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Executive Director
William T. Pound

Director of Communications
Karen Hansen

Editor
Julie Lays

Assistant Editor
Kevin Frazzini

Contributing Editor
Jane Carroll Andrade

Online Magazine
Ed Smith
Mark Wolf

Advertising Sales Manager
LeAnn Hoff
(303) 364-7700
LeAnn.Hoff@ncsl.org

Contributors
Dick Cauchi
Kevin Pula
Jim Reed
Rich Williams

Art Director
Bruce Holdeman

NCSL President
Senator Daniel T. Blue
North Carolina

NCSL Staff Chair
Raúl E. Burciaga
Director, Legislative Council Service
New Mexico

Denver Office
7700 East First Place
Denver, Colorado 80230
(303) 364-7700

Washington, D.C., Office
444 N. Capitol St.
N.W., Suite 515
Washington, D.C. 20001
(202) 624-5400

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STATE LEGISLATURES

NCSL's national magazine of policy and politics

FEATURES

COSTLY CURES Page 10

BY MICHAEL BOOTH

Effective but very expensive drugs are forcing state Medicaid directors to make some tough decisions.



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A ROCKY ROAD Page 20

BY SCOTT RODD

How can we afford to fix our aging highways and bridges?

BACK STORIES Page 24

BY DURANYA FREEMAN

Legislators bring a variety of interesting experiences to their statehouse jobs.

BUDGET UPDATE Page 28

BY ERICA MACKELLAR

The outlook for state budgets is largely stable for 2017.



Dive deep into the worlds of transportation funding and finance or marijuana policy, with everything you need for a deeper understanding on either topic all in one place. Two dives, lots to catch in SL Online's Deep Dive section.

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THE FINAL WORD PAGE 31

North Carolina Senate Minority Leader and NCSL President

DANIEL T. BLUE JR.

"NCSL creates this unique opportunity for folks from different backgrounds ... to come together and have meaningful discourse."

SL ONLINE

You can find more information and links to resources on topics covered in these pages at SL Online, including NCSL's complete elections analysis.

➔ Go to ncsl.org/magazine



SHORT TAKES ON NCSL NEWS

STRONG VOICE



CAPITOL FORUM

▲ Lawmakers from across the country convened in Washington, D.C., in December for NCSL's 2016 Capitol Forum to discuss the elections and pressing state-federal issues. Legislators also met with their federal counterparts on Capitol Hill during Lobby Day. Above, Massachusetts Representatives (from left) Alice Peisch, Jay Kaufman, Angelo Puppolo and Tom Stanley, along with NCSL staff Richard Cauchi and Margaret Wile, shared their concerns about health care and other state issues with fellow Bay Stater, U.S. Senator Elizabeth Warren (third from the left).

NCSL EXPERTISE



"We don't run one presidential election; we run 51."

Daniel Diorio on the nature of decentralized elections in the U.S. in *The Washington Post*.



President Donald Trump has already shown support for state taxation of remote sales, which gives advocates some hope.

Neal Osten in *Bloomberg BNA*.



"Lawmakers used a lot of time and effort in Congress to write the Every Student Succeeds Act."

Michelle Exstrom in a *Chalkbeat* article about whether federal education priorities would change in the Trump administration.

► Four members of Congress who championed the new Every Student Succeeds Act were honored with NCSL's Restoring the Balance Award at the 2016 Capitol Forum. The award honors national officials who recognize the critical role that state governments, and in particular state legislatures, play in the federal system. Accepting the award from NCSL President-elect and South Dakota Senator Deb Peters were U.S. Senator Lamar Alexander (R-Tenn., above right) and U.S. Representative Bobby Scott (D-Va.). Other winners were U.S. Senator Patty Murray (D-Wash.) and U.S. Representative John Kline (R-Minn.). Visit nctl.org/magazine to view past winners.



ENERGY EXPERTISE

◀ From left, West Virginia Delegate Mark Zatezalo, Washington Senator Dean Takko, and Montana Senators Sue Malek and Cynthia Wolken work on an electricity procurement simulation at the Legislative Energy Horizon Institute. The executive certification program for state and provincial legislators was hosted by NCSL's Energy Program, the Pacific NorthWest Economic Region, the University of Idaho, the U.S. Department of Energy and the Government of Canada.

SUPPORT

NCSL & You

Welcome to NCSL! All legislators and legislative staff are automatically members of NCSL. We are your organization, and for more than four decades, we have been committed to your success. Turn to us for unbiased, comprehensive research, the newest and best state policy ideas and solutions, insight into state-federal action and the most knowledgeable policy experts anywhere. For more information, visit www.nctl.org/members or email getinvolved@nctl.org.

NCSL BY THE NUMBERS

43

Years NCSL has been serving state legislatures

7,383

State legislators

30,000

State legislative staff

5,000

Attendees at NCSL's 2016 Legislative Summit, the largest annual gathering of legislators and staff in the country

59

NCSL liaisons to the states and territories

53

Webinars NCSL conducted in 2016

50

Reports NCSL publishes each year on top topics

2

NCSL offices (Denver and Washington, D.C.)

From NCSL's Executive Director William T. Pound

NCSL Stands With You

During the coming months, you will face some of the toughest challenges and greatest uncertainty in decades. The initiatives from the new Trump administration are likely to change the course and direction of our country, and many of them will have a great impact on how the states do business.

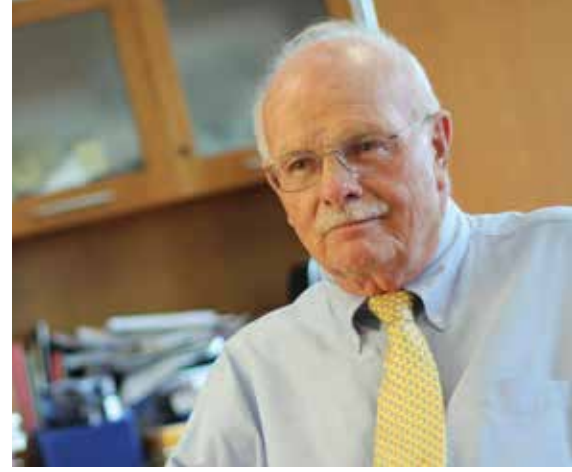
The Medicaid program could change significantly if block grants are substituted for direct federal funding. This may give states great latitude for innovation, but will also require thoughtful deliberation on the best approach for each state. If the Affordable Care Act is dismantled and replaced, what form that takes will have a huge impact on how states deliver health care. Tax reform for corporations and individuals will affect state revenues and require adjustments in state tax laws. The federal government's role in education—both in funding and in mandates—may change significantly. Investing in our infrastructure, one of Pres-

ident Trump's key campaign issues, could potentially create jobs, but where all the funding will come from is still unclear.

Federal action in these and other areas will present both uncertainty and opportunity to state legislatures and to state finances. More than ever, state legislatures will be the key architects of American domestic policy.

As with any new administration, the promises made during the campaign may be more difficult to keep when the proposals go to Congress. But it is safe to say that you have enormous responsibilities in the months and years to come.

We at NCSL stand with you. We will offer you unparalleled assistance over the next two years in every area you need it. We will send our staff experts into your state to discuss the intricacies of federal initiatives, and the potential ways states can craft legislation to meet the changes and mandates. We will supply you with unbiased research,



information and expertise on the complex issues you will address. We will schedule special briefings by phone and in person as the needs become apparent, and we will conduct specialized meetings across the country on issues of critical importance.

NCSL is your organization. We are committed to your success, and we will support your efforts in every way we can. The contributions you make to American democracy cannot be overstated. Through NCSL, you are part of the community of all state legislators—Republicans and Democrats—as well as legislative staff from across the country. Call me or write to me with questions or concerns. NCSL is here for you.

—William T. Pound



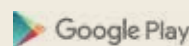
A New Podcast from NCSL

Coming February 2017

Our American States is where you hear compelling conversations that tell the story of America's state legislatures, the people in them, the politics that compel them, and the important work of democracy.

www.ncsl.org/podcast

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Exploitation of the Elderly

More than 6.8 million Americans aged 65 or older report they have been “taken advantage of financially in terms of an inappropriate investment, unreasonably high fees for financial services, or outright fraud,” according to a recent Investor Protection Trust survey. Financial crimes and exploitation can involve the illegal or improper use of a senior citizen’s funds, property or assets, as well as fraud or identity theft.

Although there are no exact statistics on how often financial crimes against the elderly occur, it is widely believed to be underreported by the victims. One study published by MetLife Mature Market Institute in 2011 estimated the financial loss by elderly victims exceeded \$2.9 billion annually.

In 37 states, the District of Columbia and the U.S. Virgin Islands, lawmakers

have enacted criminal penalties to combat financial exploitation, fraud, identity theft and embezzlement against the elderly and other vulnerable populations. Across the nation, 130 bills were introduced in 2016, up from 89 in 2014.

Twenty-five states have a specific crime of financial exploitation in their statutes. For example, in Idaho it’s a misdemeanor to exploit a vulnerable adult if the monetary damages are under \$1,000. But, if it’s more than that, the crime becomes a felony and the penalty jumps to imprisonment for up to 10 years and a fine up to \$25,000. In Vermont, the break point is at \$500—under that amount, it’s 18 months in prison and a fine of up to \$10,000, or both. If it’s more than \$500, the imprisonment time jumps to 10 years.

Nine states, the District of Columbia and the U.S. Virgin Islands “enhance” the sentences for identity theft crimes when



they are committed against senior citizens. And 10 states and the District of Columbia have theft or larceny provisions if the victim is a senior citizen or vulnerable adult.

Legislators will be watching. As the population ages, it’s likely that crimes such as these will too.

—Heather Morton

No Worry Finances

More than half of Americans worry about their personal finances. In a recent survey conducted by The Pew Charitable Trusts, respondents said they are concerned about not having enough money to cover regular expenses, let alone enough to pay off their student debt and save for retirement and emergencies. A wave of recent laws on financial education and lending practices, among other topics, indicate legislators are concerned about the financial well-being of their constituents as well. New technology may be part of the solution to helping Americans better manage their finances.

The Federal Reserve has researched Americans’ personal financial security for years, and now suggests that the past and current focus on family income levels should be widened to include all three components of a family balance sheet: income, expenses and wealth.

To understand who is better off and why, the Federal Reserve argues, it’s more useful to know not only what Americans earn, but also how much they spend, how much they save and how much they owe. Analyzing this information along with other demographics, such as age and race, can produce a more accurate snapshot of a family’s financial well-being or a sub-population’s income inequality, leading to more effective efforts in helping all families achieve financial independence. And this is where technology can help.

The Financial Solutions Lab—a \$30 million, five-year initiative—encourages fintech businesses (the growing sector of compa-

nies and nonprofits that integrate technology into financial services) to identify, test and expand promising innovative technology to help Americans, especially those with low- to moderate-incomes, increase their savings, improve their credit scores and build their financial assets. The project is directed by the Center for Financial Services Innovation and funded by JP Morgan Chase & Co.

