

GOVERNING

THE STATES AND LOCALITIES

August 2018



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governor's
race heats up.*

Stumping *in the* Sunshine State

Republican
gubernatorial
candidate
Adam Putnam

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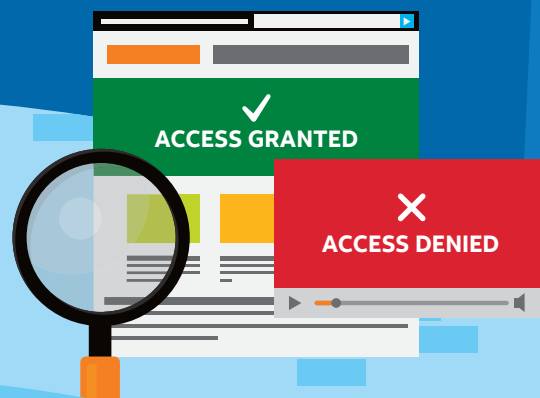
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Deluges and Dollars

As *Governing's* Mike Maciag writes in this issue, many areas of the country are seeing significant residential and commercial development on flood-prone land. Not only are local governments allowing it, but in some cases they're even encouraging it. The rewards are obvious: It's an easy route to population growth, grows the tax base and makes powerful lobbying groups happy. It strikes me as not unlike the use of tax incentives. And as is often the case with such tax breaks, governments are allowing this development without really knowing the costs, which are surely going to increase because of both climate change and federal policy.

Floods are the most frequent form of natural disaster. They affect all 50 states and are mostly inland and caused by rain. Since 2000, for example, Minnesota has recorded nearly three

times as many devastating "mega-rain" events as in the previous 27 years. At \$306 billion in economic losses, weather disasters across the country last year set a new annual record. Nearly all government disaster spending comes after a devastating event occurs, even though the National Institute of Building Sciences estimates a benefit of \$6 for every \$1 spent on pre-disaster mitigation.

Not only are the costs rising, but they are underestimated. In a new report, the Pew Charitable

Trusts found that states "face challenges in collecting complete and comparable disaster expenditure information, particularly coordinating record-keeping across many agencies and maintaining policymaker attention on tracking." State and local governments need to do a much better job of recording expenditures on response and recovery, as well as on transportation, housing, public safety and social services.

As disasters increase in numbers and costs, it would be a mistake to look for salvation from Washington. The Pew report quotes Brock Long, director of the Federal Emergency Management Agency, as calling for "an honest conversation with state and local governments as to what is the right balance for sustaining programs in responding and recovery." Clearly, more costs are going to be shifted to state and local governments.

So what can they do? They can better control costs by changing land use policies and investing in mitigation. Local policymakers in particular need to look at the long-term impact of climate change, compare its forecast costs to the benefits of development and choose wisely. Lots of mayors talk about leading on climate change. This is a practical and responsible way for them to do so.



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It's Bad Everywhere

In the June cover story "Bridge Out," Daniel C. Vock looked at the fight in Mississippi to fund its increasingly unreliable infrastructure—its crumbling roads and hundreds of deteriorating bridges. He asked, "How long can a state go without repairing its roads and bridges?"

How long? Based on prior experience, I think we'll defer maintenance, wait until they collapse, do some blaming and finger pointing, [hold] an inquiry, [and do] some political grandstanding and a few photo opportunities.

—David Pitts on Facebook

Infrastructure is dramatically overbuilt anyway. Let's have some courage and tear some bridges out without replacing them.

—Ryan Borman on Facebook

Ride on Interstate 80 through Indiana. The toll road is worse than most Mississippi roads and bridges.

—Larry J. Breeden on Facebook

Arkansas is doing the same thing.

—Tommie Pinkerton on Facebook

A Job for Government?

In his June feature "Caught in the Middle," Alan Greenblatt wrote about so-called middle neighborhoods, which are neither rich nor poor, but often ignored by the government. These neighborhoods are generally affordable and attractive, and they offer a reasonable quality of life. However, many of them are in danger of decline. Greenblatt visited Philadelphia,

where officials are thinking about how to keep middle neighborhoods healthy.

The best thing the city can do for middle neighborhoods is get the basics right. Cite unmaintained properties, take care of roads/sidewalks, install bike lanes, keep drug dealing off the street, keep the pools and libraries open, maintain and build new parks, etc.

The city setting up a home improvement loan and grant program seems like an overstep of city hall's responsibilities, as well as a potential subsidy to middle-class homeowners (rather than the truly poor who don't own homes). It seems like a really risky use of city funds.

—Commenter on Reddit (name withheld)

What seems to happen in Philly is that—in the outer areas where single-family home ownership [is] higher—a lot of families start to move out as the housing ages and costs go up. Some homes become rentals and the remaining people suffer from a lot of absentee owners failing to maintain the properties. That, coupled with a reduced income and lower education, tends to hurt the upkeep over time on these [older] homes. It's hard to fight decline in high rental areas without citations (which can be hard to truly enforce) and by just increasing the available monies for repairs.

—Nub_Zur on Reddit

Whenever neighborhoods want to get the government involved, I read it as, "Keep my neighborhood from changing."

Neighborhoods need to change if they

were built around factories that disappeared. And I think some good change is preceded by decay. You're less likely to redevelop a street of well-maintained houses just like you're less likely to junk a fleet of two-year-old cars.

—JustMrJones on Reddit

Combating Loneliness

In the May issue, Mattie Quinn wrote an article about the "loneliness epidemic." Social isolation, she found, may be a bigger public health threat than smoking or obesity. A reader wrote in to share one approach to the issue.

In the 1940s, six former patients of a New York state psychiatric hospital formed the group We Are Not Alone. Its purpose was for these friends to support each other in their recovery and avoid succumbing to the most common and devastating symptom of mental illness: social isolation.

We Are Not Alone met on the steps of the New York City Public Library until an affluent and generous friend purchased a building for the group nearby. Because there was a fountain in the backyard, We Are Not Alone became Fountain House.

For 70 years, thousands of people with schizophrenia, bipolar disorder and major depression have come to what is aptly called a "clubhouse." Clubhouses have also spread around the world and exist in over 30 countries and 34 states. At every clubhouse, whether it be in St. Louis, Mo., or Kampala, Uganda, you will find a thriving community where those most prone to loneliness are forming meaningful peer relationships, returning to school and work, participating in wellness activities, and obtaining supported housing.

As health care moves from reimbursement based on quantity to quality, research demonstrates that communities combating social isolation are improving lives and reducing costs. A study by the Health Evaluation and Analytics Lab at New York University demonstrated a 21 percent decrease in total cost of Medicaid care for Fountain House members.

—Kenneth J. Dudek,
president, Fountain House

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Announcing the Class of 2019

WOMEN IN GOVERNMENT

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Joan of Arc, is a national hero of the French. Although historians regard Joan's role as one of many factors in the winning of the complex 100 years war, her presence both as a warrior and spiritual visionary sparked the beginnings of France's rise as a great European power.

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To Be, or To Disband?

PENNSYLVANIA'S ALLEGHENY COUNTY,

home to Pittsburgh, has about 1.2 million residents, nearly 400,000 fewer than it had in 1970. Pittsburgh itself has enjoyed a recent resurgence in its reputation and economy, but the larger county region still has many relics of a more crowded municipal past. Towns such as Duquesne, Clairton, McKeesport and Wilkesburg have all seen big drops in their population, which make it hard to afford all the government they still have in place. Some smaller jurisdictions are approaching the vanishing point. In Allegheny County as a whole, 40 of the 130 municipalities have fewer than 2,000 residents.

That raises a troubling question for county officials in the Keystone State: What happens if and when a municipality decides it no longer has the means to support itself and wants to disband? Municipalities in Pennsylvania are allowed to merge with each other, but that's often impractical. Towns and cities that are struggling to hang on don't want to assume the debt or budget problems of a community that's in worse shape than they are. That's one reason there have been only five municipal mergers in the whole state since 2000.

Thirty-eight states allow for towns to disincorporate, but the only option for Pennsylvania cities to do so is to enter the state's Act 47 program for financially distressed municipalities. Disincorporation is seen as a last resort in that process, and it's one that can take years of bureaucratic maneuvering.

So Rich Fitzgerald, Allegheny County's executive, is trying to convince state lawmakers to allow municipalities to disband on their own, bypassing Act 47, and accept some form of county supervision. Right now, the proposal is limited to places in Allegheny County with 10,000 or fewer residents.

Fitzgerald stresses that the process would be entirely voluntary. "This is not a takeover or a power grab," he told a legislative committee. "A group of disgruntled citizens cannot make a community 'go away.'" He thinks a town that opts to disincorporate could still take advantage of a county's strong economic climate, while maintaining its cultural identity and, perhaps, providing better public services at a lower cost.

So far, those assurances haven't been enough to assuage the Pennsylvania Municipal League, the Pennsylvania State Association of Township Commissioners and the Penn-

sylvania State Association of Township Supervisors, which all oppose the legislation. These are all politically entrenched organizations; Pennsylvania has more units of local government than any state except Illinois and Texas. "Municipal disincorporation is a very radical and uncharted response to the municipal fiscal stress we are witnessing in Pennsylvania," says Amy Sturges, a lobbyist for the municipal league and township commissioners. "Our county governments, aside from Philadelphia, are not providing the array of typical municipal services. Rather than dismantling our local government structure, the commonwealth of Pennsylvania should invest in its local governments with a comprehensive approach and a policy objective of preventing municipal fiscal distress."

Allegheny County, meanwhile, is in a financial position for the first time in recent memory to actually help its fiscally distressed local municipalities. It's already assumed police duties for one of its local jurisdictions. If sharing services isn't enough and municipal consolidation doesn't seem feasible, letting some of the county's small towns dissolve might turn out to be an idea worth considering.

State vs. Tribe

THE YAKAMA NATION and Washington state have been fighting over governance issues ever since the tribe signed its 1855 treaty with the federal government. Recently, those fights have involved fees on cigarettes and rules for logging trucks. But the biggest dispute over the years has been about fuel taxes. And now the U.S. Supreme Court is stepping in.

Washington state lawmakers have tried repeatedly to impose fuel taxes on Indian tribes, and the tribes have repeatedly fought back. The Yakama have been especially adamant in their resistance, arguing that the fuel taxes violate a provision of their treaty that guarantees them the right to travel freely on public highways.

The Yakama convinced the Washington Supreme Court to uphold their exemption even though lawmakers crafted the current tax in 2007 to avoid the legal pitfalls of previous fuel tax levies that Native Americans were able to avoid. The state high court's decision in March was such a jolt to state taxing authority that Idaho, Kansas, Nebraska,

North Dakota, South Dakota and Wyoming supported Washington's last-ditch effort to get the U.S. Supreme Court to reverse the ruling and reimpose the tax.

In general, states cannot tax Native Americans for activity on reservations, but they can for most activities that occur off tribal lands. Courts determined that Washington's previous fuel taxes, which were collected at gas stations, didn't apply to those on tribal lands.

That's why the state legislature changed the tax scheme in 2007. It imposed a per-gallon fuel tax on suppliers, blenders, distributors, exporters and importers of motor fuels. Whoever owned the fuel first inside Washington state's borders had to pay it. Because the Yakama fuel stations imported their fuel from Oregon, the state said, they would have to pay the tax.

States, though, don't have the last word on the matter. The federal government does. Treaties with Indian tribes are part of federal law. Under the 1855 treaty with the Yakama Nation, the federal government guaranteed that the

tribe would have the "right, in common with citizens of the United States, to travel upon all public highways." The state Supreme Court relied on that language to determine that the right to travel meant the Yakama shouldn't have to pay the fuel tax, since it's impossible to import fuel without traveling on public highways.

The state isn't buying this. "The challenged law does not restrict [a Yakama-owned company's] right to travel on Washington public highways," according to the state's brief. It simply asks them to pay for importing fuel the way every other business does.

Other states, specifically those that have joined the case, have reason to be concerned. Idaho, for example, has tribes within its borders whose treaties with the U.S. government include the same "right to travel" language that the Yakama have in Washington. Now that the U.S. Supreme Court has taken the case, those states will soon find out whether the Yakama's fuel tax exemption applies more broadly or not at all.

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The Yakama Nation and Washington state have been fighting over fuel taxes for years.



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Misgivings on Musk

NEW TECHNOLOGY HAS BEEN the key to Elon Musk's success as a business leader, but one of his latest ventures—a plan to deal with Los Angeles' traffic congestion—shows that even the newest technology has its limits when confronting age-old problems.

Musk's idea is to build a 2.7-mile tunnel on L.A.'s Westside under Sepulveda Boulevard. Cars would use it by driving onto a "skate" at ground level. The skate would be lowered into the tunnel on an elevator, and then would be whisked along at speeds of more than 100 mph to the car's destination.

Even though the tunnel system is a private venture, Musk is asking for the help of state and local officials in bypassing or expediting environmental reviews for the project. The Los Angeles City Council has approved the route and said it is exempt from state environmental reviews, but two neighborhood groups have sued to reverse that decision.

Most transportation experts, however, are dubious that Musk's tunnels will ever live up to his promises—if they get built at all. One common criticism is that the queuing system for cars could create huge bottlenecks on existing streets. It won't matter how fast the vehicles travel underground if there's a

long wait to even get into the system. "Enjoy the lines at Disneyland? You'll love Elon Musk's idea for transit," warned one *Los Angeles Times* op-ed.

A similar debate is taking place in Chicago, where Musk has floated a different high-speed transit plan that would work with trains but would also involve an elaborate tunnel.

To build a bigger network of tunnels in L.A., Musk and his Boring Company would have to go through environmental reviews that would likely take years and could reveal unforeseen problems. What's more, tunneling through Los Angeles can be tricky, given that it is an earthquake-prone area with lots of abandoned oil wells. Neighborhood groups and cities may decide to block construction on those grounds alone. In fact, Musk's test tunnel stops just short of Culver City because of environmental opposition from city officials there. And securing the right-of-way, even underground, promises to be complicated.

Los Angeles Mayor Eric Garcetti seems undeterred. "Who knows whether it will hit or not, but isn't it worth trying?" he says. "And don't we as Americans want to see our technologies work and then be applied right in our own backyard instead of China or Dubai or other places that seem to be more risk-taking?"

THE BREAKDOWN

42

The number of state legislative seats that switched from Republican to Democratic control between January 2017 and June 2018. Three seats switched from Democratic to Republican.

\$1.3M

The amount the city of Chicago would collect each year from a new 2 percent fee on rentals from Airbnb and other home rental companies.

1 IN 6

The share of opioid overdose deaths in Wisconsin in 2016 that occurred among people age 55 or older.

\$75,150

The amount residents of Hawaii need to earn in a year to afford a two-bedroom apartment at fair market prices without spending more than 30 percent of their income on rent.



SOURCES: CNN, CHICAGO TRIBUNE, HONOLULU CIVIL BEAT, WISCONSIN STATE JOURNAL; IMAGE: SHUTTERSTOCK.COM

Transportation Turnabout



While he was Wisconsin's transportation chief, Mark Gottlieb pushed for increased funding.

FLOKRWISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

MARK GOTTLIEB, Wisconsin's long-time transportation chief, resigned his post in 2017 after making several failed attempts to increase state funding for roads. Now that he's on the outside, he still finds himself fighting his old boss, Gov. Scott Walker, for more funding. Walker opposes any new revenue for transportation, even as the state struggles to find money for major projects.

For Gottlieb, a civil engineer and former GOP lawmaker, frustrations have been building among Republicans since 2011, when Gottlieb led a 15-month study of the state's transportation finances. The 176-page report, released in 2013, laid out four scenarios for how the state might pay for its future transportation needs and what would happen as a result. The cheapest strategy would still have required an extra \$2 billion of new money over a decade. At the other end of the spectrum, making substantial improvements to highways, public transit, airport, freight rail and

commercial port systems would have taken an estimated \$17.1 billion.

