

December 2011

THE LEGISLATOR

A PUBLICATION OF THE NATIONAL BLACK CAUCUS OF STATE LEGISLATORS

FROM THE WHITE HOUSE: REFLECTIONS ON THE AFRICAN AMERICAN POLICY IN ACTION CONFERENCE

Leveraging Relationships and Resources
Can Bring Victory After Redistricting

Issue Brief: NAACP Opposes Racially
Discriminatory Voting Requirements in States

Bad Timing: The Story of the American Jobs Act



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DEC 2011 CONTENTS



- 02 **TO OUR READERS**
By The Editorial Team
- 03 **PRESIDENT'S MESSAGE**
By Rep. Barbara W. Ballard (KS)
- 05 **FROM THE EXECUTIVE DIRECTOR**
New Voting Laws Bring Back Bitter Memories of Poll Taxes and Literacy Tests
By LaKimba B. DeSadier

HIGHLIGHTS

- 07 **FEATURE ARTICLE** By Michael Strautmanis, Deputy Assistant to the President and Counselor for Strategic Engagement to the Senior Advisor
From the White House: Reflections on the African American Policy in Action Conference
- 10 **PERSPECTIVES** By Representative Rhonda Fields (CO)
Low- and No-cost Policy Options to Increase Physical Activity in Schools
- 13 **PERSPECTIVES** By Jim Glenn, III, University of Kentucky and Dr. Jim Glenn, Jr., Kentucky State Representative
Leveraging Relationships and Resources Can Bring Victory After Redistricting

FEATURED TOPICS

- 16 **NBCSL EVENTS**
Colloquium on African American Health: Doctors and Legislators Partnering to Implement Healthcare Reform
By Ajenai Clemmons
- 19 **NBCSL EVENTS**
The Sixth Annual Promoting Healthy Lifestyles Symposium: A Partnership between You & Your Community
By Brandt Thorington
- 22 **NBCSL EVENTS**
Black America's Dialogue on Health: Disease Prevention through Transformative Living
By Sarah Munshi
- 26 **LEGISLATOR HIGHLIGHTS**
NBCSL's Lone Rangers
- 30 **SPOTLIGHT: CORPORATE ROUNDTABLE**
The Role of Health Information Technology in Medicaid: Improving Health Outcomes
By Thomas L. Johnson, Medicaid Health Plans of America
- 32 **SPECIAL MESSAGE FROM AN NBCSL PARTNER**
Issue Brief: NAACP Opposes Racially Discriminatory Voting Requirements in States
By Hilary O. Shelton, Director, NAACP Washington Bureau
- 35 **YOUTH**
A Legislative Approach to Bullying
By Ajenai Clemmons
- 38 **STATE AFFAIRS**
FY2012-13: Will They Be Good Budget Years for States?
By Colin Wellenkamp
- 40 **FROM THE HILL**
Bad Timing: The Story of the American Jobs Act
By Brandt Thorington
- 43 **EDUCATION**
How Debt and Deficit Talks Impact the Education Landscape
By Sarah Munshi
- 46 **LABOR, MILITARY, AND VETERANS' AFFAIRS**
Business and Labor Eyeing NLRB Decision on Boeing Complaint
By Michael L. Belitzky

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TO OUR READERS

CONNECTING WITH CONSTITUENTS

As the excitement around the 2012 elections continues to build, legislators on every level are preparing and honing their messages aimed at persuading voters. For the most part, the talking points are the same – everyone is concerned about jobs and the economy. However, the key to distinguishing oneself during this upcoming election year will be the content and effectiveness of the message as well as how it is conveyed.

Current and aspiring legislators must ensure they relay clear, accurate, and concise information so that voters may understand their intended goals and objectives. Also critical to connecting with potential voters is the use of traditional communication methods coupled with Web and social media. They are critical to energizing voters, particularly those who are now becoming eligible to vote. It is therefore advantageous to all legislators to include these types of tools in their communications arsenal to position themselves in this very crowded media space.

In this conference issue of *The Legislator*, we cover some of the critical issues for the upcoming elections: barriers to voting; potential advantages of redistricting; effects of state budget cuts in general and specifically education; legislating social issues such as bullying; labor disputes; and the status of the embattled jobs bill. Additionally, we feature three of NBCSL's signature events held in 2011, which all focused on health issues within African American communities.

All of the issues are focused around what Americans are concerned and are looking to their legislators for assistance. Consequently, NBCSL members must be able to use multiple platforms to deliver clear and direct messages to their constituents, as well as their proposed solutions.

The Editorial Team



COMPROMISE IS NOT A DIRTY WORD. AMERICAN PEOPLE WANT ELECTED OFFICIALS TO COME UP WITH SOLUTIONS AND WORK TOGETHER TO MOVE THE COUNTRY FORWARD.

In 1787, during the birth of our nation, the political masterminds of that time, each with a different interest, were able to find compromise to move the country ahead. The members of the Constitutional Convention were able to meet in the middle and agree to the “Connecticut Compromise” (later known as the Great Compromise), which created a House of Representatives apportioned by population and a Senate in which each state was equally represented. In that instance, like many policy debates, each side had a strong interest and a reason to stand firm in their belief; however, resolving a great debate required a Great Compromise.

One of the founding fathers was asked what the great principles of the Constitution are, he said there are three: compromise, compromise, compromise. We have seen many great debates end with compromise. One instance of a remarkable display of bipartisanship was the passage

of the Civil Rights Act of 1964. On June 11, 1963, President John F. Kennedy introduced the bill in his civil rights speech, in which he asked for legislation giving all Americans the right to be served in facilities, which were open to the public, and greater protections for the right to vote. After the assassination

of President Kennedy, the new President, Lyndon Johnson, told the legislators during his first address to Congress, “No memorial oration or eulogy could more eloquently honor President Kennedy’s memory than the earliest possible passage of the civil rights bill.” After much concession and strongholds

against the legislation, the bill was signed into law on July 2, 1964. Other acts, such as social security and welfare reform, have all been cases where politicians have set aside their partisan differences to find common ground and enact legislation for the common good.

Over the years, divisive partisanship has thwarted much needed legislation, on critical issues from being passed. When the political landscape is only about party, the government ceases to function effectively and the average citizen is harmed during a critical time of need. Bipartisanship is essential to the integrity of our political system. Political differences and debate make the United States a great country; but when partisanship supersedes civil discourse, laws and policies become tainted in the politics.

Today, politicians continue to argue themselves into a legislative gridlock. All legislators agree that to move this country forward we need jobs, jobs, jobs. The most recent instance of a lack of bipartisanship has been centered around the Jobs Bill. President Barack Obama sent Congress his plan to get Americans back to work via the American Jobs Act of 2011. Before receipt of the legislation, the House announced the Jobs Bill “would never reach the House floor.” The current lack of movement is unfortunate, especially when millions of Americans are out of work and


expecting solutions from their elected officials. And here we are, more than two months later, without a comprehensive plan to improve the unemployment situation in this country.

Voters want politicians to work together and compromise. Our constituents voted for us because we were activists, passionate, and willing to make sacrifices by putting others before self. Our constituents expect us to make the hard decisions, but they do not expect us to make decisions against their interest for the purpose of partisan politics and self-interests.

October 5, 2005, former Congresswoman Barbara Jordan (TX) presented her Sylvanus Thayer Award Acceptance Address to the West Point graduates. In her speech, she emphasized the importance of the military motto- honor, duty, country. Although the following words were said to the West Point cadets, they are aptly applicable to elected officials: “If you accept the challenge, a lifetime of public service, you will be held to the higher – highest ethical standards of anybody, and you should be, should be. Those who serve should be held to the highest ethical standards because they also have accepted public trust.” As legislators we have a duty to our constituents, we serve honorably when we make selfless decisions, and we put country first when we compromise for the good of the American people.

Compromise is defined as: an agreement or settlement of a dispute that is reached by each side making concessions. Compromise is not a dirty word. The American people want elected officials to come up with solutions and work together to move the country forward. On behalf of the American people we must find a way to work together- that is what they elected us to do.

Respectfully yours,



Rep. Barbara W. Ballard (KS)
President, NBCSL



NEW VOTING LAWS BRING BACK BITTER MEMORIES OF POLL TAXES AND LITERACY TESTS

For decades, election season has started with a keen focus on voter registration by legislators, community organizers, and civil rights groups. In 2012, we will likely see that focus shift from voter registration to heated debates over state voting laws enacted in 14 states, mostly by Republican-controlled state houses. The implications of these changes are far-reaching and according to the Brennan Center for Justice, could make it more difficult for five million voters and potential voters to cast votes nationwide. Many people, particularly in southern states, are concerned that new requirements signal a return to a time when literacy tests and poll taxes made it difficult for people of color to cast their ballots and participate in the electoral process. The new voting laws mandate that state officials:

- Restrict third-party voter registration drives and require registration forms be submitted to election officials within 48 hours (previously there was a 10 day deadline for submission).
 - Curtail early voting from 14 days to 8 days, which has the potential to limit African American and Hispanic participation, as they are more likely to take advantage of early voting opportunities according to the Brennan Center for Justice.
 - Bar voters who have recently moved to the county from changing their address and names at the polls – a provision often used by college students.
 - Eliminate same-day voter registration that is often used by African Americans and Hispanics.
 - Reverse rules that gave convicted felons who have completed their sentences the right to vote.
 - Require voters to show government-issued identification. This change is particularly damaging to voter qualification in jurisdictions that have large numbers of senior citizens and poor residents, as well as rural communities that have limited access to government offices
- that issue identification or where the cost of government identification is prohibitive. In addition, some seniors in southern states have gone their entire lives without an official government-issued birth certificate. For these citizens, access to those birth certificates may be next to impossible. Currently, an estimated 21 million voting age Americans do not have government issued photo identification. In South Carolina, Texas, Kansas, Tennessee, and Wisconsin, 3.2 million people lack the photo identification that is now required in those states to vote. In South Carolina alone an estimated 200,000 voters may not be allowed to vote. In addition, approximately 25 percent of African Americans nationwide cannot currently meet the identification requirements according to Hilary Shelton of the NAACP.

While public debate on these issues closely aligns with party politics, time must be

spent at the local, state, and national levels strategizing and identifying resources necessary to ensure voters are registered, and that they meet new minimum requirements in their states. Absent that effort, there could be election results that reflect the exclusion of a newly disenfranchised population from the electoral process – most often, people of color.

State legislators can take action in three key areas:

1. Raise awareness of changes to the voting laws by engaging in public information campaigns that utilize town hall meetings,

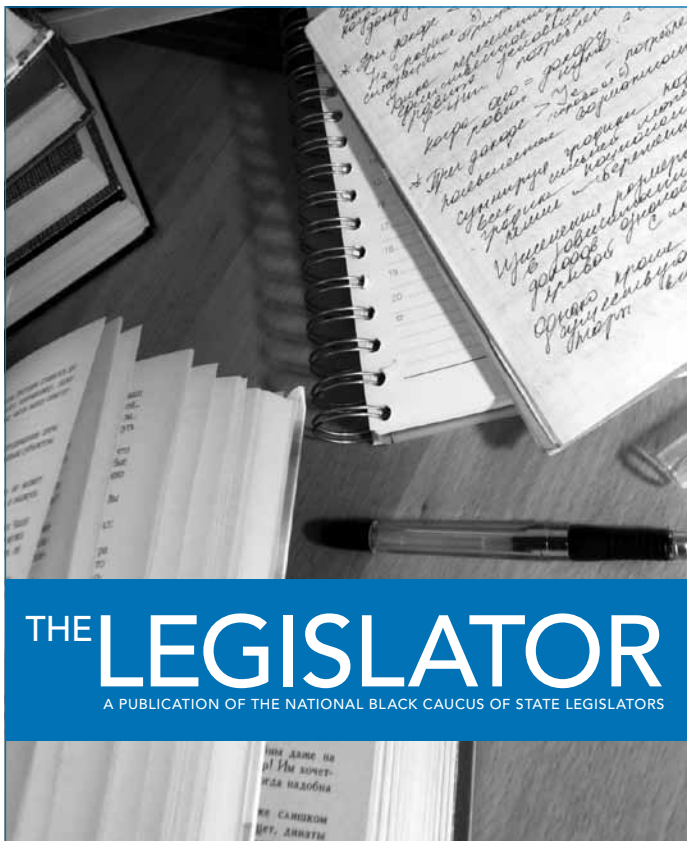
social media, and speaking engagements.

2. Advocate for affordable state-issued identification and easily-accessible locations where citizens can apply for identification.
3. Gather or identify data on the voting population in their jurisdictions and document how changes to voting laws could impact upcoming elections as well as how these rules might have changed outcomes from the 2008 presidential election had they been in place at that time.