Last year, 356 private fintech firms and nonprofits submitted products in the second annual competition sponsored by the lab that awards winners based on their ability to improve consumers’ financial health. A sample of the nine winners includes:

- Albert, a mobile app that gives users a financial health score, practical advice and steps to take to improve personal finances. Albert integrates the services of financial institutions—banks, lenders and insurers—into the app, making it easy to use.
- eCreditHero, a website that can help some of the 108 million consumers limited by their bad credit scores fix their ratings for free.
- Remedy, a service that resolves medical bill errors and overcharges directly with providers, making it easy for patients to pay the correct balance online and saving the average family more than \$1,000 a year.

Each winning company receives several benefits, including networking opportunities, advisory assistance to grow and scale their business and \$250,000 in capital.

—Mary Fairchild

School Choice Gets a Boost

Private school choice is alive and well. Betsy DeVos, the new Secretary of Education, has been a vocal advocate for school choice in her home state of Michigan, and some anticipate she may promote a voucher program and tax credit at the federal level as well.

Twenty-seven states have passed legislation supporting at least one approach to private school choice, and it looks like those options will continue to be debated in statehouses around the country. Fourteen states plus the District of Columbia have specifically established traditional school voucher programs. State-funded vouchers are like scholarships that pay qualifying private schools for the students' education.

Legislatures establish the minimum standards the private schools must meet and decide which group of students will be eligible. States vary in their approaches, but often, vouchers are intended for students from low-income families or those attending failing schools, or who have disabilities.

State support going to private schools is not a new practice. Maine and Vermont for nearly 140 years have been providing public funding to private schools for rural students with no public school nearby. Modern efforts to start a voucher program have met more resistance, however.

Proponents argue that parents know what's best for their children and that they, not the government, should be making their kids' educational decisions. They believe vouchers create a healthy competition among schools that will lead to higher student achievement and lower educational costs. Opponents don't see it that way. They argue that a handful of students leaving with vouchers cuts funding to the school but does little to cut the fixed costs of running a school.

In addition, when private schools are religious, as they often are, some question whether the vouchers are violating the Constitution's call for the separation of church and state.

Research on whether vouchers have done what they were meant to do hasn't



cleared up the issue. When compared to similar public school students, low income and minority students who receive vouchers have shown some gains in test scores, but in general, students performed at the same level on reading and math assessments whether they had a voucher or not, according to the Center on Education Policy's review of school voucher research.

Other research has found voucher recipients are more likely to graduate from high school than their public school coun-

terparts. In addition, studies show that low-performing schools facing a potential loss of students to vouchers showed some improvement as well, although the reason why is unclear.

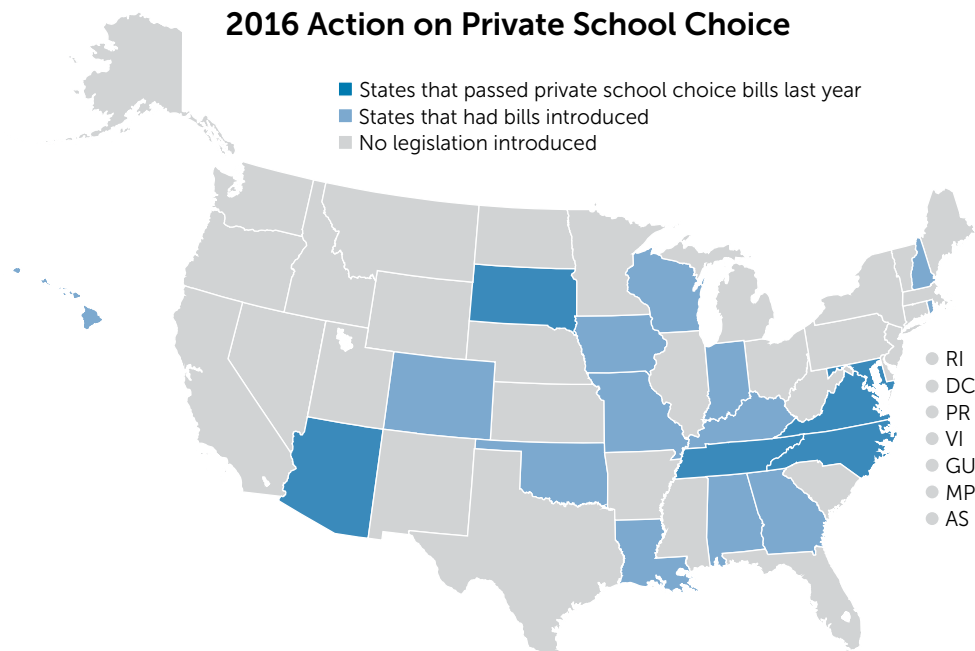
Parents of voucher students aren't concerned only with academics, however. They also want to be able to choose a safe and supportive atmosphere for their children.

Generally, courts have sided with vouchers, and in 2002, the Supreme Court upheld Ohio's voucher program, 5-4, in *Zelman v. Simmons-Harris*.

When the Education secretary was announced, she was applauded by school choice advocates. Jeb Bush called her an "outstanding pick." She will be a "passionate change agent to press for a new education vision," he told *The New York Times*. Public school advocates, on the other hand, were concerned. The president of the American Federation of Teachers, according to the *Times*, called her "the most ideological, anti-public education nominee" since her position was created in the White House cabinet more than 40 years ago.

—Josh Cunningham

2016 Action on Private School Choice



NEWSMAKERS

IN IDAHO, REPUBLICANS RE-ELECTED THEIR TOP

LEADERS. Representative Scott Bedke (R) will continue as speaker for a third term, and Senator Brent Hill (R) remains as Senate president for a fourth term.



"It should be easy to vote. It should not be easy to cheat."

Michigan Representative Lisa Lyons (R) on her proposals to require voters to present ID cards, on mlive.com.



"These are the experts, so we asked them to bring us their thoughts."

Oregon Representative Caddy McKeown (D) on the state Transportation Commission's recommendation to increase spending by \$574 million a year to upgrade roads and bridges, in the Portland Tribune.



"We're going to make it a felony of the third degree if you do it."

Ohio Senator Bill Seitz (R) on his bill to ban assisted suicide, on Cleveland.com.

ASHLEY KEHL IS THE NEW CHIEF OF STAFF FOR OKLAHOMA SENATE PRESIDENT PRO TEM MIKE SCHULZ (R). Kehl, a former political consultant, replaces Jonathan Nichols, who resigned to work for the University of Oklahoma as vice president of government relations.



KANSAS SENATOR SUSAN WAGLE (R) WON A SECOND TERM AS THE CHAMBER'S PRESIDENT, and Senator Jim Denning (R) is the new majority leader. The Kansas House elected Representative Ron Ryckman (R) to be the new speaker. Representative Don Hineman (R) is the new majority leader. Paje Resner, who before the election was communications director for Wagle, has moved across the rotunda to serve as chief of staff to Ryckman.



"I see an opportunity for us to be able to market Missouri as a corporate tax-free state."

Representative Will Kraus (R) on his proposal to phase out the state's corporate income tax, in the Kansas City Star.



JOHNSON

MITZI JOHNSON (D) IS VERMONT'S NEW HOUSE SPEAKER. She succeeds eight-term speaker Shap Smith, who did not seek re-election. Johnson was appropriations chair and is conductor of the Statehouse Singers choral group.



JASPER



MORSE

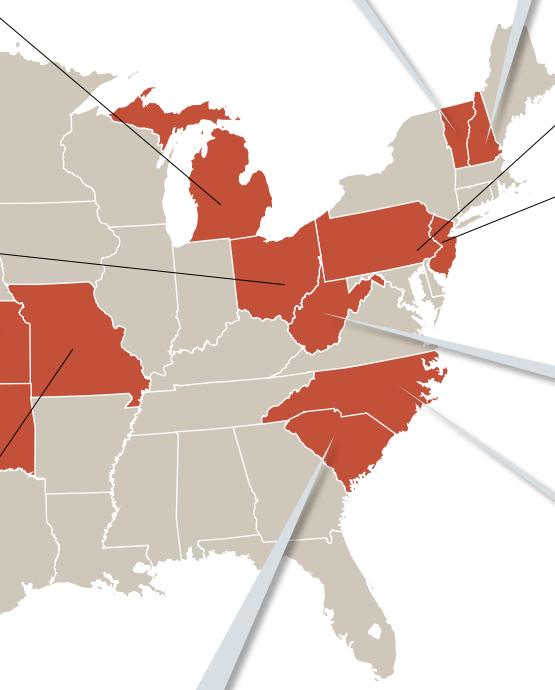
NEW HAMPSHIRE LAWMAKERS RETURNED THEIR TWO TOP LEADERS TO THEIR RESPECTIVE POSTS. Shawn Jasper continues as speaker of the House, and Chuck Morse returns as Senate president. Both are Republicans.



MENTZER

"We will definitely be increasing our giving by the \$1,200 amount."

Pennsylvania Representative Steven Mentzer (R) on what he and his wife will do with his legislative pay increase, an automatic cost-of-living adjustment, on lancasteronline.com.



"It totally makes rehabilitation efforts more difficult."

New Jersey Senator Ray Lesniak (D) on his bill (which was vetoed) to severely limit use of solitary confinement, on nj.com.



LESNIAK

IN WEST VIRGINIA, SENATOR MITCH CARMICHAEL (R) IS THE NEW SENATE PRESIDENT in the chamber the GOP dominates 22-12. Delegate Tim Armstead (R) is returning as speaker of the House for his second term.



CARMICHAEL



ARMSTEAD

REPRESENTATIVE JAY LUCAS (R) WAS ELECTED FOR A SECOND TERM AS SPEAKER of the South Carolina House. In the Senate, Hugh Leatherman (R) will serve a second term as Senate president pro tem. But if Governor Nikki Haley is confirmed as ambassador to the United Nations and the lieutenant governor assumes the role of chief executive, the state constitution currently calls for the pro tem to become lieutenant governor. Leatherman, however, has indicated that he is not interested in serving in the largely ceremonial position.



LUCAS



LEATHERMAN

NORTH CAROLINA SENATOR PHIL BERGER (R) WAS ELECTED TO A FOURTH TERM as Senate president pro tem. Representative Tim Moore (R) is in his second term as speaker of the North Carolina Assembly. He was the youngest lawmaker to assume the speakership when the Assembly elected him in 2015. They both lead supermajorities.



BERGER



MOORE

COSTLY CURES

Effective but very expensive drugs are forcing state Medicaid directors to make some tough decisions.

BY MICHAEL BOOTH

One of the deadliest infectious diseases in the nation now has a lifesaving cure. But the drug boasts a price as astounding as the medicine is miraculous. Millions of patients could benefit; yet if too many of them show up for treatment too fast, the cost would bust the budgets of straining Medicaid programs across the nation.

Hepatitis C. Around 3.5 million Americans have this troubling public health threat although half of them don't know it. Without treatment, it eventually attacks the liver and can cause liver cancer and cirrhosis and require a liver transplant. Close to 20,000 people died from it in 2014, more than the total combined number of deaths from 60 other infectious diseases, including HIV, pneumococcal disease and tuberculosis.

But at around \$50,000 currently per person, the cure is far from the reach of many. Courts have ruled the states have to offer the drug to everyone, with legal advocates finding enormous leverage in the federal government's rule that states must pay for all treatments that are "medical necessities."

