

FOCUS

2019

Legislative Review/ Preview Report

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As uncertainty at the federal level continues into 2019, states will once again direct their focus on responding to federal challenges as they arise and will continue to participate in many nationwide policy debates on issues ranging from healthcare to privacy. 2018 will be remembered for the remarkable electoral success of Democrats at the state level, as the party was able to pick up seven gubernatorial seats, now holding 23 to Republicans' 27, and wrestle seven state legislative chambers into their control, including that of the **Connecticut** Senate, which was previously tied, and the **New York** Senate, which was controlled by a minority coalition, while Republicans only flipped the **Alaska** House. In addition to significant strides in many other state legislative chambers as the party picked up more seats, Democrats were able to obtain trifecta control in six states during 2018, while Republicans lost a net control of four. With these gains for Democrats at the state level, in addition to their newly acquired control of the **U.S.** House of Representatives, we will likely see the party push for more Democratic-backed state policies and reconsider legislation that failed to pass in prior years.

Much like 2018, the 2019 state policy landscape will continue to be driven by actions at the federal level, including those relative to healthcare, marijuana policy, sports betting and consumer privacy. This report will examine the key policy areas that are likely to take center stage in state capitols across the country in 2019.

SALES TAX COLLECTION

Real Time Sales Tax Remittance

Real time sales tax remittance (RTSTR; also called accelerated sales tax remittance (ASTR)) would require third-party payment processors and issuers of private label retail credit cards to receive and remit sales tax from retail merchants on a daily basis by skimming off the sales tax portion of a credit or debit transaction at the point-of-sale and routing it directly to the government. RTSTR has been floated in a few states over the years under the theory that it would boost the overall revenue collected. However, each proposal has been found to be unfeasible by each state that has looked into it – which includes **Arizona**, **Connecticut** and **Massachusetts**.

The primary reason each foray ended is that the process required to make RTSTR a reality is so technologically complex. To implement RTSTR would mean also implementing a wholesale overhaul of retail technology and software, and imposing cost and compliance burdens on payments processors, payment networks, financial institutions and merchants. This is because, in part, payment systems do not differentiate between payment



elements, such as the cost of goods and the sales tax levied on it. Fitting in a tax collection component would create vulnerabilities and undermine the ability to transmit thousands of transactions per second. Even if future technology makes RTSTR possible, there is still the issue of how to handle merchandise that is returned. According to the [National Retail Federation](#), the median rate of returned items is 10 percent. To avoid situations in which merchants refund customers money that has already been paid to the government in tax, the government would need to return money to merchants in real-time. It is not clear how this component would work.

Connecticut considered RTSTR in 2014 and 2016. However, it was ultimately rejected as a “solution in search of a problem” by the former Department of Revenue Services Commissioner Kevin Sullivan during a 2016 [hearing](#), where RTSTR provisions were amended out of the final version of [HB 5636/PA 16-183](#). Provisions concerning RTSTR were included in **Massachusetts** [HB 3800](#) when it was introduced at the beginning of the 2017-2018 biennium (referred to there as ASTR.) The state’s Department of Revenue issued a [report](#) in October 2017 which said that “given the scale and complexity of the effort required, the development and implementation of ASTR by June 1, 2018 within acceptable levels of cost and risk mitigation is not feasible.” The most recent consideration of RTSTR was in **Arizona** where provisions were added to [SB 1091](#), a bill that was introduced as concerning the use of bitcoin to make income tax payments. In his [veto letter](#) for the bill, Republican Gov. Doug Ducey stated simply that he was “concerned about the unintended consequences this bill could have on private industry.”

While not broadly legislated, RTSTR is an issue that pops up in at least one state each year for the past few sessions and is working its way across the country.

While not broadly legislated, RTSTR is an issue that pops up in at least one state each year for the past few sessions and is working its way across the country. It is likely the issue will emerge again this session, especially in states that have already considered such legislation or in those looking for new innovations in shoring up their budgets.

Remote Sales Tax

On June 21, 2018, the Supreme Court’s [decision](#) in **South Dakota v. Wayfair Inc.** effectively removed the barrier that prevented states from taxing remote sales, ruling that a company did not have to have a physical presence in a state in order for its sales to be taxed at the state level. In response to this ruling, South Dakota adopted an economic nexus law through the passage of [SB 1x](#) and [SB 2x](#) during a special session in September. The new laws require a marketplace provider to collect and remit the tax on any sales made on or after March 1, 2019.



