitious voters.

During debate on the Senate floor, Senate Majority Leader Dominic Pileggi described the bill as a “simple, commonsense measure to protect the integrity of the voting process, which is the very foundation of our democracy.”

Secretary of the Commonwealth Carol Aichele also supported the measure to prevent voter fraud.

“Currently, there is no reliable way to verify the identity of voters. We need to know that each voter is who they say they are,” Aichele spokesman Ron Ruman said.

“Under the new law, every eligible voter will be able to cast a ballot, and these votes will not be cancelled by an illegally cast ballot.”

Opponents argue, however, the new requirements will prevent many voters from casting ballots. They also say the voter fraud measure seeks to prevent is nonexistent.

Sen. Anthony Hardy Williams challenged Republican sponsors of the bill to cite evidence of voter fraud. In the absence of such proof, Williams categorized the legislation as “unnecessary and costly.” He said existing laws require people to identify themselves at the polls, while other laws criminalize voter fraud.

More importantly, he said, the new photo ID requirement will “discourage voter participation at a time when we should be encouraging participation by all citizens.” He described the bill as an “indirect poll tax” because many poor residents who lack identification will face hurdles at the ballot box, including paying for necessary documents to prove their identity.

While the state offers a photo identification card for voting purposes at no cost, residents would have to pay to obtain other necessary documentation such as birth certificates.

According to the Brennan Center for Justice, a legal think tank at the New York University School of Law, voter ID laws disproportionately affect certain groups—including minorities, students, the elderly, the disabled, the poor and women—who are more likely to lack required identification documents.

Supporters of such laws argue photo IDs are required for many common activities, such as cashing a check or flying. The Brennan Center says many people can’t get a government photo ID card because required documentation to get them, like birth certificates, are often difficult or expensive to obtain.

Elisabeth Genn, counsel for the Brennan Center, described voter ID laws as “a solution for a problem that nobody has been able to document.

“Despite aggressively searching for examples, states have been unable to document voter impersonation fraud,” she said. “These laws are unjustifiable and have serious discriminatory effects on the voter rights of millions of Americans.”

Ruman said the Pennsylvania Secretary of Commonwealth’s office is actively working with people lacking the necessary identification to ensure that everyone who is eligible to vote can do so.

“We are committed to making voting as easy as possible within the confines of the new law,” he said. “We have dealt with issues that have come up as best we could. The goal is to have everyone who wants to vote to be able to get ID and vote, but at the same time, to make sure each voter is who they say they are.”

New Restrictions

The Pennsylvania law is just one example of legislation sweeping statehouses the past two years. In addition to voter identification laws, states have considered and passed legislation to make voter registration drives more difficult by ending same-day registration and limiting voter registration drives, reducing early and absentee voting, and making it harder for felons to regain their right to vote.

According to the Brennan Center, 41 states have introduced 176 bills that impose new restrictions on who can vote and how since 2011. In that time, 18 states passed 23 laws and two executive actions to restrict voting. The center estimates these new laws could make it significantly harder for more than 5 million eligible voters to cast ballots in November, more than the margin of victory in two of the last three presidential elections.

The growth in the number of states requiring photo identification at the polls has been significant. Before the 2011 legislative session, two states—Georgia and Indiana—required voters to provide photo identification at the polls. In the past 18 months, however, legislators in 11 states passed such bills, either to strengthen existing voter ID laws by adding the photo ID requirement or as a brand new
requirement in states without voter ID laws.

Five governors, however, vetoed the legislation, and in four states, implementation of the legislation is blocked. Pennsylvania is one of the few states whose strict photo ID requirement will be in effect for the November election.

In March, two state appeals courts ruled the Wisconsin law is unconstitutional because it abridged the right to vote. The Wisconsin Department of Justice appealed both rulings, but the state Supreme Court refused to immediately take up the cases, sending them back to the appeals courts.

The U.S. Department of Justice is blocking strict photo ID laws in three Southern states—Mississippi, South Carolina and Texas. Under the provisions of the Voting Rights Act of 1965, any changes in election law made by the jurisdictions covered—largely in the South that failed to protect minority voting rights in the past—must be precleared by the federal government. This can be done through an administrative procedure or by a federal district court in Washington, D.C. Any jurisdiction seeking preclearance must demonstrate that the proposed voting change does not have the purpose or the effect of discriminating based on race.

The U.S. Department of Justice already has denied preclearance to South Carolina and Texas, concluding that neither state had clearly shown the photo ID requirements would not disproportionately disenfranchise registered minority voters. It has yet to rule on applications by Alabama and Mississippi.

**WHO LACKS IDS?**

**GOVERNMENT-ISSUED PHOTO ID CARDS**
- 11 percent of all eligible voters
- 25 percent of African-Americans
- 15 percent of those earning less than $35,000 a year
- 18 percent of young voters
- 18 percent of voters over 65

**DOCUMENTATION FOR ID**

Women who change their names after marriage may lack documentation proving citizenship under their legal name and would require additional documentation such as a marriage certificate. Just 66 percent of women have proof of citizenship with their current legal name.
If states are indeed the laboratories of democracy, a few of them seem to have spent some extra time in the lab during the 2012 legislative session. Here are a few of the innovative ways policymakers found to tackle issues in their state.