Walker and the Republican-led legislature repeatedly chose none of the above. "It went absolutely nowhere," Gottlieb says now. "It was a failure of anyone taking leadership on the issue. You've got a core group of Republican legislators in both houses, but especially in the Senate, who won't ever support a revenue increase. They'll say, 'I didn't come to Madison to raise taxes.' So the only way you're going to get leadership is with the governor."

Gottlieb built the commission's findings into his agency's request for the two-year budget that started in 2015. Again, the idea stalled. Then, in December 2016, just a week after defending Walker's plan to cut major road projects in a contentious legislative hearing, Gottlieb announced he would be stepping down. "I reached the point," he says, "that I felt like I would probably be asked to do and say


things that I didn't want to do and say."

Since Gottlieb left, the transportation funding debate has grown more contentious. It caused a three-month budget impasse in Madison last year, which was resolved only when lawmakers increased fees on hybrid and electric vehicles while reducing the transportation agency's bonding capacity. Funding shortfalls forced the state to put off major highway projects, including the planned \$1.1 billion expansion of Interstate 94 through Milwaukee.

Lately, Gottlieb has been defending his stewardship of the state transportation agency against charges from a conservative think tank that the agency's budget was bloated. Brett Healy, president of the MacIver Institute for Public Policy, says a state audit completed shortly after Gottlieb left office highlighted several instances of wasteful spending at the department. The MacIver Institute cited what it called ill-advised schemes to add pedestrian and cycling infrastructure and expand the development of roundabouts.

Healy says it's telling that Gottlieb wouldn't concede any of the projects on his list were unnecessary. "You couldn't find one example of wasteful or questionable spending on our list that you agree with? Not even one?" Healy wrote in an email. "It shouldn't surprise taxpayers because bureaucrats always defend more government spending and higher taxes. Always."

Transportation funding has become an increasingly important issue in this year's gubernatorial and legislative campaigns, and Gottlieb has been weighing in, arguing that Wisconsin still needs to find more money for roads and transportation. Walker is running for a third term as governor this fall, and he's a slight favorite to hold onto his seat. If he wins, chances are he'll be hearing from his former adviser again.



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Unanimous Convictions? The Jury's Out

Louisiana still allows murder convictions by a split verdict. That may soon change.

The movie *12 Angry Men* is a hard one to forget. It's often judged to be one of the great courtroom dramas of all time, even though the action isn't in a courtroom. It takes place in a cramped, sweltering jury chamber. Eleven of the 12 jurors are determined to send a teenage boy to the electric chair for stabbing his father to death. Only Henry Fonda, in the role of a stubborn and idealistic architect who sees flaws in the evidence,

heroism, and also satisfied that the American jury system works as it was designed to. It may take time and some distasteful moments, but in the end justice wins out.

I've watched this movie more than once, and I react a little differently. I admire the architect's courage and persistence, but I can't help reflecting on the enormity of the task the legal process has forced on him. He can't afford to lose a single vote. If Juror No. 3 had remained intransigent

virtually everywhere on the principle that no one should be convicted of a felony without a unanimous verdict. Only two states, Louisiana and Oregon, permit juries to render decisions with 10 or 11 votes out of 12.

By the end of this year, the number of renegade states will probably be down to one. In May, Louisiana state Sen. J.P. Morrell succeeded in winning legislative approval of a constitutional amendment that would ban 10-2 and 11-1 guilty verdicts

and conform the state to the principle of unanimity. The voters seem likely to go along in November.

To say that the amendment has a broad range of elite support is to understate the case. The state's major media are all on board, and *The New York Times* has weighed in. "Majority rule is good when it comes to the democratic process," the *Times* editorialized recently, "but it's not enough when someone's constitutional rights and liberty are at stake." Other prominent supporters of the change include not only the American Bar Association and liberal advocacy groups such as the American Civil Liberties Union but also the

Koch brothers' Americans for Prosperity and the Christian Family Forum at the other end of the ideological spectrum. The only organized opponents have been the state's prosecuting attorneys.

To understand why this broad-based coalition exists, all you have to do is glance at the history of the Louisiana jury system. The state government and legal establishment approved the use of split verdicts



EVERETT IMAGES

The movie *12 Angry Men* heroically portrays justice winning out when a jury, led by an idealistic architect, unanimously votes to acquit a boy of murdering his father.

believes in the boy's innocence. One by one, he convinces all 11 of his opponents to see it his way, including a bitter, irrational and hot-tempered Juror No. 3, who bizarrely links the defendant to his own estranged son. After ranting angrily against Fonda, this juror breaks down in tears, changes his vote and the boy goes free.

Nearly everyone who watches this film comes away awed by the architect's

(which seems to me the more probable outcome in real life), the result would have been a hung jury, a new trial and very likely a conviction for murder. Does it really need to be unanimous? Is it possible that 10-2 or 11-1 might produce a larger number of fair results? I'm not saying it would; I'm just saying it's not a totally crazy question.

As all of us know, the American legal system rarely asks this question. It is based

in 1898 because they feared the impact of African-American jurors empowered by the 14th Amendment to the U.S. Constitution.

The establishment made no bones about this. Some years earlier, the New Orleans *Times-Picayune* had declared that newly emancipated black citizens were “wholly ignorant of the responsibilities of jurors, unable to discriminate between truth and falsehood in testimony, and capable only of being corrupted by bribes.” If one or two African-Americans ended up on a jury, it would be necessary to outvote them. So the legislature decided to permit guilty verdicts of 9-3, 10-2 or 11-1. In 1974, the law was changed to make 10 votes the threshold.

Critics of the existing law link it to the fact that Louisiana in recent years has had the highest incarceration rate in the United States. It’s been estimated that about 2,000 convicts are currently serving life sentences in Louisiana prisons on the basis of split verdicts.

Louisiana’s racist heritage is more than sufficient to explain its jury law. But what’s Oregon’s reason? That’s an interesting story, too. Oregon began allowing guilty verdicts with 10 votes in 1934, after a Jewish defendant named Jacob Silverman was acquitted of first-degree murder and ultimately served only three years for manslaughter because one lone juror held out for him. This sounds like a *12 Angry Men* situation, but it was nothing like that. Silverman’s light sentence, in the wake of powerful circumstantial evidence against him, triggered a backlash toward Jews and immigrants and a statewide referendum that initiated split verdicts to dilute the influence of immigrant jurors.

The only current difference between the Louisiana and Oregon rules is that Oregon doesn’t permit split verdicts in murder cases. For all other felonies, it does. The Oregon law has been challenged in federal court numerous times, including last year in a petition to the Supreme Court, but without success. The court has declined to reconsider a 1972 ruling that split-verdict systems in state courts are constitutional.

But how serious a problem are split-verdict systems? The origins of such laws are offensive, but they aren’t in themselves sufficient to discredit the practice. Louisiana is still far from being a paragon of social justice, but African-Americans are eligible to serve on juries in reasonable proportion to their presence in the population and to insist on fair treatment when they get there. The real argument against split-verdict juries is that they tend to marginalize dissenters of all colors and creeds, because their votes are not needed when they are one or two against 10 or 11.

The Baton Rouge *Advocate* has done some excellent research on this point and taken powerful testimony. A juror in a kidnapping case said that “no one told me it was a 10-2 state. There was no attempt to change my mind. It was over and I was like, ‘I don’t know what just happened here.’”

The newspaper found that split verdicts were 30 percent more common in cases where the defendant was black. African-American jurors were more than twice as likely to be on the dissenting side of a split verdict as their white counterparts. For many critics of the system, these numbers alone suggest residual racism. Strictly speaking, however, they aren’t a smoking gun—they don’t prove that split verdicts are in themselves a miscarriage of justice.

One reason it’s possible to question the sacred status of the unanimity requirement is that we are living in a time when notions of jury nullification are an unavoidable part of the legal system and the trial process. Nullification in American courts goes back to the 18th century, when the printer John Peter Zenger was acquitted in a landmark libel case because a jury found his published words to be true, even though the law expressly said truth was no defense. The jury found the law unjust.

In the centuries since then, millions of words have been written on the topic of when jurors are entitled to dispense with the law in the interest of what they consider to be higher justice. Many commentators have said this is permissible when the law or the trial is blatantly discriminatory. But what if a juror isn’t concerned with the facts of the case? What if she believes the entire legal

system—or the whole society—is tainted by racism, sexism or a disregard for individual liberty? Does that mean she can refuse to consider the evidence and free a guilty defendant?

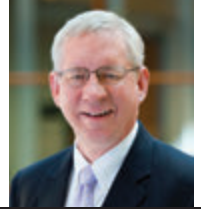
Some very smart lawyers think so. Paul Butler, a professor at Georgetown University Law School, has been making this case for more than two decades. “If [jurors] think that the police are treating African-Americans unfairly, by engaging in racial profiling or using excessive force,” Butler wrote a few years ago, “they don’t have to convict, even if they think the defendant is guilty.”

The arguments for nullification have become louder in the past few years amid the growing distrust of police tactics. Nullification T-shirts are easy to purchase online. Any controversial criminal trial is likely to generate at least a few protesters proudly wearing them.

Today’s nullifiers may be reviving a long-standing tradition in American jurisprudence. But just one of them on a jury can block a defendant’s conviction even in the face of the strongest evidence. Orin Kerr, a law professor at the University of Southern California, raised this issue eloquently in 2015. “The evidence can be overwhelming,” Kerr wrote, “and 11 of the jurors can believe fervently that a particular case is the most compelling prosecution ever brought. But a single juror, accountable to no one, can put the kibosh on the case based on his own vision of justice that may have no connection to anyone else’s. We don’t normally think of placing all the power in one unelected person who answers to no one as a democratically accountable approach.”

I don’t expect that state courts in this country will ever go back to 10-2, or 11-1. We have made a decision for mandatory unanimous verdicts (unlike England or Scotland, incidentally) and that decision has broad public support, even in Louisiana. I’m just suggesting that this issue, like virtually all issues in American jurisprudence, is a bit more complicated than it may seem at first. **G**

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Cryptoconfusion

Digital currencies are becoming more common. But how do we regulate them?



A couple of months ago, in a congressional primary in Southern California, voters were treated to a truly unusual argument. Brian Forde, a former Obama White House aide, received almost \$200,000 in donations in the form of cryptocurrencies. One of his opponents, Dave Min, a former enforcement lawyer at the Securities and Exchange Commission, savaged him for relying on “bitcoin speculators that oppose cracking down on drug deals and human trafficking.”

In a flash, the race pulled political campaigning into uncharted—and bizarre—territory. Min painted Forde as a candidate sidling up to an industry that almost no one really understands. Forde countered that his familiarity with bitcoin placed him on the cutting edge of new and exciting developments. The voters ultimately decided

not to embrace either claim, and went with another Democrat, Katie Porter. But there was a sense that the contest signaled the beginning of a role for the new digital currencies that will reach all through the American political system.

Bitcoin, the most familiar cryptocurrency, was created by Satoshi Nakamoto, who might—or might not—be a real-life person. Cryptocurrencies exist only as bits in an electronic ledger, and they have only the value that those trading them agree on. Transactions are made through the internet, they’re encrypted (hence the “crypto” part of the name) and they’re not issued by any government.

The mystery of this new form of money is part of its allure. So, too, for many players, is the fact it has been, so far, largely free of government regulation. Bitcoin has been irresistible to get-rich-quick speculators, some of whom

made enormous amounts of money in 2017 as the currency’s value almost quadrupled. It has become the stuff of television drama, with characters secretly passing billions to each other on flash drives.

All of this has made cryptocurrencies irresistible to crooks. In early June, hackers burrowed into a South Korean cryptomarket—which, after all, is just an online accounting system—and stole some bitcoin, pushing the currency’s value down 10 percent over a single weekend. Since digital currencies are only worth what people are willing to pay for them, their value has fluctuated wildly. In just the first six months of 2018, bitcoin’s value fell two-thirds from its record high of \$20,000

a share in December.

Even without the presence of hackers, cryptocurrencies would have a shady reputation. In their earliest days, online drug dealers used them to transfer their proceeds without leaving an easy trail for investigators to follow. That came to an end when the feds busted the multimillion dollar Silk Road drug market, created by a kingpin who called himself the Dread Pirate Roberts after a character in the 1987 movie *The Princess Bride*.

Cryptocurrencies pride themselves on standing apart from government, but that hasn’t stopped some states and localities from trying to crack down, at least on illicit dealings that range from drug smuggling to bribery to fraud. The Chinese government has banned the use of cryptocurrencies to fund startup companies. But in the U.S., the federal government has stayed away from regulation, in part because

it's not clear even to regulators exactly what these digital currencies are and who would be responsible for regulating them. Are they a security, like a bond, and thus under the jurisdiction of the Securities and Exchange Commission? Or are they a commodity, like gold, to be regulated by the Commodity Futures Trading Commission?

The debate over regulation isn't just about protecting citizens. It's also about maneuvering for position in what states see as an emerging market with lots of potential economic growth. Most states are sitting back right now to figure out where this is going. Others are jumping in, trying to gain an advantage either by protecting taxpayers or encouraging investment. (See "Berkeley's High-Tech Gamble," page 52.)

Washington state, for example, has been wary about cryptocash flooding in to make tech deals. To protect investors from fraud, the state requires cryptocurrency exchanges to create a cash reserve, equal to the volume of transactions, so there's real backup for the deals. New York state, determined to retain its place as the nation's financial hub, has fostered the creation of a fully licensed digital currency exchange.

Wyoming, on the other hand, has made a play for the Wild West side of the business. Hoping that a free market would help boost jobs, the legislature exempted cryptocurrencies from the state's financial and securities regulations, as long as the currencies weren't being sold as investments. The state effectively decided that the new money was neither a commodity nor a security.

We've been here before: big battles throughout the nation's history among bankers, federal regulators and entrepreneurs who want the freedom to go their own way. This time, the feds are on the sidelines and states are jockeying for advantage in a global marketplace that none of them can control and few of them fully grasp. The pace of change is so fast that any state advantage could be gone in a heartbeat, and the damage from any misstep could be huge. **G**

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Seats Democrats Can't Win

In these blue states, the GOP governors are safe.

Right now, Republicans have a huge advantage when it comes to governorships, controlling twice as many as Democrats. That probably won't be true at the end of the year, with the GOP defending 26 seats, compared to the Democrats' nine. But Democrats look unlikely to gain ground in some of their strongest states, with popular Republican incumbents almost certain to win reelection.

In Maryland and Massachusetts, Govs. Larry Hogan and Charlie Baker, respectively, have enjoyed approval ratings in the low 70s for most of their terms. In Vermont, Democrats are privately all but conceding that they won't be able to prevent Gov. Phil Scott from winning a second term. New Hampshire Gov. Chris Sununu looks a bit more vulnerable, but his approval ratings are in the 60s and his strongest potential Democratic rival, Colin Van Ostern, ruled out a rematch of their 2016 race in February, a day after a poll showed Sununu with a double-digit lead. And finally, Democrats could easily lose Connecticut in an open race that might become a sort of unpopularity contest between President Trump and outgoing Democrat Dannel Malloy, the governor with the weakest approval rating in the nation.

Part of the Republican advantage in these otherwise blue states comes down to fundamentals. Even as New England has become bedrock Democratic territory in federal elections, voters have regularly elected GOP governors, if only as a check on big Democratic legislative majorities. "Combining that with the strong personal appeal of Charlie Baker and Phil Scott, it's no wonder that not only are they strongly positioned for reelection, but also that they have crowded out potentially strong challengers from entering their respective races," says Kyle Kondik, who tracks gubernatorial contests at the University of Virginia's Center for Politics.