A Tangled Tale

It's a tangled tale involving every branch of government and private industry, one that the most inventive professor of ethics would be hard-pressed to think up. But this is no ivory tower imaginary scenario. The battle over hepatitis C is an all-too-real human problem—"and a math problem," as one Medicaid expert puts it—sparking furious political, executive and legal skirmishes in several states.

Colorado is among the latest to experience this clash between patient advocates and Medicaid directors and their legislative leaders who must carefully steward tight state budgets. Delaware, Florida, New York, Washington and elsewhere also have had to wrestle with hepatitis C payment rules.

Michael Booth is a freelance writer from Denver.



“There are people falling through the cracks right now who really need help,” says Colorado Representative Joann Ginal (D). “We should be able to help everybody, but prices are going up and our budget is only so big...”



Representative
Joann Ginal
Colorado

The agonizing choices for Medicaid departments promise only to pile up in coming months and years. Treatments are being developed for other debilitating conditions, such as muscular dystrophy and sickle cell anemia.

That’s good news for patients, says Matt Salo, leader of the National Association of Medicaid Directors. He calls it “a Renaissance for treatments of long-untreatable illnesses.”

The bad news, however, is the collective price tag. The new drugs are coming with potential retail prices between \$300,000 and \$500,000 for each patient’s treatment.

Hep C Sets the Bar

Nowhere do the numbers pile up faster than with hepatitis C. Colorado’s dilemma reached its height last year when the state Medicaid department said it couldn’t afford the hepatitis C cure if all 10,000 Medicaid clients testing positive for the virus sought treatment. The department told legislators it had already spent \$26.6 million on the cure for 326 patients. Treating everyone would cost \$1.14 billion more, the department says, a budget-busting amount in a state that currently supplements Medicaid’s federal funding with \$2.6 billion of its own money.

Many people testing positive for hepatitis C have no symptoms for years. So Colorado, like some other states, sought to limit the expensive drug treatment to patients with more severe symptoms, like liver scarring, whose disease progression “score” has reached at least three, on a nationally accepted four-point scale of the disease.

That idea was not received well by patients, advocacy groups and many public health experts who decried the notion that limiting a drug with so much potential to cure disease could be considered a solution. They pointed out that patients can have debilitating fatigue, aches and other symp-

HEP-C

BY THE NUMBERS

- 1st**
Hepatitis C’s place as the leading infectious killer in the U.S.
- 20,000**
People killed by the disease in U.S. each year—more than 60 other infectious diseases combined.
- \$84,000**
The original cost of a 12-week course of Sovaldi, one of the first Hep-C drugs with a 90% cure rate
- 24.3%**
Medicaid’s rate of spending increase on drugs in 2014 (Medicare’s increase was 16.9%; private health insurance, 11.3%)
- 25%**
The increase in Medicaid spending on prescription drugs (2013–2014) due to higher use
- 75%**
The increase in Medicaid spending on prescription drugs due to increases in price

Sources: The Centers for Disease Control and Prevention, Centers for Medicare & Medicaid Services

toms long before they reach level three.

“When I heard about the new drugs, little did I know they would only give them to the people in the worst shape,” says David Higginbotham, a Colorado plumber who has lived with hepatitis C for decades since acquiring it during a stint as a surgical technician. In fact, Higginbotham feels so passionate about this topic that he ran for a House seat last fall, but lost.

“The system is set up to ignore the problem until they go away. And they do go away—they die.”

Although Colorado Medicaid officials declined an interview, citing pending litigation, in past statements they have pointed to the extremely high price pharmaceutical companies place on the drugs as the roadblock.

**75% of heroin users first
abuse prescription opioids.**

**Ask a physical therapist
about safer ways
to manage pain.**



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The Miracle Comes With a Price

The current impasse in various states began when the federal Food and Drug Administration approved Gilead Science Inc.'s drug Sovaldi in 2013. The previous standard treatment for active hepatitis C patients was a year's worth of interferon injections with excruciating side effects.

With a 90 percent cure rate and few side effects, Sovaldi appeared to many patients to be the miracle they had hoped for. But at about \$1,000 a pill, it came with a cost: \$84,000 per patient for the full 12-week course of treatment.

Gilead has since added the drug Harvoni, and other drugmakers are coming to market with similarly effective treatments. The variety and competition have helped Medicaid departments negotiate a lower price.

Why So Much?

The patents owned by drug companies give them a monopoly on their formulas and the legal authority to charge whatever they want to. They argue that it's an expensive, tedious process to get a drug approved in the United States. Drug companies invest roughly 15 percent of their revenues back into research and development. Limiting that revenue has the consequence of limiting new investments in research, they argue.

Gilead's position is that the price of its drugs to cure hepatitis C is a good deal for states overall, as the long-term costs for treating hepatitis C patients plummet after they are cured.

The company's executives say states benefit from a Medicaid-mandated discount for the drugs, and state officials can negotiate deeper discounts if they agree to extending the drugs to more patients through their formularies.

Despair Over Disparities

Patient advocates denounce government limits that they argue exacerbate current health disparities between those who will receive the new treatments because they have Medicare or private insurance and those who will have to wait until they are sick enough to receive treatments because they are on Medicaid.

Advocates, some of whom acknowledge they receive funding from the same

drug companies that would benefit from expanded state purchases, joined their voices with the American Civil Liberties Union and other groups demanding an alternative to the limitations.

"Our contention is that the professionally accepted clinical standard of care is to treat chronic hepatitis C with these modern curative medications, regardless of how far the disease has progressed," says Mark Silverstein, legal director for the Colorado ACLU.

The ACLU threatened to take Colorado to court unless the standard was changed to allow treatment for all diagnosed Medicaid patients. In response, Colorado Medicaid announced it would lower the criteria for treatment to those patients diagnosed at level two or above. Advocates welcomed that step but said it was not enough, and cited states that have opened treatment to all.

Last fall, the ACLU followed through with its threat and filed a federal class-action lawsuit against the state's Medicaid

program for failing to allow treatment for all diagnosed Medicaid patients and thus violating the federal rule requiring coverage of any treatment deemed "medically necessary." The overwhelming number of public health doctors who support full treatment proves the medical necessity of the hepatitis C drugs, Silverstein says.

The Budget Is No Reason

"When a Medicaid agency wants to rely on its budget as a reason for not providing medical care, it's problematic legally," Silverstein says.

It's also bad public health and fiscal policy, patient advocates contend. Curing hepatitis C in more patients means fewer people transmitting the deadly and costly disease to others.

Untreated hepatitis C not only leads to eventual liver disease, but it can complicate diabetes, lymphoma and arthritis, among other conditions, says Nancy Steinfurth,



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The Top in Cost

Which drugs cost the most? Which ones are most commonly prescribed? Which are going up in price the fastest? A new tool can help answer those questions. The Centers for Medicare & Medicaid Services developed the Drug Spending Dashboard in 2015. It tracks the price of drugs purchased for Medicare and Medicaid beneficiaries. It allows the public to see which drugs have increased the most, which affect program spending overall the most, and more. It also contains helpful graphs on trends for specific drugs. The top three most expensive drugs per prescription are: Novoseven RT (\$67,098), H.P. Acthar (\$44,102) and Harvoni (\$27,721.). The drugs that have increased the most in annual cost per unit are: Ativan (up 1,246%), Daraprim (874%) and Hydroxychloroquine Sulphate (489%).

The Top 10 Drugs That Cost Medicaid the Most in 2015

Drug	Main Uses	Total Annual Medicaid Spending
Harvoni	Hepatitis C	\$2,175,115,839
Abilify	Mood Disorders/Mental Illness	\$2,029,596,059
Lantus/Solostar	Diabetes	\$1,435,574,715
Humira/Pen	Rheumatoid arthritis	\$805,458,621
Vyvanse	Attention Deficit Hyperactivity Disorder	\$782,651,741
Truvada	HIV	\$736,377,749
Invega/Sustenna/Trinza	Mood Disorders/Mental Illness	\$726,297,317
Methylphenidate ER	Attention Deficit Hyperactivity Disorder	\$700,422,208
Latuda	Mood Disorders/Mental Illness	\$631,424,752
Sovaldi	Hepatitis C	\$618,445,599

Source: Center for Medicaid & Medicare Services, Medicaid Dashboard, January 1, 2017

director of Colorado’s patient advocacy group Liver Health Connection.

“There are a lot of diseases made worse by hepatitis C that Medicaid is already paying for,” Steinfurth says. A study commissioned by her group—which receives drug company backing—showed that Medicaid departments save money in the second year after treating those in level two of the disease as well.

Repeat Offenders

Medicaid directors and their professional advisory boards are wrestling with other ethical issues regarding hepatitis C, says Salo, with the Medicaid directors association. The new class of drugs may constitute an effective cure, but they do not protect or immunize patients, especially against their own risky behavior.

Injection drug users, for example, frequently relapse, risking reinfection with hepatitis C from shared needles. Moreover, Salo says, some prescribers are reluctant to authorize a \$50,000 course of drugs without some kind of supervision ensuring the patient sticks to the regimen and takes them correctly.

“Are you going to mail someone a bottle of pills that’s worth \$20,000 and hope

“What good is making a drug if a person who really needs it can’t afford it?”

Representative Joann Ginal, Colorado

they take them right?” Salo asks. “Are you going to pay for someone who is reinfecting, and how many times?”

Legislators and executive branches around the nation also have to account for hepatitis C costs in their prison systems, where Medicaid can’t be used to cover state prisoners. That means states pick up the full tab rather than split costs with the federal government. Pennsylvania says in a court filing that treating thousands of inmates with hepatitis C would cost \$600 million and “effectively cripple the department” budget, according to The Wall Street Journal.

States Weigh In

When drug prices jump by huge amounts for no apparent reason, it’s not hard to understand why lawmakers are taking note. They are starting to demand more transparency from drug companies on what their true research and production costs are for certain expensive treatments.

“What good is making a drug if a person who really needs it can’t afford it?” Colorado’s Ginal asks.

The Affordable Care Act requires transparency in the costs from hospitals and insurance companies but not from drug companies.

Vermont lawmakers passed the nation’s first law to bring more transparency into drug pricing in early 2016. It requires drug-makers to justify why an increase in price is needed for certain medications each year.

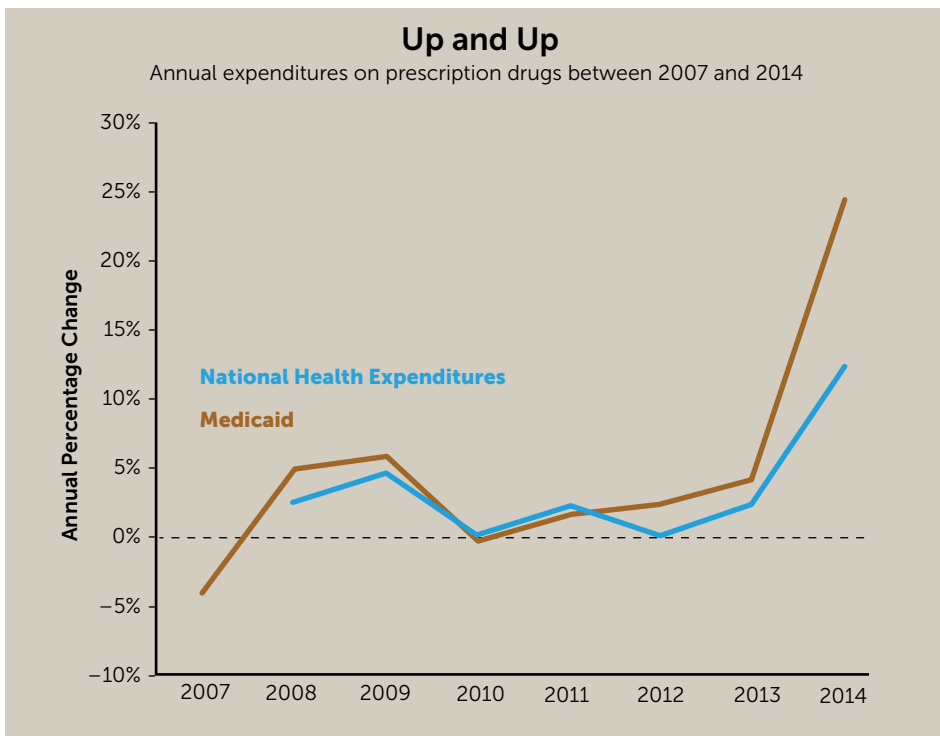
Another dozen or so states considered similar legislation in 2016, and it looks like 2017 will be similar.