**VIRGINIA** Putting Veterans to Work

Virginia is making it easier for military veterans to put their experience to work and gain a commercial driver’s license. House Bill 194 established the Troops to Trucks program, which waives the road skills test for people who have a military commercial license and offers training for those who need it at two military bases. Virginia also is now the only state offering federal evaluations that will allow drivers with missing or impaired limbs to be commercially licensed.

**KENTUCKY** New School Choice

Kentucky legislators created a new kind of charter school with House Bill 37, which gives the state Board of Education authority to create a “school of innovation” or a “district of innovation” if 70 percent of school or district employees approve. The schools or districts will be able to do many things not allowed under current regulations, such as extended school days or years, alternative education programs during nontraditional hours and a virtual school within the district.

**NEW JERSEY** Newborn Heart Screening

All babies born in New Jersey now will undergo an inexpensive, noninvasive test that could identify up to 100 more potentially deadly heart defects each year. Bill A-3744 requires newborns to get a test that measures the oxygen level in their blood. Since the bill’s adoption, U.S. Secretary of Health and Human Services Kathleen Sebelius added the test to a list of nearly 60 recommended screenings for newborns nationally.

**TEXAS** Credit Where Credit is Due

Texas Sen. Leticia Van de Putte said the Lone Star state has about 1.85 million veterans living within its borders. Among veterans of the Iraq and Afghanistan wars nationally, she said, the unemployment rate is twice as high as among the regular civilian workforce.

The key to getting more veterans into jobs, she said, is education. But in Texas, many veterans had problems getting college credit for the training they received in the military. Her Senate Bill 1736 created the College Credit for Heroes program. Texas higher education institutions will work together to create a better and more consistent way to give veterans college credit for their military training.

“The best economic generator ... is someone with a college degree,” Van de Putte said.

Their military training could help speed a veteran’s path toward a two-year associate degree, a four-year degree or technical certification, she said.

“These military war fighters get just excellent, wonderful training and it was not translating into college credit. ... It helps them graduate faster; you’re not wasting their time.”

Van de Putte said veterans will most often get credit for training in subjects such as nutrition, health and logistics. One active-duty Marine, she said, thanked her because through the program, he won’t have to take a mandatory year of physical education.

**CALIFORNIA** Keeping Parks Open

California is once again facing a huge budget crisis, with a looming budget shortfall of nearly $16 billion this year. The Department of Parks and Recreation is looking at a $22 million budget cut, which will force the closing of up to 70 state parks. Assembly Bill 42 allows qualified nonprofits to develop, improve, maintain or operate a park. Some legislators hope the bill will keep a few of the parks now on the closure list open.
**OHIO**

**Investing Close to Home**

Ohio legislators gave local governments the option of keeping their money close to home with House Bill 209, which paved the way for the STAR Plus program. Local governments can deposit their cash into a state-managed account, which invests that money in banks across Ohio. Funds are kept below the $250,000 threshold for federal insurance to help ensure the account’s safety. The program also is a win for Ohio communities, which should have easier access to business loans when banks reinvest those deposits into their communities.

**MARYLAND**

**Child Identity Theft**

Maryland legislators gave parents a new tool to protect their child’s identity with House Bill 555, which allows parents to create a credit report for their child and then immediately put a security freeze on it. The security freeze will keep any consumer reporting agency from releasing a locked report or any information on the report without consent. This would keep creditors from establishing any credit lines in the child’s name.

**NEVADA**

**Look Ma, No Driver!**

Assembly Bill 511 in Nevada, which took effect in March, is the first bill in the country to allow autonomous cars on the road. Google has been at the forefront of developing self-driving cars, which use video cameras, radar sensors, lasers and maps to drive cars automatically. In late May, the California Senate approved similar legislation. A *Detroit News* article said if driverless cars become popular, states will need to re-examine laws governing drunken driving and driver’s licensing.

**SOLAR POWER**

CARSON CITY, NEV.—Nevada Gov. Brian Sandoval described taking a spin in a driverless car in 2011 as “amazing.”

**VIRGINIA**

**Electric Vehicles**

Virginia Delegate David Bulova said sometimes government has to get out of the way.

A Virginia law allowed only public utilities to charge for electricity that was to be used for transportation purposes. A business could install a charging station for electric vehicles, but they couldn’t charge customers for the power. House Bill 2105, sponsored by Bulova, eliminated that law and now will allow businesses to sell electricity. It also allowed the State Corporation Commission to conduct a pilot program to encourage people to recharge their vehicles in off-peak hours.

“The thing is, this was kind of a hard lesson we learned with natural gas vehicles,” Bulova said. “It wasn’t that the technology wasn’t great and it wasn’t that it wasn’t good for the environment and it wasn’t that it (natural gas) wasn’t a domestic resource. The infrastructure wasn’t there. You couldn’t charge up with natural gas. I don’t think we wanted to make that mistake again with electric vehicles.”

Bulova said the legislation was a win for the environment, for entrepreneurs who can now open up charging stations and even for national security by reducing the need for imported oil.