These governors have found ways to break with their national party that appeal to home-state constituents. Scott, for example, signed new gun restrictions into law in April. That drew some protests and likely resulted in a more difficult primary season for him, if not a serious threat, but his change in position on gun control won't hurt him in the predominantly Democratic state.

Perhaps most important this year, these governors have been able to distance themselves, to a greater or lesser degree, from President Trump. He is anathema among Democrats, but even in a hyperpartisan time, being governor is a big enough job that these Republicans have been able to cut their own distinct profiles. "Democrats spent the beginning of the year trying to tie Trump to Hogan," says Mileah Kromer, who directs the politics center at Goucher College in Baltimore. "Our polling shows that is just not happening. There's been a shift, with Democrats now focusing specifically on Hogan and differentiating their positions from his."

It would be foolish to count Democrats entirely out in states where they have a 3-to-1 advantage among registered voters, as is the case in Massachusetts. But any blue wave would have to be pretty big to threaten these popular incumbents. **G**



Massachusetts Gov. Charlie Baker's approval ratings are regularly in the low 70s.

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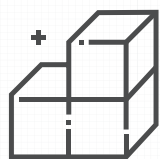
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5 Ideas from Commercial Health Care for Modernizing HHS

Health and human services programs are among state and local governments' biggest expenses, and costs continue to rise faster than inflation. In addition, the IT systems supporting these programs are some of the oldest technology in government. Modernizing HHS systems and implementing innovative policies can help states and localities control rising costs and improve outcomes for citizens.

One effective way to realize these improvements is by borrowing proven approaches and services from the private sector. Commercial health care providers are using new technologies and techniques to deliver better value, and these ideas often can be applied to public sector HHS programs. Innovations from commercial health care also have become easier to adopt because many of them are delivered via the cloud, reducing equipment cost and other expenses associated with modernization, and enabling agencies to quickly implement improvements.

HERE ARE FIVE IDEAS FOR STATE AND LOCAL LEADERS TO CONSIDER:



1 Use a modular approach to innovate and maximize IT investments.

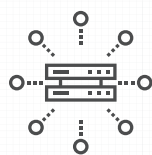
If you have a beautiful old house in a great location that needs some work, you don't gut it, you do the things that provide the greatest return on investment, such as upgrading kitchens and bathrooms. The same goes for existing HHS systems. State and local government IT budgets

are limited, so instead of scrapping entire systems, focus on the components that need to be replaced.

This philosophy is one motivator behind the movement toward modularity, an approach to IT system deployment that has garnered strong funding and policy support from the federal Centers for Medicare and Medicaid Services (CMS).

Modularity involves breaking large, complex systems into smaller, interconnected components or modules, which can be implemented and updated independently of one another. With this approach, government agencies can shrink the size and scope of large IT projects, reducing procurement and deployment risks. They can also open the door to innovation, because agencies can use modular design to tap into discrete functions — such as financial management and pharmacy benefits management — which are delivered as a cloud service from commercial providers. These commercial services also can be configured to meet state policies on payment grace periods and other unique factors.

Unlike the traditional approach to HHS system modernization — which involves hiring consultants to build massive custom systems from scratch — modularity offers an easier path and facilitates the adoption of commercial health care best practices.

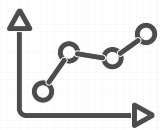


2 Look for systems that provide an integrated view of programs and beneficiaries.

State-of-the-art IT systems can help HHS agencies develop an integrated picture

of recipient households, which can improve service for beneficiaries and simplify program administration. For instance, a single, consolidated bill can aggregate premiums for complex household structures that might include members on various subsidized programs like Medicaid or the Children's Health Insurance Program.

These systems also offer integrated electronic billing and payment, so changes in enrollment are immediately reflected in billing. And they enable payment of claims for both health benefits and qualified support programs, such as transportation or dependent care, even when the claims are paid by different funders.



3 Leverage data to improve outcomes.

A growing number of agencies use data to drive policy, maximize flexibility, enhance relationships with citizens and improve health. For instance, when Camden, N.J., experienced abnormally high emergency room usage, the city discovered that a disproportionate number of visits came from one neighborhood. Officials quickly determined that interventions like working with non-profits to rehabilitate living spaces and remove mold were more cost effective than continuing to pay for preventable ER visits. Besides reducing expenses, this approach improved the health and quality of life for residents.



4 Use technology to drive impact.

Cutting-edge systems can combine information on what factors have the greatest impact on health with genetics and other individualized data points to help HHS agencies deploy resources more effectively. These systems can filter the broad spectrum of issues that affect health — such as reducing high school drop outs or ensuring that individuals have access to the transportation they need to get to and from medical appointments — through an individual lens to develop precision care plans and other tools that improve health and wellness.



5 Recognize the value of incentives.

Technology also can support incentives for HHS clients to improve their health and become self-sufficient. For instance, modern systems can link enhanced benefits or lower premiums to positive behaviors such as exercising regularly or quitting smoking. They also can support health planning and savings features. Private employers frequently use these strategies to promote engagement and improve outcomes, and they can often be implemented effectively in HHS program populations.

Capabilities such as these also help accommodate new savings-related policy innovations. For instance, one Midwestern state has developed an HSA-like account within its Medicaid program to which both the member and the state contribute. The member can use the HSA to help cover health care costs. While the approach is initially more expensive, it saves money over time by creating an incentive for account holders to become more engaged in their own care and be smarter health care consumers.

Adopting features from commercial health care systems can help state and local governments eliminate silos and improve coordination among agencies, levels of government and funders. Many of these innovations are available as cloud-based services, which enable HHS agencies to launch improvements faster and with less up-front cost. By collecting and interpreting data, these systems can bring together a comprehensive set of individualized interventions to improve health and related outcomes. And by supporting incentives, savings plans and other techniques, they give agencies new options for engaging and serving HHS clients.

Ultimately, commercial health care services and systems, delivered through the cloud, open new opportunities for state and local HHS agencies to control rising costs and improve program effectiveness.

This piece was developed and written by the Governing Institute Content Studio, with information and input from WEX Health.

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Changing Minds

With opioids, police are moving beyond an arrest-first mentality.

As opioid overdoses continue to take the lives of tens of thousands of Americans every year, the epidemic has made many jurisdictions and public agencies that deal with health and safety reconsider long-held attitudes. Several cities are moving, for example, to establish safe-injection sites, something that would have been unthinkable to most local officials and policymakers just a few years ago. Medicaid programs have begun offering alternative methods of pain management, such as yoga and acupuncture, before prescribing opioids. And for police departments, an arrest-first mentality is beginning to give way to more compassionate approaches aimed at helping people struggling with addiction.

commander with the department at the time the policy went into effect, told *Governing* in 2016.

But for many police officers, it's been a mindset shift. "Our officers were skeptical, but it's been going well with no strain on staffing," says Sgt. Baron Brown of the Ferndale, Mich., Police Department. The Detroit-area force is a part of Hope Not Handcuffs, an initiative that allows anyone struggling with substance abuse to go without fear of arrest to a participating police department, which will work to place the person in a recovery program. Hope Not Handcuffs kicked off in February 2017 with police departments across five counties taking part. As of this June, nearly 1,400 people had walked into police stations seeking help.

Brown says joining the initiative made sense for a progressive suburban community struggling with overdoses. Since the city of about 20,000 began participating in Hope Not Handcuffs, about 65 people have come in to request help with their addictions. "We're probably overrepresented in overall numbers," he says, "but we've been among the most vocal about this program. I believe in this. I have family members with substance abuse disorders."

At the national level, the Police Assisted Addiction and Recovery Initiative, which was ahead of the curve when it was established in 2015, works similarly to Hope Not Handcuffs. It redirects people to recovery programs who might otherwise be arrested. The initiative has worked with more than 140 police departments. According to its annual report, in the program's first year, communities saw a decrease in

addiction-related crimes by as much as 25 percent.

Some police departments have faced public criticism from those who say they didn't do much to help people get into recovery during the crack epidemic in the 1980s and '90s, which devastated communities largely made up of people of color. But Brown says this drug epidemic is different. "Crack just wasn't killing people the way heroin has," he says. "You take one dose of heroin and you can be dead if it's laced with fentanyl. It's scary. It's caused us all to look at things differently." **G**



**At least
1,200 police
departments
nationwide now
equip officers
with naloxone.**

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Two years ago, a handful of police departments began requiring officers—frequently the first to encounter a victim—to carry naloxone, the life-saving drug that can reverse the effects of an opioid overdose. There is still pushback from some departments that don't see helping addicts as their responsibility, but that view is dwindling. According to the North Carolina Harm Reduction Coalition, at least 1,200 police departments around the country now have some kind of program that equips officers with naloxone.

The Colorado Springs, Colo., Police Department was one of the first to do so. "As a cop, if we can even just help to stabilize those numbers, that will be a victory for me," Thor Eells, who was a

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The Next Chapter

DC Water is known as innovative. Its new CEO looks to make his own mark.

On a sweltering summer day in late June in Washington, D.C., a crowd gathered to watch the christening of a new tunnel boring machine, which will help dig the largest and final segment of the Anacostia River Tunnel System. The 13.1-mile-long system—to be completed in 2023—is part of DC Water’s \$2.7-billion effort to comply with the Clean Water Act and will capture 98 percent of any sewage overflows into the river.

The tunnel system was the brainchild of DC Water’s former chief executive and general manager, George Hawkins, who stepped down in late 2017. Hawkins was widely lauded during his eight-year tenure for reviving the water utility’s reputation, prioritizing environmental stewardship and turning the utility into a hotbed of innovation. (He was honored by this magazine in 2014 as a Public Official of the Year.)

The always upbeat GM rarely wore a suit, instead donning a white button-down with the utility’s logo and a pair of khakis. His achievements included rebranding the agency, then known as the Washington Water and Sewer Authority, as DC Water; issuing the first-ever 100-year bond and first-ever environmental impact bond to finance the construction of green infrastructure; converting human waste into power and selling the leftover product as a fertilizer; and starting Blue Drop, a nonprofit offshoot of the utility. Hawkins created it to come up with ways to market products and services offered by the utility, such as the sewer thermal system that will be used to heat and cool the agency’s new offices.

In short, David Gadis, DC Water’s new chief executive and general manager, has big shoes to fill—and he knows it. When it comes to innovation, Gadis says, “George did a fantastic job. The first thing to do is pick up where the former CEOs left us. This is not a turnaround utility; it’s the gold standard. It’s a utility that a number of others envy and revere.”

The 56-year-old, who prefers a suit and tie, is steeped in the ins and outs of operations. He grew up working summers at the water utility in Indianapolis, painting fire hydrants and digging up broken water mains. After graduating college, where he briefly entertained the idea of becoming a TV or radio broadcaster, Gadis found himself back in Indianapolis employed at the water utility.

Gadis started at the bottom and ultimately worked his way to the top. As chief executive and president of Veolia Water Indianapolis, he helped transform the utility into an efficient and cost-effective operation. He says that one of the things he is most proud of is stabilizing rates during his tenure. “Rates were getting very high,” he says. “Citizens were complaining, so we got more efficient as a utility and there was no rate change for five years.”

That experience will no doubt come in handy at DC Water,



DC Water’s new CEO David Gadis, second from the left, attends the christening of a new tunnel boring machine.

where rates have increased steadily over the past eight years. Bringing increases under control is in fact one of Gadis’ primary goals, which he’ll focus on under an initiative called the 20x20x20 challenge—identifying \$20 million in savings and \$20 million in non-ratepayer revenue by 2020.

If anyone can identify \$20 million in savings, it’s Gadis. After Indianapolis, he moved to Boston where he worked for the private water company Veolia at its North American headquarters. As an executive vice president, he was focused on advising city officials on how to improve their utility infrastructure and save on operating costs. His familiarity with best practices will help him do this in D.C., as well as deal with issues that face almost every water utility these days: aging infrastructure, human capital, resiliency and an increasingly sophisticated technology threat. “It’s not just main breaks and storms,” he says. “There’s the cyber side of it, too.”

But all this focus on operations doesn’t mean that Gadis isn’t thinking big. He wants to keep the culture of innovation and environmental stewardship thriving. “DC Water has one of the greatest brands in the industry,” he says. “I’m looking to do some things that will move the utility forward.” **G**

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DAVID KIDD



What Is Mobility Anyway?

It's not necessarily about traveling far and fast.

This year I became a father again, and while my wife returns to work full time, I'm staying home taking care of our infant daughter. This means I'm sticking pretty close to our neighborhood in Brooklyn: I don't venture farther than an easy stroller distance of a half-mile. Based on this, you would probably say I have a low degree of mobility, because mobility means traveling far and fast, right?

I ask because "mobility" is a hot word in transportation and urban planning circles. There are mobility institutes and mobility programs. The World Economic Forum has a Future of Mobility initiative. In June, I moderated a discussion on "The Politics of Mobility" at an urban design nonprofit in New York. So, it's important to define what it means.

As for my mobility, within my usual strollable universe I have hundreds of restaurants and cafés, dozens of grocery stores, and Prospect Park, one of the best examples of urban greenery in the world.

In other words, while I'm out with my baby I can shop, lunch, have a beer and stroll beside meadows, winding hills and lakes. "Mobility is a means, not an end," says Susan Zielinski, former director of the sustainable mobility program at the University of Michigan's Transportation Research Institute. "The goal is for more people to meet more of their needs in a way that's better for the environment, the economy, social equity and quality of life. It's about access."

By that measure, I have a high degree of mobility, even though most days I travel short distances very slowly. We have buses, bikeshares, taxis and subways in my neighborhood, but none of those work very well with an infant. Although, I will say, it's touching how readily tough New Yorkers will help me carry my stroller, baby inside, up and down flights of stairs in the subway.

If I lived in a more car-oriented place, such as Phoenix or Virginia Beach, Va., I could jump in my car and, traffic permitting, travel a mile or two very quickly. But

what sort of access would I gain? I might have to travel much farther to get to a store, playground or friend's home, even though the total time might be the same as walking around Brooklyn. If I lived in a rural area, I would have to travel 10 or 20 or 50 miles to get where I want to go.

To state the obvious, unless they are exercising or sightseeing, people don't usually travel for the joy of it. They typically move to get something. The more services and amenities you have around you, the shorter you need to travel in physical distance.

And then there's the condition of travel. Driving in a luxury automobile on a winding country road is a pretty pleasant experience. Being stuck in a traffic jam in a battered old heap with broken air conditioning isn't. A crowded, dirty subway that arrives and departs with little regard for its schedule is different from a swift and cool one that arrives on time, as we in New York City are discussing amid our current transit woes. Should the quality of



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your movement affect your mobility score? I think so.

Paul Mackie, director of research and communications for the Mobility Lab in Arlington, Va., points out that we all have different spheres of mobility—including our neighborhood, our city, our region and the world beyond—and they vary in quality. “In your Brooklyn example, you might have great access to everything by foot in your walkable neighborhood, but your ability to access your doctor on the Upper West Side is limited because driving in the city is difficult and the subways are delayed,” he wrote in an email.

Although I find the term “mobility” pretentious, it may have come into favor because it takes in other options besides personal driving for getting around. And having more ways to travel improves your mobility, by my scorecard. “The mobility mix is getting really interesting now with Uber, Lyft, e-bikes, e-scooters, bikeshare, dockless bikeshare, hover boards, autonomous cars, autonomous shuttles, work shuttles,” Mackie wrote, and people are waking up to that. “They’re not simply sleepwalking into the cars in their driveways in the morning.”

So can you improve your mobility in ways that slow you down? This is where questions of development come in. If 10,000 new apartments were built around me, the additional neighbors would support more churches, stores and clubs and thus improve my mobility, even though driving would be slower and parking harder. This same equation holds true in suburban areas. When communities oppose development because it will create more traffic, it’s important to point out that by some measures mobility will be improved because more goods and services will be within easier reach.

