

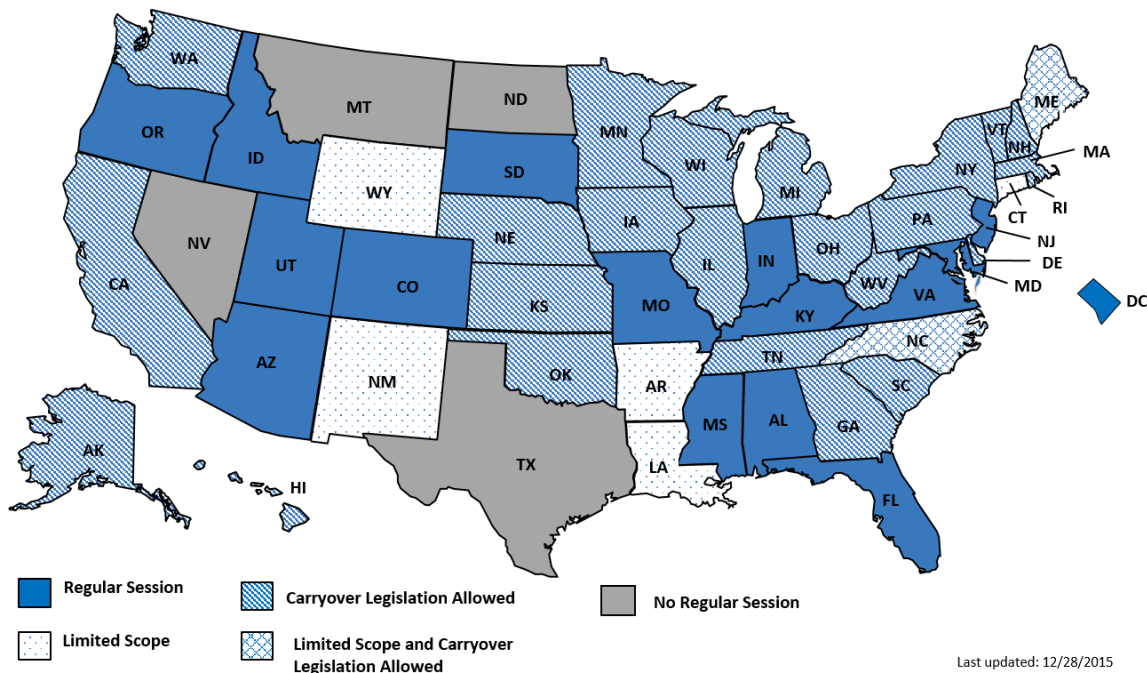
2016 State Legislative and Regulatory Prospectus



OVERVIEW

Most states will hold regular legislative sessions in 2016.¹ Seven states will have limited sessions that restrict the types of bills that can be introduced.² Twenty-six states allow bills introduced in 2015 to be considered in 2016 (i.e., carryover legislation).³ Additionally, 2016 will see voters in several states consider ballot initiatives.

2016 State Legislative Sessions



ASTHO'S PRESIDENT'S CHALLENGE

Advancing Health Equity and Achieving Optimal Health for All

At ASTHO's 2015 Annual Meeting, ASTHO President **Ed Ehlinger (MN)** introduced the 2016 ASTHO President's Challenge: Advancing Health Equity and Optimal Health for All. Using Ehlinger's Triple Aim of Health Equity, the challenge encourages ASTHO members to (1) expand the understanding of what creates health; (2) take a Health in All Policies approach with health equity as the goal, and (3) strengthen the capacity of communities to create their healthy future. States have explored ways to promote health equity and focus on the impact of social and environmental determinants of health, and this work will continue as states adopt laws and policies to quantify and understand existing inequities in health outcomes, leverage novel partnerships to improve health, and deliver evidence-based interventions to vulnerable populations.

¹ National Conference of State Legislatures (NCSL). "2016 Legislative Session Calendar." Available at: <http://www.ncsl.org/documents/ncsl/sessioncalendar2016.pdf>. Accessed 12-24-2015.

² NCSL. "Legislative Sessions with Limited Scope." Available at: <http://www.ncsl.org/research/about-state-legislatures/legislative-sessions-with-limited-scope.aspx>. Accessed 12-24-2015.

³ Stateside Associates. "State Carryover Procedures." Available at: <http://www.stateside.com/wp-content/uploads/State-Carryover-Procedures-FactPad-Insert.pdf>. Accessed 12-28-2015.

All Payer Claims Databases

In December, the U.S. Supreme Court heard oral arguments in *Gobeille v. Liberty Mutual Insurance Company*⁴ to resolve whether the Employee Retirement Income Security Act of 1974 preempts states from requiring employer-sponsored health insurance plans to participate in all payer claims databases. Excluding them from the databases would have a significant impact on a state's ability to understand healthcare costs. The Court will likely decide the case in June or July 2016.