We must all remember that

many people have fought and died for the right to vote. These changes to voting laws confirm that the struggle continues and that state legislators and NBCSL must help to lead the fight. We owe it to our progenitors, to our children, and to the future of this great country. **L**

Lakimba B. DeSadier has served as the Executive Director for NBCSL since 2003. She has worked to promote the organization in state legislatures, as well as increase its membership and visibility nationwide.



Call for Articles!

The Editorial Team is soliciting articles from NBCSL legislative members for The Legislator. We want to highlight the work you do, share your experiences, as well as the benefits of your knowledge. Articles should be opinion pieces focused on issues that have implications on a national level, and are relevant to state legislators.

The next issue will be published in March 2012; the deadline date for submission is **Monday, February 20, 2012**. Please email all articles to news@nbcsl.org. Be sure to visit www.nbcsl.org for updates and to review past issues. We look forward to your submissions!

U.S. President Barack Obama speaks at the African American Policy in Action Leadership Conference in the Eisenhower Executive Office Building next to the White House in Washington, DC on November 9, 2011. (UPI/Yuri Gripas/Pool)



FROM THE WHITE HOUSE: REFLECTIONS ON THE AFRICAN AMERICAN POLICY IN ACTION CONFERENCE

By Michael Strautmanis, Deputy Assistant to the President and Counselor for Strategic Engagement to the Senior Advisor

On November 9, over a hundred and fifty African American leaders from across the country participated in the first-ever African American Policy



President Barack Obama and top administration officials came ready to listen and engage during the recent African American Policy in Action Leadership Conference. (White House photo)

in Action Conference at the White House. Among those present were forty-four representatives, senators, delegates, and assembly members from state legislatures across the United States, from the Virgin Islands to Colorado. The policy conference was an opportunity for the White House to highlight the many accomplishments made like job creation, health care, keeping families in their homes, and support for small businesses. Most of all the conference was about an exchange of ideas and discussions on how we can build on the accomplishments that we've made with the help with the help from leaders like those represented in the NBCSL. The day also included panel discussions from senior administration officials, breakout sessions, and remarks from one very notable NBCSL alumnus: President Obama.

As a former state senator, the President appreciates the unique perspective state elected officials bring to the table. Since day one,

he has included state elected leaders in the policymaking process of his Administration. This work has paid off. Together, we've fought for and won major accomplishments for American families.

Take tax relief, for example. In 2009 and 2010, the President secured the Making Work Pay tax cut, which was followed in 2011 with a payroll tax cut – the rough equivalent of a 2 percent raise for working Americans. Expansions in refundable tax credits (Earned Income Tax Credit and Child Tax Credit) have benefitted millions of low-income American families and specifically helped over 2.2 African American Families in 2010. If passed by Congress, the American Jobs Act would build upon those successes by extending and expanding tax relief for every American family. That means more money in workers' pockets to spend revitalizing small businesses, supporting communities, and improving our economy. For example, an family earning an average of \$33,000 a year (the average salary for an African American Family) would keep over \$1,000 in their pockets. With African Americans facing unemployment at an unacceptable rate over 15%, that extra relief is so crucial.

Before President Obama took office in January 2009, he pledged to provide every American with access to quality healthcare. With your support,

we were able to do that through the Affordable Care Act. As the NBCSL noted in Resolution BFI-11-22, the Affordable Care Act is “of particular significance for people of color who represent one-third of the total population... but constitute fifty percent of the uninsured population.” Because of the work we did together, tens of millions of Americans, including 7 million African Americans, many of whom live in your districts and communities, now have, or will soon have, access to affordable health care.

State legislators know the crises of today must not be allowed to overshadow the impending challenges of tomorrow. Long-term investment and planning are necessary to get our country back on track. Nowhere else is this more true than in the area of education. We can’t expect our country to grow and prosper if schools can’t keep teachers in the classrooms, or if kids aren’t learning what they need to know.

That’s why the Recovery Act helped states fund their public school systems during these difficult economic times. It’s also why President Obama launched Race to the Top, which challenged states to reform America’s schools. The \$4.35 billion investment has spurred over 40 states to raise standards, improve assessments, and invest in teachers. The Administration allocated an additional \$2.1

billion for Head Start and Early Head Start programs, to make sure that low-income children don’t fall behind before reaching kindergarten. And the American Jobs Act would keep hundreds of thousands of teachers in the classroom.

These are only a few of the achievements that, together, we’ve made over the past three years. We’ve helped make college more affordable by expanding Pell grants to over 9 million students and cutting out the big banks from the student loan program. We’ve strengthened business by expanding access to capital the Small Business Investment Company program, the Minority Business Development Agency, the Community Development Financial Institutions Fund and we’ve helped families keep their homes with the Home Affordable Modification Program, through which homeowners can lower their monthly mortgage payments.

Though the economy is showing signs of progress and economic growth, we know that there are still too many families struggling to make ends meet. The economic crisis, and the recession that followed, continues to pose serious challenges. We know that African Americans were hit especially hard by the recession, struggling with significant economic losses, including near-record high levels of unemployment and low incomes compared to the

national average. But as President Obama reminded participants during the policy conference last month, we have been through tougher times before but if we remain persistent, hopeful, and unified, we will get through these tough times and press on together. **L**



Michael Strautmanis is Deputy Assistant to President Obama and Counselor to White House Senior Advisor Valerie Jarrett. The White House held its first African American policy Conference on November 8, 2011. To learn more about what the Obama administration is doing for African American Communities or to read the White House African American Policy Report, please visit www.whitehouse.gov/africanamericans.



LOW- AND NO-COST POLICY OPTIONS TO INCREASE PHYSICAL ACTIVITY IN SCHOOLS

By Rep. Rhonda Fields (CO)

As globalization grows and the economies of each nation become more connected, our education system struggles to prepare our children for the changing workforce.

According to the National Center for Education Statistics, the average reading scores of 17-year olds in the United States did not change significantly between 1971 and 2008. This has serious implications for our economic competitiveness because it means that thousands of our young people leave the educational system without adequate preparation to compete in the global economy. Many of our international peers are doing significantly better. According to the 2009 Program for International School Assessment (PISA) report, once considered the best educated nation in the world, the United States now ranks 25th of 34 industrialized nations in mathematics, 17th in science, and 14th in reading literacy.

To reverse this trend, we need to consider all of our policy options, even those that initially might seem unrelated to education and learning. One option policymakers should consider is healthy eating in addition to physical activity as an important strategy for strengthening student academic performance.

There is overwhelming evidence that links physical activity to improvements in student performance, including grades and standardized test scores. Yet, schools often fail to ensure children and adolescents have the 60 or more minutes of daily physical activity

recommended by the *2008 Physical Activities Guidelines for Americans*. In fact, less than half of high school students meet their quota for recommended levels of daily physical activity, and fewer than four percent of elementary schools provide daily physical education to all students for the full school year. These trends are especially discouraging since childhood obesity rates in the United States have dramatically increased during the last 40 years.

While Colorado enjoys a reputation as one of the leanest states in the country, Colorado also has the third-fastest-growing rate of obesity in the nation. In 2010, Colorado was one of two states in the nation that did not require physical activity in schools, and with the number of children who are obese rising from 48,000 in 2007 to 72,000 in 2009, it was critical we started where children spend the bulk of their waking hours. Each day, 55 million students have an opportunity to learn about and practice healthy behaviors, such as eating healthy foods and participating in physical activity. The growing proportion of children who are obese is a growing epidemic and requires an immediate policy response.

My colleague in the Colorado State Assembly, Representative Thomas Massey, recognized that physical activity is closely connected to reduced behavioral problems, improved academic achievement, attendance, and

increased student engagement. As chair of the House Education Committee, Rep. Massey committed to doing everything in his power to change the future for Colorado's school children.

Together, Rep. Massey and I sponsored House Bill 1069, a bipartisan measure requiring all public elementary schools provide students with a minimum of 600 minutes of physical activity a month, which is equivalent to 30 minutes per school day. Working with schools, childcare facilities, and before and after school programs is one of the most effective ways to improve children's health and promote lifelong healthy behaviors.

Schools often cite budget and time constraints as primary reasons for reducing physical education or activity. Yet, many schools have been able to incorporate physical activity into the school day while staying within their budget. Studies suggest that classroom breaks for physical activities increase student alertness, self esteem, and can decrease anxiety and stress levels, further enhancing student performance.

Schools have been creative with implementation of HB1069 using innovative and traditional methods. Teachers have initiated three 10-minute stretch and move breaks into the school day, and others are facilitating 15-minute jump rope competitions. One, of my favorite examples is a local school in Arapahoe County,

where the school holds a 30 minute early morning fun run. HB 1069 is an important step in addressing Colorado's rapidly increasing childhood obesity rate. Our goal is to get kids up, moving, and expending calories, whether through jumping jacks, dodge ball, or running in place.

Many policymakers may want to increase active living and healthy eating in their communities, but are concerned that it is not possible during these tough economic times. There are, however, plenty of resources available to policymakers to determine ways they can implement low or no-cost policies that make a difference.

In September, my staff joined Rep. Massey and more than 200 elected and appointed officials and other policy leaders from across the nation in Washington, D.C. for the *2011 Leadership for Healthy Communities Childhood Obesity Prevention Summit*. Participants addressed the significant social and economic benefits of preventing and reducing childhood obesity, and the importance of making it a policy priority in these challenging economic times.

To support policymakers, Leadership for Healthy Communities has released *Obesity Prevention on a Budget: Low and No-cost Policy Options to Increase Healthy Eating and Active Living* (see <http://bit.ly/budgetobesityprevention>), which outlines budget-conscious policy

approaches to reduce obesity rates by increasing opportunities for healthy eating and physical activity.

While everyone has a role to play in combating childhood obesity, as policymakers we are in a unique position to bring about the changes our society needs to succeed. We can, and should ensure children and teens have better access to parks and more options for recreation. We should work to create and implement strong local school wellness policies to ensure children have easy access to affordable healthy foods in cafeterias and vending machines.

We can create safer routes for children to walk and bike to school and support farmers' markets, community gardens, and the procurement of locally grown foods for schools and communities. We should also expand opportunities for students to be active for at least 30 minutes a day by including physical education as a core requirement in school curricula. Together, we can champion policies that help our children live the healthiest lives possible. **L**



AUTHOR:

Rep. Rhonda Fields (CO)
Representative Fields was elected with 61% of the vote in November 2010 to the 68th General Assembly for House District 42 in Aurora, Colorado. She made history as Arapahoe County's first African American woman to serve in the Colorado House of Representatives.

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Maisha Pollard (Chief of Staff)
Ms. Pollard is a Family Nurse Practitioner and Full time Nursing Faculty who leads Representative Rhonda Fields' Healthy Kids Healthy Communities collaborative, a grassroots community task force, formed by community residents to inform Representative Fields of key issues and policies affecting the health and wellness of communities.



LEVERAGING RELATIONSHIPS AND RESOURCES CAN BRING VICTORY AFTER REDISTRICTING

By Jim Glenn, III, University of Kentucky and Dr. Jim Glenn, Jr.,
Kentucky State Representative

All over the country, states are participating in the decennial redistricting process, which can be a complicated and highly partisan exercise.

The highest turnover in the makeup of a chamber usually comes in the election directly after redistricting occurs. So legislators are understandably wary of the effect of redistricting on their re-election prospects. As some previous supporters are removed from the district and unknown voters are introduced, a new constituent base can lead to a significant margin of victory for an incumbent...or it can end a political career.

As required by law through reapportionment, legislative boundaries are redrawn—adjusting a legislator’s district and potentially adding a significant number of new voters. According to the National Conference of State Legislators, the number of people that are represented within a district varies widely by state. A state representative in New Hampshire represents on average 3,089 people. However the average state senator in California represents 846,791 people—more people than are represented by the average U.S. Congressman. In addition to the wide variation in district size, there is also variation in how states approach the issue of redistricting and adherence to our country’s concept of equal representation. In some states, the legislature itself determines the reapportioned boundaries; in other states independent committees draw the new lines. In Arizona, Washington, and Iowa, for example, the

states use various methods to try to encourage competitive elections and discourage overtly partisan outcomes. All of these reapportionment methods have positive and negative aspects on the outcome of elections.

However, no matter the system or who is ultimately responsible for reapportionment, the cold facts are that the typical legislator stands to receive a number of new constituents into his/her district and must win over these new voters. Most incumbent legislators do not welcome this task because the new constituents are not familiar with the office holder (and his/her voting record), thereby removing one of the incumbent’s biggest advantages – superior name recognition. Nevertheless the redistricting situation presents an opportunity for the incumbent to build relationships and leverage resources to still ensure victory at the polls.

BUILDING RELATIONSHIPS WITH YOUR NEW CONSTITUENTS

The standard assumption of incumbency shows that veteran lawmakers usually have what amounts to a seven-point “bonus” on Election Day. However, after redistricting, incumbency alone may not be enough to ensure victory. How a candidate identifies with his/her constituents is of greater importance, and that comes from relationship building

and understanding the voters. Likewise, having the constituents get to know the legislator is a critical step to a successful re-election.