“I’m also a really big believer that technology is our friend,” he said. “It’s not only worthwhile, but necessary, we invest in technology, innovation and those resources to help solve a lot of issues we’re facing today. I think technology, in many ways, helps to create win-win situations.”

**MARYLAND**

**Innovate Maryland**

Although Maryland ranks high on new technology, research and innovation coming from its universities, it has one problem—turning that research into commercial products.

“Because as Marylanders, with the assets we have, we should not be satisfied with being number one in research and being 20th in innovation and commercialization,” Gov. Martin O’Malley said in a speech in Baltimore in April. “We should be number one in both.”

That’s where House Bill 422, which created the Maryland Innovation Initiative, comes in.

The state will contribute $5 million in funding and five research universities will contribute up to $200,000 annually to participate. The money will be used to help researchers assess the viability of their technology, define and exploit potential markets, identify funding sources and develop commercialization strategies.

The initiative’s goal is to transfer 40 technologies from research into production every year.

“The better future that we seek will dawn first here in our state, if we choose to make it so,” O’Malley said. “But the future’s not a gift—it’s an achievement.”

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It can sometimes be hard to find common ground in the heat of a legislative session. Finding common ground with someone from another political party often can be even more elusive. But some legislators have found a way to work across the aisle.

Working on Prison Reform in Texas

When Texas Rep. Jerry Madden, a Republican, was appointed chair of the Corrections Committee in 2005, the speaker of the house gave him one instruction: “The speaker told me my chore was not to build new prisons, because they cost too much,” Madden said. Madden didn’t have experience in criminal justice, so he started asking around about who he should talk to. Everyone told him Sen. John Whitmire, a Democrat and chair of the Senate Criminal Justice Committee since 1993, was the expert.

“I wandered across the hall one day and I sat there for probably about two hours,” Madden said. “We just hit it off perfectly. (It was) ’OK, I agree with most of what you’re saying’ and he agreed with most of what I was saying.” The pair immediately became partners, Whitmire said.

“When we’d call in an agency or a department head, we’d be together and impress on them to do a better job,” Whitmire said. “He and I just started singing out of the same hymnbook. We weren’t singing the same song, but we had the same hymnbook.”

Their partnership has done a lot for criminal justice in the Lone Star State. Instead of building three new prisons at a total cost of $500 million, they convinced the legislature and the governor to spend less than half that amount to create 6,000 new treatment beds. The state also modified its parole system and invested in diversionary programs.

So instead of having an anticipated almost 18,000 new prisoners, policymakers actually shut down a prison last September.

“Right now, our criminal justice system is one of the largest in the country … and we get pretty dam good reviews for not only being tough, but being smart,” Whitmire said.

“I don’t think it matters which side you’re on when the net effect is, it’s working,” Madden said.
Election Forced Close Work
The 2010 election led to an even 30-30 split in the Oregon House of Representatives.
The House has operated with two co-speakers—Republican Rep. Bruce Hanna and Democrat Rep. Arnie Roblan. Every committee in the House also has co-chairs.
Although setting up the power-sharing agreement was heated at times, Roblan said it worked out well for the legislature and the state.
“I think for the most part, when you really get down to having those (tough) conversations with people, both sides want the same thing,” Roblan said. “How you go about getting there is sometimes very different.”
Hanna and Roblan said they continually stressed the importance of being polite and professional.
“We said that over and over again,” Hanna said. “We’re not going to agree on all things from a philosophical standpoint, but using these two markers, put yourself in a room and say, ’Let’s not leave until we can get some incremental movement in a positive direction that your constituency can look at and cheer without calling each other bad names.’”
Hanna and Roblan said it took time for them to develop a mutual trust. Both said they believe this experience has changed the way they, and other legislators, do their jobs.
“They’ve seen what it takes to work together and for the rest of their career, they’ll be better legislators, as we will in leadership,” Hanna said.
“I also hope whoever gets in the majority … learns from this,” Roblan said. “How you treat people is as important as what the outcomes are. If people feel they have a voice, they’re more involved in getting into the solution-making process. … What we showed people is when there is a will, you can do it.”

Bipartisanship Can Have Consequences
California Sen. Sam Blakeslee, a Republican, has a history of working across the aisle in the legislature. He has had more Democrats than Republicans co-author his legislation and has even worked with Democratic U.S. Sen. Barbara Boxer to testify before Congress about the need for more intense seismic studies around nuclear power plants.
A geophysicist by training, Blakeslee came to the legislature in 2004 with a different view of politics.
“For me, the goal has always been to cross those party lines to produce a desired outcome, not simply to make statements,” Blakeslee said. “I think the goal is to create a block of like-minded people on particular issues as they arise and forge a compromise on those issues.”
It hasn’t always been easy. Blakeslee said he was one of the first people in California to refuse to sign Grover Norquist’s Taxpayer Protection Pledge to oppose all tax increases.
“The Republican leader in the Senate made certain representations that they might stop walking precincts for me,” he said, “I could lose my race if I didn’t sign it. I don’t want to say it (working across party lines) was friction-free. Having said that, I did win my race without signing it.”
Blakeslee will be leaving the legislature in December, having decided not to run for re-election. His bipartisan work will continue, however, with his founding of the California Reform Institute, a think tank designed to create politically viable, bipartisan solutions to problems facing California.
Blakeslee said compromise and bipartisan legislation is possible, but policymakers will need to be ready to face the possible consequences.
“There’s no doubt taking these (bipartisan) steps will require moving out of one’s comfort zone,” he said. “To believe it will be pain free to drive big reforms down the middle is a fiction. It will be challenging. … It will be difficult, it will be risky. It will produce pain, but it is essential.”
HOW HAS THE TONE AND TENOR OF THE LEGISLATURE CHANGED AND HOW HAS THAT AFFECTED THE LEGISLATIVE PROCESS?