Prescription Drug Prices

In response to rising costs of newly approved specialty drugs and growth of insurance plans with greater cost-sharing and specialty tiers, states have experimented with policies to reduce costs, including caps on out-of-pocket costs, limitations on insurance plan design, and transparency of drug development costs. Given the issue's high profile, wide resonance among constituents, and impact on Medicaid costs, states will continue to engage on the issue.

Implementing the Interstate Medical Licensure Compact

In 2015, 12 states passed legislation to implement the Interstate Medical Licensure Compact (IMLC). The IMLC Commission held its inaugural meeting in October to elect officers, appoint committees, and adopt temporary bylaws.⁵ Several other states have pre-filed bills before the 2016 session to join the compact.

Investments in Drinking Water and Waste Water

U.S. drinking water and wastewater infrastructures are aging and in need of repair.^{6,7} In 2016, policymakers in several states will focus on ways to support revolving funds, identify innovative financing mechanisms for water systems, and advocate for improvements to protect clean water.

1332 Waivers

In December, HHS and the Department of Treasury released guidance addressing elements of the Affordable Care Act's Section 1332 Waiver program.⁸ Arkansas, Hawaii, Massachusetts, New Mexico, Minnesota, Rhode Island, and Vermont have taken initial steps to apply for 1332 waivers, and interest in the program will remain high in 2016 as states look to develop and complete waiver applications.

⁴ SCOTUSblog. "Gobeille v. Liberty Mutual Insurance Company." Available at: <http://www.scotusblog.com/case-files/cases/gobeille-v-liberty-mutual-insurance-company/>. Accessed 12-24-2015.

⁵ Federation of State Medical Boards. "Interstate Medical Licensure Compact Representatives Gather for Inaugural Meeting." Available at: https://www.fsmb.org/Media/Default/PDF/Publications/compact_commission_meeting_oct2015.pdf. Accessed 12-24-2015.

⁶ American Society of Civil Engineers (ASCE). "2013 Report Card for America's Infrastructure: Drinking Water." Available at: <http://www.infrastructurereportcard.org/drinking-water/>. Accessed 12-28-2015.

⁷ ASCE. "2013 Report Card for America's Infrastructure: Wastewater." Available at: <http://www.infrastructurereportcard.org/wastewater/>. Accessed 12-28-2015.

⁸ Federal Register. "Waivers for State Innovation." 80 FR 78131-78135 (Dec. 16, 2015). Available at: <https://www.federalregister.gov/articles/2015/12/16/2015-31563/waivers-for-state-innovation>. Accessed 12-28-2015.

State Budgets

Although the national fiscal outlook in 2016 has improved from 2015, several states anticipate budget shortfalls.⁹ Reaching consensus on budgets has also been difficult, with six states failing to pass budgets by the start of their 2016 fiscal years.¹⁰ Finally, 2016 is the final year of the 100 percent federal match for Medicaid expansion. Expansion states must identify ways to take on 5 percent of their expansion costs beginning in 2017, and states considering expansion must anticipate a lower match rate.

Health Reform Implementation – Medicaid Expansion

Gubernatorial elections in Kentucky and Louisiana may impact Medicaid expansion. In Kentucky, the new governor campaigned against the existing Medicaid expansion, and will likely attempt reforms in 2016. In Louisiana, the new governor expanded Medicaid through executive order in January with implementation expected by July 2016.¹¹ Governors and legislatures in Alabama and Virginia are finding it challenging to develop plans that resolve questions about cost and sustainability.^{12, 13} Florida, Tennessee, and Utah debated expansion in 2015 and may take up the issue again in 2016.

Cannabis

Legislatures will continue to take up cannabis and cannabidiol bills. The legislative process may allow for greater responsiveness, flexibility, and control of the legal and regulatory framework than ballot initiatives.¹⁴ States that have existing recreational and medical cannabis programs will continue to modify and improve their regulatory frameworks and programs.

Prescription Painkiller Abuse, Misuse, and Overdose

According to CDC, illegal and prescription drug overdoses killed more people in 2013 than car crashes.¹⁵ States have responded to this crisis with a variety of policies, such as increasing access to mental health and substance abuse services, improving prescribing practices, expanding access to opioid antagonists, and convening nontraditional partners to collaborate on solutions. States are expected to continue their work on these issues in 2016.

⁹ National Association of State Budget Officers. "Fiscal Survey of States, Fall 2015." Available at: <http://www.nasbo.org/sites/default/files/Fall%202015%20Fiscal%20Survey%20of%20States%20%28S%29.pdf>. Accessed 12-24-2015.

¹⁰ NCSL. "FY 2016 State Budget Status." Available at: <http://www.ncsl.org/research/fiscal-policy/fy-2016-budget-status.aspx>. Accessed 12-24-2015.