So how can you ultimately get the new voters in your district to understand you? That depends on what political scientists call your “home style” – how you, as a legislator, interact with your constituents. This includes your qualification, trust, identification, and political support.

The first factor is straightforward. As the incumbent, you have shown that you have qualified for the office. The second factor, trust, comes from constituents knowing you and your legislative work. In fact, trust is closely tied to the third “home style” factor—identification. How you identify with your constituents is of great importance. Do your constituents trust you and the work you are doing? Of course trust is a fragile relationship, and it cannot be won or lost overnight. As redistricting conversations occur in your state, the time is now to begin attending events in the new neighborhoods and areas you will represent. Church picnics, community meetings, and simple meet-and-greets provide a great opportunity to reach out to new constituents and allow them to get to know you and your staff. Through knowing and trusting you, the voters can grow to identify with you, as a person. That personal connection can

translate to enthusiastic support at the polls.

What if you cannot talk to a large percentage of your new voters before Election Day? After all, if your district changes significantly, it might not be practical to reach a meaningful portion of new constituents. In that situation, there is good news. In absence of a prior relationship or even knowledge of incumbents, voters tend to rely on their partisanship to make voting decisions. So if your new voters are the same party as you, they will likely give you the benefit of the doubt, if given no other compelling reason.

In a situation where the partisanship of new voters might not benefit you as the incumbent, there is still hope. Research shows that over time, new voters tend to vote just like your old voters. The danger is if the new influx of voters is significant enough to change the partisan balance for the next election. In that situation, casework (i.e. constituent services) becomes even more important, as it allows you to increase your connection to voters one constituent at a time. Actively working to build relationships with voters is crucial in making this transition happen sooner, rather than later.

SHIFTING YOUR RESOURCES

Redistricting also allows for an opportunity to assess how your staffing resources are allocated. Adjusting your staff is not simply

re-evaluating who attends what meetings, but examining how casework is handled. Unfortunately, the ability to handle casework can vary greatly by the professionalization of the state legislature. States with more professional (i.e., full-time) legislatures usually have more staff to handle cases for constituents. Nevertheless, handling casework from new constituents is critical to how your new voters will judge you and your staff, particularly if their former legislator made casework a priority. Doing a great job in this area builds your legislative identification, and voters will associate your name with the ability to get work done and to see their individual issues as important.

Understandably legislators get nervous around redistricting. It can quickly become an unpredictable process; and by its nature, it introduces uncertainty. However, no matter what your situation, as an incumbent legislator, you still have a number of advantages to help you connect and win over voters in time for successful victory on Election Day.



Jim Glenn, III is a political science doctoral student at the University of Kentucky.

Previously, he served as Chief of Staff within the Michigan House of Representatives and State Director for Organizing for America-Kentucky. Jim holds a Master of Public Administration from Cornell University.



Rep. Jim Glenn, Jr. is in his third term of the Kentucky General Assembly. He holds a Doctorate from the University of Kentucky and teaches Business and Economics at Owensboro Community and Technical College (KY). He is Co-Chair of the Capital Project and Bond Oversight Committee and is a member of the State Government Committee, which reviews state redistricting.

COLLOQUIUM ON AFRICAN AMERICAN HEALTH: DOCTORS AND LEGISLATORS PARTNERING TO IMPLEMENT HEALTHCARE REFORM

In capitalizing on both national organizations' support of the Affordable Care Act, the National Black Caucus of State Legislators (NBCSL) and the National Medical Association (NMA) convened on March 12-13, 2011, in Washington, D.C., for the 12th Annual Colloquium on African American Health. Made possible through continuous support from Corporate Roundtable member Pfizer, Inc., this year's colloquium focused on implementation of healthcare reform at the state level.

Speakers helped legislators and physicians understand what steps they would need to take to be in compliance with federal regulations, and how to provide as many people as possible with access to quality healthcare as quickly as possible.

The opening session, *Affordable Care Act: The Legislator and Provider Checklist*, featured a dynamic kick-off with **Dr. Garth Graham**, Assistant Secretary for Minority Health at the U.S. Department of Health & Human Services' Office of Minority Health, and **Joy Johnson Wilson**, the Health Policy Director and Federal Affairs Counsel for the

National Conference of State Legislatures. Moderated by **Representative Joe Armstrong (TN)**, NBCSL's President Elect, the duo spoke about timelines, deadlines, and what actions legislators and doctors would need to take to prepare for implementation. Dr. Graham discussed how the Administration is addressing minority health disparities, and Ms. Johnson Wilson provided an overview of how states have responded to healthcare reform in terms of legal action, legislation, and grant applications. She also spoke about how federal deficit-reduction efforts could affect

funding for states. Finally, both speakers addressed how patients will benefit from the Affordable Care Act; how doctors can maximize their input in the implementation process; and the types of opportunities of which doctors could avail themselves, such as training through the U.S. Department of Education and funding to develop health record systems.

The second panel, *Fiscal Responsibility and Healthcare Reform Working Hand in Hand*, was designed to focus on how healthcare reform could yield tremendous savings to the healthcare ecosystem in general,

and the states in particular. But, the elimination of waste, inefficiencies, duplication, and fraud that could result in these unprecedented savings (as a result of healthcare reform) will not automatically happen. Speakers highlighted where savings could be maximized and how value could be optimized, so that when significant dollars are invested, legislators know where the public is getting the biggest bang for its buck. This panel was moderated by **Senator Catherine Pugh (MD)**, and the featured panelists including Maryland Secretary of Health and Mental Hygiene, **Dr. Joshua Sharfstein**, who discussed specific examples of cost-savings programs and policies; **Dr. Linda Elam**, Director of the District of Columbia's Policy and Planning Administration Office in the Department of Healthcare Finance, who elaborated on D.C.'s distinction as having among the lowest uninsured rates in the country and its resultant \$66 million in cost-savings over just four years; **Mr. Josh Goldberg**, a Health Policy and Legislative Analyst for the National Association of Insurance Commissioners, who discussed the challenges state regulators face in allowing risk adjustment for new elderly and sick members previously shut out of the process, to be balanced against unfair or excessive rate increases; and **Dr. Sydney Ross Davis**, Chair of NMA's Medical Administrator's Section, who delved into the need to eliminate fraud and abuse, which she said currently accounts for about 19% of healthcare expenditures.

The last panel, *Opening the Door for Millions: Expanding*

Health Care Coverage, moderated by NBCSL President, **Representative Barbara Ballard (KS)**, focused on the reform's mechanisms that would generate the greatest access for new entrants: Medicaid expansion and health care exchanges. Cindy Mann, Centers for Medicare and Medicaid Services (CMS) Deputy Administrator and Director of the Center for Medicaid, CHIP and Survey & Certification (CMCS), expounded on the role CMS would play in extending health care. She noted that while 77% of African Americans were insured in 2009, 50% of all black children and 38% of all African American adults were covered under Medicaid, greatly emphasizing how critical Medicaid eligibility, enrollment, and participation are for the African American community. **Renee Landers**, a professor at the Suffolk University School of Law, Faculty Director of the Health and Biomedical Law Concentration, as well as a National Academy of Social Insurance Panel Expert, discussed the decisions that states must make in setting up healthcare exchanges. She also spoke to how doctors could provide input into the process. **January Angeles**, Senior Policy Analyst for the Center on Budget and Policy Priorities, described who this population of newly insured is, how it is different from the currently insured (greater volatility in terms of income and life challenges), and what kinds of considerations would need to be made by policymakers to ensure that these entrants will have continuous coverage even as their incomes rise and fall.

Saturday's sessions concluded

with a breakout exercise, in which doctors teamed up with legislators in small groups to problem-solve. Conference participants broke into groups to answer a set of questions and then re-convened to share with the large group. The questions centered on a healthcare provision that has not received much attention—a 2012 provision called “Reduced Medicare Payments for Hospital Readmissions” that aims to dramatically curtail the number of (preventable and excessive) hospital readmissions by imposing penalties on “frequent offender hospitals” through a reduction in Medicare payments. The provision's penalties target excessive readmission of patients treated for heart failure, heart attacks, and pneumonia. Frequent hospital offenders could have their Medicare payments reduced by up to 1% beginning in October of 2012, 2% in 2013, and 3% in 2014. In later years, the list of medical conditions falling under the penalty will be expanded. If executed well, this provision could result in tens of billions in savings that could be redeployed in other areas of hospital budgets. Small work groups answered a series of questions that helped them to define the problem, identify leading causal factors, enumerate the key players in the problem and solution as well as discuss the appropriateness of the provision, unintended consequences, potential policy solutions, and improvements the hospitals and private sector could make.

On Sunday, **Representative Ken Dunkin (IL)** moderated the panel *Health Care and the Environment*. **Dr. Mark Mitchell**,

President of Connecticut Coalition for Environmental Justice, and **Dr. Jewel Crawford**, Medical Officer in the Environmental Medicine and Education Services Branch of the Centers for Disease Control's Agency for Toxic Substances and Disease Registry, explored how policies, the regulatory environment, and cultural practices have shaped America's current environmental threats. They pinpointed the toxins that are causing harm and the kinds of diseases and conditions that have emanated from these new chemical compounds being introduced to our bodies and the environment as a result of new technologies and hyper-consumerism. Panelists also discussed how toxins are disproportionately concentrated in urban, high-poverty communities, particularly communities of color. They made a number of recommendations as to how individuals could protect themselves as well as how policymakers could reduce and/or eliminate many of the public health threats we see in our communities.

The final panel, *Health Care Disparities—Minority Women's Health and Their Families*, was moderated by the President of the Association of Black Cardiologists, **Dr. Marcus Williams**, and featured panelists **Senator Ruth Hassell-Thompson (NY)** and **Dr. Gilbert Parks**, NMA Chairman Emeritus. This session focused on the healthcare needs of minority women and their families. Panelists addressed not only the necessity of cultural competency training in order to better understand

this population and how to deliver appropriate care, but also how this population could empower itself politically, exercise its voice in the policymaking process, and demand a more responsive healthcare system. Senator Hassell-Thompson proffered legislative solutions and communities strategies that have been successful in her native Bronx area.

The goal of the conference was not only to ready legislators for upcoming healthcare votes during their legislative sessions, but to also position them as leaders on implementation in their respective states—leaders who understand the challenges of implementing healthcare reform from a variety of perspectives yet who also know of the achievements that have been won across the country and have a roadmap for the work that remains. [L](#)



Ajenai Clemmons currently serves as NBSC's policy director. She was formerly the ombudsman for Denver's Office of the Independent Monitor, worked in the Iowa State Legislature, as well as non-profit and private sectors. Ms. Clemmons holds a Master of Public Policy and B.A. in International Relations and Spanish, and was a 2009 NOBEL/Women Fellow.

THE SIXTH ANNUAL PROMOTING HEALTHY LIFESTYLES SYMPOSIUM: A PARTNERSHIP BETWEEN YOU & YOUR COMMUNITY

The National Black Caucus of State Legislators and the National Hispanic Caucus of State Legislators held their joint conference titled *Implementing Health Care Reform in the States* from June 16 -18, 2011 in Miami, Florida. While states have had some larger issues to tackle recently, thanks to the continuing support of a grant from NBCSL

Corporate Roundtable member Novartis, these organizations were able to address this critical issue in the symposium.

This joint effort comes at a critical time when states are beginning to take their first steps toward implementing health care reform. While the beautiful city of Miami played host to the lively discussion, it also served as a reminder of the battle that still wages over health care reform. The Patient Protection and Affordable Care Act (PPACA) continues to receive scrutiny, and constant legal efforts have been launched to prevent its implementation, ranging from attempts being made by the Republican-controlled House of Representatives to overturn the

law, to promises by Republican Presidential candidates to stop the law on the first day they enter office. Leading the challenge against the Act is the state of – Florida, – which has argued that the mandate for an individual to have health insurance is unconstitutional.

President of National Hispanic Medical Association and the President of the National Hispanic Health Foundation, **Dr. Elena Rios** served as the expert moderator for the meeting. Former NBCSL member and current Region IV Director of the Department of Health and Human Services, the **Honorable Anton Gunn**, was the first speaker for the conference. Mr. Gunn discussed the current status of

PPACA implementation and how state legislators could get involved in the implementation process within their state.

On the first panel was **Dr. Renard Murray**, Regional Director for the Centers for Medicare & Medicaid Services (Region IV), who spoke about the Pre-existing Condition Insurance Plan, covering individuals with a pre-existing condition who would otherwise have been denied service. The second panelist, **Lynn Dierker**, Senior Program Director at the National Academy for State Health Policy, spoke about the need to involve and engage the public in public policy decision-making. The final panelist, **Yolanda Rodriguez**, member of the Florida Executive



<01>
NBCSL Executive Director
LaKimba B. DeSadier, Sen.
Arthenia Joyner (FL), NBCSL
President Rep. Barbara W.
Ballard (KS), Rep. Dee Dawkins-
Haigler (GA), Rep. Laura Hall
(AL), and Rep. Lois DeBerry
(TN).