PHILOSOPHIES NOT THAT DIFFERENT
“Up until the ’90s, the legislature was dominated by mostly conservative Democrats. Then first the Senate switched and then the House and finally the governor … switched. It has changed somewhat in philosophy. … The legislature’s much more focused on jobs, full employment, a pro-business attitude than it has been in years past. … I think the transition was gradual and it’s been fairly smooth. The philosophical differences were not that great between a conservative Democrat and the new Republican majority than we’ve had in the past.”

RANDY MCNALLY
Senator, Tennessee
Chair of the Senate Finance, Ways and Means Committee
Chair of the Joint Council on Pensions and Insurance Committee

COMPROMISE EASIER IN GOOD TIMES
“I think in large part, the tone and tenor has changed given the economic conditions. I’ve been in state legislative service for 14 years and prior to that, 10 years at the local level. I think when times are good, it’s easier to compromise because there are many more options on the table. … Unlike past times when there were ebbs and flows in the economy and you could see a path out, this particular recession and not seeing a recovery moving and the growing demand on public services, I think makes it really hard to find compromises that satisfy both sides of the equation.”

MARY LIZ HOLBERG
Representative, Minnesota
Speaker pro tempore
Chair of the Ways and Means Committee
HOW HAS THE TONE AND TENOR OF THE LEGISLATURE CHANGED AND HOW HAS THAT AFFECTED THE LEGISLATIVE PROCESS?

COOPERATION NORMAL

“As a long-time member of the legislature, now in the Senate, I will tell you that it has never been particularly partisan. ... We’re kind of a unique body. Our House has 30 Democrats and 30 Republicans. Our Senate has 16 Democrats and 14 Republicans. ... We have had to cooperate to get the people’s business done and I think most people think that we’ve done a pretty good job, particularly given the kind of fiscal issues the state is facing. I think to some degree it’s (the cooperation) normal. I think to some degree, it’s enhanced because we are so close.”

RICHARD DEVLIN
Senator, Oregon
2010 Toll Fellow
Co-chair of the Legislative Audits, Information Management and Technology Committee
Co-chair of the Ways and Means Committee

SOCIAL MEDIA ADDS TO STRESS

“With all of the emerging technologies—with Facebook, with all of the blogs that are out there—a lot of things are more public or more transparent now than they had been. That at times causes some of the relationships in the chambers to be a little more stressful. You know, somebody says something you normally wouldn’t have heard 10 years ago and it gets back to you. It becomes one of those things. ‘Well, I heard you said this about me’ or ‘I said this about you.’ So that has added a little twist, a little tweak I don’t think a lot of folks realize.”

TERRY ENGLAND
Representative, Georgia
2011 Toll Fellow
Chair of the House Appropriations Committee

IT’S WHAT YOU MAKE IT

“The tone and tenor of the legislative process is, I believe, essentially what you make it. There are individuals who really thrive at increasing the temperature of the conversation. Then there are those people who have a skill at kind of cooling the temperature down a bit and being more rational and thought-provoking. ... Generally there are both personalities in any general assembly. ... Sometimes when you raise the temperature of a conversation, you leave healthy debate and get into yelling and screaming and arguing. That’s obviously not productive.”

MIKE BRUBAKER
Senator, Pennsylvania
2012 Toll Fellow
Chair of the Finance Committee

RICHARD DEVLIN
Senator, Oregon
2010 Toll Fellow
Co-chair of the Legislative Audits, Information Management and Technology Committee
Co-chair of the Ways and Means Committee
Mutual Aid Conference

At the first Emergency Management Assistance Compact Mutual Aid Workshop, Iowa Lt. Gov. Kim Reynolds told the group that now more than ever, states need the support EMAC can provide during and after disasters. More than 250 emergency managers, public health officials, firefighters, law enforcement officers and federal partners from around the country attended the workshop, which was held in Des Moines, Iowa. EMAC is administered by the National Emergency Management Association.

Higher Ed Compact on the Horizon

The Council of State Governments and The Presidents’ Forum recently released a draft model interstate agreement aimed at reducing barriers to distance learning by making it more efficient for colleges and universities to offer classes across state lines.

The State Authorization Reciprocity Agreement working draft is available for review at the CSG website.

Project leadership for the model agreement is working with the existing higher education regional compacts to promote a unified approach to achieving interstate reciprocity.

CSG, The Presidents’ Forum and a drafting team comprised of state regulators and key stakeholders developed the model agreement with financial support provided by the Lumina Foundation for Education.