Tennessee Representative Cameron Sexton (R) says his state is using a pilot program agreement with the federal Centers for Medicare & Medicaid Services to make some payments based on patient outcomes, not just on budget targets.



Representative Cameron Sexton Tennessee

“One of the limitations of government is that it only looks at the cost for today, and very rarely looks at the savings over time,” Sexton says. “We’re trying to change that philosophy in our pilot program. So you hold PhRMA (Pharmaceutical Research and



“One of the limitations of government is that it only looks at the cost for today, and very rarely looks at the savings over time.”

Representative Cameron Sexton, Tennessee

Manufacturers of America) or the individual company accountable for the results they say they’re going to achieve.”

In the example of hepatitis C, Sexton says, if the drug seller claims the product will reduce hospitalization and other costs down the road, in exchange for a \$50,000 drug cost, then the state should modernize its technology and accounting to be able to measure that outcome. “Did you really see the benefits you were told there would be? If you are not seeing that, then there’s no longer any need for the state to use that product,” Sexton says.

Not Forgetting the Future

Hepatitis C has upended the calculations of Medicaid directors because it’s much more common than other conditions that have high-priced cures or treatments, Salo says. Hemophilia can cost \$1

million a year to treat and manage, but it’s extremely rare. The condition that worries health leaders most as baby boomers age is Alzheimer’s, with several drug companies pursuing treatments that are likely to prove enormously expensive, Salo says.

Drug companies are already shifting the talk about Alzheimer’s away from how much it will cost them to produce new drugs to how much it will cost the state or caregivers to treat and care for patients in a nursing home, Salo says. If those price tags come in at \$75,000 a year for a drug that millions of baby boomers will want to take as soon as they near 55, “that’s unsustainable,” Salo says.

With hepatitis C drugs and other pending high-price treatments, Salo says states will not be able to solve the cost problem on their own. The federal government will either have to come in as a financial part-

“Drug costs are like a rubber band that keeps stretching and stretching. Eventually it’s going to break.”

Representative Robert Bancroft, Vermont

The ABCs of Hepatitis

Three different viruses cause the three kinds of hepatitis. All produce similar symptoms: fever, headache, malaise, anorexia, nausea, vomiting, diarrhea and abdominal pain. But all are transmitted differently, according to the Centers for Disease Control and Prevention. Their effects on the liver vary as well. There are vaccines to prevent A and B, but not C.

A is acquired primarily through close personal contact with an infected person and during food-borne outbreaks. Hepatitis A appears only as an acute infection and does not become chronic. People with hepatitis A usually improve without treatment.

B is transmitted by exposure to the blood or body fluids of an infected person through sexual contact, childbirth, unscreened blood transfusion or unsafe injections.

C is transmitted primarily from injection-drug use, needle stick injuries and inadequate infection control in health-care settings.

Source: Centers for Disease Control and Prevention

ner to pay a higher share of treatments it has deemed medically necessary, or it will have to use its aggregate negotiating power to lower prices.

A Hopeful Sign

Gilead executives say the states’ crises in hepatitis C costs are already showing signs of diminishing because of the effectiveness of the cure. The total number of hepatitis C infections nationwide is starting to drop, as are the prices of new effective treatment regimens, says Coy Stout, Gilead vice president of managed markets.

For many, that trend can’t come too soon. Representative Robert Bancroft (R), a cosponsor of the Vermont legislation, describes the situation this way: “Drug costs are like a rubber band that keeps stretching and stretching. Eventually it’s going to break.”



Representative Robert Bancroft, Vermont



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RON BERNSTINE • SETH BERRY • KYLE BIEDERMANN • SHANNON BILBRAY-AXELROD • DAVID BINFORD • CHRIS BIRCH • ELIZABETH BISHOP • LAURIE BISHOP • BO BITEMAN • RUSTY BLACK • BART BLACKWELL • ISELA BLANC
K • WILL BOND • JOSH BONNER • LAUREN BOOK • GLENN BOSCH • BRUCE BOSTELMAN • BEVERLY BOSWELL • ANTHONY BOUCHARD • NATE BOULTON • SKYLAR BOUTIN • MARTIN BOVE • DEBBIE BOVEE • SEAN BOWIE
CHRISTOPHER BROOKS • KAMIA BROWN • WAYLON BROWN • LARRY BROWN • RICHARD BROWN • LONDON BROWN • JESSICA BRUMSTEAD • WILLIAM BUCKBEE • SUSAN BUCKHOLZ • DAWN BUCKINGHAM • LEANNE BURCH
• JEANINE CALKIN • JULIE CALLEY • DARRIN CAMILLERI • POLLY CAMPION • JOSEPH CANESTRARO • NICOLE CANNIZZARO • MCKENZIE CANTRELL • MOORE CAPITO • SARAH CAPP • BARBARA CARDONE • RICK CARFAGNA
S CAVENAUGH • RICHARD CEBRA • MORGAN CEPHAS • SABRINA CERVANTES • STANLEY CHANG • MIKE CHAPMAN • ALEXANDER CHARLTON • ROGER CHASE • CESAR CHAVEZ • HOLLY CHEESEMAN • PHILLIP CHEN • STEVEN CHOI
DODD CLODFELTER • WILLIAM COGSWELL • LESLEY COHEN • SELENE COLBURN • BRUCE COLEMAN • JAMES COLEMAN • BENJAMIN COLLINGS • JAMES COLLINS • BARBARA COMTOIS • CHRISTINE CONLEY • PETER CONLON
COURT • PHILIP COVARRUBIAS • CLAY COX • TOM COX • CARL CRABTREE • GARREL CRAIG • JOHN CRANE • THOMAS CRANK • JOHN CRAWFORD • VERNON CRISS • WILLIAM CROCKER • DAVID CROWLEY • STEVEN CRUM
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ENDA DIETRICH • CHARLOTTE DILORENZO • MICHAEL DIMASSA • GIOVANNI DISANTO • PHIL DISERIO • BETH DOGLIO • MATTHEW DOLAN • MICKEY DOLLENS • BYRON DONALDS • SUSAN DONOVAN • ROGER DONTONVILLE
DULIN • CATHY DUNN • BETSY DUNN • ADAM DUNSBY • NICHOLAS DURAN • ANTHONY D'URSO • CALEB DYER • DAVID EASTMAN • JEFF EDLER • JESS EDWARDS • JAY EDWARDS • JUSTIN EICHORN • BILL EIGEL • JOEL ELBER
• ISAAC EPSTEIN • STEVE ERDMAN • JOSEPH ERRIGO • SEBASTIAN ERTELT • JEAN EVANS • ED EVANS • TONY EXUM • DANNY EYRE • JULIE FAHEY • MICHAEL FANNING • ZACH FANSLER • GARY FARMER • ELIZABETH FARNHAM
• DANIEL FEYEN • JASON FIELDS • RANDALL FINE • JASON FISCHER • CRAIG FISHBEIN • ROSS FITZGERALD • ISABELLA FITZGERALD • KEN FLEMING • JOHN FLEMING • JAMIE FLITNER • HEATH FLORA • VINCENT FONG
MAN • LISA FREEMAN • ROBERT FRENIER • NICK FRENZT • LAURA FRIEDMAN • JASON FRIERSON • JONATHAN FRITZ • AVERY FRIX • SHERRY FROST • JULIE FRYE-MUELLER • CHRIS FUGATE • ROGER FULLER • OSVALDO FUMO
ERSON • JIM GARTNER • CEDRIC GATES • TERRY GAUTHIER • FRANCIS GAUTHIER • BETTY GAY • JIMMY GAZAWAY • SUZANNE GEIST • ALAN GENTRY • BARBARA GERVIN-HAWKINS • LEN GERZON • DYLAN GIAMBATISTA
ANCE GOODEN • WESLEY GOODMAN • TIM GOODWIN • SPENCER GOSCH • CANDACE GOULD • AMANDA GOURGUE • JOHN GRAHAM • ERIN GRALL • MICHAEL GRANT • TRAVIS GRANTHAM • PAUL GRAVES • MATTHEW GRAY
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LLWIG • PAMELA HELMING
A HERTZ • W. LEE HEWITT
SON • FRANK HOAGLAND
N • PAMELA HORNBERGER
DAVID HUOT • DAN HYNES
AMISON • JOHN JANIGIAN
REW JOHN • JOSEPH JOHN
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JAY KAHN • ASH KALRA
NNEDY • CRAIG KENNEDY
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ERIN MAYE QUADE • ZACHARY MAYNARD • RICHARD MCARTHUR • MICHAEL MCCARTHY • STANLEY MCCLAIN • AUSTIN MCCOLLUM • TONY MCCOMBIE • GREG MCCORTNEY • D. CHAD MCCOY • JOHN MCCRAVY • DAVID MCCREA
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ONDER • ANTHONY PORTANTINO • CHARLES POSTLES • JOHN POSTON • VAL POTTER • LARRY POTTS • KARIN POWER • PAMELA POWERS HANNLEY • PHILLIP PRATT • JIM PRESSSEL • TREIG PRONSHINSKE • ANDREW PROUT
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1

Overdoses Escalate

Opioid-related fatalities increased by 5,000 from 2014 to 2015, surpassing 30,000 total, the Washington Post reports. Heroin deaths in 2015 totaled 12,989, a year-over-year increase of more than 2,000 cases, and outnumbered gun homicides, which totaled 12,979, according to new data from the Centers for Disease Control and Prevention. For the first time since at least the late 1990s, the newspaper reports, more deaths were due to heroin than to such painkillers as hydrocodone and oxycodone, a sign that, as state and federal governments have tightened restrictions on opioids, demand has increased on the illicit market. Congress recently directed \$1 billion to opioid addiction treatment and prevention.



4

Coming Soon: 51st State?

“Live it up in Liberty!” Washington Representatives Matt Shea (R) and Bob McCaslin (R) are proposing to cut their state in two, with eastern Washington becoming the state of Liberty, KXLY-TV reports. “Since statehood, the lifestyles, culture and economies of eastern and western Washington have been very distinct and dramatically different,” their bill states. While techy, service-oriented Seattle and Olympia, the capital, drive the economy in the west, Spokane anchors the east with its roots in mining, forestry and agribusiness. Forming a new state could take years, and would have to be approved by the Legislature, then Congress. Since the early 19th century, at least 12 new states have been proposed, including South Alaska, South Florida, North Maine and Superior (Michigan’s Upper Peninsula).