Due to the lack of guidance provided in the ruling as to how states may go about collecting these taxes, many states have attempted to duplicate South Dakota's law; 35 states and **D.C.** created their own nexus laws. Each jurisdiction has taken various approaches to establishing what is considered a "nexus," including economic nexus based on thresholds of the amount of sales made by a remote vendor (the most common being \$100,000 in sales or 200 transactions in a year); as well as affiliate nexus, which ties taxes to in-state affiliates; cookie nexus, which places apps or software on in-state devices; click-through nexus, which links to in-state websites; taxes on marketplace sales where the facilitator is held liable; and non-collecting seller use tax reporting, where sellers that do not collect taxes must share consumer use tax information.

As states continue to grapple with how best to handle the Wayfair decision, we will continue to see action on the topic of remote sales collection on the legislative front during 2019. **New Hampshire** Rep. Carol McGuire, R-Epsom, recently filed [LSR 25](#), which would prohibit the state from entering into or enforcing agreements concerning sales tax collection with other states. In July 2018, [SSSB 1](#), which contained similar language, failed to pass during a special session.

While many states have chosen to tackle the challenge of remote sales tax collection legislatively, [PEW Stateline](#) reports that some states are allowing their agencies to take the lead, such as **Delaware** and **Montana**; however, this has led to either conflicting or vague stances. Leslie Poland, community relations coordinator for the Department of Finance, said that, "Delaware does not impose a sales tax, and we will not be enforcing any form of sales tax or use tax against out-of-state sellers." However, Delaware Director of Revenue Jennifer Hudson said vendors "may be required by other states to collect sales taxes due in those jurisdictions on remote sales made to residents of those jurisdictions." The Montana Department of Revenue issued a statement

35 states and the District of Columbia created their own nexus laws:

Alabama
California
Colorado
Connecticut
District of Columbia
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Nebraska
Nevada
New Jersey
North Carolina
North Dakota
Ohio
Oklahoma
Pennsylvania
Rhode Island
South Carolina
South Dakota
Utah
Vermont
Washington
West Virginia
Wisconsin
Wyoming



advising online retailers that sell to buyers outside the state to “please seek competent legal advice on how to proceed with collecting and remitting sales tax.” The department did not provide any guidance.

On December 6, during the National Conference of State Legislatures’ [Capitol Forum](#)’s luncheon meeting regarding state implementation of the Wayfair decision, it was encouraged that states not create economic nexus standards alone but should couple them with marketplace facilitator laws, according to [Law360.com](#). As many states quickly jumped to file economic nexus laws, it is likely that states will attempt to address this concern during their 2019 legislative sessions.

CONSUMER PRIVACY

Data Privacy

2018 proved to be a watershed year for privacy legislation in the states, most notably with the passage of the [California Consumer Privacy Act](#). The law, which will take effect in 2020, significantly expands privacy protections that will grant consumers the right to request what personal information a business has collected about them, the right to “opt-out” of allowing business to sell their personal information and the right to have businesses delete their personal information. The industry will look to amend the more problematic provisions of the law, with lawmakers already set to consider numerous proposals in the upcoming legislative session. Asm. Ed Chau, D-Monterey Park, who chairs the Assembly Privacy and Consumer Protection Committee, has introduced [AB 25](#), which will serve as a placeholder for additional changes to the law.

California’s efforts have not gone unnoticed by other states, with **New Jersey** already introducing two companion bills, [AB 4640](#) and [SB 3153](#), which are still pending in their initial committees of introduction. **New Mexico** Sen. Michael Padilla, D-Albuquerque, has recently prefiled [SB 176](#), which contains numerous privacy protections including the requirement that a business provide a clear and conspicuous link on its homepage or a New Mexico specific homepage to a separate page entitled “Do Not Sell My Personal Information” that would permit a consumer to opt-out of having their data sold. A [bill draft](#) request has also been filed in **Montana** by Sen. Tom Jacobson, D-Great Falls, however the request is currently on hold. **Washington** is likely to introduce similar legislation in 2019 but legislation has not been filed at this time. **Vermont**, which passed a first-in-the-nation data broker registration law in 2018, was exploring the possibility of similar legislation, but a recently released [report](#) from the Attorney General’s Privacy Working Group recommended that the state hold off on adopting a California or European-style privacy law until the effects of each are more fully realized.