The reciprocity agreement seeks to ensure that member states have regulatory approval processes for online higher education institutions that meet high quality, shared academic standards. It also shifts the responsibility for authorization and continuing oversight to the home state of the institution.

The ultimate goals are to save institutions from having to go through multiple and costly approval processes, and reduce the duplicative workload and costs carried by the respective states, while also increasing student access to high quality distance learning opportunities.

CSG West Celebrates
Women in Politics

Veteran Tory cabinet minister and retired member of the Alberta Legislature Iris Evans will lead this year’s Women in Politics event at The Council of State Governments West annual meeting July 21 in Edmonton, Canada. Evans will speak about “How to Succeed in Politics While Wearing High Heels.”


CSG West held its first Women in Politics forum dedicated to women who serve in Western state legislatures in 2007. Women in Politics was the brainchild of Wyoming Rep. Rosie Berger, the current CSG West chair. It’s now a regular feature at all CSG West annual meetings.
Oil Sands Delegation

A delegation from The Council of State Governments South traveled in late May to Edmonton and Fort McMurray, Alberta, to broaden their awareness of the oil sands, its increasing contribution to North American energy security, and to see first-hand the steps being taken to meet the environmental challenges of this energy source. The study tour highlighted the regulatory framework and cutting-edge technologies that are both in place and under development.


CSG’s Southern Legislative Conference and the Canadian Department of Foreign Affairs and International Trade sponsored the visit.

Check out the New States Perform

The Council of State Governments’ States Perform website (www.statesperform.org) now will allow users to compare the performance of states in six key policy areas across 10 years. The data cover more than 100 measures, including employment, housing, K-12 performance and child welfare. It’s now easier than ever to compare the performance of your state to others using new interactive features such as maps, graphs and quick state profiles.

Free Health Care Reform Webinar
Sponsored by the State and Local Legal Center
July 19, 2012 | 1 p.m. EDT

Explore the meaning of the Supreme Court ruling on the federal Affordable Health Care Act

Accolades for Capitol Ideas

Capitol Ideas has once again been recognized as one of the best association publications in the nation. Association Media and Publishing gave CSG’s flagship publication a Bronze Award for general excellence in its circulation class.

The magazine was recognized in June during the 32nd Annual EXCEL Awards Gala.

“In a year with an extraordinary number of high-quality entries, your submission displayed superior quality in design, writing and innovation.” Amy Lestition, executive director of Association Media and Publishing, said in a letter about the recognition.

This is the second straight year Capitol Ideas has been recognized with an EXCEL award.
When it comes to expanding Medicaid, states can take it or leave it.

That was part of the Supreme Court ruling on President Barack Obama’s signature initiative, the Patient Protection and Affordable Care Act. The decision prohibited the federal government from withdrawing all federal Medicaid funding if a state does not expand eligibility as set out under the law.

“The bottom line (for states) is pretty simple,” said Lisa Soronen, executive director of the State and Local Legal Center. “If you want to participate in Medicaid, it is all yours, but you have to follow the rules. If you don’t want it, you can walk away from it. Do what you were doing before. You don’t have to do anything more, you don’t have to do anything less.”

Soronen spoke to a Council of State Governments’ Medicaid Policy Academy the day after the historic Supreme Court decision on health care reform.

Soronen said the Medicaid ruling was probably the best of both worlds for states, leaving the decision to expand Medicaid eligibility to 133 percent of poverty up to individual states.

Tennessee Rep. Joe Armstrong called the decision tremendous for his state.

“It has put the decision of expansion in the lap of the governor and the legislature. They can’t blame the press, can’t hide behind a federal mandate,” he said. “If Tennessee does not expand Medicaid, it’s because of Tennesseans.”

Armstrong said Gov. Bill Haslam and the majority leadership of both legislative chambers came out against the Affordable Care Act during the 2012 legislative session. While the governor opposed expanded eligibility, he left $200 million on the budget table, unappropriated, just in case the law was upheld. Armstrong said this amount would be Tennessee’s share of expanded Medicaid.

Connecticut Rep. Betsy Ritter welcomed the decision that allows her state to move forward toward full implementation of the law “with the certainty that we have a strong federal partner.”

Connecticut already has taken advantage of Medicaid eligibility expansion. Ritter estimated that the state’s uninsured population—which now stands at 380,000 individuals—will drop by about 170,000 once the law is fully implemented in 2014. She said only about 3 percent of the state’s population will remain uninsured.

To Expand or Not

Although expanding Medicaid would help achieve the goal of having more people covered, some state officials are balking at growing the joint state-federal program.

“Every governor’s got two critical decisions to make,” Louisiana Gov. Bobby Jindal said in an interview on NBC. “One is do we set up these exchanges. And, secondly, do we expand Medicaid. And, no, in Louisiana, we’re not doing either one of those things.”

Jindal was referring to the health insurance exchanges states are required to have in place by Jan. 1, 2014.

He’s not alone in opposition to expanding Medicaid. Govs. Rick Scott of Florida, Phil Bryant of Mississippi, Nikki Haley of South Carolina and Scott Walker of Wisconsin all have said they won’t expand the program. Governors in Iowa, Missouri, Nebraska, Nevada, New Jersey and Texas also have indicated they are leaning against expansion, but are studying the issue.