2

Treading Academic Water

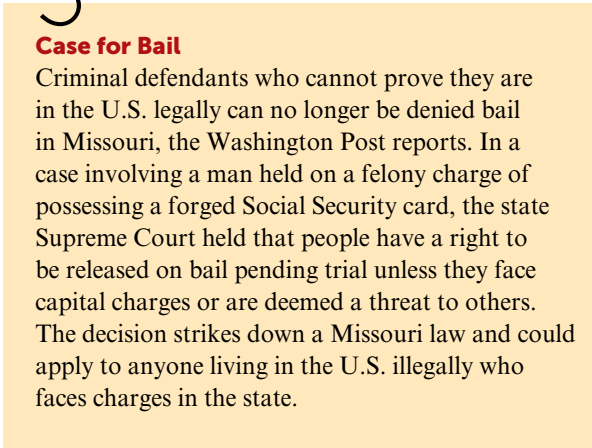
American high-schoolers are far off the pace set by their peers in the world’s top-performing countries. The United States ranked 25th in science, 24th in reading and 40th in math on the latest PISA, the exam taken every three years by 15-year-olds around the globe. Students in 70 countries took the latest test. Among the world’s top performers are Singapore, China, Estonia and Canada. Despite its mediocre results, the U.S. made progress in closing achievement gaps, and Massachusetts, which administers the test as its own “country,” scored as well as the top performer, Singapore, in reading, and tied for second with eight countries in science.



3

Case for Bail

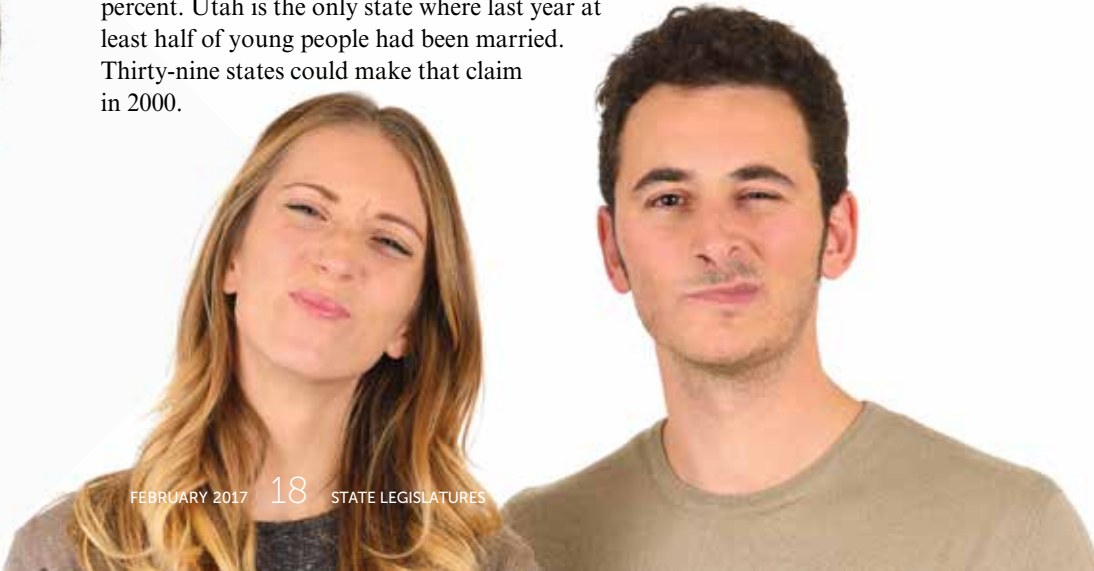
Criminal defendants who cannot prove they are in the U.S. legally can no longer be denied bail in Missouri, the Washington Post reports. In a case involving a man held on a felony charge of possessing a forged Social Security card, the state Supreme Court held that people have a right to be released on bail pending trial unless they face capital charges or are deemed a threat to others. The decision strikes down a Missouri law and could apply to anyone living in the U.S. illegally who faces charges in the state.



5

“I Do—But Later”

For some, it’s economic uncertainty, including the pressure of student loan debt. Others hope to get established in a career. But whatever the reason, millennials are delaying marriage, Pew’s Stateline reports. In all states and the District of Columbia, the share of people ages 20 to 34 who have never married has spiked since 2000. More than 70 percent of young people are single in Connecticut, Massachusetts, New Jersey, New York, Rhode Island and Vermont. In 2000, Massachusetts and New York had the largest share—just 57 percent. Utah is the only state where last year at least half of young people had been married. Thirty-nine states could make that claim in 2000.



6 **Court Mum on Web Tax**

By declining to hear an industry group’s challenge, the U.S. Supreme Court let stand Colorado’s “Amazon tax” law, the Denver Post reports. The law, nicknamed for the online retailer, pressures but does not require out-of-state retailers to collect sales tax from residents making online purchases. If sellers don’t collect, they must later remind residents they owe taxes to the state. The decision pleased advocates for brick-and-mortar retailers, which are required to collect

sales tax, but left the Data & Marketing Association “disappointed,” according to a statement. Other states, including Louisiana and Vermont, are considering online sales tax legislation. Amazon has collected sales tax from Coloradans for about a year.



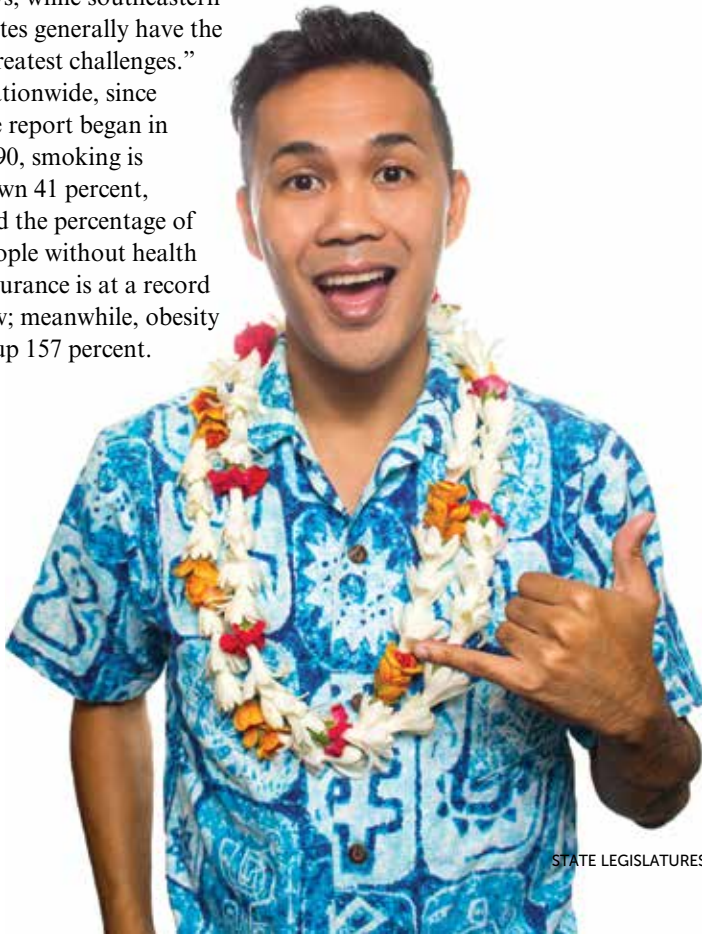
7 **Beehive Gets Bigger**

Things are buzzing in the Beehive State. Utah’s population topped 3 million last year, making it the nation’s fastest-growing state, the U.S. Census Bureau reports. After Utah, the growth-leading states from July 1, 2015, to July 1, 2016, were Nevada, Idaho, Florida and Washington. Roughly 38 percent of the nation’s population now lives in the South, and 24 percent lives in the West. North Dakota, the growth leader for the last four years, slipped out of the top 10 as energy production slowed and the state saw a net outflow of migrants. Nationally, the U.S. population grew by 0.7 percent to 323.1 million.

8 **Healthy in Hawaii**

For the fifth consecutive year, Hawaii is the country’s healthiest state, according to the United Health Foundation’s annual “America’s Health Rankings” report. Hawaiians have relatively low rates of smoking, drinking, drug-related deaths and preventable hospitalizations; in addition, most graduate from high school and have health insurance. “Northeastern states generally rank among the healthiest overall,” the report says, while southeastern states generally have the “greatest challenges.”

Nationwide, since the report began in 1990, smoking is down 41 percent, and the percentage of people without health insurance is at a record low; meanwhile, obesity is up 157 percent.



9 **Free-Market Health Care**

The Healthcare Openness and Access Project, created by the free-market-oriented Mercatus Center at George Mason University, ranks states in 10 broad categories of health-care delivery. The goal is to provide state-by-state measures addressing the question, “How open are each state’s laws and regulations to institutional variation in the delivery of care, and how much access to varying modes of care does this confer on the state’s patients and providers?” HOAP ranks states based on the business models they allow, medical liability and provider regulation, among other topics. These are the top 10 states, in order, for overall access to health care, according to HOAP:

- Idaho
- Montana
- Missouri
- Mississippi
- Utah
- Wisconsin
- Wyoming
- Indiana
- Colorado
- Alaska

10 **Salon Secrets**

A first-in-the-nation Illinois law requiring hairstylists to receive training in domestic violence support builds on the already close relationship many stylists have with their clients. The law does not make hairdressers legally responsible for reporting abuse; rather, it ensures they will be trained to spot warning signs, offer verbal support and refer clients to crisis groups. “For an abused woman, the salon may be an ideal environment to seek out help because it may be one of the few places she is allowed to go without her abuser,” says the Professional Beauty Association, which supported the bill and has offered a similar training program called Cut It Out since 2003.



A Rocky Road

How can we afford to fix our aging highways and bridges?

BY SCOTT RODD

In late October, before a restless crowd in Gettysburg, Pennsylvania, then-candidate Donald Trump laid out the closing argument of his campaign.

“What follows is my 100-day action plan to make America great again,” he declared, enumerating legislative and executive actions that were punctuated by applause from the crowd.

His agenda rested on the familiar pillars of his campaign—building a wall along the U.S.-Mexico border, renegotiating trade deals and repealing the Affordable Care Act. It also touched on his ambitious infrastructure proposal, the “American Energy and Infrastructure Act.”

“[The plan] leverages public-private partnerships, and private investments through tax incentives, to spur \$1 trillion in infrastructure investment over 10 years,” Trump said. “Our infrastructure is in such trouble ... we will fix that.”

The following week, two of Trump’s campaign advisers published a white paper providing additional details on the trillion-dollar plan. The paper largely focused on tax breaks for private investors who put their money toward infrastructure projects. The term “public-private partnerships,” however, appeared only twice.

Broadly speaking, public-private partnerships, known as P3s, are agreements in which a private-sector party provides a service that is traditionally delivered by a public agency. In terms of infrastructure, a private partner typically assumes significant responsibility and risk over a project’s design, construction or operation.