<02>
Sen. Donne Trotter (IL), Rep.
Charlie Brown (IN), Rep. Dwight
Bullard (FL), President-elect Rep.
Joe Armstrong (TN), Rep. Joe
Gibbons (FL), Rep. Alan Williams
(FL), Rep. Greg Porter (IN), and
Sen. Usie Richards (VI).

<03>
Rep. Larry Butler (CT), Rep.
Bruce Morris (CT), and Rep.
Ernest Hewett (CT).

<04>
NBCSL members in attendance
for the 2011 Promoting Healthy
Lifestyles Meeting

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NHCSL President Sen. Iris Y.
Martines (IL) and NBCSL
President Rep. Barbara W.
Ballard (KS).

Council of the AARP, spoke about the needs of the senior citizen community during the implementation process of PPACA.

Before the participants broke for lunch, **Juan Montanez** with Health Management Associates, spoke about the funding states can expect to see under PPACA. Some of the key points given by Mr. Montanez were that PPACA will cover 100% of the expansion costs of Medicaid until 2016, provides billions towards community health centers, as well as funding to expand the healthcare workforce, electronic medical record systems, and other health information technology efforts.

During the symposium lunch, **Dr. Pedro Jose Greer, Jr.**, gave an inspiring speech on how to treat those who are uninsured. Dr. Geer is a physician, author, professor, Presidential Medal of Freedom recipient, and has been featured numerous times on television.

After lunch, the participants were addressed by a second panel, which focused on accountability, quality, and value. **Secretary Elizabeth Dudek** of Florida's Agency for Healthcare Administration discussed the number of strategies the state

has instituted to promote quality healthcare. **Senator Rene Garcia** Chair of Healthcare Regulation Committee (FL), has an unwavering commitment to affordable healthcare, and offered an alternative perspective on reaching affordability goals without PPACA. **Dr. Michael Garner**, President and CEO of the Florida Association of Health Plans, and a representative of the insurance companies within the state, was able to provide the business side of the discussion, which is important given that most people will still be insured by private companies once PPACA is implemented. Lastly, **Dr. Cheryl Holder**, President of the local Miami chapter of the National Medical Association, spoke passionately about the struggles she has seen and her first-hand experience with the inequities in healthcare.

The second panel was followed by **Dr. Ada Montero-Gonzalez**, Assistant Principal at the Medical Academy for Science and Technology, a magnet school in Miami-Dade County for high school students. This new charter school that caters to a diverse population and prepares them for careers in the medical field, are uniquely suited to help students enter fields that are most in demand.

The final speaker for the day was **Laura Goodhue**, Executive Director of the Florida Community Health Action Network, a statewide health advocacy organization. Ms. Goodhue spoke about messaging and how legislators could best inform their constituents about the new healthcare law. Her core message was for legislators to



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give their constituents as much information about the Affordable Care Act as possible, given that the average American does not understand the Act or how it will impact them.

During dinner, Jesus **Leal**, Vice-President and Head of Respiratory, Infectious Diseases & Transplant Business Unit at the Novartis Pharmaceuticals Corporation, gave a wonderful speech about some of the new innovative technologies that are saving lives across the nation.

During the second day of the conference, participants had a chance to take the stage to explain what they have done and are continuing to do in their state to begin implementation.

Dr. Cara James of the Kaiser Family Foundation was the first to explain the disparities for minorities under the current healthcare conditions.

Representative Jeffrey Sánchez (MA) explained what was being done in Massachusetts and what they have learned from their implementation of Healthcare Reform, which served as a basis for the national model.

Representative Mark Archuleta Wheatley (UT) discussed how

Utah is beginning to set up its own insurance exchange. Finally, **Delegate Nathaniel Oaks (MD)** explained how Maryland is using a \$6 million grant to establish the technological infrastructure for insurance exchange. The panel concluded with a great question and answer period that allowed legislators to discuss the nuts and bolts of information they could use to take back to their states.

The participants then engaged in a Town Hall Meeting, where legislators had the opportunity to ask panelists questions and engage in an open dialogue about all the issues discussed during the symposium. Mr. Anton Gunn returned to participate in the panel in addition to **Betsy Marville**, a registered nurse and organizer for the Service Employees International Union. As a healthcare professional, Ms. Marville was able to share with participants the struggles that patients experience on a daily basis.

The conference concluded with group break-out sessions that allowed legislators to examine policies they could create to fix some of the largest issues in healthcare. They developed a

number of innovative solutions that will undoubtedly help them as they put together legislation in their own state.

PPACA may be controversial, but it is now the law of the land. This Act will have a direct impact on and alter how Americans will receive medical care. NBCSL wishes to thank once more the sponsor of this meeting, Novartis, as well as all the presenters and attendees whose participation made the symposium a grand success. **L**

Brandt Thorington serves as Director of Government Relations for the Washington Linkage Group. Mr. Thorington specializes in the following legislative arenas: firearm legislation, immigration reform, agricultural policy, hurricane relief, homeland security, community development, and appropriations.

BLACK AMERICA'S DIALOGUE ON HEALTH: DISEASE PREVENTION THROUGH TRANSFORMATIVE LIVING

On September 30, 2011, the National Black Caucus of State Legislators (NBCSL) hosted its 18th annual Black America's Dialogue on Health conference at the state capitol in Indianapolis, Indiana. Through the support and sponsorship of Eli Lilly & Company over the past 18 years, NBCSL has championed for the health of African American and minority populations. This year's topic on *Disease Prevention through Transformative Living* provided a platform to delve into the factors linking physical, mental, and spiritual health, as well as how spirituality can be incorporated into the prevention and care for all patients. The conference not only focused on the scientific link between these three areas, but highlighted how policymakers and practitioners could coordinate between these systems of care. Panelists were able to share pragmatic ways in which they have tackled issues ranging from stress reduction to curtailing food desert trends within their local communities.

Gaye Woods, Program Manager at the University of Colorado Cancer Center, began the conference by discussing how diet, nutrition, and physical activity affect chronic disease. She talked about how current research has highlighted the interrelatedness of race and other societal externalities that impact health disparities, and provided guidance on solutions to unequal

treatment. Ms. Woods stated that focusing on grassroots efforts and preventative measures can have a great return on investment. She also emphasized the need to pay close attention to housing issues, quality education, and research, because concentrating on these three variables can ensure that sustainable programs are solidified into practice.

The conference was moderated

by North Carolina representative, **Beverly Earle**, Chair of NBCSL's Health and Human Services Policy Committee, who initiated the discussion by addressing the need to integrate access to healthy food into the disease prevention model. The first panel titled, **Reforming our Eating to Reform our Health**, began with **Donna Green-Goodman**, Founder and CEO of *Still Shoutin'*

and National Ambassador for the Susan G. Komen *Circle of Promise Campaign*. She showcased culturally relevant solutions to saving money during the current economic crisis while confronting challenges that prevent people from eating healthy. Through her books, interactive Web site, and partnerships with churches, local radio stations, and community centers, Ms. Green-Goodman has shared valuable techniques for healthy living. She also provided the audience with culturally relevant recipes she created as alternatives to many traditional African American dishes.

The next panelists represented the *Garden on the Go (GoG)* initiative, a mobile grocery truck providing affordable fruits and vegetables to local community members on a weekly basis. **Lincoln Saunders**, Executive Director of GoG, and **Lisa Cole**, Manager of Indianapolis Community Outreach opened the discussion with a video outlining GoG's service to food deserts in Indianapolis. They noted that 68% of low-income neighborhoods live in food deserts. Mr. Saunders stated the lack of access to affordable healthy food has forced people to rely on convenient stores, gas stations, and fast food restaurants for the majority of their sustenance, which has put them at a greater risk for diabetes or cardiovascular disease. GoG has reduced the number of food deserts by building relationships, and partnering with municipalities and faith-based organizations. Indiana University Health has funded GoG as part of its comprehensive

model to combat obesity and diabetes. Furthermore, its work with elementary schools gave GoG a unique opportunity to plant gardens while teaching students how to harvest healthy food. Both panelists emphasized that GoG's service growth from twelve to sixteen neighborhoods was the result of setting preventative health goals, such as combating obesity and diabetes, and partnering with for-profits, local healthcare organizations, and non-profits who shared those goals.

The next panelist, **Angie Abbott**, Assistant Director of Purdue Extension's College of Health and Human Sciences addressed the impact of nutrition education programs. She discussed the work Purdue does to help individuals learn safe and healthy meal preparation, often utilizing what's already in their homes and pantries. She described their program's distinctive nature of working within the homes of the community members and providing individualized attention ensured that each person was receiving customized assistance based on unique needs.

The final panelist, **Representative Dwight Evans** of Philadelphia, Pennsylvania, spoke to the importance of institutionalizing legislation. Rep. Evans gave a brief overview about the Fresh Food Financing Initiative (FFFI), which he introduced as an economic development earmark to stimulate job creation. Through an alliance with Food Trust, a nonprofit that aims to provide healthy food to all, Rep. Evans was able to assess which



<Top>
NBCSL President
Rep. Barbara W. Ballard (KS)

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President-elect
Rep. Joe Armstrong (TN)
speaks to the delegation.

communities across Pennsylvania lacked grocery stores. During legislative hearings on the matter, GPS mapping showed how low-income neighborhoods were disproportionately affected by food deserts, and illustrated a clear correlation between the lack of access to healthy food, and the high incidences of disease. As Chair of Appropriations, Rep. Evans was able to allocate \$30 million over the course of three years towards financing supermarkets across the state. Through a partnership with The Reinvestment Fund (TRF) – which matched state dollars with private investment totaling \$146 million – the program generated 88 projects, 5,000 jobs, and access to healthy food for half a million people. As a result of this sustainable public policy initiative, other states across the U.S. have implemented similar measures.

The second panel continued to discuss disease prevention through balancing science and spirituality in healthcare delivery. The aim of this panel was to

address how providers could treat a person holistically, and what legislators could do to empower communities and individuals in addressing disease prevention. The first speaker, **Dr. Kaytura Felix**, an independent physician consultant addressed the important role spirituality plays in healthcare. Her research found that those who went to church regularly were more likely to have positive healthcare behaviors such as visiting the dentist or checking blood pressure. She went on to describe that church participation has helped with disease prevention because religions tended to have stricter codes around drug and alcohol consumption. Those attending church also had a greater support network, which positively affected the way they felt about themselves and their outlook on life. She concluded by emphasizing the need to invest in research and evaluation projects that look at religion and spirituality and their relationship to healthcare.

The second panelist, **Dr. Ruby Cain**, assistant professor at Ball

State University, discussed a community initiative entitled, *It is Well with My Soul*, which aimed to identify and disseminate best practices for culturally proficient health interventions. She discussed the importance of open and honest communication between the healthcare providers and their patients. Dr. Cain urged legislators to address structural issues caused by racism in terms of labor practices and access to healthcare, which in turn would drive healthier living.

The final panelist, **Dr. Donald Williams**, President of the Board of Greater Lansing African American Health Institute spoke about the need to be aware of one's level of stress and anxiety. He explained how internalized racism causes stress and then outlined a coping mechanism to deal with it and other related issues. The process is called "mindfulness" and it encourages people to live "in the moment" by paying close attention to one's breathing.

The panel concluded with **Dr. Mercy Obeime**, Director for



NBCSL members in attendance for the 2011 Black America's Dialogue on Health.

Community Global Health at Franciscan St. Francis Health. She described palliative care, an approach that improves the quality of life for patients and their families through early detection and treatment while simultaneously looking at the physical, psychological, and spiritual elements of a person. She then discussed the reasons many people were unaware of palliative care, and explained how the healthcare system too often pays providers based on the amount of services rendered to the patient rather than the quality or outcome of that service.

Luncheon keynote speaker **Jacque Hood Martin**, Chief Spiritual Officer of Jacquie Hood Ministries based in Washington, D.C., outlined three main causes affecting how people live. She identified the first culprit as the predisposition to genetics and one's environment. Personal choice was the second factor that she said guided the way in which people lived. This factor either pushed them to use their surrounding resources or, conversely, stopped them from making use of organizations such as the YMCA or NAACP. Ms. Hood Martin closed her keynote speech by advocating for solutions that integrate physical activities into the home and school day, from offering children yoga sessions to incorporating jumping jacks into the math lesson. Her overall emphasis was to take a closer look at how to balance one's lifestyle by reducing predisposition levels, improving personal choices, and by "ending the lengthy cycles of poverty that are decaying us in mind, body, and spirit."



This conference pursued a broader examination of the causes of disease, as well as the effects on individuals and the community as a whole. By considering spirituality—what we believe about the world and ourselves—as well as mental and physical health, legislators were able to come away with methods to eliminate food deserts, establish balanced lifestyles through stress-reduction techniques, and integrate physical activity into the home and school.