On the flipside, Arkansas, Oregon and Rhode Island are leaning toward expansion, while California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Vermont and Washington have plans to expand the program, despite the
additional costs for states down the road. The federal government will pay 100 percent of costs for the expansion through 2020, then down to 90 percent thereafter.

“California will comply with the Medicaid expansion in the law, even though it will increase the state’s costs in future years,” California Gov. Jerry Brown said in a statement.

Health Insurance Exchanges
States also are required to set up health insurance exchanges, or markets for individuals and businesses to buy health insurance.

Some states are moving ahead on setting up those exchanges, while others have rejected federal grants to establish them.

Oregon Sen. Richard Devlin, co-chair of the Joint Ways and Means Committee, told CSG his state is in a somewhat unique situation and had planned to go ahead with an exchange regardless of how the Supreme Court ruled.

“The federal government invested a small fortune in our exchange and we should be up and running on time,” Devlin said. He said other states might want to look to Oregon’s health insurance exchange plans and duplicate them.

The exchanges also will offer federal subsidies to make health insurance more affordable to individuals and families between 100 and 400 percent of poverty. But that won’t help some people, according to Soronen and Stacey Mazer from the National Association of State Budget Officers, who also spoke at the CSG meeting. Individuals between today’s eligibility and 100 percent of poverty will be ineligible for both Medicaid and federal subsidies for health care insurance unless states expand Medicaid, Soronen and Mazer said.

That could be as many as 11.5 million Americans, according to a July 5 Urban Institute report. Approximately 1.4 million of those people in this newly created donut hole live in California, 1 million live in Florida and 1.3 million live in Texas, according to the report.

Beyond Health Care
While states will be dealing with immediate effects, the Supreme Court ruling could impact other state-federal partnerships down the road.

Soronen called the Court’s finding of unconstitutional federal coercion of states a “huge legal development.” Since the 1930s, lower courts have taken up the coercion doctrine, but this was the first time the Supreme Court had limited federal strong-arming of states.

Rep. Bob Godfrey, majority leader of the Connecticut House and former chair of CSG, said the implications of the court ruling go beyond health care. Now, he said, “there are limits on the coercive power of the federal government vis-a-vis the states. In the long run, this will help with unfunded mandates handed down to the states.”

Affordable Insurance Exchanges
Affordable Insurance Exchanges, which are scheduled to begin operation Jan. 1, 2014, are designed to make buying health insurance easier and more affordable. States must have the U.S. Department of Health and Human Services approve, or conditionally approve, a health insurance exchange by no later than Jan. 1, 2013. If states choose not to establish an exchange, the federal government will operate one for them. According to Kaiser Family Foundation, only Alaska, Florida, Louisiana and New Hampshire have not received some form of establishment grants for the exchanges.

States must say by Nov. 16, 2012, whether they are going to establish an exchange.

Medicaid
Effective Jan. 1, 2014, Americans who earn less than 133 percent of the federal poverty level—about $14,000 for an individual and $29,000 for a family of four—will be eligible to enroll in Medicaid if their state chooses to participate in the expansion. States will receive 100 percent federal funding for the first three years for this expanded coverage, which gradually decreases to 90 percent in 2020 and thereafter.

Effective Jan. 1, 2013, state Medicaid programs must pay primary care physicians no less than 100 percent of Medicare payment rates in 2013 and 2014 for primary care services. The federal government will fully fund this increase.

Compacts
States can create and join interstate health care compacts beginning in 2016. Under such a compact, insurers can sell policies in any member state, but coverage must be at least as comprehensive and affordable as coverage through state exchanges.
The Supreme Court’s 5-4 decision upholding the individual health insurance mandate gets many things right, but makes one serious error. Chief Justice John Roberts’ opinion rejects the federal government’s most important arguments for the mandate—that it is authorized by the Commerce Clause and the Necessary and Proper Clause.

These parts of Roberts’ reasoning, which are supported by four other justices, could have important implications for future cases. Yet Roberts then partially undid all his good work by ruling that the mandate is constitutional because it is a tax.

The chief justice begins by addressing the Commerce Clause, which gives Congress the power to regulate “Commerce … among the several states.” As Roberts puts it, “the power to regulate commerce presupposes the existence of commercial activity to be regulated.” Yet the mandate “does not regulate existing commercial activity. It instead compels individuals to become active in commerce by purchasing a product, on the ground that their failure to do so affects interstate commerce.”

If Congress can “regulate individuals precisely because they are doing nothing,” it could impose pretty much any mandate of any kind. It could force people to purchase broccoli, cars or any other product. For similar reasons, Roberts also rejected the government’s argument that the mandate is authorized by the Necessary and Proper Clause. As Roberts explains, “(e)ven if the individual mandate is ‘necessary’ to the Act’s insurance reforms, such an expansion of federal power is not a ‘proper’ means for making those reforms effective.” The Constitution, he holds, does not “bring countless decisions an individual
could potentially make within the scope of federal regulation, and ... empower Congress to make those decisions for him.”