For governments, researchers and advocates examining these questions of mobility, it’s important to think about the word in all its meanings, including speed of moving, ways of moving and what one is moving toward. Sometimes the slower you move, the farther you get. **G**

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A Suburb of Something

Despite political divides, exurbs need cities.

Surely, no division seems more insurmountable these days than the urban-rural divide—or perhaps more accurately, the divide between politically blue cities and older suburbs and red exurbs and rural areas. These two Americas don’t appear to have anything in common. But it’s important to remember that they are interconnected.

Residents of red exurbs, for instance, often wish to separate themselves from blue cities. But, as the saying goes, “You can’t be a suburb of nothing.” What this means is that cities still serve as the drivers of economic growth, as well as a region’s center for culture, entertainment, education and other amenities. Without the economic and cultural strength of a region’s core, the periphery cannot thrive.

Historically, the opposite was also true. But the big question today is whether this relationship is becoming more of a one-way street, where exurbs, smaller cities and rural areas are being left behind. That perception is certainly one reason why Donald Trump won the presidency.

The connection between cities and their hinterlands used to be stronger. As historian William Cronon documented in his book *Nature’s Metropolis*, Chicago became a great city because it was a place where raw materials of all kinds—from lumber to livestock—were transferred and transformed. Chicago needed the hinterland, but the hinterland from Wisconsin to Nebraska needed Chicago, too.

This connection between a city and its hinterland is harder to discern these days as economic prosperity becomes more concentrated in urban areas. Cities have proven to be remarkably efficient engines of commerce, bringing people, ideas, goods and services, and amenities together with awe-inspiring ease.

Ironically, the era of the internet has only reinforced the idea of cities as economic engines. Back in the ’90s, at the dawn of the Internet Age, many futurists predicted that it would spell the end of cities and the rise of rural areas. Why would anyone bother with the hassle of urban life when they could sit on a mountaintop and do their work on a computer?

Twenty years later, the very people who can work anywhere—the ones creating economic value from the internet—aren’t found on mountaintops, but in coffee shops in the middle of big cities. The mashup of people, culture and ideas is just too powerful for them to leave. Still, people everywhere benefit from the resulting economic breakthroughs—urban and rural, blue and red. But it doesn’t produce the reciprocal relationship like the one Cronon laid out in his book.

To be sure, the connection between urban and rural areas needs to be strengthened, so the sense of common benefit becomes more obvious. But it’s important to understand that in the end, cities remain major economic engines that benefit everybody. Everywhere is a suburb of something. **G**

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HOW NEBRASKA IS BUILDING A UNIFIED BACK-OFFICE

When Byron Diamond became the director of the Nebraska Department of Administrative Services in 2015, he was shocked by the siloed and disparate state of its back-office systems. But unlike many public sector agencies that are just beginning to move to the cloud, Nebraska had a different kind of IT problem — managing a hybrid patchwork of on-premises and cloud solutions from four different vendors.

Nebraska had been working on a major software upgrade for its legacy Oracle on-premises JD Edwards application for financials, procurement and payroll since 2012. At the same time, the state had deployed different cloud products across the enterprise: Workday for HR and benefits; NeoGov for recruiting; and Cornerstone for talent management.

Integration problems soon became evident, and with limited staff, there was no way the team could effectively understand and troubleshoot the myriad applications.

“My staff could not tell me how many interfaces were tied to those different systems and what the interfaces did,” says Diamond. “It was a management nightmare that made it difficult for us to modernize.”

Nebraska is unique in that a statute gives the Department of Administrative Services director full authority over the state’s back-office systems. So, Diamond began discussing with IT vendors and experts how to modernize systems onto a single cloud platform. Meanwhile, Oracle offered to conduct a free assessment of the state’s back-office systems.

“The Oracle report confirmed we had a lot of work to do,” says Diamond. “We were in bad shape across the board.”

Diamond discussed the results with his senior staff and pushed them to think more strategically.

“There were a lot of black holes in our interfaces. They were built over 10 years ago and hadn’t been updated since,” says Diamond. “Even worse, no one really knew how they worked or how they were dropping data into different tables.”

With his staff’s support, Diamond approached the governor’s office about replacing the state’s back-office systems. The governor approved an initial assessment in August 2015.



MANY CLOUDS, ONE PLATFORM

Diamond’s first priority was to move to a single, enterprise-wide solution for the back office, one that took advantage of the benefits of unifying financial and human capital management (HCM) systems.

“We didn’t have the budget or the staff to support a new hardware platform,” says Diamond. “With cloud I wouldn’t have to buy or support the hardware, so it would save us a significant amount of money each year. It would also allow us to stay current going forward.”

Diamond invited multiple vendors to submit proposals for new cloud-based back-office systems. He then invited finalists to conduct two-week walkthroughs of their proposed systems.

Oracle’s functionality and reporting capabilities — and its ability to fully meet Nebraska’s financial and procurement needs as well as its complex HCM requirements — tipped the scales in its favor. And Oracle’s consolidated cloud-based platform solution sealed the deal.

“Other vendors we looked at only had two of the four major sub-platforms we needed,” says Diamond. “We weren’t looking to add more disparate systems. Oracle was the best fit.”

In 2016, the Nebraska Department of Administrative Services officially selected Oracle for a massive 20-month back-office modernization project.





CHOOSING THE RIGHT PARTNER

Soon after contracting with Oracle, Diamond spoke to a peer in another state who recently kicked off an Oracle HCM project leveraging KPMG's Powered Enterprise approach.

KPMG's Powered Enterprise methodology accelerates business transformation cloud implementations with certainty of outcomes. It includes target operating models, roles, responsibilities, controls, reports, process flows and leading practices designed to help government transform the back office faster and reduce risks associated with change. Based on their extensive commercial and government experience implementing Oracle systems, Nebraska contracted with KPMG for systems implementation and change management services.

Nebraska focused first on standardizing and streamlining its work processes using KPMG's Powered Enterprise practice preconfiguration environment.

"We were concerned about the number of entities, players and process flows we had. Powered Enterprise would allow us to standardize on one process flow for all activities for the first time in the state's history," says Diamond. "A common process flow would also make everyone's jobs easier and allow employees to more easily seek new opportunities within the state."

KPMG has developed an innovative approach for solving cloud integration problems based on its experience helping organizations of all sizes move to the cloud. The Cloud Integration Framework is a standards-based solution built using commercially available Oracle products for addressing complex enterprise cloud integration and data management.

"Using our Powered Enterprise methodology, we were able to show agencies how the future system was going to operate from a business process perspective," says Ray Zaso, principal, KPMG. "We listened more than we talked. We respected what the agencies had to say, and we responded to their concerns. That helped get everybody excited and on board."

As expected, the new system generated initial resistance from some employees. Fortunately, there was also significant support from staff frustrated with the state's existing systems.

"WE LISTENED MORE THAN WE TALKED. WE RESPECTED WHAT THE AGENCIES HAD TO SAY, AND WE RESPONDED TO THEIR CONCERNS. THAT HELPED GET EVERYBODY EXCITED AND ON BOARD."

— Ray Zaso, Principal, KPMG

"The previous system had 150 different sub-applications all jerry rigged together with interfaces and intermediate databases that were passing data back and forth," says Diamond. "It was a decentralized, cloggy system, and although our workers were used to it, they could see the advantage of more modern technology."

To maintain continuity of operations, KPMG and Oracle worked with Diamond's team to ensure that critical financial operations could move forward at the appropriate time, such as W-2 processing, the start of open enrollment, end-of-year closeout and other operational benchmarks. With a single vendor solution, it was significantly easier to split payroll from HCM and supply chain management systems and avoid the "big bang" of massive change and potential risk.



A MODERN, CLOUD-BASED BACK OFFICE


The Nebraska Department of Administrative Service's new payroll processing system is set to go live with the processing of the first payroll in December 2018. HCM is expected to roll out in January 2019 and the financials and supply chain systems are targeted to go live in April 2019.

In addition to providing the state a modern, cloud-based back office and all the benefits that go with it, the new solution will also enable better transparency.

"Public records requests are a nightmare when you use disparate systems," says Diamond. "Now I have one master database so I can easily pull information and respond to those requests quickly."

Finally, modernization will enable Diamond's staff to focus on strategic initiatives for the first time ever.

"The new system will allow my team and the state to be more effective without requiring any additional staff," says Diamond. "Instead of being reactionary and trying to fix immediate problems, we can be proactive and get out in front of issues."



Republican
gubernatorial
candidate Adam
Putnam

Republicans
have been
winning a lot
in Florida.
Democrats
hope a blue
wave can
change that.

By Alan Greenblatt

Sunshine Sweep

Poststakes

The 2018 Swamp Cabbage Festival in

Hendry County, Fla., featured a rodeo, a car show, a parade, a variety of clogging troupes and the 51st annual crowning of the Swamp Cabbage Queen. It also featured Adam Putnam, the state agriculture commissioner. But the Republican wasn't there to inspect the cabbage. He was doing what he spends most of his time doing these days: showing up at popular events, shaking hands and asking people to support him for governor. It's Politics 101, and Putnam is a tenured practitioner of Florida politics. But this year, it might not be enough.

The 44-year-old Putnam has been laying plans to run for governor for a long time. He won a seat in the state House at age 22, becoming the youngest person ever elected to the Florida Legislature. Four years later, he was in Congress. In eight years as agriculture commissioner, a statewide elected position, he's raised millions of dollars—\$32.7 million for his gubernatorial bid as of June 30—and has garnered endorsements from politicians up and down the state, as well as backing from Florida's major business lobbies. He's managed to drive most potential competitors from the race, including state House Speaker Richard Corcoran, who dropped out in May, saying it had taken him “all of 2.2 seconds” to back Putnam. “Putnam has done all the right things and checked every box,” says Matthew Corrigan, who chairs the University of North Florida's political science department. “He's spent a lifetime in politics, he's been all over the state, he can raise money and he has the endorsements of the party establishment.”

But there's at least one important endorsement Putnam has failed to win—Donald Trump's. The president has lent his support to Ron DeSantis, a third-term congressman. DeSantis has been one of Trump's most ardent backers, and has appeared on Fox News roughly 100 times since January to criticize the FBI and defend the president against any accusations regarding Russian interference in the last election. DeSantis has the enthusiastic backing of Fox host Sean Hannity. Perhaps more important, he has ready access to Fox viewers. Meanwhile, Putnam has been shut out of Fox, completely absent from the network all year. “Ron has done a masterful job on Fox News, putting himself out there almost as Donald Trump's lawyer,” says Mike Haridopolos, a former Florida Senate president and a Putnam supporter.

The primary between Putnam and DeSantis—the party regular vs. the cable news guy—provides a case study in how much politics and the Republican Party are changing this year. You can barely talk about the race to any prominent Florida Republicans without hearing them say that “in a normal year” Putnam would win, and he has been leading in the polls. DeSantis lacks much of a campaign infrastructure, and his fundraising trails Putnam's, although he's gotten support from the Mercer family, among the most important donors in Trump's universe. While Putnam has hit every county fair and Republican pig roast, DeSantis has mostly been stuck in Washington. Putnam has had paid television ads running since the spring, while DeSantis didn't launch his first ad until shortly before the Fourth of July.

Ron DeSantis, center, has President Trump's endorsement in the Florida GOP primary.



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Florida offers one of the Democrats' best chances to pick up a state. But it remains a coin toss, and one that almost always seems to come up Republican.

For all that, however, the support of Trump and Fox means that no one is counting DeSantis out. A wealth of GOP voters remains undecided. Florida's primary elections are restricted to party members, and they tend to be dominated by the most committed activists. DeSantis was never going to have the support of the insider class in Tallahassee, but the backing of the Republican Party's greatest current hero and its TV channel of choice means he has a real shot. "Everyone thought for many years that Putnam would be the next governor of Florida," says GOP consultant Ryan Wiggins, who is neutral in the race, "but the party changed from under him and he's got the race of his life on his hands."

Whoever wins the Aug. 28 primary will have another difficult hurdle in front of him. The departing Republican governor, Rick Scott, spent more than \$100 million in his two campaigns and won by only a single percentage point each time. And that was in 2010 and 2014, the strongest Republican years in recent history. Reports of a Democratic wave this November may prove to be exaggerated, but there's no question that the environment is less favorable to the GOP than it was during those last two midterms. "The only reason Rick Scott won in 2010 or 2014 was because of the national Republican wave," says Steve Geller, a Democratic commissioner in Broward County.

Republicans are defending 26 governorships this year, compared to just nine for Democrats. That in itself doesn't portend a Democratic sweep. A few of the races look like easy Democratic wins, but many of the states Republicans are defending are unsavily red, such as Arkansas, Idaho, Texas and Wyoming. For Democrats to make big inroads on the gubernatorial map this year, they'll have to carry states such as Florida that Barack Obama won twice but which Hillary Clinton lost to Trump in 2016. Several of those states look highly competitive, among them Michigan, Ohio and Wisconsin. But none of them are going to be easy Democratic pickups.

Still, Florida offers one of the Democrats' best chances. Not only were Scott's victories one-point affairs, but so were the last two presidential contests in the state. As elsewhere, Democrats are counting on anti-Trump sentiment to bring more of their supporters to the polls than has been the case in recent midterms. If 2018 does turn out to be a Democratic year nationally, that may be enough to get the party the added percentage point or two it needs to win.

But Trump's poll numbers are stronger in Florida than they are nationwide. His support is especially high among seniors, always a critical voting bloc in the Sunshine State. And while Scott's margins were close, Republicans have managed to win each of

the last five elections for governor—and 17 of the last 18 statewide contests. Florida remains a coin toss, but the coin always seems to come up Republican, at least at the state level. "Republicans have just been better at getting those last 100,000 to 200,000 voters," Corrigan says.

As in many other states this year, the Democratic candidates for governor of Florida have talked up a number of decidedly progressive policy proposals. Climate change is an issue that's absent from the Republican discussion, but it's a prime topic among the five leading Democrats. They also agree on the need to ban assault-style weapons and raise the minimum wage and teacher pay. They support an expansion of Medicaid, and some are on board with the idea of single-payer health insurance through Medicare. "What he wants to do as governor is lead as a progressive," says Geoff Burgan, spokesman for Tallahassee Mayor Andrew Gillum's campaign. "Andrew presents a bold case for legalization of marijuana."

Gillum and his rivals in the primary argue that Democrats want someone who is not just an opponent of Trump and his policies, but a champion of progressive ideals. Most of them say that Florida Democrats have too often stayed home in midterms and need to be excited by ideas that cut sharply against the grain of the state's GOP leadership. "Chris has shown the courage to fight for issues that haven't traditionally been talked about by Florida Democrats for the past five elections," says Avery Jaffe, spokesman for Chris King, a private equity investor making his first political run.

Philip Levine, the wealthy former mayor of Miami Beach, built up a polling lead in the spring with millions of dollars' worth of unanswered TV ads. He no longer has the airwaves to himself, however. Jeff Greene, a Palm Beach real estate tycoon who entered the race in June, is another rich Democrat who has pledged to spend whatever it takes to be competitive both in the primary and in the fall. Greene, in fact, has made his wealth into a talking point, contending that past Democratic hopefuls often had "great ideas" but lacked the wherewithal to have their message heard against a well-funded Republican machine.