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Sarah Munshi is the Policy Associate for NBCSL's Policy Committees on Education, Youth, International Affairs, and Law, Justice & Ethics. Ms. Munshi completed her Master's in Public Policy from the University of Chicago and has worked as a Communications Assistant for the Brookings Institution Africa Growth Initiative, an Education Policy Associate at Dutko Worldwide, and a Senior Associate for the DC Public Schools.



<Top>
Nate Miles, Eli Lilly and Company, speaks to the delegation.

<Bottom>
Rep. Beverly Earle (NC) speaks to the delegation.

NBCSL'S LONE RANGERS

Most NBCSL members usually have the benefit of the camaraderie and support of other NBCSL members within their legislatures. In this issue we highlight this small group of individuals who serve as either one of two, or the only NBCSL member within their states. We would like to acknowledge this group of “lone rangers” and the great work they are doing in their states.



ALASKA
Senator Bettye Davis (D)
Alaska State Senate

Senator Bettye Davis serves District K in the state of Alaska, and is among the state’s top advocates of children, education, health, and social issues. Born in Homer, Louisiana, Senator Davis arrived in Anchorage, Alaska in 1972 where she pursued higher education at the University of Alaska, Anchorage. She has both a nursing degree and a Bachelor’s in Social Work. Senator Davis began her career at the YWCA, and she also worked in various positions within the Department of Health and Social Services. Her long political career began when she was elected to the Anchorage School Board, serving two terms as board president. After an unsuccessful bid to the Alaska State Senate in 1996, Senator Davis was re-elected to the Anchorage School Board and appointed to the State Board of Education. She also served as the president of the National Association of Black School Board Members and the president of the Alaska Black Leadership Conference. Senator Davis became the first African-American woman elected to serve in the Alaska State House of Representatives, serving three terms from 1990-1996. In 2000, she became the first African-American to be elected to the Alaska State Senate, and she continues to serve her district and the state of Alaska, passing legislation that influences education, social issues, and economic development. Senator Davis is the recipient of countless awards and cares greatly about the community as she strives to promote exemplary service at the local, state, and national level.



ARIZONA

Senator Leah Landrum Taylor (D)

Arizona State Legislature

Senator Leah Landrum-Taylor serves District 16 in the state of Arizona. She is a third generation native Phoenician, educated at Xavier College Preparatory, and Arizona State University where she received a Bachelor's and Master's degree in Political Science. Senator Landrum-Taylor later attended the John F. Kennedy School of Government at Harvard University through the Fannie Mae Foundation, with the focus on affordable housing. She is well known for championing foster care and adoption issues, as well as Kinship Care Legislation. She also serves as the Chairperson for the Phoenix Chapter Jack and Jill Legislative Committee, and is the senior advisor for the Arizona Children's Association. Senator Landrum-Taylor's current projects includes building a 56-unit housing establishment for grandparents who take care of their grandchildren and a suitcase/mentoring/action plan initiative targeted at youth who "age out" of the orphanage system. Senator Landrum-Taylor is a former Girl Scout and was recently awarded the "Woman of Distinction Honor" from the Girl Scouts for 2010.



MINNESOTA

Representative Bobby Joe Champion (DFL)

Minnesota House of Representatives

Representative Bobby Joe Champion serves District 58B in the state of Minnesota. He is a native of Minnesota, who graduated from Minneapolis North High School and graduated from Macalester College with a B.A. in Political Science. He later received his J.D. from William Mitchell College of Law, also in Saint Paul. Representative Champion first worked as an assistant Minnesota attorney general under Hubert H. Humphrey, III and Mike Hatch, and as an attorney for a legal rights center. He also worked with Flyte Tyme Productions and was co-founder and director of the Grammy-nominated Excelsior Choir. In addition, he was executive director of the Midwest Chapter of the National Association of Minority Contractors, and was program director for Social Spaces with the Stairstep Initiative. Representative Champion is currently in his second term in the House of Representatives, and he serves on several committees including: Judiciary Policy and Finance; Transportation and Finance; and Ways and Means.



Senator Jeff (Jeffrey) Hayden (DFL)

Minnesota State Senate

In 2008, Senator Jeff Hayden began his work in the Minnesota Legislature when he was elected to represent the residents of District 61B in the House of Representatives. He advocated for the progressive political change that he has fought for in his community for decades, including economic justice and a single-payer health care system to cover every Minnesotan with affordable, quality care. In October of this year, he won a special election that placed him in the State Senate to replace a retired senator, where he continues supporting his community. Senator Hayden attended Metro State University and Bethel

University, and his past professional experience includes managing Hearth Connection, a non-profit organization in Minneapolis, and the Housing Choice Voucher program of mental health resources. He was the coordinator of the 38th Street Business Association, a Board Member of the Community Action Agency, Board Chair of the Powderhorn Park Neighborhood Association, and Board Member of the Bryant Neighborhood Association. Senator Hayden is also on the Board of the Amateur Sports Commission, the Council on Black Minnesotans, and the Midwestern Legislative Conference Innovations Selection Committee



OREGON

Senator Jackie Winters (R)

Oregon State Senate

After serving two terms in the Oregon House of Representatives, Senator Jackie Winters was elected to the State Senate in 2002 and again in 2006 to represent Senate District 10. An outspoken advocate for those most in need, she has worked on various efforts with the aim of helping her most vulnerable constituents. Her posts in the Legislature have included the Business and Education Committees, several healthcare-related committees, as well as the influential Ways and Means Committee. Senator Winters believes the number one priority should be putting Oregonians back to work. To her, this means growing businesses and creating an environment where businesses can thrive. She also believes that the tax system in Oregon needs to change so that the burden on families, seniors, and businesses is reduced and employers are encouraged to invest and grow. In addition, she has worked hard to create a state savings account that puts money away in times of prosperity so there is something to fall back on when facing tough economic times.



NEW MEXICO

Representative Jane E. Powdrell-Culbert (R)

New Mexico State House of Representatives

Representative Jane E. Powdrell-Culbert serves District 44 in the state of New Mexico. She is an interim member of the Indian Affairs Committee, an interim member of the New Mexico Finance Authority Oversight Committee, an interim member of Science, Technology and Telecommunications Committee, an interim advisor of the Investments Oversight Committee, a member of the Business and Industry Committee, and a member of the Transportation and Public Works Committee. Representative Powdrell-Culbert's professional experience includes public relations and training consulting.



Representative Sheryl Williams-Stapleton (D)

New Mexico State House of Representatives

Representatives Sheryl Williams Stapleton serves District 19 in the state of New Mexico. She is an interim member of the Legislative Council, an interim advisor to the New Mexico Finance Authority Oversight Committee, an interim advisor to the Investments Oversight Committee, and interim advisor to the Legislative

Education Study Committee, an interim advisor to the Courts, Corrections and Justice Committee, a member of the Education Committee, a member of the Labor and Human Resources Committee, a member of the Printing and Supplies Committee, and a member of the Rules and Order of Business Committee. Representative Williams-Stapleton's professional experience includes being a Principal.



VERMONT

Senator Randolph D. Brock (R)

Vermont State Senate


Born in Philadelphia, Pennsylvania, Senator Randolph Brock has lived in Vermont for over 40 years and now serves as a State Senator representing Franklin County. His education includes a bachelor's degree from Middlebury College and a master's degree from Yale University. A Vietnam veteran, Senator Brock left the Regular Army as captain in the Military Police Corps, and received the Bronze Star Medal for meritorious service and the Army Commendation Medal with the 1st Oak Leaf Cluster. He served as Vermont's 28th Auditor of Accounts, and then retired in January 2003 as Executive Vice President, Risk Oversight, for Fidelity Investments. Senator Brock is a member of the National Board of Directors of the Alzheimer's Association and Vice Chair the board of Hodges University Foundation. He is a trustee of both the Vermont Historical Society and of the Vermont Law School. He previously served as chairman of the State Board of Private Investigative and Security Services and as a director of the Vermont Educational and Health Buildings Finance Agency. Senator Brock was appointed by President George W. Bush to the Board of Visitors to the United States Military Academy at West Point and currently serves as the board's elected vice chair.



WASHINGTON

Representative Eric Pettigrew (D)

Washington State House of Representatives

Representative Pettigrew serves District 37 in the state of Washington and he has lived in Seattle for 23 years. He graduated from Nogales High School in the City of Industry, CA, then went on to earn a Bachelor of Science degree in Sociology and Counseling Psychology from Oregon State University, and a Master of Social Work, Business Administration Certification from the University of Washington. His professional experience includes positions at Safeco Insurance, Office of the Mayor of Seattle, Seattle Emergency Management, and the University of Washington Minority Youth Health Project in the roles of Manager, Deputy Chief of Staff and Director respectively. Representative Pettigrew currently serves as Director of Community and Business Relations for Regence Blue Shield. His legislative priorities include children and family services, economic development, and appropriations. He is also the recipient of several distinguished awards and honors and is very active in his community. 

THE ROLE OF HEALTH INFORMATION TECHNOLOGY IN MEDICAID: IMPROVING HEALTH OUTCOMES

By Thomas L. Johnson, Medicaid Health Plans of America

Many Americans believe that increased investment in health information technology (HIT) by health care providers and payors can improve the care delivered to patients, reduce dangerous errors, and better manage costs across the health system. In recent years, with federal stimulus dollars and the passage of health reform the U.S. Government has stepped up its commitment to improve the nation's HIT infrastructure and workforce. The increased commitment can also be seen at the state level where states are working along with managed care companies to improve the care provided to some of their most vulnerable, especially those eligible for Medicaid and CHIP.

The partnership to implement increased usage of HIT initiatives with the Medicaid population creates opportunities that go beyond simply streamlining administrative processes. Instead, increased HIT utilization in Medicaid can improve patient care, track compliance, and empower beneficiaries. Clearly,

there is an opportunity to improve the delivery of care to the Medicaid population. HIT can play a critical role in this process.

CHALLENGES AND OPPORTUNITIES

State governments and legislatures can substantially influence how HIT can improve the care and lower the cost for their states' Medicaid beneficiaries. In today's uncertain climate and the pressure to balance state budgets, states must walk a difficult tightrope between reducing growing Medicaid expenditures and cutting back on HIT investment. Compliance with national HIT requirements and initiatives by the private sector may work to lower such burdens at the state level in the long term. It is important to remember that if done well, investment in HIT can improve outcomes.

THE HITECH ACT

The Health Information Technology for Economic and

Clinical Health (HITECH) Act provides HHS with the authority to establish programs to improve health care quality, safety, and efficiency through the promotion of health information technology (HIT), including electronic health records and private and secure electronic health information exchange. Under HITECH, eligible health care professionals and hospitals can qualify for Medicare and Medicaid incentive payments when they adopt certified EHR technology and use it to achieve specified objectives. Two regulations have been released, one of which defines the "meaningful use" objectives that providers must meet to qualify for the bonus payments, and the other which identifies the technical capabilities required for certified EHR technology.

ELECTRONIC HEALTH RECORD (EHR) OR ELECTRONIC MEDICAL RECORD (EMR)

Sometimes people use the terms "Electronic Medical Record"

or “EMR” when talking about Electronic Health Record (EHR) technology. Very often an Electronic Medical Record or EMR is just another way to describe an Electronic Health Record or EHR, and both providers and vendors sometimes use the terms interchangeably. For the purposes of the Medicare and Medicaid Incentive Programs, eligible professionals, eligible hospitals and critical access hospitals (CAHs) must use certified EHR technology. Certified EHR technology gives assurance to purchasers and other users that an EHR system or module offers the necessary technological capability, functionality, and security to help them meet the meaningful use criteria. Certification also helps providers and patients be confident that the electronic health IT products and systems they use are secure, can maintain data confidentially, and can work with other systems to share information.

MEANINGFUL USE AND MEDICAID INCENTIVES

The Medicaid EHR Incentive Program will provide incentive payments to eligible professionals, eligible hospitals, and CAHs as they adopt, implement, upgrade, or demonstrate meaningful use of certified EHR technology in their first year of participation and demonstrate meaningful use for up to five remaining participation years. The Medicaid EHR Incentive Program is voluntarily offered by individual states and territories and may begin as early as 2011, depending on the state. Eligible professionals can receive up to \$63,750 over the six years

that they choose to participate in the program. Eligible hospital incentive payments may begin as early as 2011, depending on when the state begins its program. The last year a Medicaid eligible hospital may begin the program is 2016. Hospital payments are based on a number of factors, beginning with a \$2 million base payment. There are no payment adjustments under the Medicaid EHR Incentive Program. Priorities of “meaningful use” include improving the quality, safety, and efficiency of health care, as well as to reduce health care disparities.