Unfortunately, the chief justice ultimately empowered Congress to do exactly what he said it could not by ruling that the individual mandate is constitutional because it is a tax. He thus endorsed the federal government’s weakest argument for the mandate, one that had been rejected by every lower court to have considered it, including several liberal judges who upheld the law on other grounds.

Roberts contends that the mandate is a tax because it imposes only a monetary fine on those who fail to comply, the fine does not apply to people too poor to pay income taxes, the size of the fine is not too great and that fine is collected by the IRS. By that standard, pretty much any mandate can be converted into a tax simply by structuring it in the same way—including a broccoli or car purchase mandate.

Even Roberts admits that interpreting the mandate as a tax is not “the most natural” reading of the law, which repeatedly calls the mandate a penalty. In fact, the mandate actually is a penalty, which the Supreme Court has defined as “an exaction imposed by statute as punishment for an unlawful act” or omission. The health insurance mandate fits that definition almost perfectly. It imposes a fine as punishment for unlawful refusal to purchase government-mandated health insurance.

This expansion of Congress’ tax power is a dangerous development. Yet the Court’s strong endorsement of limits on the Commerce and Necessary and Proper Clauses is an important step in the right direction. The Court’s decision offers something to both sides. Since the Court remains deeply divided on these issues, it is unlikely to be the last word on constitutional limits to federal power.

Ilya Somin is an associate professor of law and editor, Supreme Court Economic Review, at George Mason University School of Law in Washington, D.C. He wrote an amicus brief before the Supreme Court related to the Affordable Care Act.

any of us are truly outside the market for seeking and providing care.

Nonetheless, in the coming years, challengers will attempt to stretch this theory to invalidate additional federal regulations—likely, without much success. After all, no one Commerce Clause analysis gained majority support and these arguments were superfluous to the Court’s ultimate judgment.

Accordingly, lower courts are not formally bound by this part of the decision and ultimately may not be persuaded by these positions. More importantly, the mandate is unprecedented in many respects, so it is hard to imagine other laws that are vulnerable to this attack. Indeed, well-known exercises of the commerce power—such as fair wage and hour laws, anti-discrimination laws and laws prohibiting possession of illegal drugs—all plainly regulate existing commercial activity.

The Taxing Power: Chief Justice John Roberts—joined by four other justices—wrote the majority opinion to uphold the individual mandate as a valid exercise of Congress’ taxing power. He explained that, although the act’s statutory language prescribes a penalty for failing to obtain insurance, that penalty functions as a typical tax—individuals must either obtain insurance or pay a moderate fee to the Internal Revenue Service.

While the Court’s common-sense approach fits comfortably with its past decisions, the mandate’s unique nature—and universal application—has prompted some to warn of a boundless taxing power.

But the Court made clear that a tax cannot be so large as to constitute a prohibitory financial punishment—or any other punishment, for that matter. Individuals must have a reasonable choice to pay the tax rather than do whatever it is that the government is pushing.

This choice limits federal power and protects individual autonomy.

Mimi Murray Digby Marziani is counsel for the Democracy Program at the Brennan Center for Justice at New York University School of Law. She wrote an amicus brief related to the Affordable Care Act.
LIEUTENANT GOVERNORS and the Roles They Play

Lieutenant governors—those who are first in line to succession to governors—have varied roles across the 50 states and five U.S. territories. Many preside over state senates, while most pursue legislative initiatives. Many testify on issues either in their state capital and/or Washington, D.C. Some serve in governors’ cabinets, while others maintain varied portfolios of duties. Each state and the individual officeholder has the opportunity to utilize the office to most effectively meet the state’s needs.

The National Lieutenant Governors Association, organized in 1962, and an affiliate of CSG, serves these state officials who are first in line of succession. This official holds the title of lieutenant governor in 45 states and four U.S. territories, while the secretary of state fills this role in three states and one territory. In two states—West Virginia and Tennessee—the senate president is first in line of succession.

Lieutenant governors are the only officials with specific duties and powers in two branches of state government—the executive and legislative branches.

In recognition of the nation’s lieutenant governors and the Golden Anniversary of NLGA, Nebraska Lt. Gov. Rick Sheehy, the 2012 NLGA chair, and Rhode Island Lt. Gov. Elizabeth Roberts discuss the roles they play in their respective states.

NLGA 50TH ANNIVERSARY

As part of its 50th anniversary celebration, the NLGA has partnered with the Kenton County, Ky., Public Library—with support from The Council of State Governments—to make available the first national collection of documents on the work of the nation’s lieutenant governors. To learn more about NLGA, visit www.nlga.us.

HEALTH CARE REFORM
Rhode Island Lt. Gov. Elizabeth Roberts

My statutory duties as lieutenant governor of Rhode Island include serving as the chair of the Long Term Care Coordinating Council, the Small Business Advocacy Council and the Emergency Management Advisory Council. Among my goals are to make health care reform a priority to benefit all Rhode Islanders; to help create a state in which new entrepreneurs easily can start new ventures, while Main Street businesses have access to opportunities for growth and prosperity; and to ensure that Rhode Island is well prepared for any emergency or natural event that might bring disaster our way.