Biometrics

As lawmakers and constituents are increasingly aware about privacy issues, states are looking at the collection of biometric information as an area of focus. In the past, states such as **Alaska, California, Idaho, Massachusetts, Montana, New Hampshire** and **New York** have considered measures that propose mandates similar to laws enacted in [Illinois](#), [Texas](#) or [Washington](#). Those bills require specific notice and/or consent to consumers before collection, use or storage of that person's biometric information.

Incoming **Illinois** Democratic Attorney General Kwame Raoul told [Bloomberg Law](#) recently that he will oppose any attempts to include exemptions in the Illinois Biometric Information Privacy Act (BIPA), [740 ILCS 14](#), passed in 2009. In 2018, a bill was proposed in the legislature but failed to advance that would have excluded certain companies from the BIPA law. [SB 3053](#) proposed exemptions for those collecting, storing or transmitting biometric information that do not profit from it and for when the data is used for employment, fraud prevention or security purposes.

Bills have been prefiled for the 2019 session in **New Mexico** and **Washington** that propose adding biometric information definitions to data security breach laws but we anticipate proposals this session that aim to further regulate the collection and use of biometric information.

SPORTS BETTING

In May 2018, in [Murphy, Governor of New Jersey vs. NCAA](#) the **U.S.** Supreme Court struck down a [1992 federal law](#) that banned commercial sports betting in most states, while granting immunity to states that already allowed sports betting, such as **Nevada**. This ruling opened the doors for states to enact their own sports betting laws to access the estimated \$150 billion in illegal bets that take places each year, according to [The New York Times](#). Many states were off to the races in 2018 enacting sports betting laws to take advantage of the change in federal policy and we expect plenty more to do so in 2019.

States that will have active sports betting markets this year:

- Delaware
- Mississippi
- Nevada
- New Jersey
- New Mexico
- Pennsylvania
- Rhode Island
- West Virginia



Among the states that will have active sports betting markets this year are **Delaware, Mississippi, Nevada, New Jersey, New Mexico, Pennsylvania, Rhode Island** and **West Virginia**. Sports betting will be a prevalent issue in state houses around the country as lawmakers see it as a means for additional tax revenue.

D.C., Kentucky, New York, Tennessee and **Virginia** are just some of the states where lawmakers filed bills to legalize or update their sports betting laws. On December 18, the D.C. Council gave their final approval to a measure, [B22-944](#), which would legalize sports betting in the district. The measure is now pending delivery to Democratic Mayor Muriel Bowser, who upon receipt of the bill will have 10 days, not including Sundays, to act on it or it becomes law without signature. In 2013, **New York** approved sports betting at four on-site locations, but the state Gaming Commission has yet to establish rules and regulations to govern it. With neighboring **New Jersey** getting in on the action, we look to upstate lawmakers to push the issue in New York this session.

Kentucky [BR 320](#) and **Missouri** [SB 44](#) were prefiled for 2019 in early December and would bring about sports betting to the states if enacted. **Tennessee** [HB 1](#) would legalize sports betting and institute a 10 percent tax on a licensee's adjusted gross income. In comparison, **Nevada** has a 6.75 percent tax on gross sports betting revenue and is the lowest of all states with legal sports betting. New sports betting jurisdictions in **Pennsylvania** and **Rhode Island** impose rates of 34 percent or higher.

In addition to the states that have filed bills recently, it is also expected that **California, Connecticut, Illinois, Iowa, Kansas, Michigan, Oklahoma** and **South Carolina** will file sports betting legislation.

As the flurry of state activity increases, the issue has caught the attention of Congress. Sen. Orrin Hatch, R-Utah, introduced [S 3793](#) on December 19, which was pending in the Senate Judiciary Committee and would have established federal control over state-regulated sports betting. While the adjournment of Congress' 2018 session left this bill dead in committee, it may be reintroduced again this session.