All this money and the field's general movement to the left has hurt the initial Democratic frontrunner, Gwen Graham. She started out with a polling lead, thanks in part to her name recognition as the daughter of Bob Graham, a former governor and U.S. senator. She defeated a GOP incumbent to take a congressional

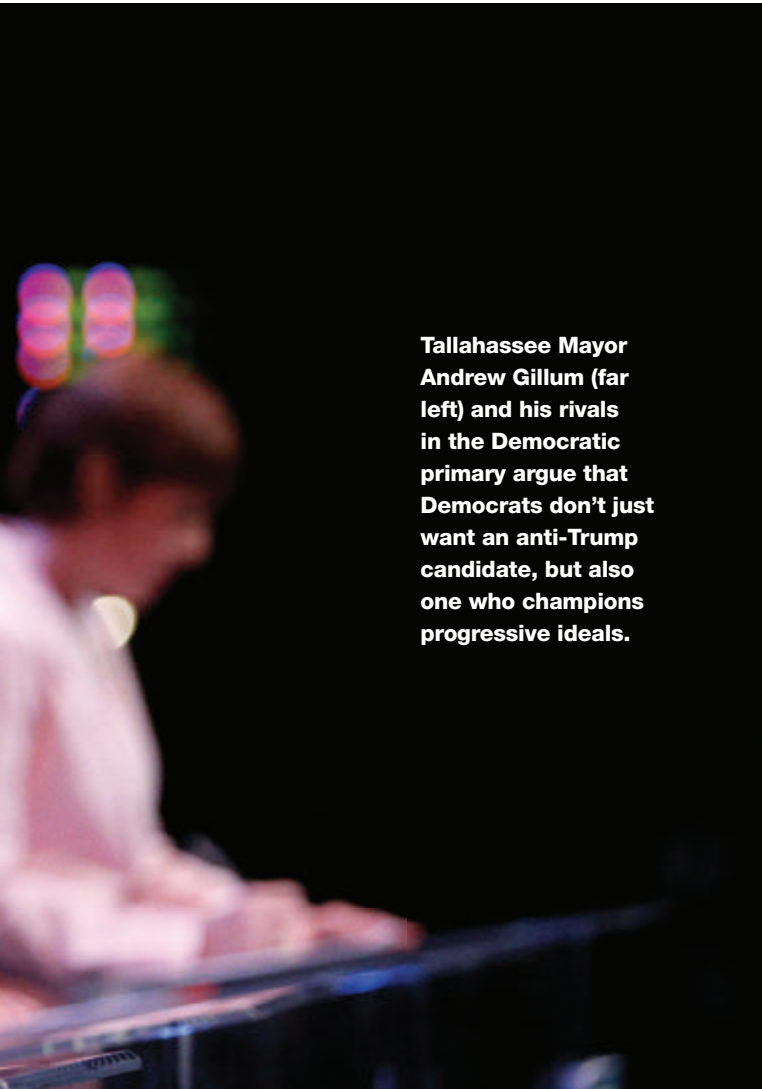


seat against the tide in the strongly Republican year of 2014, but a court-ordered redistricting left her without a political home after a single term. During her two years in office, Graham was rated one of the most bipartisan members in Congress. That sounded good to centrist think tanks and was the right positioning for her moderate district, but it lingers unhelpfully over her gubernatorial campaign. Her opponents don't let her forget that during her first year in office, she voted against President Obama on a majority of issues where the president's position was clear, including construction of the Keystone XL pipeline, which she supported. Graham is a down-the-line liberal on health care and some other key issues, but her opponents have been painting her as too centrist to win over many of today's Democratic voters.

Each of the Democratic candidates, though, has a potential flaw that allows opponents to say they can't win the primary or be competitive in the fall. The FBI has been dropping subpoenas around Tallahassee for the last couple of years. While the investigation hasn't touched Gillum directly, some Democrats wish he'd waited until his name could be definitively cleared. Greene entered

the race late and is a former Republican who has said kind words about Trump, his Palm Beach neighbor. Greene's 2010 campaign for the U.S. Senate foundered amid reports of heavy partying on his 145-foot yacht. Levine's opponents say his business interests overlapped too closely with his policy moves as mayor, while some Democrats believe that King, while talented, is too young and inexperienced at age 38 to conquer the field.

In the fractured Democratic competition, it might take as little as 30 percent of the vote to win nomination. That's led to a lot of speculation about which candidates will play strongest in particular parts of the state or among certain blocs of voters. For his part, Gillum might have an advantage as the only African-American in a state where blacks make up a quarter of registered Democrats. But so might Graham in a year in which women are doing particularly well in Democratic primaries. "Gwen Graham has a real shot at winning the general election, but only if she can get past the primary," says GOP consultant Wiggins, echoing a common Republican sentiment. "But the Democrats are notorious at picking someone they like versus someone who can win."



Tallahassee Mayor Andrew Gillum (far left) and his rivals in the Democratic primary argue that Democrats don't just want an anti-Trump candidate, but also one who champions progressive ideals.

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The eventual nominees will have to appeal to the state's fastest-growing group of voters—independents. Their number is now up to 27 percent.

issue of guns. Last year, Putnam enthusiastically declared himself a “proud NRA sellout.” “It might not hurt him within the Republican primary, but comments like that might come back to haunt him in the fall,” says Aubrey Jewett, a political scientist at the University of Central Florida.

In fact, the remark has already done Putnam some damage. After the mass shooting at Stoneman Douglas High School in February, the grocery chain Publix found itself the target of a consumer boycott because it had given Putnam \$650,000 over the past couple of years. Publix distanced itself from him in response to the criticism. In June, the *Tampa Bay Times* broke the story of an internal investigation that showed Putnam's department, which handles gun registrations, failed to conduct parts of the criminal background check on some individuals applying for concealed weapons permits. Democrats called for Putnam to drop out of the race, and even Republicans criticized him for the management failure and for not releasing the report for a year.

Early polling suggests that Putnam would be stronger in the fall than DeSantis. But either Republican would enjoy certain advantages. Rick Scott can't run for governor because of term limits, but he will be on the ballot. He entered the U.S. Senate contest against incumbent Democrat Bill Nelson in April and immediately unleashed millions of dollars in TV ads. Scott was not especially popular when he ran for reelection four years ago, but his approval ratings are peaking as he leaves office. His focus as governor has been almost exclusively on jobs and the economy, and he takes credit for a state unemployment rate that has dropped below 4 percent. He wins praise for his handling of Hurricane Irma last year, as well as for his outreach to Puerto Rico and Puerto Ricans in Florida following the devastating Hurricane Maria last September. Scott's race could bring more GOP voters to the polls.

Some Democratic strategists have expressed hopes that the influx of Puerto Ricans into the state following the storm would give their side a boost. They are U.S. citizens and eligible to vote,

The eventual nominee will have to appeal to the state's fastest-growing group of voters—independents, who in Florida are known as NPAs, for “no party affiliation.” When Scott was first elected governor in 2010, 19 percent of the state's registered voters were NPAs. Their number is now up to 27 percent. Given Florida's late primary date of Aug. 28, candidates will have only September and October to persuade NPAs not to worry about the hard ideological stances they took to win nomination.

That may be a problem on the Republican side as well. DeSantis, a hardliner on immigration and abortion, is not only a fervent Trump supporter but a founding member of the militantly conservative House Freedom Caucus. If he's the GOP nominee, the Democratic attack ads will practically write themselves. Putnam has given Democrats some ammunition as well. Always considered a conservative, he's veered further right in pursuit of the nomination, notably on the



Florida Gov. Rick Scott's approval ratings have improved, thanks in part to his handling of Hurricane Irma last year.

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and are expected to play a role in some central Florida contests, but their numbers are probably not large enough to tip a statewide election. Their actual voting registration numbers—along with those of millennials—have thus far been disappointing to Democrats.

Seniors, as everyone knows, are crucial to the outcome of any statewide election in Florida. Their presence and influence are sometimes exaggerated—a full 25 percent of the residents of South Florida are now millennials—but seniors are maintaining their numbers as baby boomers join the ranks of the elderly and continue to retire to Florida. The Villages, which is in Central Florida's Sumter County and sprawls into neighboring communities, is America's largest retirement enclave. In 2016, turnout in Sumter County was 83 percent and Trump received nearly 70 percent of the vote. "Folks down here that are retired always turn out," says Sumter County Commissioner Al Butler.

The fact that demographic groups seem to cancel each other out is one reason why a state that is gaining more than a thousand residents every day can remain politically stable. Florida is so closely balanced between the parties that who leads in the polls can depend almost entirely on the choices pollsters make in weighting the demographic and partisan mix within their samples.

Who will come out ahead when it matters in November? It seems like conditions are right for Democrats to do better than they have in the last two contests. Since they have finished tantalizingly close, the current climate may be enough to translate into victory. But they have yet to settle on a candidate who can excite the party's base while attracting more moderate independents and disaffected Republicans. The GOP, for its part, has all the advantages that come from being the party entrenched in power, particularly at a moment when the economy is humming. "They're going to be fighting tooth and nail to win by 1 percent, or 2 percent," says Robert McClure, president of the James Madison Institute, a conservative think tank in Tallahassee.

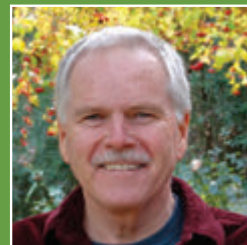
Campaigns often turn on things that candidates can't control. This year, that includes first and foremost the president's approval ratings. "Trump's numbers in this election are going to be more important, I think, than anything the candidates do," says Geller, the Broward County commissioner. "If you can guarantee me today what Donald Trump's poll numbers are in November, I'll tell you whether we'll have a Democratic or a Republican governor." **G**

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EXPANDING INVESTMENT IN COST-EFFECTIVE GREEN INFRASTRUCTURE

Whether it's permeable pavement to reduce flood risk, watersheds that provide water filtration, or wetlands that serve as hurricane protection, natural resources can be highly valuable. Today, there is a growing realization that investing in green infrastructure is just as critical as building dams and pipelines.

Governing spoke to **Ed Harrington**, a retired general manager of the San Francisco Public Utilities Commission who is now an adjunct professor at the University of San Francisco and an adviser to Earth Economics, about how properly valuing and accounting for green infrastructure can support investment in these assets at scale, resulting in a strong ROI.



Q: What can be done to encourage investment in green infrastructure?

EH: First we have to change the perception that infrastructure is just pipes and pumps. Green infrastructure is real infrastructure and is increasingly used to provide core services that agencies depend on (stormwater drainage, flood prevention, clean drinking water, etc.), either by itself or as a complement to traditional infrastructure. Second, we need to educate policymakers and the public. There is substantial engineering and economic data that shows investment in green infrastructure brings strong returns.

Next, we need to highlight the broader benefits of green infrastructure. Green infrastructure can accomplish the same essential functions as built infrastructure, but also provides many co-benefits to the community and environment. Wetlands, for example, provide flood protection, but can also recharge aquifers and offer recreation opportunities — not to mention they have a longer useful life than built infrastructure. Finally, we need to invest in green infrastructure on a wider scale; this may require new finance tools, but we can also take advantage of existing finance mechanisms that were developed for built infrastructure.

Q: What is an example of a finance mechanism for green infrastructure that is underutilized?

EH: Bringing green infrastructure to scale requires accessing capital programs to develop long-term assets, as we do with built infrastructure. A recent clarification of Governmental Accounting Standards Board (GASB) Statement 62 allows access to capital funding, provided a regulated entity with rate-setting authority can use that rate revenue to recover its investment. Something can now be considered an “asset” even if the government doesn’t own and operate it in the traditional sense. This ensures that incentive programs for small-scale, privately owned green or distributed infrastructure projects such as rain gardens, rebates or turf buyback programs are eligible for capital funding. Where previously utilities relied on annual rate revenue to pay for these programs, this provides access to the municipal bond market, which will support utilities that might want to invest on a larger scale.

Q: How can utility leaders go about putting the “GASB 62” approach into practice?

EH: I worked with Earth Economics and WaterNow Alliance to develop a step-by-step guide on how GASB 62 works and what it looks like on a financial statement. Our goal is to get government finance personnel and others to start thinking about new options to realize great returns from investing in green infrastructure.

Q: What other opportunities exist to better incorporate natural resources into finance and accounting?

EH: Public and private organizations spend billions of dollars each year in environmental markets, ranging from cap-and-trade auctions to wetland mitigation banks. There is no guidance on how to account for environmental credit assets and liabilities on the financial statement. Guidance from the Financial Accounting Standards Board (FASB) and GASB is needed to help companies standardize accounting practices for these markets. Without guidance, companies record and value these credits in a variety of ways and many do not record them at all. With billions in credits sold per year, these material differences in recording and valuation can have an impact on corporate and investor decision-making.

For more information, visit
earthconomics.org, or
 email info@earthconomics.org

**Houses in the floodplain
on South Carolina's
Johns Island**





By Mike Maciag

Photographs by David Kidd

RISKY WATERS

Everyone knows it's a bad idea to build new development on flood-prone land. So why do we keep doing it?

here are signs of development seemingly everywhere on Johns Island, at the edge of Charleston, S.C. Traffic on and off the island routinely backs up. Balloons and arrows posted on utility poles direct motorists to open houses. Signs advertise single-family homes from the low \$200s, a bargain compared to those a short drive away in central Charleston.

At 84 square miles, it's one of the 10 largest islands in the contiguous United States. But until recently, it has been sparsely populated. Now crews are clearing land to make way for sprawling subdivisions. The island's population has doubled in the past two decades to nearly 20,000, with much more growth expected as thousands of new homes go on the market.

Some of the residents of Johns Island are encouraged by the development; others are unhappy with the prospect of substantial change. But all of them are aware of what has happened nearby, in the West Ashley area of the city, just across the Stono River. West Ashley offers a cautionary tale of floodplain development. Decades ago, the Federal Emergency Management Agency (FEMA) misjudged how a certain creek basin functioned, so homes were built where officials now say they shouldn't have been. Floods devastated West Ashley subdivisions in each of the past three years, most recently during Hurricane Irma in 2017. It's a dire scenario that local officials are trying to avoid on low-lying Johns Island as development accelerates.

What is happening in South Carolina is not an isolated case. Many vulnerable areas of the country are seeing significant residential and commercial development despite the long-term flood



Forested areas of Johns Island are cleared to make way for new housing developments.



Floodplains cover much of the Charleston region's landscape.

risks. *Governing* analyzed the latest U.S. Census Bureau survey data using a methodology from the New York University Furman Center to estimate the population living in FEMA-designated 100-year floodplains. Nationally, the number of Americans living in these high-risk areas in 2016 climbed 14 percent compared to those living in the same neighborhoods in 2000. That's actually faster than in areas outside of flood zones, where the population increased 13 percent. "The nation is spending billions every year to move people into flood-prone areas and keep people living in flood-prone areas," says Rob Moore of the Natural Resources Defense Council. "We've gotten exactly what we paid for."

Indeed, construction is permitted in Charleston and other floodplains across the country, provided it meets regulations mostly set by state and local governments. For its part, the federal government certainly doesn't discourage development. Rules under the National Flood Insurance Program are limited and don't account for sea-level rise. Additionally, the Trump administration has proposed rolling back some rules, which could pave the way for more development. It's happening despite a slew of recent studies warning of greater risks than previously estimated resulting from sea-level rise in areas like those off the South Carolina coast.

This is a crucial time for the future of Johns Island, as nearly 4,300 new housing units have been approved for development. The Charleston City Council has passed a temporary building moratorium for the area around the creek basin in West Ashley and is considering doing the same for Johns Island. A petition from



island residents calls for the city to cease residential permitting for two years. “It’s leading to a healthy discussion and [there are] some tough decisions on the horizon as to whether development is allowed in a 100-year floodplain or not,” says Charleston Mayor John Tecklenburg. “Or, if it’s going to be allowed, will it have extra special requirements that other areas wouldn’t have?”