As the Trump administration hammers out the fine print of its proposal, it may find willing partners at the state level, as legislatures across the country show increased interest in P3s. Private investors and infrastructure associations also appear excited about the prospect.

“We don’t know the exact contours of the plan, or the exact emphasis he’s going to put on P3s,” says Pat Jones, CEO of the International Bridge, Tunnel and Turnpike Association. “[But] the very fact that he’s speaking about it raises the level of debate and allows a lot of players that have been standing on the sidelines to come to the fore.”

Public-private partnerships, however, have been responsible for only a small number of infrastructure projects in the last three decades. Less than 1 percent of spending on highways nationwide, for example, came from P3s in the last 25 years, and a number of these highway projects hit stumbling blocks.

As Trump pushes for private funding to

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support his \$1 trillion infrastructure plan, the exact role—and effectiveness—of P3s in a large-scale, nationwide infrastructure plan remains unclear.

Enthusiasm in the States

States are ready to use P3s to finance transportation projects that typically have been underwritten by federal, state and local governments. In March, Kentucky became the 34th state to authorize the use of P3s. In June, New Hampshire became the 35th.

Governments also are turning to P3s for infrastructure projects that have nothing to do with roads and bridges. In November, Mayor Muriel Bowser (D) of Washington, D.C., announced the creation of the Office of Public-Private Partnerships to promote private investment in infrastructure projects across the District. The office plans to lead the construction of a new jail, a reno-

vation of police headquarters and a modernization of the city's streetlight system.

A key benefit of P3s comes from “leveraging the private sector’s expertise and resources,” the National Conference of State Legislatures said in a January 2016 report.

Proponents of P3s argue that competition within the private sector promotes innovative and cost-effective solutions, which often evade public agencies. Private-sector partners also assume a portion of the risk, which means taxpayers do not solely bear the burden if a project is delayed or derailed. Both prospects appeal to governors and mayors grappling with tight budgets and shrinking tax revenue to finance big public works projects.

“A solid, modern and safe transportation infrastructure is critical to the success of our people and businesses,” Governor Maggie Hassan (D) of New Hampshire

said in signing a bill designed to attract private investment in transportation infrastructure in her state. “Public-private partnerships can play an important role in advancing our transportation goals.”

And the laws, which hold out the expectation that roads and bridges will be repaired and jobs will be created to do the work, can spark enthusiasm from the private sector.

After Kentucky passed its law, Dave Adkisson, CEO of the Kentucky Chamber of Commerce, wrote, “The legislature sent a strong signal to Kentucky’s business community, local governments, contractors and workforce that Kentucky is open for business and serious about forging ahead to provide needed infrastructure.”

Return on Investment

Turning to private investors to finance public works isn’t free money. Investors

INFRASTRUCTURE

expect to be paid back and earn a profit on their investment.

“In the highway community,” says Jones of the tunnel and turnpike association, “private investment means toll roads.”

Tolls often enable investors to generate revenue and keep projects as close to revenue-neutral as possible.

But critics point out the perils of P3s relying too heavily on tolls and other user fees to generate revenue. Many private investors, for example, push for noncompete clauses that limit or ban the development and maintenance of surrounding projects.

The noncompete clauses are designed to assuage investors who fear the construction of similar public projects might cut into their revenue. But Kevin DeGood, director of infrastructure policy at the left-leaning Center for American Progress think tank, says they can tie the hands of public officials who may want to construct something for the common good.

Some states have considered legislation that would prohibit noncompete clauses in

public-private partnerships. A bill before the Michigan Legislature, for example, would ban such clauses in P3 agreements.

And P3s may not work everywhere. For example, investors may ignore projects planned for less-populated areas if traffic on their roadways would not generate enough toll revenue.

“If I was a private toll-road operator,” Jones acknowledges, “I don’t think I’d want to build a toll road in North Dakota or Wyoming, because I’m not likely to get a return on my investment.”

Thirty-six highway projects in the last 25 years have relied on P3s, and many of them were funded at least in part through tolls, the Congressional Budget Office reported in 2015. Although many of the projects were completed successfully, the report identified risks associated with those that depended too heavily on tolls.

“Some of the projects that have been financed through tolls have failed financially because the private-sector partners initially overestimated their revenues,”

the report said. These private partners, as a result, were “unable to fully repay their projects’ debts.”

The Capital Beltway HOT (high-occupancy toll) Lane project in Virginia is an example of a promising P3 that relied heavily on tolls whose revenue ultimately could not cover the project’s debt obligations.

In 2007, a private consortium reached a deal with the state of Virginia to build HOT lanes on a 14-mile stretch of the Capital Beltway, long considered one of the nation’s most congested highways. The project increased the number of lanes on the highway and charged tolls in HOT lanes based on the level of traffic congestion.

In exchange for financing more than two-thirds of the \$1.4 billion project, the private partners would collect toll revenue for the next 80 years. Construction was completed in late 2012, slightly ahead of schedule, but traffic in the HOT lanes was initially lower than projected. As a result, Transurban, the company responsible for processing tolls and violations, faced a deficit totaling hun-

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dreds of millions of dollars.

Following the lower-than-expected revenue, Transurban began charging excessive penalties for motorists who failed to pay toll fees, which resulted in a class-action lawsuit against the company.

According to court documents, Transurban allegedly pursued one plaintiff for \$9,440.90 for 10 purported toll violations totaling approximately \$20. Another plaintiff, despite having a positive balance on his EZ Pass account, received summonses for \$15,000 for toll violations totaling \$30.65.

The case was settled in March and guaranteed greater protection for motorists against harsh penalties and predatory collection practices by third-party toll processors.

According to Transurban, traffic and toll revenue have increased since the Capital Beltway lanes first opened. Virginia has since proposed expanding HOT lanes to I-95 and adding HOT lanes along I-395 and I-66 in the crowded Washington, D.C., area around the Beltway.

Public Payback

User fees are not the only way to support public-private partnerships for infrastructure projects. Another model is called “availability payment” agreements, in which a private investor takes on most of the debt for a project up front and the public partner provides payments to the pri-

vate partner during and after construction of the project.

In Florida, for example, the Port of Miami Tunnel was constructed through such a partnership. The private partner assumed most of the financial burden up front and the state agreed to pay off the debt in milestone payments over the next several decades. The tunnel opened in 2014 and was ahead of schedule.

But Randal O’Toole, senior fellow at the libertarian Cato Institute, says availability payment P3s can exacerbate a state’s debt problems while simultaneously hiding them.

“I think most availability payment systems are ways for [government agencies] to get around their debt limit,” O’Toole says. “If a private partner borrows a billion dollars ... the debt doesn’t show up on the public agency’s ledger, so it doesn’t have to worry about exceeding its debt limit.”

In its 2015 report, the Congressional Budget Office admonished such practices and advocated for government agencies to strive to be as transparent as possible about all of their debts.

“An investment that is essentially governmental,” the report said, “should be shown in the budget whether it is financed directly by the [agency] or indirectly by a third party that is borrowing on behalf of the government.”

Which Way Will Trump Go?

Transportation analysts remain split over which P3 model Trump’s ambitious infrastructure plan will favor—partnerships with revenue generated from user fees such as tolls, or partnerships that rely on availability payments.

O’Toole says he thinks Trump will favor availability payment partnerships. Robert Poole, director of transportation policy at the libertarian Reason Foundation, says he thinks the president will opt for partnerships that rely on user fees.

Public-private partnerships under Trump’s plan may combine both models, but that still may not cover the costs of some major infrastructure projects.

“You probably can’t satisfy all of [Trump’s \$1 trillion plan] with private investment,” says Jones of the tunnel and turnpike association. “I think it’s going to have to be a combination of private infrastructure spending and federal spending.”

Loans under the federal Transportation Infrastructure Finance and Innovation Act are commonly used to help finance P3 transportation projects. TIFIA loans, as they’re known, are often used to “fill in the gap,” Jones says, and help partnerships reach their funding needs—though it’s possible the loans could finance up to 80 percent of a project.

Trump also hasn’t ruled out creating a national infrastructure bank, which would provide seed money for infrastructure projects and partnerships around the country.

One of Trump’s biggest hurdles, though, may be convincing members of Congress to support his plan. Infrastructure has long been considered an issue with bipartisan support, but some lawmakers, including Republicans, are skeptical.

At the Washington Ideas Forum in September, U.S. House Speaker Paul Ryan (R) of Wisconsin laughed at the suggestion that he would help Trump pass an infrastructure proposal totaling \$550 billion or more.

Trump asserts his plan will be revenue-neutral, but some deficit hawks aren’t buying it. In November, U.S. Representative Raul Labrador (R) of Idaho told The Associated Press, “We are not going to vote for anything that increases the national debt.”

BACK STORIES

Legislators bring a variety of interesting experiences to their statehouse jobs.

BY DURANYA
FREEMAN

Political science majors, attorneys, business owners, town commissioners and organization leaders ... for many, the road to the state capitol is a linear one. Some have had an interest in politics since way before they ran for office. A few may even have begun their journeys during student council elections in middle school.

Yet for others, interest in government came years, if not decades, after their first field trip to the capitol. These legislators took more unusual routes to the statehouse. And those experiences have influenced their priorities in their legislative work. Just like their peers, they have worked their way into public office because they care about the people in their district, state and country. But how they got there and why, may surprise you.

Duranya Freeman interned with State Legislatures magazine and is a student at Colorado College.



Oklahoma Senator Ervin Yen

From Taiwan to Politics

When you hear Oklahoma Senator Ervin Yen speak, you may be surprised by his strong Okie accent. Many people are startled, he says with a chuckle, not just by his accent but by the fact that he is so definitively Oklahoman. Yen is a doctor, an immigrant and the first Asian-American in the Oklahoma Legislature, but, he says firmly, “I see myself as an Oklahoman first.”

Fearing a communist takeover, his family moved from Taiwan to Oklahoma City when Yen was 4 years old. Five years later, he and his family became naturalized citizens. Both his parents worked, but he was especially inspired by his mother, a lab technician who frequently took him to her office, sparking his interest in medicine. He worked to put himself through the University of Oklahoma and has been a cardiac and general anesthesiologist since 1984.

Yen’s interest in state government grew from his frustrations with the state and federal health care systems. “I wanted to be in the chamber when there were health care issues being discussed to give senators the ramifications,” he says. “This country needs physicians who know the health care system to deal with health care issues.”

One of his role models has been Dr. Tom Coburn, a former U.S. senator from Oklahoma, an obstetrician by training and, like Yen, a conservative.

Yen, whose only “political” experience had been in the State Society of Anesthesiologists, decided to run for an open Senate seat in 2014 and won. It was a challenging task, working at the hospital until 3 in the afternoon, then knocking on doors until sundown. But it was worth it, he says, to ensure that “my children and grandchildren will have the same shot at the American dream” he had.

Yen says his biggest challenge in the Legislature is occasionally butting heads with fellow senators. He is passionate about health care issues, particularly vac-

ination. Last session, he proposed legislation requiring children to be vaccinated according to the Centers for Disease Control and Prevention recommendations, allowing for medical exceptions. It failed in committee. “Currently in Oklahoma,” Yen says, “you can be exempted by your parents signing a form for a personal or religious reason. For many parents it’s easier to sign a form than get a vaccine.”