HEALTHCARE

Affordable Care Act

In early December the world of healthcare policy was rocked by the news that a U.S. District Court judge in **Texas** [struck down](#) the entirety of the Affordable Care Act (ACA) in the case [Texas v. Azar](#). The judge found that without the inclusion of the individual mandate, which was removed by Congress last year, the entire act is unconstitutional. Should the ruling stand, there would be [unprecedented disruption](#) in the U.S. healthcare



industry, which accounts for approximately 18 percent of the total U.S. GDP, according to the [Centers for Medicare and Medicaid Services](#).

The ruling has not yet taken effect as it is pending appeal, and many legal scholars are skeptical that it will. Though the Trump administration supports the ruling, it has announced that it intends to [continue enforcing the law](#) as the case winds its way through appeals. Such a dramatic move just before the convening of the 2019 legislative season will undoubtedly set the tone for lawmakers in the coming year.

Some states, seeing the ACA under attack for so long, have already taken steps to insulate themselves from this decision by adding some of the law's more popular mandates into their own state laws – [at least 23 states](#) currently have such laws on the books. For others that have not done so, this ruling will be a wake-up call and spur legislators to action to protect some of the popular benefits provided by the ACA, most prominently coverage for pre-existing conditions and minimum essential benefits. Expect to see a significant uptick in ACA related legislation across the states, red and blue, this session.

Medicaid Expansions

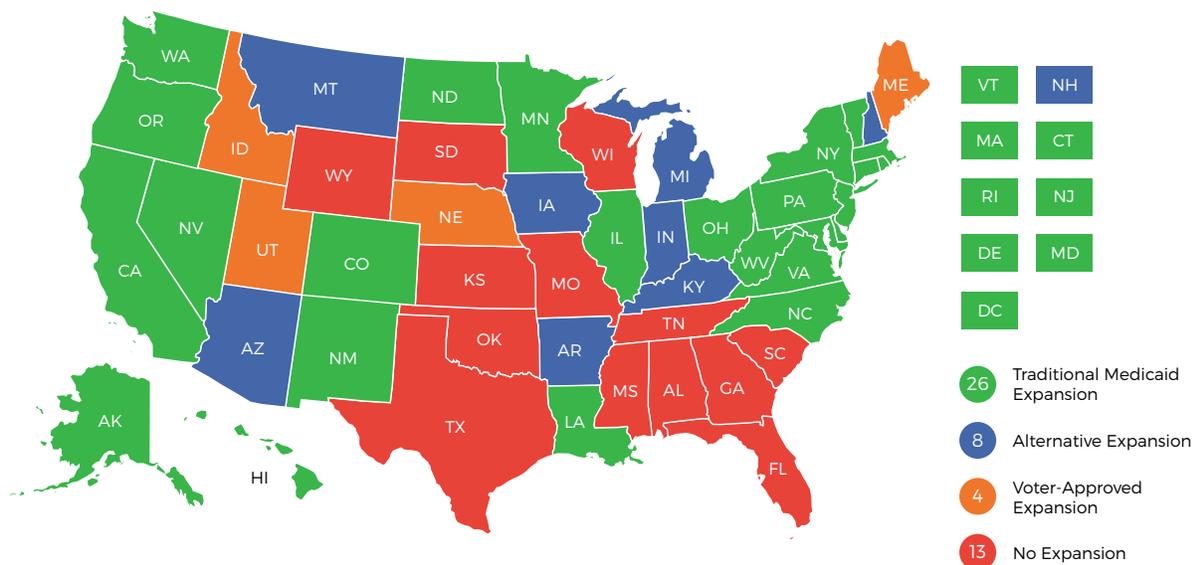
Medicaid expansions have been a perennial issue since the Supreme Court ruling [National Federation of Independent Business v. Sebelius](#), which required individual states to grant approval for expanding the program. The issue has taken on a new dimension over the past session. Starting with **Maine** in 2017, citizens have taken to the ballot initiative process to force states to expand the program. **Idaho, Nebraska** and **Utah** followed suit in 2018. Meanwhile, **Montana** voters rejected an initiative to extend the state's Medicaid expansion, which is set to expire on June 30, 2019.

The possibility of citizens broadly expanding Medicaid does not sit well with legislators in deep red states, many of which have avoided expanding the program thus far. Red states have typically enacted what is known as an “alternative expansion,” which expands the program but also imposes new obligations on enrollees, typically through work requirements. States that have not yet expanded are now under increasing pressure to find a compromise to expand the program on their own terms, either outright or through an alternative expansion, before voters bring the issue to the ballot in 2020.