Historically, Johns Island was an unincorporated part of Charleston County, much of it farmland. Today, although some of the island has been brought into the city, most of it remains rural and ripe for development, offering large parcels unavailable elsewhere in Charleston. Much of the housing has been concentrated along the island’s higher ridges; low-lying forests act as a sort of sponge, absorbing water during floods. But increased development is threatening those forests, as trees are being cut down and more of the land is being covered with impermeable surfaces.

Charleston Councilman Marvin Wagner hears concerns from residents that all the new development will make parts of the island more vulnerable to flooding. Once skeptical of climate change, Wagner says his views evolved after seeing flooding firsthand on residents’ properties in his district. “They’re making an awful lot of noise,” Wagner says of these residents. “But I don’t mind, because their worst dreams can come true.”

Much of the island’s zoning was approved in the 1990s, before the region started getting hit with frequent flooding events. The city could modify zoning for previously approved parcels, but doing so would likely open it up to costly legal challenges. The

Charleston Home Builders Association opposes development moratoriums and new zoning restrictions that effectively devalue properties, warning that broader zoning changes could yield unintended consequences.

But it’s not flooding that Johns Island residents complain about most these days. It’s the inability of the island’s limited infrastructure to handle the increasingly heavy traffic on and off of it. Wagner has fought for the extension of an interstate highway onto Johns Island for years, and Gov. Henry McMaster has backed funding for the project. Some worry, however, that this construction could exacerbate flooding risks, and city officials acknowledge it could lead to even more new development on the island.

Nationally, much of the development that’s taken place in floodplains is a consequence of federal regulations that do little to discourage construction in flood-prone areas. Larry Larson, director emeritus of the Association of State Floodplain Managers, sees it as a system of perverse incentives. Regardless of whether states take any steps to discourage risky developments, they still receive generous disaster relief assistance when devastation occurs. The federal government typically pays for about three-quarters of disaster assistance and over 90 percent after the most destructive storms. “They need to create some incentives



**Stephen Julka,
Charleston's floodplain
manager, is developing a
new strategy to reduce
flooding risks.**

for states and locals to do the right thing,” Larson says. “Right now, it’s going in the other direction.” Just 10 days before Hurricane Harvey made landfall in Texas last year, President Trump signed an executive order nullifying an Obama-era rule that required federal agencies to build public infrastructure at higher elevations and factor in climate science when constructing in floodplains. More recently, the Environmental Protection Agency finalized a proposal to replace the Waters of the United States rule, scaling back the definition of federally protected waterways and effectively weakening the mitigation banking system. The move is expected to increase development of wetland areas.

But FEMA does encourage localities to adopt tighter regulatory standards by providing flood insurance discounts through the Community Rating System. To receive the discounts, several local governments have adopted more stringent requirements. Nashville, for example, which suffered a devastating flood in 2010, now requires structures to be built an additional four feet above designated flood levels. In this and other ways, while flood insurance is a federal program, much of the authority lies with local governments. A handful of localities elsewhere have put a stop to development in flood-prone areas altogether. In Milwaukee County, Wis., only a third as many homes and businesses sit in the 100-year floodplain as was the case two decades ago. The Milwaukee Metropolitan Sewerage District has acquired many of these properties over the years and invested in green infrastructure projects, with a goal of eliminating all homes from the floodplain by 2035.


That’s hardly the norm, however. In fact, nearly all states recorded net population gains across their FEMA-designated floodplains in recent years. Much of this was a result of more Americans moving South, with Florida and Texas collectively accounting for over half the national population growth in floodplains since 2000. *Governing’s* calculations also identified many floodplain neighborhoods where growth far outpaced that of less flood-prone areas within the same county. In Hudson County, N.J., the population living in the current flood zone rose about 55 percent over the past two decades, while the rest of the county experienced only a slight increase.

Mounting evidence further suggests that the overall breadth and severity of flooding risks have been understated. One study published in the journal *Environmental Research Letters* earlier this year estimated that three times as many Americans lived in 100-year floodplains as those identified using FEMA maps, which guide local land use regulations and flood insurance premiums. The maps are widely considered to be inadequate. Most notably, they don’t account for future sea-level rise. Some communities’ maps were last updated over a decade ago. And while the standard 100-year floodplain designation is supposed to identify areas with a 1 percent chance of flooding in any given year, many regions are experiencing far more frequent flooding. A study published in *Risk Analysis* found that in some places, more than half of the properties sustaining flood damage were actually located outside designated FEMA flood zones.

Local economic development and tax revenue concerns are major considerations whenever a city rebuilds following a flood, or whenever its maps are revised. Localities often resist any attempts to cede additional ground to FEMA’s flood zones,



Shadowmoss, a subdivision in West Ashley, has experienced frequent flooding, most recently during Hurricane Irma.



**“Today, it’s the traffic,”
Charleston Mayor
John Tecklenburg says
of residents’ concerns.
“You give me three or
four feet of sea-level
rise decades from
now, then it flips.”**

sometimes holding up the process for years. New York City challenged a FEMA proposal that dramatically increased the area of the city in flood zones following Hurricane Sandy in 2012. The two sides reached an agreement in 2016 to create two sets of maps. “Almost every place where a developing urban area intersects a floodplain, there are local pressures, typically economic and political, to find a way to add additional development to the floodplain,” says Nicholas Pinter, a professor at the University of California, Davis. “It’s a steady drumbeat.”

Part of the reason is the influence of developers who lobby to get projects approved or to obtain a variance from flood ordinances. Sometimes elected officials buck the technical advice of agency staff. The Charleston County Council, for example, has approved requests to rezone several Johns Island properties to allow for higher density development against recommendations of county staff. Other times, homes or entire subdivisions are permitted even though they are in violation of building elevation requirements or other rules.

When a disaster hits, homeowners often secure assistance to rebuild, but their chances of finding money to instead relocate are slim. An analysis by the Natural Resources Defense Council found that for every \$100 FEMA has spent to rebuild homes since 2000, it has allocated only \$1.72 to move people and buy out their properties. “We need to start making it easier for people to move out of these vulnerable areas,” says Moore, who wrote the report. “They will eventually become less desirable to live in, with lower property values and lower taxes for cities.”

One area that Charleston officials hope to get residents out of is Shadowmoss, a subdivision in West Ashley. Drainage problems have been apparent there since shortly after development accelerated in the 1980s and 1990s. Nearly a year after Hurricane Irma, the waterline is still visible on some of the vacant homes. “This is ground zero for what has gone wrong,” says Stephen Julka, Charleston’s floodplain manager. “It’s an example of development happening with not enough information.”

The city of Charleston has started closing on its first round of property buyouts in Shadowmoss with the intention of eventually converting the space into a floodplain park. A FEMA grant program can fund up to 75 percent of costs for homes to be demolished or moved, but is used sparingly: It has covered about 6,000 buyouts nationally since fiscal year 2010.

A temporary moratorium has halted development in the neighborhood and other flood-prone West Ashley communities. It’s given the city time to conduct a series of studies and formulate a new strategy. Staffers are, for instance, running draft stormwater regulations through simulated models to see how they’d affect future developments and surrounding housing. Eventually, Julka says, they can begin applying the new approach in other parts of the city, tweaking it as needed.

On Johns Island, one of the most vocal opponents of additional development is Phil Dustan, a College of Charleston ecologist who has studied the island’s topography. He says some houses on the island are already sinking, septic systems are failing and

foundations are cracking as a result of all the new construction. Further developments could potentially alter longstanding drainage patterns. Retention ponds designed to limit runoff are common throughout the island and other parts of the low country. They don't, however, hold as much water as large forested areas or wetlands cleared to make way for new neighborhoods. "The natural plumbing of the land is being destroyed," says Dustan, an island resident. "So, come the flood or rains, there's going to be a man-made problem that's going to be far greater than it would be if it was just natural."

Longtime island resident Barbara Busey watched for months as crews cleared 30 acres of land behind her home and brought in truckloads of dirt. She says she's now noticing four to five inches of standing water in her driveway and pools of water in an adjacent property following routine rains, despite being in one of the higher elevation areas of the island. "This never happened before these developments came in," Busey says. "I've got the McNeighborhood on one side and the mansions going in back of me."

Busey's home was unscathed by Hurricane Hugo in 1989, and she's lived through other major storms over her 35 years on the island. But now she fears she's vulnerable after the loss of the thick forests surrounding her home. "It's just a little old cement block island house, but it's all I have," she says. "I'm scared I'm going to lose it."

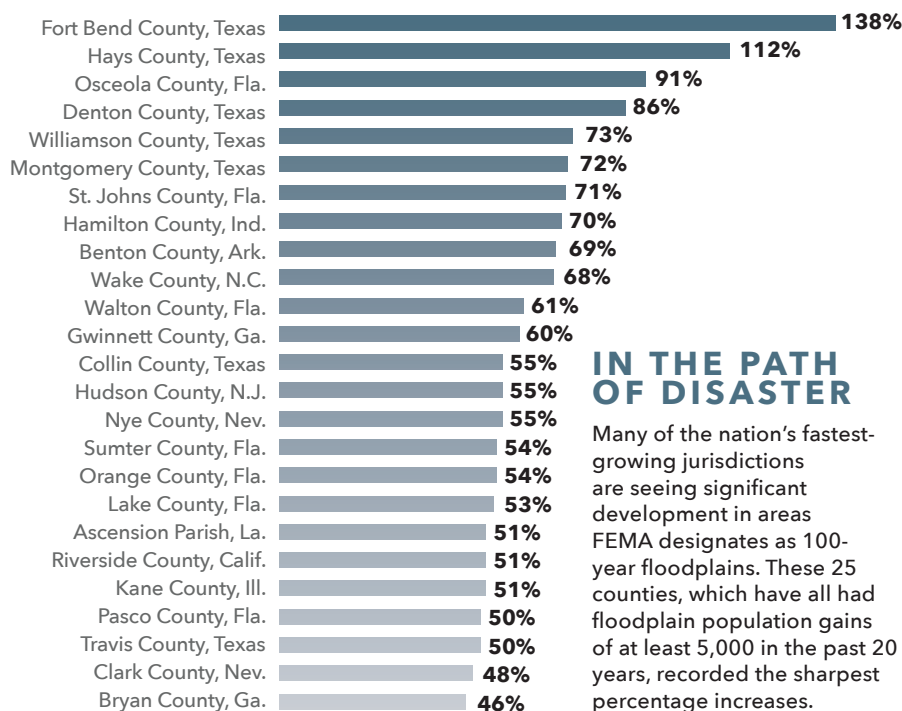
On a large map, members of the Johns Island Community Association have circled developments they consider problematic. "This is a big issue now and it's only going to get worse," says Lisa Vandiver, an ecologist who resides on the island. "Moving forward, we have to look at the system as a whole and do zoning accordingly."

Officials in the region are starting to embrace the idea that they'll need to collaborate more closely. "Watersheds don't know jurisdictional boundaries; however, regulatory framework does," says Kinsey Holton, Charleston's stormwater program manager. Many properties on the island annexed into the city surround unincorporated county parcels. A study reviewing South Carolina's flooding identified uncoordinated planning decisions by multiple jurisdictions as a factor hindering the overall integrity of watersheds.

Both the Charleston Home Builders Association and the island's community association agree the best solution would be a unified, interconnected drainage plan for the entire island rather than one that has developers accounting only for their individual properties. Such a comprehensive drainage system has worked well on nearby Daniel Island, which hasn't flooded. Pulling off the same approach on Johns Island could prove difficult, though, as at least six major developers would need to agree to a plan covering a larger island that's already partially developed. "It's not going to be easy," says Patrick Arnold, who heads the Home Builders

Association. "But for the long term, they would have a draining system that neither burdens the municipality nor the developers responsible for it." For its part, the city's Public Service Department says it would support a master planning effort.

As in other places, the local ordinances that are in effect right now typically can't prevent adverse effects on surrounding homes. Charleston County is considering new rules that would require projects to handle not only current waterflow from upstream, but additional future runoff expected to result as upstream areas are developed. Still, they don't want to overburden developers. "The reality of regulatory programs is that if you protect 100 percent of probabilities, you're overregulating," says Carl Simmons, Charleston County's building inspections director.



IN THE PATH OF DISASTER

Many of the nation's fastest-growing jurisdictions are seeing significant development in areas FEMA designates as 100-year floodplains. These 25 counties, which have all had floodplain population gains of at least 5,000 in the past 20 years, recorded the sharpest percentage increases.

FLOODPLAIN POPULATION CHANGE SINCE 2000

SOURCE: GOVERNING CALCULATIONS OF 2000 U.S. CENSUS AND 2016 FIVE-YEAR AMERICAN COMMUNITY SURVEY TRACT-LEVEL DATA

The next few years of development on Johns Island and the decisions made to regulate it will carry ramifications for decades to come. But the underlying geographical reality is not going to change. Most of Charleston lies in a floodplain. Mayor Tecklenburg says there's a realization that the city is not going to build or pump its way out of the situation. "You've got to correct some of the sins of the past, prepare for the future and have this culture that we're ready to deal with water when we encounter it," he says.

Julka, the floodplain manager, puts it more bluntly. "It really is a land use issue," he says. "If you continue to allow development in a floodplain, you can have the strongest stormwater standards, but even with the strictest standards, you're still putting people in a floodplain." **G**

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DEAD RECKONING

America's system of coroners and medical examiners is facing unprecedented challenges.

BY MATTIE QUINN

Jimmy Pollard has been the coroner of Henry County, Ky., since 1986. Growing up in the small county of just 15,000, he spent a lot of time in the local funeral home, where the director took him under his wing from an early age. Pollard eventually became a licensed funeral home director himself and ran for office at the behest of many in the community when the coroner at the time decided to retire. For the past 30 years, he's run unopposed for all but two elections, and one of those was a write-in campaign. "It's not a job you can say you like," Pollard says, "but the part I get out of it is helping families get closure. And I do enjoy investigations."

Kentucky has historically been considered a national model in its death investigations. It was the first state to implement a dual coroner and medical examiner system, something it's had in place since 1973. That has given the state an important balance of elected leadership and forensic know-how. Coroners are elected county officials responsible for investigating any death that's deemed unnatural. Once elected, they go through death investigation training with the Kentucky Department of Criminal Justice and are expected to keep up 18 hours of continuing education. They work with state medical examiners to determine the exact cause of death and decide whether an autopsy or toxicology test is needed, which a medical examiner would have to perform.

But it's a system that has been strained in recent years. Pollard, who also serves as director of the Kentucky Coroner's Association, made headlines last year for convincing one state medical examiner to stay on after the doctor had announced his resignation, citing a lack of funding and resources to properly do his job. The National Association of Medical Examiners recommends that professionals not perform more than 250 autopsies a year; Kentucky is averaging about 280, according to Pollard. "We need two more doctors. That would ease our caseload tremendously," he says. In Henry County, Pollard used to investigate around 26 cases in his county per year in the 1990s. In recent years, that number has risen to around 66.

These issues aren't singular to Kentucky. Coroners, medical examiners, forensic pathologists—and people who wear more than one of those hats—say their profession is more vital than ever before, particularly in the midst of the opioid epidemic. But low pay, long hours and heavy debt loads carried by young physicians make it hard to recruit and retain talented people.

America's system for investigating deaths is a patchwork quilt of different laws, procedures and job descriptions. From state to state—and even from one county to the next—there can be variations in how sudden deaths are handled. "Unlike primary care or obstetrics, it's the one specialty in medicine that's practiced differently depending on where you live," says Gregory Davis, former associate chief medical examiner for Kentucky.

Confusing matters even more, qualifications for each title also vary depending on state statute. Coroners are overwhelmingly an elected or politically appointed position, a tradition that dates back centuries to when they were simply tax collectors for the deceased;

The shortage of medical examiners has been made worse by the increase in drug overdose deaths.