¹¹ Little, K. "John Bel Edwards signs Medicaid expansion to make 300,000 eligible for federal program." *The Times Picayune*. Jan. 12, 2016. Available at:

http://www.nola.com/politics/index.ssf/2016/01/john_bel_edwards_medicaid.html. Accessed 01-13-2016.

¹² Associated Press. "Alabama governor says he is 'looking' at Medicaid expansion." *Modern Healthcare*. Nov. 12, 2015. Available at: <http://www.modernhealthcare.com/article/20151112/NEWS/311129998>. Accessed 12-28-2015.

¹³ Portnoy J. "Va. hospitals do about-face, giving McAuliffe Medicaid bargaining chip." *Washington Post*. Dec. 3, 2015. Available at: https://www.washingtonpost.com/local/virginia-politics/va-hospitals-do-about-face-giving-mcauliffe-medicaid-bargaining-chip/2015/12/03/09d6bd3e-99cb-11e5-b499-76cbec161973_story.html. Accessed 12-28-2015.

¹⁴ CQ Roll Call. "Marijuana Legalization is a Headache for States." Available at: <http://cqrollcall.com/statetrackers/marijuana-legalization-is-a-headache-for-states/>. Accessed 12-28-2015.

¹⁵ CDC. "Prescription Drug Overdose Data." Available at: <http://www.cdc.gov/drugoverdose/data/overdose.html>. Accessed 12-28-2015.

Promoting Healthy Behaviors

With a focus on decreasing healthcare costs, policymakers are increasingly exploring programs to incentivize healthy behaviors and reduce tobacco use. In 2016, states will continue to experiment with tobacco control policies, including regulating electronic cigarettes and alternative tobacco products, raising taxes on tobacco products, and increasing minimum age of sale and use of tobacco products to 21. States may also take up bills dealing with nutrition standards.

ON THE BALLOT

Firearm Safety

In 2016, a ballot initiative to expand background checks for firearm sales will be presented to voters in Nevada.¹⁶ Signatures are also being collected in Oregon, California, and Maine to qualify measures for similar ballots.^{17, 18, 19} While most of the ballot proposals extend background checks, California's initiative also includes mandatory reporting of lost or stolen firearms, background checks for ammunition sales, and relinquishment of firearms by those prohibited from possessing them.

Health Reform

Colorado voters will decide a single-payer healthcare ballot initiative in 2016.²⁰ Under the proposal, residents can choose their providers and a central administrative entity would pay claims. The estimated cost is \$25 billion and would be financed in part by a payroll tax. If it passes, Colorado will need a 1332 waiver from HHS to facilitate implementation.

Cannabis Legalization

In addition to legislation, voters will consider cannabis legalization ballot initiatives. Recreational legalization of cannabis will be on Nevada's ballot, and numerous petitions are circulating in Arizona, Arkansas, California, Florida, Maine, Massachusetts, Michigan, Mississippi, Montana, and Ohio. Petitions in Idaho, Nebraska, North Dakota, South Dakota, and Wyoming would legalize medical cannabis only.

Tobacco Taxes

Signatures are being collected in California for a 2016 ballot initiative to raise cigarette taxes by \$2 per pack. The measure directs the new tax revenue to research, healthcare programs, and tobacco control. A similar measure failed by less than 1 percent in 2012.

The 2016 State Legislative and Regulatory Prospectus was made possible through funding from CDC PPHF 2013: OSTLTS Partnerships - CBA of the Public Health System (Cooperative Agreement 5U38OT000161-03 REVISED). ASTHO is grateful for CDC's support. For more information on ASTHO's state health policy initiatives, please contact K.T. Kramer, director of state health policy, at kkramer@astho.org.

¹⁶ Ballotpedia. "Nevada Background Checks for Gun Purchases Initiative (2016)." Available at: [https://ballotpedia.org/Nevada_Background_Checks_for_Gun_Purchases_Initiative_\(2016\)](https://ballotpedia.org/Nevada_Background_Checks_for_Gun_Purchases_Initiative_(2016)). Accessed 12-28-2015.

¹⁷ Oregon Secretary of State. "Oregon State Universal Background Checks for Gun Purchases Act." Available at: <http://oregonvotes.org/irr/2016/016text.pdf>. Accessed 12-28-2015.

¹⁸ State of California Department of Justice, Office of the Attorney General. "The Safety for All Act of 2016." Available at: http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0098%20%28Firearms%29_0.pdf. Accessed 12-28-2015.

¹⁹ Maine Department of the Secretary of State. "An Act To Require Background Checks for Gun Sales." Available at: <http://www.maine.gov/sos/cec/elec/citizens/background.pdf>. Accessed 12-28-2015.

²⁰ Colorado Secretary of State. "ColoradoCare." Available at: <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2015-2016/20Final.pdf>. Accessed 12-28-2015.