Finally, a major catastrophe is looming on the horizon for states should the ruling in [Texas v. Azar](#) be upheld. States that have expanded their Medicaid rolls, for which the federal government foots 90 percent of the bill, will have to face the difficult choice of taking on the entire bill – a major financial hurdle – or renegeing on their expansion of Medicaid.



Medicaid Expansion Status



Pharmaceuticals

Pharmaceuticals will likely be the most talked about healthcare issue in state legislatures this year, as states are looking at a diverse array of issues relating to their regulation.

On one front, states will continue pouring resources into addressing the ongoing opioid crisis. At least [31 states](#) have already passed laws setting limits on the prescription of opioid drugs, and even more have taken steps to address the crisis in other ways, including expanding the availability of the opioid overdose drug Naloxone, increasing funding for addiction treatment services or expanding the use of prescription drug monitoring programs. Only **Missouri** lacks such a program currently, though legislation, [HB 293](#), seeking to establish one has already been prefiled for the 2019 session.

As state legislators get to work on these issues in January, state attorneys general will have their focus on a major, multi-state lawsuit going forward against numerous opioid manufacturers

At least 31 states have already passed laws setting limits on the prescription of opioid drugs:

- | | |
|---------------|----------------|
| Alaska | New York |
| Arizona | North Carolina |
| Colorado | Pennsylvania |
| Connecticut | Ohio |
| Florida | Oklahoma |
| Hawaii | Oregon |
| Indiana | Rhode Island |
| Kentucky | South Carolina |
| Louisiana | Tennessee |
| Maine | Utah |
| Massachusetts | Vermont |
| Minnesota | Virginia |
| Missouri | Washington |
| Nevada | West Virginia |
| New Hampshire | Wisconsin |
| New Jersey | |



for their role in the crisis. At least 29 states have filed suit individually against opioid manufacturers, while on December 19 a federal judge in **Ohio** authorized a civil case against the manufacturers brought by hundreds of municipalities to move forward. According to [NPR](#), the judge has urged the municipalities and the industry to reach a settlement that would pay for programs to fight the crisis without bankrupting the manufacturers. The state level cases remain pending.

States will also continue to pursue policy changes aimed at reducing the overall cost of prescription drugs – a major drag on state budgets – and the regulation of pharmacy benefit managers (PBMs), which are organizations that manage pharmaceutical benefits on behalf of health insurance providers. According to [NCSL](#), at least 29 states have enacted legislation aimed at regulating PBMs in recent years, a number likely to increase as the industry comes under increased scrutiny. States have also made big moves on drug pricing and transparency, an effort that will ramp up given the increasing urgency brought on by recent high-profile pricing increases. As drug prices continue to increase, so will the frequency of state legislation aimed at promoting pricing transparency and increasing the availability of less-expensive alternatives. Such legislation reached a high in 2018, with at least 119 enacted bills in 45 states, [NCSL](#) reports.

MARIJUANA

Marijuana policy continued to be a topic for discussion and reform across the states in 2018 and will remain a focus throughout 2019 as an increasing amount of states are relaxing their laws surrounding the substance. Currently, 33 states, spanning nearly every region of the country have laws allowing some form of marijuana liberalization, with 10 of those states permitting full recreational use for individuals over the age of 21. **Vermont** is the only state to have passed a law through the legislature to legalize recreational marijuana, enacted in January 2018 and effective in July, and is also the only state which has legalized the use but not the retail sale of such products. The Vermont legislature is expected to discuss the retail sale of recreational marijuana during the 2019 session. The most recent state to pass a law on recreational marijuana is **Michigan**, where constituents approved a [measure](#) on the November 2018 ballot, making it the first state in the Midwest to approve such a law. The most recent states to approve medical marijuana are **Oklahoma** and **Missouri**, which passed ballot initiatives in June and November respectively, and **Utah**, which passed [HB 3001](#) on December 3 during a special session, which refined the application of the newly-effective medical marijuana law that was enacted by voters in November. In addition to the states that have legalized marijuana under certain conditions, 13 states have reformed their laws to either decriminalize possession in certain amounts or allow for the use of “low THC, high cannabidiol (CBD)” products under limited medical circumstances or as a legal defense under certain



conditions, according to [NCSL](#). The only states that currently do not allow for any form of adult use of marijuana are **Idaho, Kansas, Nebraska** and **South Dakota**.