America's first coroner took office in 1636 in Plymouth County, Mass. Some states require a coroner to be a physician; other states only stipulate that you must be 18 and have no felony convictions.

Medical examiners, on the other hand, must be licensed physicians. But even among the states that rely on medical examiners instead of coroners, there can be inconsistencies: A medical doctor doesn't necessarily have a background in forensics, which is key for accurate autopsies. "How much death investigation training did we get in medical school?" Davis asks. "None."

There's been a debate raging for several years in the fields of death investigations and forensic pathologists on the right path forward. The National Academy of Sciences recommended in 2009 to abolish the coroner system and transition fully to using medical examiners for all death investigations. It's a move that's gaining some traction: Sixteen states and the District of Columbia now only have medical examiner offices. Eleven states just use coroners, and the rest have a mix of medical examiners and coroners, all with different qualifications and hierarchies. However, in states with a mix of both, coroners usually handle the death investigation,



and medical examiners handle the actual medical aspect of it, like completing autopsies.

Kim Collins, the president of the National Association of Medical Examiners, says she understands where the National Academy of Sciences is coming from with the recommendation to move solely toward the medical examiner system. But she argues that it ignores the larger problems of funding, resources and culture that can't be fixed by a title change. "One size isn't going to fit all," she says. It's an entrenched system and "these coroners have been here since colonial times. You're just going to have to improve research and training."

In many states, the office of coroner operates with a surprising lack of accountability. In 49 of California's 58 counties, for instance, the coroner is also a sheriff, which experts say is a severe conflict of interest. In San Joaquin County earlier this year, a forensic pathologist accused the sheriff-coroner of pressuring him to change autopsy findings in cases that involved law enforcement. A 2016 county audit found that the same thing had happened four times that year. Similarly, a forensic pathologist in Boulder County, Colo.,

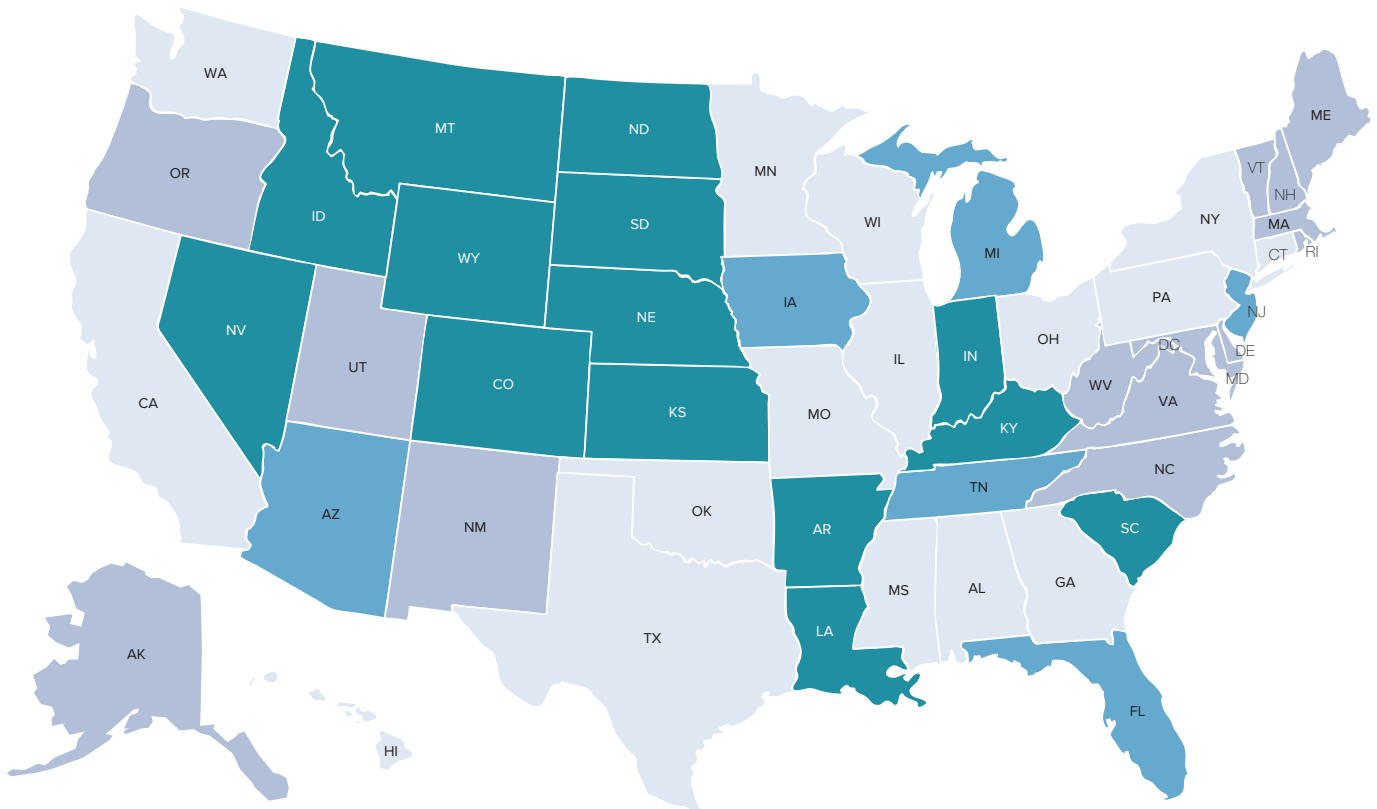
sued the coroner's office in June, arguing that she was wrongfully terminated for refusing to change the manner of death on a death certificate when the coroner insisted. Colorado is a coroner-only state that stipulates merely that the elected coroner go through death investigation training.

"The bad systems are the ones where people without medical training think they can do it all," says Mary Ann Sens, the coroner for Grand Forks County, N.D. Sens says she is the only coroner in the state with a forensic pathology background. She doesn't have a problem with coroners not holding medical degrees, she says, as long as they defer to or consult with an independent medical professional, similar to the Kentucky system. "The real hallmark [of a good system] is when medical decisions are made by a medical professional and are independent. If there was a jail death, I need to be able to say law enforcement messed up."

Flipping through primetime network television, it would be easy to assume that America is overflowing with medical examiners. More than a dozen shows in recent years have centered on coroners or examiners. But the reality is that it's becoming extremely hard to find enough qualified professionals to fill the job. There are currently only 500 board-certified forensic pathologists in the U.S., which is less than half of what the National Association of Medical Examiners recommends.

Part of the problem is low pay. "It's the one subspecialty of medicine where your pay goes down once you get that training," says Davis, the former examiner in Kentucky. On average, public-sector forensic pathologists make about half of what a primary care doctor in a private practice can make. And with medical student debt averaging near \$150,000, accepting a public-sector job with a public-sector salary isn't enticing for many newly minted doctors. "Whenever I have a presentation about my job, the first slide always says, 'I have the coolest job in the world,' because I do," says Andrew Baker, chief medical examiner of Hennepin County, Minn. "But I'm worried about my profession. At the risk of sounding crass, the economics of being a forensic pathologist don't make sense when compared to a pathologist at a private hospital."

The shortage of examiners has been worsened exponentially by the current opioid crisis. "Prior to the opioid epidemic, we needed about 1,000 forensic pathologists across the country. So even before, we were already underserved by half," Baker says.



A PATCHWORK SYSTEM

America's system for investigating deaths is a mix of different laws, procedures and job descriptions.

County-based mixture of medical examiner and coroner offices

County/District-based medical examiner offices

Centralized state medical examiner office

County/District-based coroner offices

CENTERS FOR DISEASE CONTROL AND PREVENTION

Now, thanks to the explosive rise in opioid deaths, he estimates that America needs “another 250 forensic pathologists just doing drug overdose autopsies.”

Coroners and examiners across the country have had to get creative to handle the surge of drug overdose deaths. The St. Louis County Medical Examiner's office started using refrigerated trailers to hold bodies last year. Other counties have had to build more space or borrow room from local funeral homes or hospitals. Some jurisdictions are now forgoing a full autopsy and only conducting toxicology tests if an overdose is suspected.

Despite the national attention on the drug crisis, its impact on coroners' offices can be less well known. “I'm not sure how many lawmakers know who their medical examiner or coroner is, and know how many of the offices are on the brink of complete collapse,” Baker says. “They don't have enough money to do routine examinations, so they are on the verge of losing accreditation.”

The Connecticut Office of the Chief Medical Examiner lost its accreditation briefly in 2017 when the National Association of Medical Examiners found the office had inadequate staffing and storage space for bodies. The Los Angeles County Coroner's Office came close to losing its accreditation in 2016 because of delays in autopsies and toxicology tests.

Back in Kentucky, Pollard says he is continually lobbying the county judge for a bigger budget, which isn't easy. “I tell him that I can't say how many cases I'm going to have, but I am going to have to complete them. More people are just dying in ways that need to be investigated,” he says.

Davis similarly recalls asking a state lawmaker for more resources. The lawmaker responded, “Dead people don't vote,” he says. “I said, ‘No, but their pissed-off relatives do.’ Like so many things, this just comes down to an issue of money.”

Spending more on death investigators isn't just important for keeping track of overdose deaths and giving closure to loved ones. It can be a vital public health tool in identifying new diseases and alerting the public to new strains of potentially lethal viruses. “When deaths are adequately investigated, you notice patterns. In Albuquerque, for example, they are seeing a lot of respiratory-related deaths this year, which was pinpointed to be caused by deer mice urine,” Davis says. “We're on the frontline of public health surveillance. An investment in medical examiners and county coroners' offices is an investment in public health. By learning how people die, it helps us all live.” **G**

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for the Brazos Valley Council
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Inmates at “The Farm” enjoy a field trip to the reconstructed home of Gen. George Armstrong Custer.



TENDER JUSTICE

*North Dakota is conducting a
prison experiment unlike anything
else in the United States.*

STORY AND PHOTOGRAPHS BY DAVID KIDD

Terry Pullins is on his second tour in the North Dakota prison system. He's also done time in California. Since he never got farther than the fifth grade, the 40-year-old Pullins has spent nearly as much time behind bars as he did in school. But last December brought the most acute punishment he has ever suffered: Pullins lost his daughter in a car accident.

Most inmates in most prisons endure that sort of grief alone. But Pullins is at the Missouri River Correctional Center near Bismarck, N.D. This is a prison designed as much as possible to imitate life on the outside. The warden and staff rallied around him. "Every day I needed help," Pullins says. "Those two weeks were rough, but they were there for me. I don't always feel like I'm in prison. I feel like I'm somewhere bettering myself."

North Dakota has always been a low-crime state, but it has paid a high price for the wars on drugs and crime over the past few decades. Since 1992, the state's population has increased less than 20 percent, but the number of inmates has gone up 250 percent and is projected to continue to rise. North Dakota is trying to prevent that from happening by taking correctional cues from a distant and unlikely source: the prison system in Norway.

The Missouri River Correctional Center is a minimum-security prison, built in the 1940s and known locally as The Farm. It doesn't look much like a farm anymore—although there is still some cropland—but it also doesn't look much like a prison either. Everything is informal. Inmates are called "residents." Dress is casual to the point where it can sometimes be hard to tell who's on staff and who's doing time. For the most part, staffers don't know what the residents are in prison for. It isn't talked about. Everyone, resident and guard alike, goes by first names, including the man in charge, Joey Joyce, better known as Deputy Warden Joey.

The Farm is a cluster of low buildings with 191 beds, scattered around a 241-acre site. It's believed that two of the wooden structures were used in a Japanese internment facility during World War II. The newest addition is a repurposed "man camp" that housed oil field workers during the Bakken oil fracking boom early this decade. Today, a number of residents live there in rooms that make the place look more like a cozy college dorm than a prison. Residents take off their shoes and leave them out in the hall in an effort to keep the inside carpets clean. There's a bathroom for every two residents, and they each have their own keys.

An air of normality is pervasive and intentional. Residents crisscross the grounds all day long. On a typical morning, one is driving a front loader tractor across the parking lot. Another is toting his laundry to the washing center. Two more are lounging on a bench. Others are prepping a mostly dirt baseball field for that night's game between the residents and the staff. Inside, a social studies class is in session, and close by, a pair of student welders, who will graduate later that afternoon, practice their newly learned skills. In the kitchen on this day, a resident is opening giant cans of Campbell's minestrone soup and dumping the contents into a huge pot. The chef has the day off.

Later on, a group of residents pack themselves into a state-owned van for a field trip to the reconstructed home of Gen. George Armstrong Custer. The prisoners share a tour guide with a little girl clutching a big doll, and her tight-lipped parents, who don't seem to know who these men are or how they happen to be there. There are other attractions to visit nearby. At the On-A-Slant Indian village, the residents gather inside an earth lodge to listen to a park ranger explain the various tools that are strewn about the floor covered in buffalo hides.

Back in Bismarck, at a factory on the industrial outskirts of town, three residents of The Farm are nailing together roof trusses used in home construction. They have the freedom to leave the correctional center grounds during the day to work and make some money.

Prisoners are allowed off The Farm to spend money as well. In the company of case manager Autumn Engstroem, residents Kenneth Goodwin and Ray Frazier are strolling up and down the aisles of the local Walmart, looking to update their wardrobes. Ken buys shoes and a pair of pants. None of their fellow shoppers seems to notice anything unusual about them.



Welding classes are popular at The Farm. These two residents received diplomas in a ceremony attended by friends and family.

Norwegian prisons reject life sentences and solitary confinement in favor of living quarters built on a human scale, behavioral counseling and a focus on successful re-entry into society. The correctional facilities are often derided as being more like country clubs than prisons. But their results back up claims of success. Norway reports two-year recidivism rates as low as 20 percent, compared to rates three times higher in the U.S.



Regular softball games between staff and residents promote interaction.

All of this isn't exactly unique to The Farm. There are other minimum-security prisons around the country that do some of the same things. The Farm can do them more easily because of its size: It is the smallest prison in the nation's smallest prison system. But what really makes this institution different is the attitudes and habits of the staff, the guards and the residents.

Leann Bertsch is the director of the North Dakota Department of Corrections and Rehabilitation, a position she has held since 2005. She's also president of the Association of State Correctional Administrators. Everyone at The Farm calls her Leann.

It was on a 2015 trip to Norway, as part of the U.S.-European Criminal Justice Innovation Program, that Bertsch decided to embark on the current changes to her state's corrections system. Touring Halden, a maximum-security prison 60 miles south of Oslo, she was exposed to a different way of thinking about incarceration. Often referred to as "the world's most humane prison," Halden houses its inmates in small dwelling units that are cheerful and modern; the prison has earned awards for interior design. Bertsch was struck by the atmosphere of mutual respect between staff and inmates that she had not seen anywhere in the United States. Time spent in Norwegian prison, she saw, was less about punishment than about preparing the inmate to move successfully back into society.

Bertsch came home convinced the prisons

of North Dakota could be remade to be more like what she saw at Halden. "It's not just about locking people up and letting them go," she says. "It's really about long-term results." She concluded that a more "normal" environment and an investment in behavioral training could help prisoners to re-enter civilian life better able to cope with its challenges.

One of Bertsch's primary goals was to reduce the segregated population—those in solitary confinement—as quickly and safely as possible. It's known that prisoner isolation for long periods of time can cause lasting psychological damage, making it harder for

Supervised shopping trips are a way to prepare inmates for life outside of prison.





Dustin Olsen (left) is tutored in geometry by fellow resident Shawn Helmenstein. Dustin, who was born without arms, is waiting for permission to take his final exam with assistance.

the inmate to re-enter the larger prison population and ultimately society. Guards are now required to engage in conversation with every resident at least twice per shift, helping them relate to each other as fellow human beings and not as adversaries. “Public safety is not increased by inflicting pain, humiliation, violence and disrespect,” Bertsch says. She cites a sharp decline in prison violence as evidence that the new ways are working.