ICD-10

On October 1, 2013, the ICD-9 code sets used to report medical diagnoses and inpatient procedures will be replaced by ICD-10 code sets. To accommodate the ICD-10 code structure, the transaction standards used for electronic health care claims, Version 4010/4010A, must be upgraded to Version 5010 by January 1, 2012. The transition to ICD-10 is occurring because ICD-9 produces limited data about patients’ medical conditions and hospital inpatient procedures. ICD-9 is 30 years old, has outdated terms, and is inconsistent with current medical practice. Also, the structure of ICD-9 limits the number of new codes that can be created, and many ICD-9 categories are full. ICD-10 will affect diagnosis and inpatient procedure coding for everyone covered by the Health Insurance Portability and Accountability Act (HIPAA), not just those who submit Medicare or Medicaid claims. Everyone

covered by HIPAA who transmits electronic claims must also switch to Version 5010 transaction standards.

THE FUTURE

For planning purposes, as changes continue to occur in the healthcare system, states should also examine:

- What role are state Medicaid agencies playing in developing systems to meet future needs?
- How are states preparing to integrate their HIT systems with health insurance exchanges in 2014?
- How are states planning to provide oversight of incentive payments to combat, waste, fraud, and abuse?
- How do these strategies improve health outcomes for Medicaid enrollees?

When considering their options, states are likely to find Medicaid managed care plans as strong partners in creating viable solutions to meet all of these challenges and opportunities, and help patients achieve healthier outcomes. **L**



Thomas L. Johnson is the President and CEO of Medicaid Health Plans of America, a non-profit organization that seeks to develop and advance public policy that controls costs and improves access and delivery of quality health care to Medicaid members.

ISSUE BRIEF: NAACP
OPPOSES RACIALLY
DISCRIMINATORY
AND
DISENFRANCHISING
PROPOSALS
REQUIRING ALL
VOTERS TO SHOW
A GOVERNMENT-
APPROVED
PHOTO ID BEFORE
REGISTERING AND
VOTING

By Hilary O. Shelton, Director, NAACP Washington Bureau

Photo ID requirements would disproportionately cause racial and ethnic minorities, low-income Americans and the elderly to lose their right to vote



THE ISSUE


There are racially discriminatory and disenfranchising proposals, at the federal, state and local levels, which would require all voters to show some form of federally or state-approved photo identification before being able to cast their vote. These proposals fly in the face of our right, guaranteed by the Constitution, to cast a free and unfettered ballot, as well as the recently reauthorized 1965 Voting Rights Act, which mandates that no state or municipality shall in any way infringe on our right to vote.

While supporters of these initiatives purport to be combating “voter fraud,” (a “problem” which, as numerous studies have shown, is not really a problem), what these laws are in fact doing is creating a barrier to keep the up to 21 million Americans, or 11% of the entire voting-eligible population, who do not have government-issued photo IDs, out of the ballot booth. Sadly, a disproportionate number of these people who do not have government-issued IDs are racial and ethnic minorities, the elderly or low-income Americans. A full 25% of African Americans who would otherwise be eligible to vote do not have a qualified photo ID.

These proposals re-create new obstacles in voting akin to a modern day “poll-tax” by forcing Americans to pay for government approved ID. Many of our most vulnerable citizens do not have or cannot easily obtain the paperwork needed to obtain a photo ID, such as passports, birth certificates or naturalization papers. Furthermore, obtaining a photo ID may require taking as much as a day off of work or traveling far distances, both of which may prove to be almost insurmountable chores. The requirement that all voters present a photo ID before being able to cast a regular ballot will disproportionately disenfranchise African Americans and other racial and ethnic minority Americans, as well as the elderly, individuals with disabilities, Americans living in rural areas, students, Native American voters, the homeless, and low-income people who are less likely to have or carry a photo ID.

To add insult to injury, these proposals would do little or nothing to prevent actual instances of voter fraud. Nothing in the legislation addresses actual documented problems of election and voter fraud, such as the improper purges of voters, distributing false information

about when and where to vote, stuffing ballot boxes, and tampering with registration forms, most of which are perpetrated by corrupt election officials, not voters. Rather, many of these proposals appear to be a blatant attempt to change the political outcome of elections. In North Carolina, for example, an estimated 270,000 African American voters lack a photo ID; the Presidential victor of North Carolina in 2008 won the state by less than 14,000 votes.

For more information about the NAACP policy and advocacy work related to this and other issues, be sure to visit the Web site at www.naacp.org. 



Hilary O. Shelton serves as the Director of the NAACP’s Washington Bureau, and Senior Vice President for Advocacy and Policy. In this capacity, Mr. Shelton is responsible for advocating the federal public policy issue agenda of the organization to the U.S. Government.

PHOTO ID REQUIREMENTS: STATE FACTS & FIGURES

29 states currently have laws on the books requiring all voters to show some form of identification before voting.

Of these, **14** must show an identification which contains a *photo* of the voter; in the remaining **15** states non-picture IDs are acceptable.

- Those 14 states are: Alabama, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, South Carolina, South Dakota, Tennessee, Texas & Wisconsin
- **8** of the 14 states currently have strict voter ID laws, which require a voter to show a photo ID to vote (Alabama, Georgia, Indiana, Kansas, Wisconsin, South Carolina, Tennessee and Texas).
- If the voter cannot or does not produce a photo ID, he / she is allowed to cast a provisional ballot, which is counted only after the voter returns to election officials within a certain time frame (usually just a few days) with a photo ID.
 - The strict voter ID laws in **2** of these states, Texas and South Carolina, can only take effect after the state receives pre-clearance from the US Department of Justice under the Voting Rights Act.

In 2011, **47** states either already had voter ID requirements on the books or saw voter ID laws introduced.

- The **3** states without existing voter ID laws and in which voter id requirement proposals were not considered by the state legislature were Oregon, Vermont and Wyoming.
- Of the 47 states, **20** states did not have any prior voter ID laws, and **14** states saw moves to toughen existing voter ID laws to require photo identification.
 - Of these proposals, **15** failed (Arkansas, California, Colorado, Connecticut, Delaware, Iowa, Hawaii, Maine, Maryland, Mississippi, Nevada, New Mexico, Rhode Island, Virginia and West Virginia);
 - **6** were enacted (Alabama, Kansas, South Carolina, Tennessee, Texas and Wisconsin);
 - **5** were vetoed (Minnesota, Missouri, Montana, New Hampshire and North Carolina);
 - **4** were carried over to the 2012 session (Alaska, Illinois, Nebraska and New York); and
 - **4** states still have proposals pending (Massachusetts, New Jersey, Ohio and Pennsylvania).

The photo ID law is currently being challenged in the courts Arizona; lawsuits are reportedly pending in Wisconsin & Oklahoma

State referenda on photo IDs are currently scheduled to occur in Mississippi in November 2011 and Missouri in November 2012

Photo ID laws in Texas and South Carolina are currently being reviewed by the US Department of Justice under the Pre-Clearance provision of the Voting Rights Act of 1965; Arizona is suing to have the Voting Rights Act declared "unconstitutional" and void.

A LEGISLATIVE APPROACH TO BULLYING

By Ajenai S. Clemmons, NBCSL Policy Director

Bullying has long-been tacitly permitted as a rite of passage—at best, resigned to as a kids-can-be-cruel, life-is-not-fair part of growing up and, at worst, supported as a “character-building” experience.¹

Previously ignored, laughed off, or even encouraged by school personnel, parents, and adults, recent mass shootings such as those in Jonesboro, AR, and Littleton, CO have sounded a national wake-up call to the catastrophic costs of bullying.² While no study has yet examined the relationship between bullying and the risk of escalating to more serious violence,³ it is compelling that over two-thirds of school shooters felt bullied prior to the incident.⁴ Mass shootings have drawn much-deserved attention to bullying, but such extremes are rare. Far more pervasive is the harm caused one individual at a time.

Bullying is defined as “a form of aggression in which one or more children *repeatedly* and intentionally intimidate, harass, or physically harm a victim who is perceived as unable to

defend herself or himself.”⁵

Bullying can be direct, such as pushing, punching, tripping, and spitting, or it can be indirect, such as threats, teasing, rumors, extortion, or social exclusion. Based on studies and student surveys, experts estimate that between 20-30% of students are involved in bullying either as a bully or victim.⁶

Although the longitudinal psychological research into bullying is just now emerging, social scientists have found the consequences are not only severe in childhood, they quite often extend into adulthood.⁷ Without intervention, bullies are six times more likely to wind up behind bars by the age of 24, and tend to carry bullying behaviors into romantic relationships and the workforce.⁸ As for victimized children, bullying’s impact is physical and mental, spanning

headaches, abdominal pains, problems sleeping, eating disorders, drug and alcohol abuse, fear that results in running away, and depression many times leading to suicidal ideation and attempted and completed suicide.⁹ A number of mental health outcomes have direct bearing on student achievement: poor concentration, nightmares and fatigue, mood swings and irritability, shame, anxiety and panic attacks, loss of self-confidence, and school absenteeism.¹⁰ Incidentally, the symptoms are similar for adults bullied in the workplace, though age adds heart palpitations, ulcers, hair loss, hypertension, indigestion, and even heart attacks.¹¹

Bullying is so noxious, that even bystanders often suffer adverse psychological effects. In a study published by the American Psychological Association, researchers stated, “Students who watch as their peers endure the verbal or physical abuses of another student could become as psychologically distressed, if not more so, by the events than the victims themselves.”¹² Effects include feelings of fear, powerlessness to change the situation, guilt for not intervening, and diminished empathy for victims over time.¹³ According to nearly 32,000 student responses in a survey conducted by the National School Boards Association, 50% of students witnessed their peers get bullied at least once a month.¹⁴

Preventing violence against children has brought Democrats and Republicans together and this common ground is evidenced by skyrocketing passage of anti-

bullying legislation since 1999 (Columbine High School in Littleton, CO). However, those 46 states are quite literally all over the map in terms of legislative components, differing on who is protected under the law, the consequences for bad behavior, and strategies for both prevention and intervention.

The Education Commission of the States has identified several model legislative components for the handful of uncovered states and those looking to strengthen what is already on the books. Model legislation defines bullying and includes cyber-bullying; it explicitly prohibits bullying and cyber-bullying and disciplines the child in an age-appropriate manner (and allows for referral of the victim, perpetrator, and others to medical and mental health services)¹⁵; informs students, parents, staff, and others of the anti-bullying policy; enables parents and requires staff to report suspected bullying; provides immunity for reporting and expressly prohibits retaliation; requires administration to investigate reports; and encourages or requires anti-bullying education programs.¹⁶

The fiscal notes attached to anti-bullying legislation vary as aspects like prohibiting bullying and requiring school personnel to report incidents cost little to nothing, yet professional development or prevention education efforts carry a much heftier price tag. Some states, such as New Jersey and Massachusetts, have implemented mechanisms that attempt to minimize the cost.¹⁷


States should promote a

uniform system of reporting so that incidents can be measured and evaluated over time to determine which actions are most effective. For example, through establishment of *Maryland’s Safe Schools Reporting Act*, baseline data analysis found that middle schoolers experienced bullying incidents more than elementary or high school students, and as many as one-third of incidents involved a physical attack.¹⁸ Measuring also allows schools to examine bullying trends against certain groups. In some states, those groups have been held to traditionally protected classes, such as race, sex, and disability. Other states have pressed further, protecting attributes that would allow the tracking of new groups. Attributes like age, height, weight, religion, genetic information, actual or perceived sexual orientation, and gender expression have all made their way into legislation. Still, other states have refused to limit their protections to specific groups and have prohibited bullying behavior regardless of whom it affects.¹⁹

Even with no federal law in place regarding bullying, the Obama Administration has taken an active role, working to promote a national strategy and bring consistency to definitions, measurements, awareness, and intervention. In 2010, the U.S. Department of Education’s (DOE) Office of Civil Rights issued guidance on bullying in part due to increased requests from states. And, in an unprecedented move, the Administration has formed an interagency group composed of the Departments of Education, Health and Human Services

(HHS), Justice, Defense, Agriculture, and the Interior as well as the National Council on Disability, The White House Initiative on Asian Americans and Pacific Islanders, and the Federal Trade Commission. The group has engaged partners in the non-profit and private sectors and held its second annual summit this fall. The HHS Department launched a comprehensive website last year, StopBullying.gov, and the Centers for Disease Control and Prevention's Division of Violence Prevention is taking the lead on setting standards for statistical measures.²⁰

Bullying, like any behavior, cannot be eradicated by legislation alone. But, there is

no question that sound, complete legislation lays the foundation for a sea change on this issue. Akin to the success the United States has had in reducing teen pregnancy and smoking, bullying holds that same potential. It will take stronger laws, yes, but it will also take public education and media campaigns to raise awareness and change attitudes about bullying. With the public, non-profit, and private sectors working together, bullying could shortly join dwarf-tossing and domestic violence as something virtually everyone agrees has no place in civil society. 



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FY2012-13: WILL THEY BE GOOD BUDGET YEARS FOR STATES?