“I believe that as a parent, you are not your child’s primary health care provider,” he says. “Even as a doctor, I am not my children’s primary health care provider. I listen to

what their pediatrician says. Barring allergies or other medical reasons, parents shouldn’t be able to prevent their child from being vaccinated.” He adds that he is thinking of introducing similar legislation this year.

Yen is equally passionate about Oklahoma. “I’m an Oklahoman first,” he says. “When I decided to run, I never thought of myself as becoming the first Asian-American lawmaker in Oklahoma. However, the Asian community has been wonderful, and I was given the Asian of the Year Award for getting elected.”

Would he want to live anywhere else? Perhaps the San Francisco Bay Area, he says, where his wife’s relatives live, or New York City, where “there’s lots of things to do and many good restaurants—I am a big eater.” However, he says with a smile, “Both places I think are far too liberal for me.”



“This country needs physicians who know the health care system to deal with health care issues.”

Oklahoma Senator Ervin Yen

Maryland Delegate Cory McCray

Finding the Keys to a Broken System



“People need to see people that look like themselves making the decisions.”

Maryland Delegate Cory McCray

Maryland Delegate Cory McCray is one of the youngest members of the Maryland legislature, and his route there was circuitous.

He grew up in a rough neighborhood in Baltimore, where the temptation to get sucked into the vicious cycle of gangs and the black market was extremely high. McCray says he fell victim to the challenges he encountered every day, and was jailed several times as a youth for selling narcotics and illegal weapons.

Once out, with the help of his mother,

McCray got a five-year apprenticeship with the International Industry of Electrical Workers, which “saved his life.” It got him out of his neighborhood and paid for his education at community college. Today, he’s a union organizer with an interest in business and community development.

“My wife grew up in the same neighborhood,” McCray says. “But she had discipline. She went home every day and did her homework. To me, she’s a shining star even when I’m going in the wrong direction.”

McCray bought his first house at age 20, then bought seven more. He learned that

politics is behind every decision, including real estate. And his interest in politics grew.

“I’m an entrepreneur, I know business,” he says. “I could tell that policies in Baltimore weren’t changing. I needed to create a platform, a blueprint to be elected. I had to show people that the large and small pictures are equally as important. I think that all groups have to be represented. Race, ethnicity and age gap barriers have to be broken. People need to see people that look like themselves making the decisions.”

In 2014, McCray successfully ran for the General Assembly and immediately sponsored a bill to give 40,000 ex-felons in the state the right to vote. He says his own experience heavily influenced the decision to create the bill. “I was one of those people who didn’t understand the role politics played in everything,” he says. “People don’t always learn that by 18, but you should have the right to vote.

“My bill was very controversial, but it’s important to be able to choose who your representative is.” The bill passed and was vetoed by the governor, but the legislature overrode the veto and the bill became law.

McCray says that, although representing Baltimore is a difficult task, he wakes up “every day with an optimistic attitude. I believe relationships are everything. You must dig deep into understanding who your colleagues are and what they care about.”

McCray looks to Reggie F. Lewis, the first African-American billionaire, as one of his biggest role models, marveling at how much he accomplished in such a short time. “I also like reading about good leaders and what it takes to exhibit those skills,” he says, citing Presidents Lyndon B. Johnson, Abraham Lincoln and FDR as key examples.

McCray continues to impress upon people that anything is possible. His message for the younger generation is this: “Even if you face challenges as a youth, you can be whatever you want to be. The past doesn’t dictate where you go in the future. Create your own opportunities and kick the door open. Be the best person that you can be, and don’t contribute to that vicious cycle. I want people to remember those challenging neighborhoods, like I did, and help them grow.”

Alaska Senator Cathy Giessel

Solving Problems, Expanding Opportunities

Cathy Giessel grew up in a pragmatic family. At the end of high school in Fairbanks, Alaska, she interned with U.S. Senator Ted Stevens, who at the time was the chamber's longest serving Republican. "When I started expressing an interest in politics," Giessel says with a laugh, "my mother said to me, 'Do something practical. They'll always need nurses.' So I did end up going to nursing school, but then I returned to politics."

An accomplished nurse once named an "Exceptional Leader" by the National Council of State Boards of Nursing, Giessel didn't jump right on the health committee when she was elected to the Alaska Senate. She wanted to develop expertise on other issues so she could be a voice on topics other than health.

Giessel earned her registered nurse license in 1974 and her board certification in 2000. She knows firsthand the challenges Alaska faces due to its size and rural geography. "If you cut Alaska in half, Texas would still be the third-largest state," she says. "In rural Alaska, there are no clinics. The only health-care professional teenagers and junior high students would see was me, a nurse, unless their parents got on a plane and went to a hub community in the area. So I was doing sports physicals and screening kids for things that might not otherwise get picked up."

Giessel says she believes "public service is an act that everyone should engage in," and that everything is inherently political. In 2010, she ran for office and won.

With experience in health and politics, Giessel, who chairs the Senate Resources Committee, says both fields involve solving problems and expanding opportunities.

"Alaska is a resources-extraction state, and very focused on fishing, along with having over a hundred years of mining opportunities," she says. "As a nurse, I care about these issues, because resources provide jobs in areas of the state where there are no job opportunities, and this



"A good-paying job is the best social program we can offer."

Alaska Senator Cathy Giessel

is where you see the most problems with abuse, both domestic and substance. A good-paying job is the best social program we can offer. Health affects everything—the ability to work, relationships with family members and community members. It is very far-reaching."

Alaska's sheer size makes balancing the jobs of legislator and nurse difficult. "Just like every state, Alaska requires clinical practice hours and continued education," she says. "I also hold a national certification, which has a bit of a higher bar in terms of necessary criteria to maintain my license. Since my hometown of Anchorage is 90 min-

utes by jet from Juneau, I can't go home on the weekends very readily. So my best opportunity to get hours is during the interim."

Alaska is a "fantastic" place to live, Giessel says, and she wouldn't change her life path if she could. She says courage is an essential trait, one she admires in Condoleezza Rice. "When you step into this role, you have to be OK with the fact that not everyone is going to like you. You have to have the courage to listen to criticism and continually evaluate the possibility that you're wrong—and if you believe that you are right, you have to have the courage to stand up for what you believe in." ■

Budget Update

The outlook for state budgets is largely stable for 2017.

BY ERICA MACKELLAR

State revenues are expected to grow a modest 2.9 percent in FY 2017 as states continue their long climb out of the Great Recession, according to the nation’s legislative fiscal officers. But the good news is that the outlook for state budgets is largely stable for the remainder of the year.

Revenues are on target in more than half the states and D.C., and six states expect to exceed their revenue expectations. Idaho, for example, is experiencing greater than anticipated revenue growth. Utah is fiscally strong. And Minnesota has \$1.9 billion in reserve.

But the forecast is less encouraging in 19 states where revenues were coming in slower than originally expected. Some may now face the prospect of shortfalls before the close of the fiscal year.

Personal income tax collections are mixed: on target in a third of states, below estimate in a third and above forecast in the remainder.

Sales and use taxes are particularly lackluster, and legislative fiscal officers wonder if changing demographics and generational preferences may be the causes of slow sales tax growth and volatility.

And the corporate income tax, notoriously unpredictable, is lower than anticipated in 20 states. Low oil prices have slashed severance tax revenue in at least 10 states. It’s particularly tough in Alaska where oil revenues account for nearly 90 percent of all the state’s tax money. Lawmakers there will face some hard budget choices this session.

Medicaid spending growth, unsurprisingly, is compounding the problem of slow revenue growth. It remains one of the costliest budget lines and regularly sees the greatest year-over-year growth rate of any of the major program areas. At the end of 2016, Medicaid was coming in over budget in 10 states. Low agriculture commodity prices also have contributed to lower than anticipated state revenues across some states in the Midwest. And many states are seeing sluggish revenue growth as a threat to state spending priorities.

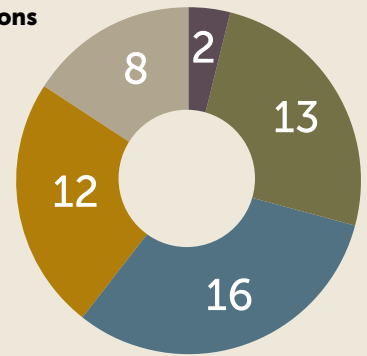
What does it all mean for 2017 legislative agendas? Several issues are weighing heavily on the minds of state lawmakers. Many will be looking for money to maintain roads and bridges. Alaska may debate the need for additional taxes to bridge its shortfall. Property tax relief—a legislative priority since 2009—is likely to come up this session in North Dakota. At least seven states may tackle state retirement systems, pension obligations and retiree health care costs. Tax reform debates are another likelihood.

No doubt the challenges facing states in 2017 and beyond are big. Continuing spending pressures countered by slow revenue growth could make for a difficult future.

Erica MacKellar is a policy associate in NCSL’s Fiscal Affairs Program.

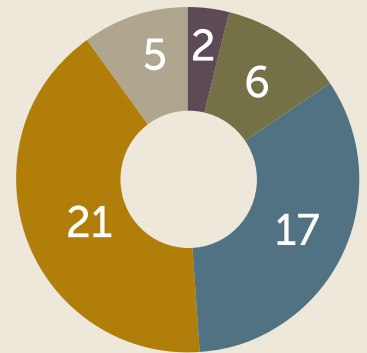
Personal Income Tax Collections FY 2017

- Number of states above estimate
- On target
- Below estimate
- Not levied
- Not available



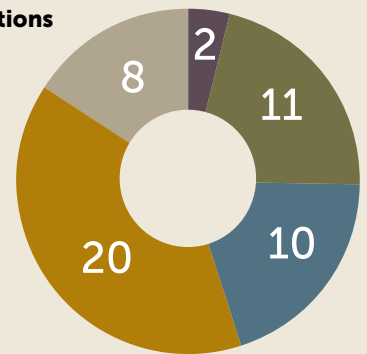
General Sales and Use Tax Collections FY 2017

- Number of states above estimate
- On target
- Below estimate
- Not levied
- Not available



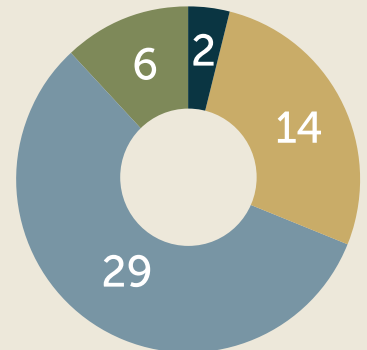
Corporate Income Tax Collections FY 2017

- Number of states above estimate
- On target
- Below estimate
- Not levied
- Not available



Revenue Outlook for FY 2017

- Number of states unlikely to meet forecast
- Expected to meet forecast
- Likely to exceed forecast
- Not available



The Goods

Each state's top goods export and its value, or total selling price, in millions of dollars.