Regardless of state initiatives to legalize the medicinal or recreational use of marijuana, the drug remains illegal under the federal Controlled Substances Act. Both the [U.S. Treasury](#) and [Department of Justice](#) issued guidance memos during the Obama administration that informed banks on how they may transact with marijuana companies while remaining in compliance with federal law; however, most banks have refused to accept business from the marijuana industry to avoid potential exposure to civil or criminal liabilities, as these documents did not act as law. On January 4, 2018, former U.S. Attorney General Jeff Sessions announced the federal government's retraction of these guidelines. Sessions' [Memo on Marijuana Enforcement](#) notes that the cultivation, possession and distribution of marijuana would serve as the basis for the prosecution of other crimes, such as certain money laundering offenses; however, the current administration has not stated whether or not they will carry out these prosecutions.

While at least six states considered legislation related to banking for the marijuana industry in 2018, **Washington** was the only state to enact such legislation. [SB 5928/Chapter 68](#), signed by Democratic Gov. Jay Inslee on March 15 and effective June 7, removes state criminal liability for financial institutions servicing the marijuana industry. We will likely see an increase in this type of legislation, as the states that have legalized use and sale will need to figure out a way to safely obtain financial services. **California**, which began retail sales of recreational marijuana in January 2018, has already introduced two bills for the 2019 session – [SB 51](#) and [SB 930](#) – that would permit legal banking for the marijuana industry, while two bills related to medical marijuana banking will carry over in **New Jersey**.

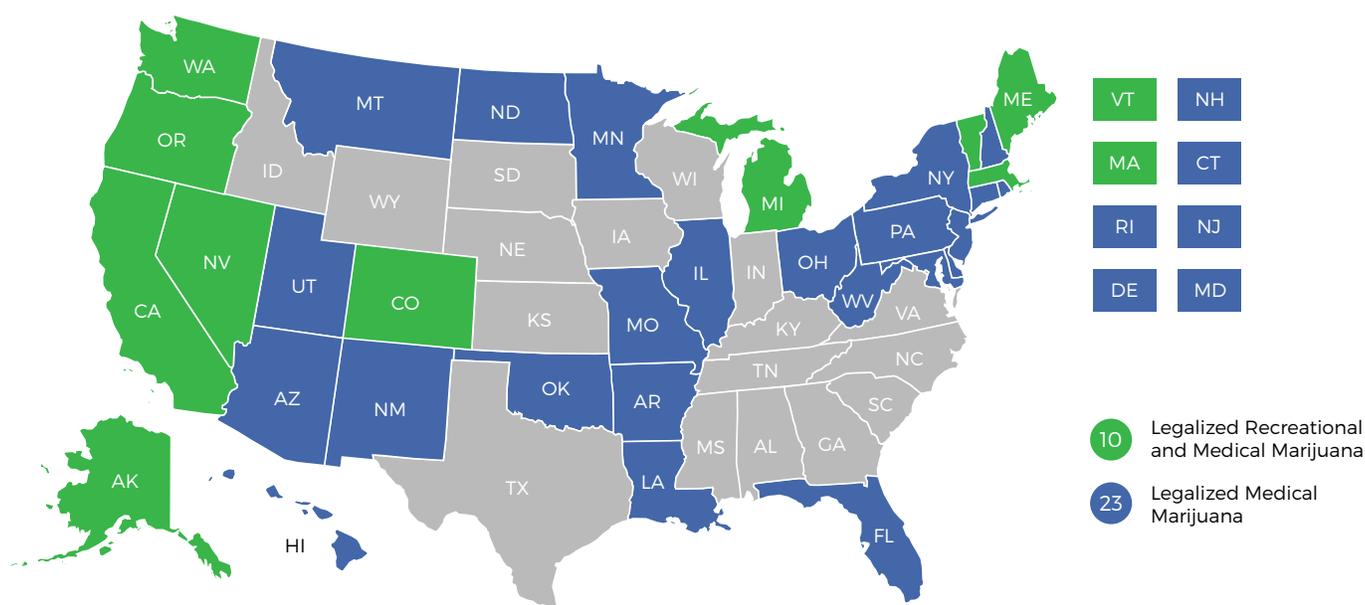
The longstanding federal dynamics surrounding marijuana could change drastically in 2019 now that Jeff Sessions no longer holds the office of attorney general and Democrats will have control of the House. It is possible that a coalition for federal action could be cobbled together between House Democrats, Senate Republicans in pro-legalization states, and the Trump administration, as the president has [previously expressed support](#) for initiatives that would relax federal restrictions. Representative Maxine Waters, D-California, who is expected to serve as Chair of the House Financial Services Committee, told the Wall Street Journal that banking for the marijuana industry is inevitable to be discussed during Congress' upcoming session, the [American Banker](#) reports. Senators Elizabeth Warren, D-Massachusetts, and Cory Gardner, R-Colorado, introduced [U.S. S 3032](#), entitled The STATES Act, on June 8, 2018, which would have authorized states to draft and enforce their own laws surrounding marijuana and