By Colin Wellenkamp, NBCSL Policy Consultant

Some of the largest cuts to federal spending are due to transpire within the upcoming year. Several of these cuts have already been agreed to in the recent "debt deal" passed on August 2 in the Budget Control Act of 2011 (Public Law 112-25) that raises the debt limit for 2012. Now, the decision needs to be made regarding which specific federal accounts will be affected. The Budget Control Act established a bi-partisan "supercommittee" or commission to review and recommend these spending cuts totaling \$1.5 trillion by November 24, 2011. Should the commission not reach consensus on such cuts by the deadline, then automatic reductions in most areas of federal spending will occur. Whatever recovery states may have realized to this point could be reversed by the projected federal spending cuts that will occur from 2013 to 2020.

"42 states and the District of Columbia have closed or are working to close \$103 billion in shortfalls for the coming fiscal year (FY2012)."

-Center on Budget & Policy Priorities

At the first quarter of 2011, most States' revenues were approximately nine percent below pre-recession levels. The close of 2011 marks the end of almost all Recovery Funds enacted by Congress in 2009. Some state legislatures and local government executives feared the Recovery Act could have the effect of a caffeine rush on the economy,

anticipating a big crash once all the funding is spent.

The Center on Budget & Policy Priorities assembled and published a listing of the larger FY2012 budget shortfalls States are facing. California (\$23 billion), New York (\$10 billion), Texas (\$9 billion), Illinois (\$5.3 billion), and Minnesota (\$3.8 billion) represent the top five largest FY2012 budget gaps. The good news is that budget shortfalls seem to be getting smaller and smaller. In FY2010, the gap was \$190 billion; the gap for FY2011 was \$130 billion; the total projected gap for FY2012 is

\$102 billion; and the deficit closes even more in FY2013 with an estimated total of \$45.8 billion.

In addition, it should be noted that States are beginning to realize surpluses at the close of FY2011. Maryland and Virginia both posted a surplus in the hundreds of millions, which can pay down the pending deficit for the next fiscal year. Regardless, the fiscal condition of State coffers has improved, but not without a terrible price. This has been a painful recession and slow recovery for local government. We talked with NBCSL Executive Committee member, Indiana

State Representative William Crawford for some perspective. Mr. Crawford has served as Chair of his state's Ways & Means Committee and as a member of the Indiana House Budget Committee.

"Fortunately, all indications are that Indiana will have surplus going into FY2013 of about \$1 to \$1.4 billion," says Representative Crawford when asked about his state's fiscal future. Mr. Crawford, however, is quick to point out that it was not an easy road: "To start, we did an across the board 7% reduction. But, make no mistake, people got hurt in this. We then took money from education and childhood development; we charged boat owners fees for clean water funds; and we captured as many administrative revenues as we could."

*"It is unfortunate they can't pass President Obama's jobs package, it would help us."
-Indiana Ways & Means
Ranking Member, Rep.
William Crawford*

Rep. Crawford then outlines his state's steps to a budget cure that sounds worse than the disease itself. However, he quickly calibrates: "I absolutely do not agree with all of these maneuvers. Our unemployment rate just went up again – we simply did not need to make as many cuts as we did. It is unfortunate they can't pass President Obama's jobs package, it would help us." Rep. Crawford concludes by placing the situation in perspective: "We're in the black, but the price for that is too high and we're in a fiscal box where we can't move much financially."

None of these developments, however, happen in a vacuum. Other challenges will face States in the coming fiscal years that could further hinder recovery. One of these challenges is the automatic cuts scheduled as part of the debt deal previously mentioned. Just by way of example, if the Deficit Reduction Commission does not reach consensus on \$1.5 trillion worth of cuts by the end of 2011, \$3 billion will automatically be cut from K-12 education discretionary funding for fiscal years 2013-2021. Recent history shows that bi-partisan commissions typically do not work, as one side usually withdraws in protest. This is likely to happen for this "supercommittee" because Democrats will want to stop at or below the automatic cuts while Republicans will want to make larger cuts.

The projected trajectory for education spending may be used to demonstrate the potential impact of these pending cuts. The average federal spending level on education all together over the last 10 years has been about \$58 billion per year. It should be noted that 2009 is not part of this calculus since the Recovery Act allocated \$155 billion in one year, which creates a incongruity in the statistics. Education spending over the last ten years has increased on average about \$3 billion per year. Therefore, to cut \$3 billion annually from FY2013 to FY2021 means the rate of spending for education must be reduced every year from the current level of \$64 billion through FY2021 to get to an allocation of \$40 billion, which is the same level

of spending for FY2001. Now what federal program is funded today at the same level as 20 years ago?. This means no new spending in education for ten years, in addition to decreases. This will have rippling impacts on state education allotments over the long term, not to mention the damaging effect of these on public school education nationally, as well as the potential to reduce American children's ability to compete with their peers internationally.

It is evident that these federal budget issues are critical for states' funding future. NBCSL members who sit on budget committees within their states can examine the NBCSL Legislative Update for August 2011 on the Caucus website for more information regarding the debt deal and its impact on spending.

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BAD TIMING: THE STORY OF THE AMERICAN JOBS ACT

By Brandt Thorington, NBCSL Policy Analyst



Timing is everything, and most everyone involved in politics and government has experienced the situation where one moment movement can change everything. The American Jobs Act serves as the perfect example of this dynamic. Two years ago, the American Jobs Act would have been passed by Congress; however, the 2010 election produced a limited Democratic majority within the Senate and a Republican majority in the House of Representatives. The Tea Party stormed Washington and changed its political agenda and spotlight. As a result, the focus was no longer on economic stimulus – cutting government spending was now priority number one.

The American Jobs Act could undoubtedly aid state governments, by providing funding to improve infrastructure, as well as for teachers and first responders. The following are just a few of the issues the American Jobs Act would impact:

- **Payroll Tax Cuts** – The bill cuts the payroll tax paid by employers to 3.1% on the first \$5 million of the company’s wages. In addition, the bill would refund all payroll taxes on new workers and any increase in wages for current employees (capped at \$50 million in new wages). This means that a small firm with 50 employees, with each employee making \$50,000 a year, would save \$80,000 in one year, enough to easily hire an additional employee.
- **Business Incentives** – The bill will extend the 100% expensing provision that was signed into law in December of 2010. This allows businesses to deduct the full value of their investment (such as purchasing new equipment or expanding their facility). In addition, the President proposes implementing

initiatives to aid in compliance and access to currently available programs to help businesses remain competitive. Such competitive advantages include a temporary increase in SBA-guaranteed surety bonds from \$2 to \$5 million (will allow small firms to bid on infrastructure projects).

- **Transportation Investments** – The bill proposes \$50 billion in immediate investments for highway, rail, transit, and aviation projects. Included in the \$50 billion is:
 - \$27 billion for highway systems;
 - \$9 billion for transit with; \$2 billion designated for intercity passenger rail;
 - \$2 billion to improve air safety, add capacity, and modernize airport infrastructure;
 - \$50 million in 2012, to improve employment and training opportunities for minorities, women, and persons who are socially and economically disadvantaged workers in the transportation sector. In addition, \$10 million to aid disadvantaged contractors to receive

transportation related contracts;

- \$4 billion for high-speed rail;
- \$1 billion for NextGen Air Traffic Modernization;
- \$5 billion for the TIGER grant program and TIFIA loans;
- \$10 billion for a National Infrastructure Bank to fund projects of over \$100 million and need to be of national or regional significance that meets the rigorous standards of the bank. The bank would not be able to finance more than 50% of a project.
- **Preventing Layoffs** – The plan includes \$35 billion to prevent teacher and first responder layoffs resulting from massive budget cuts on the local level. Thirty billion dollars will be directed toward teachers, while \$5 billion will be directed towards first responders.
- **School Infrastructure** – The bill includes \$25 billion to modernize public schools and \$5 billion for community colleges. The money can be used for a number of different purposes, including emergency repair and renovation projects,

greening and energy efficiency upgrades, asbestos abatement and removal, new science and computer labs, and upgrades to technology in schools. The current backlog of deferred maintenance in schools amounts to at least \$270 billion in K-12 schools and \$100 billion in community colleges. The plan would also direct 40% of the funding toward the 100 highest needed school districts.

- **Rehabilitating Communities** – Based roughly on the Neighborhood Stabilization Program, this bill includes \$15 billion to rehabilitate vacant and foreclosed homes and businesses. Ten billion dollars will be disbursed through a formula, while \$5 billion will be competitive grant funding.
- **Aid for Low-Income Youth and Adults** – The bill provides \$5 billion to a new program titled, the Pathways Back to Work Fund. Under this program, youth would receive assistance to obtain their first jobs, and economically-disadvantaged young adults would receive year-round employment. Another part of the fund would be modeled after the TANF Emergency Fund, which provides flexible funding for states to encourage the hiring of low-income workers.
- **Reforming Unemployment Insurance** – The bill attempts to aid individuals who have been unemployed long-term. The plan will continue to extend Unemployment Insurance (UI) and provide additional job search assistance and access to

training opportunities. Under this plan, workers could also receive pro-rated UI as compensation for a reduction in work hours. The plan will also provide a tax credit for the hiring of long-term unemployed and special tax credits for veterans and long-term unemployed veterans. The proposal also calls for implementing a work-sharing program that is already successful in more than 20 states.

- **Paying for the Jobs Bill** – The President proposes to pay for the Jobs bill by limiting the number of deductions that can be taken by an individual making over \$200,000 a year and a family that makes over \$250,000. Under this plan, the loopholes for oil and gas companies would be closed; fund managers would be required to pay higher tax rates on certain types of income; and taxes altered on private jets.

Republicans have been particularly averse to raising taxes, which makes paying for bill the most contentious issue in Congress. President Obama now needs more support from the Republican members of this Congress (as opposed to the last), which has been particularly difficult to secure given these proposed tax increases. The Senate voted on an overall package of the American Jobs Act, although the total package did not receive enough votes to limit debate, and this effectively killed the bill. The next step for the Senate is to break the President's plan into smaller

packages. They have already held a vote on the piece specifically to aid teachers and first responders, which failed. Other pieces on infrastructure spending, school construction, and unemployment, are all expected to come up for votes that will also likely fail in the Senate. Additionally, in the House, it is widely expected that the Jobs bill will not reach the floor in any fashion.

Clearly the dynamic has changed and debates about reviving our economy have now shifted to reducing our deficit. This Congress is not interested in any legislative position that does not limit the size of the national debt and government. Republicans in Congress have made it very clear they do not want the President to be reelected and a legislative victory, such as the failure of the America Jobs Act, would certainly be a detriment to the President's reelection efforts. Times have changed, stimulative spending is at the bottom of the agenda in Washington, unfortunately leading to the demise of the America Jobs Act. **L**

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HOW DEBT AND DEFICIT TALKS IMPACT THE EDUCATION LANDSCAPE

By Sarah Munshi, MPP, NBCSL Policy Associate

Congressional leaders are trapped in the harsh reality of today's budget crisis. With partisan gridlock paralyzing Washington, there are few issues that attract much bipartisan support in Congress, let alone make it to the president's desk for signing. It seems Washington is exclusively focused on tackling the budget deficit and lowering the national debt. While Democrats and Republicans both agree that cuts need to be made, they have been unable to agree on anything substantial. It would not be wrong to assume then, that lawmakers have been forced to abandon education policy in pursuit of more urgent issues, such as the budget and job creation. Surprisingly, however, that has not been the case. In the face of economic and financial constraints, both sides continue to prioritize their respective education initiatives. As much as Congress seeks to resolve the budget impasse, many lawmakers realize that quality education guides the country's future economic success. Congress is – albeit, at a tepid speed – still taking education seriously.

Education has traditionally been the purview of state and local governments for it is at the local level where most education decisions have been made. It has also been where most of the funding for public schools originate. However, it would be a mistake to underestimate the federal government's long and storied role in promoting quality public education. From Abraham

Lincoln's promotion of land grant public colleges to Ronald Reagan's launch of the standards-based reform movement, it has been understood that the federal government does have a proactive role to play in education.

But the Great Recession and the financial crisis that triggered it has forced federal, state, and local authorities to scale back meaningful education projects.

Budget shortfalls have led to increased cuts in education spending, forcing many districts to make tough choices. These difficult decisions have placed education in political deadlock. Both the federal government and states have been stretched thin, and thus, have been unsuccessful in establishing effective policy that focus exclusively on teaching and learning. This is not to

DEMOCRAT AND REPUBLICAN RESPONSE TO CREATE FEDERAL AND STATE EDUCATION INITIATIVES HAVE BEEN CONSTRAINED BY THE NATIONAL DEFICIT. THE AREAS BELOW DESCRIBE THE CURRENT EDUCATION LANDSCAPE GIVEN RECENT BUDGET CUTS.

Pre-K and Head Start
has been an area of partisan contention. Republicans have displayed opposition to universal access to pre-K but have conceded to fund Head Start initiatives.