Alabama	Small car	\$3,143
Alaska	Zinc	\$898
Arizona	Aircraft	\$2,968
Arkansas	Aircraft	\$791
California	Aircraft	,786
Colorado	Microchips	\$373
Connecticut	Aircraft	\$6,504
Delaware	Drugs	\$1,300
Florida	Aircraft	\$4,746
Georgia	Aircraft	\$6,210
Hawaii	Aircraft parts	\$516
Idaho	Memory chips	\$798
Illinois	Light oils	\$2,648
Indiana	Drugs	\$4,446
Iowa	Corn	\$966
Kansas	Aircraft	\$2,037
Kentucky	Aircraft	\$8,677
Louisiana	Refined oil	\$12,021
Maine	Lobsters	\$331
Maryland	Large cars	\$810
Massachusetts	Medical tools	\$1,052
Michigan	Trucks	\$3,990
Minnesota	Needles/catheters	\$864
Mississippi	Refined oil	\$2,381
Missouri	Trucks	\$1,156
Montana	Copper oxides	\$148
Nebraska	Beef	\$488
Nevada	Gold	\$3,941
New Hampshire	Cell phones	\$288
New Jersey	Refined oils	\$1,245
New Mexico	Processor chips	\$1,084
New York	Diamonds	\$12,656
North Carolina	Aircraft	\$1,266
North Dakota	Crude oil	\$1,202
Ohio	Aircraft	\$4,969
Oklahoma	Aircraft	\$427
Oregon	Processor chips	\$5,410
Pennsylvania	Coal	\$1,304
Rhode Island	Scrap gold	\$179
South Carolina	Small cars	\$4,301
South Dakota	Brewing dregs	\$96
Tennessee	Medical tools	\$2,223
Texas	Refined oil	\$23,925
Utah	Gold	\$5,118
Vermont	Processor chips	\$1,025
Virginia	Memory chips	\$717
Washington	Aircraft	\$51,149
West Virginia	Coal	\$1,722
Wisconsin	Organic chemicals	\$421
Wyoming	Soda ash	\$834

Note: Values are preliminary.
Source: U.S. Census Bureau, 2015 data

The Ins and Outs of Exports

Global trade is a give and take. The U.S. produced and exported goods and services valued at \$2.2 trillion in 2015, the U.S. Census Bureau reports, but imported goods and services worth \$2.8 trillion. The result was a trade deficit of more than \$530 billion.

It's the imbalance of trade in goods alone, however, that drives the deficit. As a service exporter—of banking and investment advice, for example—the U.S. is a powerhouse, enjoying a trade surplus of \$227.4 billion in that category in 2015.

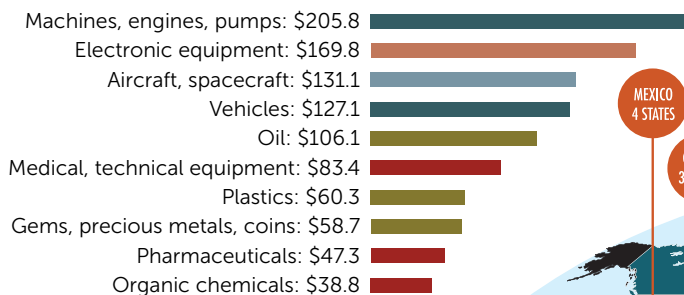
While Congress and the administration debate the merits of current and future trade agreements, states will continue their giving and taking. Here's a snapshot of states' top manufactured exports.

—Kevin Frazzini



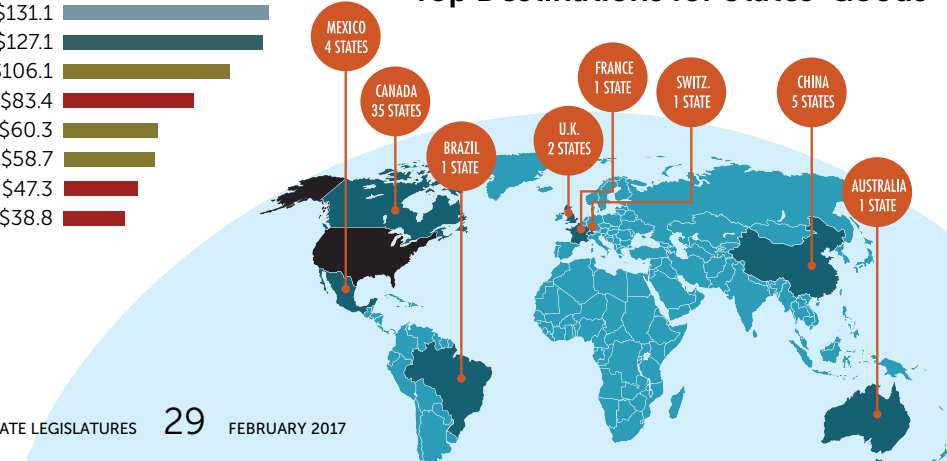
What the World Is Buying

Top 10 U.S. goods exports ranked by value, in billions of dollars in 2015



Source: U.S. Census Bureau

Top Destinations for States' Goods



BY THE NUMBERS 2015 U.S. Trade Highlights

\$365.7 billion
Deficit with China, highest on record

\$153.3 billion
Deficit with the European Union, highest on record

\$74.2 billion
Deficit with Germany, highest on record

\$37.4 billion
Surplus with South and Central America, highest on record

2.7 billion
Quantity in barrels of crude oil imports, lowest since 1993 (2.5 billion barrels)

\$47.26
Import average price per barrel of crude oil, lowest since 2005 (\$46.81)

Source: U.S. Census Bureau



How Do You Avoid Conflicts of Interest?

Do you have any conflicts of interest? Are all conflicts treated the same? To what “class” of interested persons do you belong? Practically all elected officials will have to answer these questions at some point in their public career. And, even though the laws vary by state, are not always clear and may not capture all the possible conflicts and exceptions, there are some universal principles to know and follow.

What is a conflict of interest? At the heart of most conflicts lies an actual or perceived financial or economic interest. It may be a personal stake in a business, in real estate or in securities. It doesn’t necessarily have to be direct. It can arise when family members, friends and other close relationships are implicated. The conflict occurs when you introduce, support or

vote on legislation that could benefit any of your financial interests. In order to avoid conflicts of interest, you must be acutely aware, not only of your own personal interests, but also of those of your closest friends and relatives.

Are all conflicts of interest treated the same? Well, yes, no, maybe so. People run into conflicts of interest every day, in their personal, business and, for legislators, public lives. Some, of course, are more serious than others. Conflicts in the legislative arena, however, should not be taken lightly. They should be avoided by viewing possible problems through a highly magnified, crystal clear lens. Lawmakers should be hyper-diligent when introducing, supporting and voting on legislation that has any chance of being viewed as self-serving. Not all conflicts of interest are obvious, but for legislators, all those that are will be easy targets. Even if your motivations are not self-serving, the mere appearance of impropriety can be just as damaging to your reputation.

What if I belong to a group of people who would all be affected by the legislation? This is a question that often vexes

legislators. When is a class, or group, of similarly affected individuals large enough to effectively dilute the effects of a conflict of interest? For example, if a legislator is also a teacher, it is expected that this twice public servant will support and vote on education policy. The same is true for doctors with health care policy and farmers with agricultural issues. Does it matter if the lawmaker is one of 10,000 farmers voting on pesticide control issues or one of only 10 almond farmers voting on nut regulations? It’s easy to see how this “class” theory of conflicts of interest is can be problematic and subjective. The best advice if you find yourself asking this question is: If you have to ask, a conflict probably exists. Move forward with caution; the path ahead is dubious at best.

Legislators are constantly balancing personal and public interests. Be prepared to navigate some very muddy waters. Know your state laws. Have a plan of action for when conflicts arise. Seek counsel if need be. When the law is not clear, consider the ideas discussed above.

And when all else fails, remember: If it looks like a duck, walks like a duck and quacks like a duck, it’s probably a duck.

Ethan Wilson is a policy specialist in the Center for Ethics in Government at NCSL.

North Carolina Senate Minority Leader and NCSL President

Daniel Blue grew up in his parents' four-room farmhouse in Robeson County, North Carolina, where he learned the values of hard work, faith and education. He graduated from North Carolina Central University and the Duke University School of Law. Blue was elected to the North Carolina House in 1980, and became speaker in 1991. In 2002, he ran for the U.S. Senate but was defeated. He returned to the House in 2006 and was selected to fill a Senate vacancy in 2009. Blue served as NCSL president in 1998-99 and has returned for a second term.

What are your priorities for NCSL? To ensure we solicit and encourage the participation of legislative leaders from all 99 chambers and make sure the states have a sufficient role in the national discussion as federal legislation and policies are being deliberated.

How has the legislative environment changed since you were last president of NCSL? It's much more combative, and folks pick their sides. The environment has turned more Washington-like, but I think state legislatures are moving away from that. Legislatures and legislative leaders appreciate the nonpartisan role that NCSL plays because of very good leadership over the last 15 or 20 years.

What does it take to be an effective leader? First, have some idea of what you want to accomplish, but more important, understand what your members want to accomplish. They have to know that you're working constantly for their best interests.

How will scaling back the governor's powers affect the state? The restrictions imposed on our incoming governor will undoubtedly make his job more difficult, and it hampers all three branches of government's ability to operate effectively. Recent legislation not only removes some of the checks and balances within our state government, it also alters the makeup of our state boards—from the Board of Elections to the UNC Board of Governors. All of this serves to prevent a new administration from succeeding. We need to be working on behalf of the people of this state, not working against each other.

When you were a kid, what did you want to be when you grew up? I grew up in the age of Sputnik, so I had great interest in a science career, whether it was astrophysics or even traveling to outer space. I got a degree in mathematics in college, but my interests expanded when

I began debating issues with my fellow students. That's how I ended up gravitating toward the law.

What inspired you to run for office? Several things. I was active in high school and college in various organizations and student government. I had the great fortune when I got out of law school to go to work in a firm with the former governor of North Carolina, who at the time was president at Duke University, Terry Sanford. He went on to become a member of the United States Senate. The philosophy in that firm was that everybody had to participate in civic and political activities.

And so when the opportunity presented itself, with great encouragement from a lot of people, I offered myself for elected office.

What were your pet issues? I came of age during one of the greatest protest periods in the country's history. I was in college during the civil rights period, as the women's rights movement really picked up steam and as the Vietnam War was winding down. So it was an awareness of contemporary issues and what role the political process played in the resolution of many of those issues. By the time I really got involved, I had children and developed a great interest in making sure that whatever public education was available was high quality. Those were the kinds of things that I was concerned about initially, and I find that they haven't significantly changed.

What books are on your nightstand? "Two Nations Indivisible." It's about the United States and Mexico and what lies ahead. That's particularly important now, given some of the discussions in the last election. I'm also reading "Ebony and Ivy," which talks about race, slavery and the history of America's universities. I try to pick up something different every week that stirs me along one way or the other.

Any final words you'd like to share? I truly believe that NCSL is unequalled in what it does for state legislators and legislatures—the role that it plays in identifying what the states' interests are, appreciating the constitutional recognition of states' powers and obligations, and constantly reminding the federal government that states play a significant and unique role in this process. Being part of NCSL is an affirmation of what was recognized 240 years ago when this nation was born—that in the scheme of things, a central government is critical. But, to experiment with different things, the states are absolutely essential. NCSL creates this unique opportunity for folks from different backgrounds—geographically, philosophically, politically and every other way—to come together and have meaningful discourse.



Jane Carroll Andrade, a contributing editor to the magazine, conducted this interview, which has been edited for length.

PHOTO: LESLIE RUDD, OFFICE OF SENATE DEMOCRATIC LEADER



NCSL & YOU

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