The longstanding federal dynamics surrounding marijuana could change drastically in 2019 now that Jeff Sessions no longer holds the office of attorney general and Democrats will have control of the House.



would have codified the banking guidelines passed during the Obama administration that Sessions reversed. While President Trump supported this act at the time of its introduction, the bill will need to be reintroduced once Congress' 2019 session commences. If federal action occurs on the marijuana front, state action will likely follow suit.

Currently, 33 states, spanning nearly every region of the country have laws allowing some form of marijuana liberalization, with 10 of those states permitting full recreational use for individuals over the age of 21.



DISASTER PLANNING

In 2017, more than 25 million Americans were affected by natural disasters. These disasters led to \$306.2 billion in damage, according to the [NCSL](#). In 2018, the **U.S.** continued to be impacted by major hurricanes and wildfires, forcing state legislatures to consider the impact of natural disasters on their states. Disaster recovery impacts multiple facets of state policy, from taxes to building standards to utility rates.

Both **Georgia** and **North Carolina** held special legislative sessions to address disaster recovery from major hurricanes. Georgia's General Assembly passed bills that included tax credits for pecan farmers and timber growers, according to [All On Georgia](#). In **North Carolina**, the special session included legislation that would ensure compensation for school employees and allow schools in the hardest hit areas to waive up to 20 school days, reports



[The News & Observer](#). [KQED](#) reports that **California** passed a package of wildfire reforms that included funding for fire prevention work and also made changes to the utility laws around liability for wildfires.

Moving forward into 2019, states are looking for solutions to mitigate and prevent natural disasters. **Hawaii** Democratic Gov. David Ige's budget request for 2019-2021 includes an increase of \$4.5 million to the disaster fund, bringing the fund up to \$5 million, to provide additional staffing for the Hawaii Emergency Management Agency, according to [West Hawaii Today](#). Over the past year, the state was impacted by flooding, the eruption of the Kilauea volcano and hurricanes. In October, **North Carolina** Democratic Gov. Roy Cooper issued an [executive order](#) setting a goal of cutting greenhouse gas emissions in the state by 40 percent by 2025, because the state needs to be at the forefront of fighting climate change, due to its impact on the state in the form of more frequent and severe natural disasters, according to [WRAL](#). In **Texas**, Republican Gov. Greg Abbott avoided discussing climate change in his response to the Commission to Rebuild Texas' recommendations, but did commit to implementing the commission's recommendations in a [statement](#). The recommendations are based on lessons learned during the response to Hurricane Harvey and include an ongoing recovery task force, as well as state and local partnerships to proof Texas against flood events in the future on a watershed basis.

SHORT-TERM RENTALS

Online marketplaces that manage short-term and vacation rentals have sparked debate at both the municipal and state level regarding how to tax and regulate such entities. As online platforms such as AirBnB and HomeAway have become more popular for traveling, allowing individuals to customize overnight accommodations depending on needs, municipalities and states are hoping to capitalize on the financial gains by collecting taxes, while also providing protections for individuals using transient housing.

In 2018, states that amended current law relating to hospitality taxing and licensing to incorporate vacation rentals included **Arizona, California, Hawaii, Indiana, Iowa, Maine, Missouri, New Jersey, Ohio, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia** and **Washington**.