Race to the Top (RttT)
received praise and disapproval alike from both parties. Conservatives voiced approval for the expansion of school choice, but progressives criticized the privatization that has resulted from RttT.

Senate HELP Committee
is developing legislation that tackles high dropout rates and the “teaching to the test” approach (technique), since previous national measures to raise achievement have proved to be unsuccessful.

say, however, that the federal government and Democratic and Republican-controlled state legislators and governors have not worked together to revamp the current educational system.

In Pennsylvania, former Governor Ed Rendell (PA) had a steep learning curve when he attempted to design a platform that transcended both party lines. Rendell initially appealed for a \$245 million investment in early education, which was expected to be funded by an increase in personal income tax. Due to the Republican’s aversion to tax hikes, the legislature declined to support Rendell’s plan. They were forced instead to settle for \$15 million towards Head Start. Despite a Republican-led legislature, Gov. Rendell broke through the legislative deadlock and passed House Bill 113, which added \$250 million towards raising student achievement.

Although Pennsylvania restructured its resources and allocated funds toward Head Start, the current Congressional stalemate has

prevented legislation from advancing nationally. Given these challenging circumstances, the administration has called for continued cooperation in addressing the needs of America’s broken education system.

In an attempt to encourage states to develop innovative strategies in the school system, the Department of Education announced the Race to the Top initiative. This was an administration-backed grant program aimed at spurring innovation between states. The program was funded by the American Recovery and Reinvestment Act, and was designed to reward states that, according to the Department of Education, “are leading the way with ambitious yet achievable plans for implementing coherent, compelling, and comprehensive education reform.”¹ At a 2009 press conference announcing the program, President Barack Obama remarked that “The competition ... will be based on a simple principle – whether a state is ready to do what works.”²

The program received strong bipartisan support, which gave lawmakers leverage to enhance K-12 education elsewhere. In 2010, the administration announced that 40 states and the District of Columbia had submitted applications for the program.³

Although Race to the Top was designed to spur reform through bipartisan efforts, it received strong criticism from both the left and right. On the right, figures like Texas Governor and presidential candidate Rick Perry emerged as local critics of the program. Perry has said that it would be “foolish and irresponsible to place our future in the hands of unelected bureaucrats and special interest groups thousands of miles away in Washington, virtually eliminating parents’ participation in their children’s education.”⁴ The Texas Public Policy Foundation, a conservative think-tank based in Austin, has complained that once stimulus funding dries up, states will be forced to fund the programs themselves.

Race to the Top has also been criticized by Diane Ravitch, a progressive education policy expert and professor at New York State University. She criticized various elements of the program due to its heavy reliance on standardized testing as a benchmark for evaluating school success. The initiative gave states funding if they removed caps on charter schools, and eliminated “restrictions on using student test scores to evaluate teachers.” She criticized these restrictions because they have led to an increase in privatization. In Los Angeles for example, the board of education voted to turn approximately one third of their schools to overt a private management company. Ravitch also cited the Stanford CREDO study, which stated that a mere 17% of charter schools were better than their counterpart public schools.


Race to the Top was an attempt to repair deficiencies in No Child Left Behind (NCLB), a landmark legislation that made standards-based education reform the centerpiece of public education. Despite these efforts, it ultimately fell short of providing meaningful change.

Given Congress’ inability to find common ground in the past, Sen. Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pensions Committee and ranking member Mike Enzi

(WY-R), have been working on bipartisan legislation to revamp NCLB. Although legislation is underway, it does not include federal intervention for the lowest performing schools or supplementary funding for construction and renovation. These are all measures that Harkin and many Democrats support. Despite deviation in the measures, Harkin believes that the bill will steer clear of stringent ideology, and emphasize student achievement.

Its goal would be to close the achievement gap by focusing resources on “dropout factories” and ensuring that all students are college and career ready. It would also make certain that teachers receive proper feedback. With the elimination of Annual Yearly Progress (AYP) sanctions, teachers will be better equipped to teach a well-rounded curriculum, rather than “teaching to the test,” a common complaint of NCLB. This bipartisan compromise has enabled policymakers to tackle the previous administration’s ineffective policies.

This alliance has generated a strong response amongst critics who disapprove of the political stalemate, which prevented both parties from advancing legislation. The recession has forced both sides to voice and fight for their priorities. Republicans, Democrats,

progressives, moderates, and conservatives have equally been backed up against major budget cuts. This environment has forced both chambers to wrestle over how to enact effective policy. It has allowed them to break through the political standoffs that have traditionally prevented them from introducing solutions to the House and Senate floors. Through compromise and reconciliation, lawmakers have worked to propose politically feasible policies in a fiscally restricted environment. It will ultimately be up to Republicans to decide which education initiatives they care to prioritize and fund. This is because the complete elimination of such initiatives will not be politically viable. Subsequently, it will be the Democrats responsibility to eliminate financial waste, and advocate on behalf of policies that are backed by comprehensive research, and that truly close the achievement gap. 

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BUSINESS AND LABOR EYEING NLRB DECISION ON BOEING COMPLAINT

By Michael L. Belitzky, NBCSL Policy Associate

Lawmakers across the nation are trimming state budgets, often times cutting spending to critical programs geared towards serving vulnerable populations. In particular, state legislatures have battled whether or not to scale back unemployment benefits. The most recent "Employment Situation Summary" from the United States Department of Labor cites a national unemployment rate of 8.6%, representing over 13.3 million persons without a job.¹ These staggering figures have lawmakers and businesses scratching their heads, seeking ways to create jobs and get Americans back to work. That does not mean there have not been ideas; actually, there have been several, but it remains to be seen if partisan politics will yield to the best interests of the countless Americans struggling to care for their families. State lawmakers have crafted legislation promoting business-friendly environments as well as

touting their workforce diversity to attract companies to open up shop in their states.

One case making national headlines involves Boeing Company, International Association of Machinists and Aerospace Workers (IAMWA), National Labor Relations Board (NLRB), and the States of South Carolina and Washington. IAMWA cried foul when Boeing, the aerospace manufacturing giant, announced its plans to open a second production line at a new plant in Charleston, South Carolina. On March 26, 2010, the IAMWA District Lodge 751 filed a charge with NLRB, an independent federal agency, which enforces the rights of private sector employees to join together (with or without a union) to improve their wages and working conditions.² The charge under investigation by NLRB, alleged that Boeing engaged in multiple unfair labor practices related to its decision to place a second production line for the 787 Dreamliner airplane in a non-union facility. Specifically, IAMWA charged that the decision to transfer the line was made to retaliate against union employees for participating in past strikes and to curb future strike activity.³ For many, this called into question the motives behind Boeing's decision to relocate from Washington State to South Carolina, which happens to be a Right-to-Work state.

For its part, in 2007, Boeing agreed to assemble seven 787 Dreamliner airplanes per month in Washington State, an area which historically, has had strong union representation. Throughout the still-ongoing

investigation, Boeing has asserted its commitment to those workers in Washington State, and, in fact, the company has added 4,272 jobs since the beginning of this year.⁴ The company insists that by opening a new plant in South Carolina, it will eliminate the rising backlog of orders due to constraints in its Washington State plant and it will create jobs in an area, which too, faces a high unemployment rate. In response to Boeing's charge of regulatory constraints, NLRB referred to a statement from a senior Boeing executive during a video-taped interview with the Seattle Times newspaper: "The overriding factor (in transferring the line) was not the business climate. And it was not the wages we're paying today. It was that we cannot afford to have a work stoppage, you know every three years."⁵ Indeed, there have been strikes by IAMWA, which have led to work stoppages. Since 1977, the union has conducted strikes five times, including a 58-day walkout in 2008.⁶

South Carolina is one of twenty-two states that has enacted "Right-to-Work laws" making it illegal for labor unions and employers to enter into contracts (collective bargaining agreements) under which a business may employ only union members in jobs covered by the contract. One typical version of a Right-to-Work law reads, "No person may be denied employment, and employers may not be denied the right to employ any person, because of that person's membership or

non-membership in any labor organization."⁷ However, NLRB contends that a worker's right to strike is a fundamental right guaranteed by the National Labor Relations Act (NLRA).⁸ Unions have generally opposed efforts to limit or eliminate collective bargaining.

Critics say NLRB is overstepping its bounds by blocking Boeing's move to operate in South Carolina. Simply put, they ask how can an independent federal agency bar a business from expanding, ultimately creating jobs in such a time of economic crisis? Republican leaders in Congress agreed with those critics by passing H.R. 2587, the "Protecting Jobs from Government Interference Act."⁹ The bill sponsored by Congressman Tim Scott, a South Carolina Republican representing portions of Charleston, (the site of the proposed Boeing plant), stops NLRB from deciding where an employer can and cannot create jobs.¹⁰ Chairman of the House Education and Workforce Committee, John Kline (MN-2) said, "It tells job creators that they don't have to fear an activist NLRB reversing important decisions about where to locate a business."¹¹ The bill, which had overwhelming support from business and trade advocates, represents a conservative response to unions and NLRB's course of action in the Boeing investigation. Undoubtedly, the bill will not advance in the Democrat-controlled Senate, but it generated more national

attention to NLRB's investigation of Boeing. During a hearing of the Senate Appropriations Committee, Senator Lindsey Graham (R-SC) submitted an amendment to a budget bill funding the Departments of Labor, Health and Human Services, Education, and related agencies including NLRB for the new fiscal year. The amendment was aimed at the Boeing case but written in such a generic fashion that it would impact NLRB's powers in other instances when employers are shown to have moved from one facility to another to retaliate against workers for lawful union activities. Senator Mark Pryor (D-AR) joined 14 Republicans on the 15-15 vote, which failed for lack of majority.¹² Senate Majority Leader Harry Reid (D-NV) has strongly asserted the NLRB is doing what it was set up to do.

The Found[ing Fathers] created a system of checks and balances — three branches of government, for example, and two chambers of the Congress — precisely because they anticipated these passions. Long after that system was created, a new independent federal agency was created in the same spirit of checks and balances. That agency is the National Labor Relations Board, and it acts as a check on employers and employees alike.¹³

The heightened media coverage pushed onto the national stage what was at first a local issue shared by the towns of Everett, Washington, and Charleston, South Carolina and opened up this debate as to how strong of a role NLRB should have over businesses and unions.

Observers of this case have been asking whether the Act passed by a Republican-led House was politically charged, or if there is truly a need to limit the powers of an independent federal agency whose main mission is to settle disputes between unions and employers in the private sector.

While under investigation and legal proceedings, Boeing has hired an additional 3,300 union workers at the Everett, Washington plant. Boeing contends that these hires show the company's good faith effort to the IAMWA and other unions alike. Lawyers for both sides are hoping to reach a settlement. On the first day of the hearing this June, Judge Clifford Anderson, the associate chief administrative law judge for NLRB, told both parties, "Settlement always needs to be considered."¹⁴ In April, when NLRB received the formal complaint from IAMWA, Acting General Counsel Lafe Solomon said he tried to work out a settlement. An unidentified source close to Solomon claimed that one settlement proposal stipulated Boeing be required to move the 787 assembly line to Washington State, where 787 Dreamliners are already being made. NLRB said it is not seeking a shutdown of the Charleston, South Carolina plant. Another condition in the settlement proposal requires Boeing to agree not to lay off anyone from the 787 line in Everett, Washington, until the end of the current IAMWA contract in September 2012.¹⁵ Judge Anderson has asked both parties to try to "work out an agreement to avoid the lengthy process of having legal arguments and court rulings on

them." William Kilberg, a lawyer representing Boeing, said that Boeing is willing to negotiate a settlement, but asserted, "What Boeing is not open to is commitments or guarantees as to where [Boeing] will put work in the future."¹⁶ Asked whether IAMWA would back a settlement that included no guarantees of future work, spokeswoman Connie Kelliher said, "They [Boeing] need to be bringing settlements to us. I'm not going to theorize when they won't come to the table and talk."¹⁷ Fortunately for both parties, a settlement was reached. On December 9, 2011, NLRB approved the withdrawal of charges by the machinists union against Boeing. IAMWA approved a new contract with Boeing ending the disagreement — prompting a request to the labor board to withdraw the suit. NLRB Acting General Counsel Lafe Solomon issued the following statement: "I am very happy to announce that my office has approved the withdrawal of a charge by the [m]achinists union against the Boeing Co., which brings our case in this matter to an end. This is the outcome we have always preferred and one that is typical for our agency." The result is a contract that helps guarantee success for both parties and creates job security for workers. Solomon added, "I am pleased that the collective bargaining process has succeeded and that the parties have begun a promising new chapter in their relationship." About 90% of meritorious NLRB cases are resolved as a result of agreements between the parties or settlements with the agency before the conclusion of litigation.¹⁸

The Boeing case represents the ability of an employer and a union to work out differences and justifies the need for an outside, independent mediator such as NLRB. However, one wonders: What if Boeing had decided to relocate outside the US? The NLRB would be silent, since it has no jurisdiction overseas. [L](#)

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