Other responsibilities of this office tend to be project-focused and often accomplish important work. One example of this is the Healthy RI Task Force that I created in spring 2010 to determine how best to implement national health care reform in Rhode Island, especially the health benefits exchange that is required to launch by Jan. 1, 2014. Projects such as the task force are not designated by the role itself, but are up to the elected official to define during his or her time in office.

In January 2011, Gov. Lincoln Chafee transformed the task force into the Rhode Island Healthcare Reform Commission. I am now serving as chair to oversee the coordination of efforts of several state agencies and more than 150 dedicated professionals across the health...
The Council of State Governments congratulates the
National Lieutenant Governors Association
on its 50th anniversary of serving the states.

Since 1962, NLGA has provided a place for the exchange of views and experiences on topics of interest to the nation’s lieutenant governors and has fostered interstate cooperation.
Alaska Sen. Albert Kookesh knows rural. He’s served the nation’s largest legislative district—250,000 square miles in interior Alaska—in the state Senate for eight years. Like other rural legislators, he’s faced challenges getting bills passed that will help his constituents, many of them Alaska Natives in remote locations. It’s especially difficult, since 52 percent of the people in his state live in three communities—Anchorage, Fairbanks and Wasilla. He offers these tips to other rural legislators.

**HIRE GOOD STAFF AND MAKE CONNECTIONS**

**HIRE GOOD STAFF.**
Kookesh has hired staff who grew up in the rural communities he represents. “You can’t just hire somebody who graduated from Harvard and have them know the area,” he said. It’s particularly important in Alaska, where temperatures can be frigid, so staff have a good understanding of the importance of the needs of constituents. “You have to have somebody who grew up there and knows what it’s like to live in sub-zero temperatures.”

**MAKE A CONNECTION.**
As a Tlingit Indian, Kookesh is familiar with the needs of his constituents—he serves 126 rural communities where 16 native languages are spoken. He believes it’s important to identify leaders in those small communities; that comes through visiting the communities and having staff from those communities. It also helps to connect with groups that understand constituents’ needs. As an Alaska Native, Kookesh is a member of the Alaska Federation of Natives, which has 125,000 members. “We have an advantage because (the federation) always has the plight of the Alaska Native and rural Alaska in mind.”

**USE TECHNOLOGY.**
“Probably one of the greatest challenges was alleviated with the introduction of cell phones and wireless Internet into the communities,” he said. Before that, the communities primarily relied on dial-up access to the Web. It takes an effort for Kookesh to reach the communities he serves—many of the areas are inaccessible by automobiles. But he uses the many different technologies available to stay in touch with the small rural communities he serves, many of them with no more than 50 residents.

**WORK ACROSS THE AISLE.**
Kookesh, a Democrat, has joined the majority caucus—primarily Senate Republicans—to be able to have a voice in decisions. He advises Democrats in the Alaska House to do the same. “The minority doesn’t help you get things done,” he said. Working with the majority caucus, he said, helps Democrats achieve goals in a primarily Republican state. “It means survival to your communities.” While actually joining the opposing party’s caucus may not work in every state, policymakers can work across the aisle. “I try to be the best politician I can and try to work with everybody,” said Kookesh.

**EDUCATE PEOPLE.**
Many legislators in Alaska—and other states—may understand the needs in urban areas, but may not be as familiar with the needs in rural areas. Kookesh faces that challenge in many ways. For instance, many people don’t understand that much of the money in Alaska’s budget comes from the natural resources in the rural parts of the state, but they don’t get an equivalent amount of investment in return, he said. By working with the majority, he’s able to talk more about the issues in the rural areas to urban legislators.
National and Regional Meetings

Registration and application deadlines may apply. Visit www.csg.org/events for complete details.

For more information, visit: www.csg.org/events.

Toll Fellows Program Focuses on Leadership

The 2012 class of CSG’s Henry Toll Fellowship Program will be held Sept. 7–12 in Lexington, Ky. Members of the class will participate in a variety of team-building, leadership development and media training exercises. The leadership boot camp gives state officials the opportunity to spend a week with colleagues from all three branches of state government from across the country. Applications for the 2013 class will be available in November.

Webinar Will Cover Health Care Ruling

Join Paul Clement, who argued the Affordable Care Act case on behalf of the states before the Supreme Court, and Patricia Millett, who argued three cases before the Court impacting state or local government, in a discussion about the practical implications of the most important cases affecting state and local government from the Supreme Court’s 2011 term. The State and Local Legal Center is organizing this webinar set for 1 p.m. EDT, July 19, for all Big Seven members, and Lisa Soronen, executive director of the SLLC, also will participate in the conversation.
Leadership came quickly for Mike Flood, the speaker of Nebraska’s unicameral legislature. “I went from being the Enrollment and Review chair, a housekeeping position assigned to the youngest member of the freshman class, to speaker in my third year in the legislature,” he said. Now, after two terms, Flood will be leaving the legislature because of term limits. But he’ll be there to help whomever takes over after he leaves at the end of this year. “An early piece of advice I received was that a leader works to ensure the success of those around him,” Flood said. “In my role as speaker, I wanted the committee chairs and senators to accomplish what they wanted to accomplish. They put in the long hours to get their bills ready, in sitting through committee hearings. It is my job to facilitate what the majority of the body wants.”
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