Hawaii, Indiana and **New Hampshire** created study committees in order to identify and examine potential sources of increased revenue through taxation of short-term rentals. Some states, such as **Idaho**, have limited localities from enforcing or enacting any ordinances that have the express interest of prohibiting short-term rentals or vacation rentals.

Currently, both **Montana** and **New Hampshire** have prefled short-term rental legislation for their respective upcoming legislative sessions.



ELECTRONIC NOTARY & DOCUMENTATION

Numerous states have modernized their notary laws to allow for both electronic and remote notarization by enacting the [Revised Uniform Law on Notarial Acts](#) (RULONA) or similar legislation. RULONA was approved by the National Conference of Commissioners on Uniform State Laws in 2010, [updated](#) in 2018, and is designed to modernize and clarify law governing notaries public with respect to electronic records and remote notarial acts. RULONA works together with the Uniform Transactions Act, the federal Electronic Signatures in Global and National Commerce Act, and the Uniform Real Property Recording Act to harmonize treatment of notarization of all records and acts, whether paper or electronic, in-person or from a remote location. Notaries public witness transactions vital to business operations and preserve the integrity of the transaction with a notarized document. Notarial acts include taking an acknowledgement, administering an oath, witnessing a signature or certifying a copy or act. Notaries public must adhere to state standards such as determining and certifying, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary is the person signing a document. The notarial act must be evidenced on a certificate signed and dated by the notary and accompanied by an impression of an official seal or stamp. This practice has traditionally been required to be done in person and with paper documents but technological developments such as electronic signatures and remote identity proofing via webcams have created the opportunity for states to update their laws in order to provide accommodation for a form of electronic and remote notarization.

At least six states enacted bills in 2018 that authorize remote notarization:

Indiana
Michigan
Minnesota
Ohio
Tennessee
Vermont

At least six states enacted bills in 2018 that authorize remote notarization, including **Indiana, Michigan, Minnesota, Ohio, Tennessee** and **Vermont**. In 2019, states will continue to consider RULONA and similar legislation as a means of facilitating notarization of electronic records, remote notarial acts, and expanding the use of electronic communications and records in commercial transactions.



HIGHER EDUCATION REFORM

2018 saw movement in several states on high profile higher education initiatives. Laws that expanded credit transfer and articulation and concurrent and dual enrollment programs were popular across both sides of the aisle. Forty-one acts related to dual enrollment became law in 22 states and 15 acts that modified or expanded credit transfer and articulation frameworks became law in 10 states. Of particular note were **Washington** [SB 5234/Chapter 179](#), enacted in March by Democratic Gov. Jay Inslee, which required the establishment of a statewide credit articulation and transfer agreement for Advanced Placement Computer Science examinations, and **Virginia** [HB 3/Chapter 787](#), enacted in April by Democratic Gov. Ralph Northam, which requires the development of statewide standards for course content and transferability of dual enrollment courses. **Tennessee** opened the door to future credit transfer and articulation reform by passing [SB 1232/2018 Public Chapter 31](#), which requires the establishment of a statewide system for awarding credit for military training and experience. For the 2019 session, **Utah** [HB 45](#) was prefiled on December 27 by Rep. Val Peterson, R-Orem. This bill would require the development of statewide policies related to student credit for prior learning, and would also require data tools utilized in the prior learning policy to provide predictive analysis to model student success and develop individualized strategies for students.

With more legislative and executive chambers under Democratic control following the 2018 midterm elections, progressive proposals such as community college for all and increased investments in student aid will see more traction in some states. Since 2015, when former President Barack Obama spoke about universal community college in his state of the union speech, several states have implemented last-dollar scholarship programs aimed at widely expanding access to a community college education for residents, according to [U.S. News & World Report](#). In 2018, **New York** Democratic Gov. Andrew Cuomo approved the [Excelsior Scholarship](#) program as part of the state's 2019 budget, which passed a legislature under divided partisan control. This program allows students whose families have a combined federal adjusted gross income of \$110,000 or less and meet certain other requirements to attend institutions in the SUNY and CUNY systems tuition-free. We can expect this trend to continue in 2019, and expect legislation proposing similar universal or substantial scholarship programs to be introduced in many states.



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