But making significant changes to a prison system, even one as small as North Dakota’s, takes time. It was a year before Bertsch began to get things moving in a new direction. Her enthusiasm for the Norwegian approach wasn’t entirely contagious. In fact, she struggled to get everyone on board. “There was a lot of resistance when we came back to try to implement some of these things,” she says. Not everyone on staff could adjust. “A lot of them went out the door themselves and some of the people had to be kind of helped out the door.”

Doubts about the Norwegian way persist outside the prison system. More than a few North Dakota sheriffs are concerned that prison reform at the state level will put additional strain on county jails. “We’ll see what happens,” Stutsman County Sheriff Chad Kaiser told *The Bismarck Tribune* earlier this year. “But I just foresee that the county institutions will be full.” In 2017 the state added nearly 900 new county jail beds at a cost of over \$200 million. Other critics argue that the North Dakota reforms, no matter what the result, are simply not scalable to the level of a large-state correctional program.

Nationally, however, there is widespread and growing support for change from some unlikely parts of the political spectrum. Conservative activists Newt Gingrich and Grover Norquist have argued for a combination of shorter sentences, treatment for behavioral problems and elimination of prison time altogether for some nonviolent offenses. So have the billionaire Koch brothers. Texas, long a bastion of “tough justice,” has been a leader in

reducing prison populations and using the savings to help inmates in place of building new prisons.

According to figures compiled by the Sentencing Project, the United States is by far the world’s leader in the rate of incarceration, having seen an increase of 500 percent in the past 40 years. The increase, the organization insists, is not due to more crime but to changes in sentencing. Nicole D. Porter, the director of advocacy at the Sentencing Project, is encouraged by the efforts of groups like the U.S.-European Criminal Justice Innovation Program. “It’s a start in the right direction,” Porter says. “Hopefully the travel of corrections officials to Norway and other European prison systems can help influence the thinking on how prisons are operated in the U.S.”

Unlike her Norwegian counterparts, Bertsch must make do with the physical limitations of her prisons as well as financial constraints. North Dakota is not going to allocate funds for a completely redesigned prison system, at least not anytime soon. Bertsch is quick to point out that the changes she has implemented to date have not cost the state any additional money. Still, adapting Nor-

wegian prison reform to The Farm is one thing. Implementing these changes at the state’s other prisons is something else.



Director Leann Bertsch believes the stress of being imprisoned is punishment enough. “I grew up on a farm and the ’80s were really, really bad years. I just remember you internalize that stress and it impacts you in everything you do.”

The North Dakota State Penitentiary, the state's maximum-security prison, doesn't have a cute nickname or a bucolic setting. It's located within Bismarck's city limits, next to an active railroad track. The prisoners are referred to as residents and everyone goes by his or her first name, as at The Farm, but their movements are severely restricted. The heavy, barred doors bang shut loudly, and the high walls and razor wire are constant reminders that this is a prison. It's a lot more difficult here to implement the Norwegian principles of progressive incarceration.

Still, there have been significant changes. In 2015, there were more than 100 inmates at the state penitentiary in solitary confinement.

the residents' doors, allowing him to enter the hall and take his turn at tossing a beanbag. He then returns to his cell and the door is locked behind him. The guards' door is subsequently unlocked and one enters and takes her turn. She leaves, and the door is locked behind her. The process repeats itself until all three residents and the three guards have had a chance to play.

Outside the solitary wing, art teacher Russell Craig, serving a life sentence with the possibility of parole, is showing his students how to draw one- and two-point perspective, a task made more difficult because they are wearing handcuffs. Russell is famous within the walls of the state penitentiary for painting murals of pastoral scenes that decorate the prison. The murals are an unusual addition to the otherwise dated and dreary institutional surroundings.

Resident Shawn Helmenstein has been teaching math and social studies inside the prison for four years. "Last year alone," he says, "I had 17 people that I got graduated. And this year so far I have five." Helmenstein may never leave prison. But he has been rewarded with a private room, his own key, and the freedom to come and go as he pleases from 5:20 in the morning until 8:40 at night.

Duwayne Glende, obese and in poor health, suffered a stroke while incarcerated and describes himself as having been "semi-depressed" until he was paired up with two fellow residents who act as caregivers. Unable to walk for two years, Duwayne is now losing weight and gaining strength, enough to stand with the aid of a walker and take a few tentative steps.

In the room next door, Bill Pretzer, 75 years old, has been in residence since 1999. With his hearing and memory fading, Bill is increasingly dependent upon inmate caregivers.

Outside in the recreation yard, a dozen residents and staffers are playing a spirited game of volleyball. Others

are throwing a football, taking a walk or lounging around on the many benches and bleachers. A cookout is happening off to one side, and an orderly line of hungry residents quickly forms. This is a chance to catch up with friends or talk to staffers. It is about as normal as things can get when surrounded by a 20-foot fence.

Bertsch knows she cannot remake her prisons to be just like the ones she visited in Norway. But she is convinced that the way things have been done in North Dakota until now has not worked. "My job is to rehabilitate people," she says. "You can't do that if you treat people inhumanely." **G**

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Guards are required to have a conversation with every prisoner at least twice during their shift.



finement. On a recent day, that number was down to six. Todd Hoge has been at the state penitentiary 17 years, some of that time spent in solitary. He has vivid memories of what that was like. "Back in the day they treated you like you were a pile of shit. You weren't a human being," he says. "We're all human. We mess up. A lot of us need treatment. Not to just throw us in here and throw us away."

In the solitary confinement tier, the prisoners and the residents play a friendly game of cornhole, despite the strict security. The game is a complicated, choreographed affair. The guards take their places behind a locked door at one end of a long hall. When signaled to do so, an unseen guard electronically unlocks one of





BY LIZ FARMER

BERKELEY'S HIGH-TECH GAMBLE

The California city, which is known for its out-there policies, is making a bold bet on bitcoin and other cryptocurrencies.

Berkeley, Calif., has always had an independent streak. It was named after Irish philosopher George Berkeley, who advanced the theory of immaterialism or the belief that material things have no objective existence. Located across the bay from San Francisco, Berkeley has long attracted people and ideas outside of the mainstream. In the 1960s, it was the birthplace of the free speech movement and hippie counterculture. In the 1990s, an advocacy group tried to bring back the bartering system in protest of economic globalization. And in the 2000s, voters overwhelmingly approved the nation's first-ever soda tax to counteract the damage done by high-sugar drinks.

But now this city known for its out-there policies is taking perhaps its biggest risk yet: Later this year, it plans on becoming the first municipality in the country to issue municipal bonds using the blockchain technology that underpins cryptocurrency. The project is the brainchild of Mayor Jesse Arreguín and Vice Mayor Ben Bartlett and is being billed as a way to make

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investing in municipal bonds more accessible than ever. That's because, unlike the minimum \$5,000 bond denomination common today, "cryptobonds" can be issued in denominations as low as \$5 or \$10. The bonds also have the potential to open up a whole new way for the city to raise money for housing. This is an acute issue since the Trump administration has slashed the budget for the U.S. Department of Housing and Urban Development, cut funding for Section 8 housing credits and targeted sanctuary cities such as Berkeley for federal funding cuts.

In the crypto world, issuing a digital currency to raise capital is what's called an ICO, or initial coin offering. The most well-known digital currency is bitcoin, but new ones are issued all the time. Digital currencies are based on what's called digital ledger technology, which is often referred to as blockchain and cuts out the need for banks by allowing users to record data and transactions instantaneously in a way that is essentially unhackable. But the independence from a central bank also means the currency isn't regulated, making its value more volatile than paper money.

Similar to a company's initial public offering (IPO), an ICO is seen by investors as an investment in a company that might pay dividends and increase in value over time. For the last year or so, ICOs have become increasingly popular with startups. They see it as a way of coming up with money that's cheaper to raise and faster to access than going after venture capital funding. During the first three months of 2018, ICOs raised \$6.3 billion, which already beats the total raised in all of 2017, according to data collected by CoinDesk.

The public sector has taken notice. Earlier this year, Venezuela became the first country to issue its own cryptocurrency, the Petro. The debt-laden nation has struggled to raise capital amid economic sanctions from several countries, including the United States. Venezuela's oil-backed Petro reportedly raised \$5 billion from investors all over the world during a four-week period this past February and March. Estonia, which has wholeheartedly embraced blockchain technology, is also working on its own ICO. And governments from the Japanese village of Nishiwakura to the Louisiana parish of Lafayette are considering following suit.

While it sounds like one of those so-crazy-it-just-might-work ideas, there are a lot of hurdles to overcome, particularly for governments in the U.S. For starters, the municipal bond market isn't exactly known for its speed or embrace of innovation. It's a market that's slow to change, murky on transparency, and populated with institutions and investors that have been around for a long time and like the way things have always been done. Introducing into this old-school world a blockchain-based cryptocurrency technology with its instantaneous transaction speeds might feel a lot like trying to perform complex calculus on an abacus.

Even if that introductory task is accomplished, cryptocurrency has historically been much more volatile than the U.S. dollar. Will the value of Berkeley's digital currency hold over time? What if there's investor backlash? "The risk is that you or I buy some and it ends up being worthless," says San Francisco-based tax attorney Steve Moskowitz. "Then we turn to the issuer and say, 'You crook, you defrauded me.' And then the lawsuits start coming in."

Despite these risks, Berkeley sees plenty of valid reasons to forge ahead.

Like many cities across the country—and in the San Francisco Bay Area in particular—Berkeley has a major affordable housing shortage. Median rents are well over \$3,000 a month, and roughly 1,400 people are homeless. That's a big number for a city that's just 17 square miles with a population of 120,000. The situation is reaching a breaking point. In February, a fire broke out in a homeless encampment outside the Old City Hall, where the council still holds some meetings, and caused damage to the historic building. The incident forced police and city officials, who had turned a blind eye to the camp partly out of sympathy, to break up the tent city and remove about two dozen people. "It was painful, brutal," says Bartlett. "We are known for compassion, but we're also overwhelmed. People were really upset on all sides."

It was around that time that Bartlett and Arreguin began talking about alternative fundraising with both Neighborly, a municipal finance startup that helps governments issue municipal bonds in small-dollar bundles, and the University of California at Berkeley's Blockchain Lab, a research center for cryptocurrency technology. The idea to issue municipal bonds using blockchain technology was born. In May, the city council directed staff to evaluate the benefits of a pilot program in which Berkeley would offer municipal debt using blockchain technology.

Berkeley plans to start off small, says Bartlett, and issue enough cryptobonds to pay for, say, a new firetruck. The city will then smooth out the kinks, and after that, he says, "the sky's the limit."

Berkeley's first cryptocurrency bond offering will be small. After that, says Vice Mayor Ben Bartlett, "the sky's the limit."



Bartlett and others may have been inspired by the need to raise money to build more affordable housing, but the reality is that the technology behind the concept opens up a new world of financing public projects. Instead of selling bonds to underwriters, who resell them to institutional or retail investors, the government would sell the debt directly to citizens, who would essentially crowdfund each project. The small-size concept has been tried before in other cities in the form of so-called “mini bonds” with some success. In recent years, Denver and Cambridge, Mass., have used different bundling techniques to sell small-dollar bonds directly to residents. But the blockchain element takes this idea and ratchets it up. With blockchain technology, all transactions would be recorded on a public digital ledger where traders could buy and sell them directly and avoid brokerage markups or delays. All transactions would be recorded as soon as they are issued so there would be more transparency than is usually available in the traditional muni market.

Getting rid of the cumbersome, middle-man-laden process means that Berkeley could raise money to upgrade a park, add a bike path or any other number of small projects the community is willing to invest in. No longer would Berkeley or any city have to bundle all these projects into one larger bond just to make the cost of going to market feasible. It also has the advantage of keeping residents engaged and invested in their community. Think of it like a muni version of Kickstarter, but with a digital currency. “If this takes off, this is really going to change the way we do business,” says

Ksenia Koban, vice president and municipal strategist at the investment firm Payden & Rygel. “There’s no way right now for the average person to invest in the municipal market—you have to go through a broker or a platform, which is costly.”

And when it comes to risk, Koban believes a government-backed cryptocurrency wouldn’t be subject to the same volatility that something like bitcoin is prey to. “If I were a retail investor,” she says, “I’d look at this and think, ‘Great. Here’s an opportunity for me to be part of my community, to have a direct investment in a project that might even be next door.’”

For governments, the upside is enormous. The costs of issuing and administering bonds run up quite a tab. State and local governments spend a collective \$4 billion annually on issuance overhead alone, according to the Haas Institute at UC Berkeley. Blockchain technology cuts down on the need for bond lawyers, financial advisers and standardized documents because the necessary legal information is automatically recorded whenever there’s a transaction. Bartlett says he has already had calls from all over the country and the world, including Austin, London, Miami, Paris and upstate New York. “They’re all facing the same problem: a population bulge and underinvestment in infrastructure expansion,” he says. “It’s a simple math problem we have to answer to, so we have to make up our own math.”

Bartlett’s “own math” unwittingly hits on what is perhaps the biggest hurdle for a project like this. It’s hard to shake the idea that this is all made up. Sure, Berkeley’s digital muni bonds would still work like any other municipal bond by paying out interest to investors in U.S. dollars or, if investors prefer, in Berkeley’s own cryptocurrency. The debt could also be traded in the secondary market. But despite all the hype, most people still don’t have a clue what digital currency really is. Even in a tech-savvy place like Berkeley, finding the right buyers—locally minded folks who are comfortable with cryptocurrency—could be a stretch.

Currency that a buyer never touches sounds like something that belongs in the world of George Berkeley’s immaterialism rather than something with real value in this world. Getting past that mental leap is the key to government ICO success. “To the average person [cryptocurrency] is like funny money: Here today, gone tomorrow,” Koban says. “But I trade bonds all day long and no actual paper is exchanged. So how’s that really different?” **G**

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ANTON BURRELL





Welcome to

Babcock Ranch, Fla., is America's first solar-powered town. After

Syd Kitson is a former professional football guard for the Green Bay Packers and the Dallas Cowboys. He's also a real estate developer and the man behind Babcock Ranch, the first almost entirely solar-powered town in the country.

Kitson has been planning the development of this southwest Florida community for more than a decade. In 2006, he purchased the Babcock Preserve from the family of the same name and almost immediately sold 73,000 acres—80 percent of the land—back to the state to retain its nature preservation status. For the remaining 20 percent of the land, he hatched an ambitious plan. “It’s going to be a thriving community, with several thousand people living here,” Kitson says of his vision for the town, located just outside of Fort Myers. “I want to be driving down the road [one day] in an autonomous vehicle and see people riding bikes, eating at our farm-to-table restaurant, running businesses, walking to school.”

The way Kitson imagines it, the town will eventually house up

to 50,000 residents in 19,500 homes that are almost 100 percent powered by solar energy. To that end, Kitson donated 440 acres of land to a Florida power utility, which so far has outfitted it with solar panels that generate 75 megawatts of electricity. On average, each megawatt is enough to power 164 homes. Eventually, the utility will generate 150 megawatts.

The panels are hooked up to the main grid so that any excess power can be used by other utility customers outside of Babcock Ranch. Currently, Kitson says, the community is putting more energy into the grid than it’s taking out. The homes themselves are also directly hooked up to the utility’s grid, allowing them to have power during evening hours when the sun is down.

Jim and Donna Aveck were among the first to move in earlier this year. They’re living in a small neighborhood filled mostly with houses still under construction. Two of the city’s first homebuyers, the Avecks have waited more than a decade, ever since hearing Kitson present his vision for a solar-powered city. “All the way back in 2006, Jim and I left that meeting absolutely in love with



By Natalie Delgadillo

o Solar City

decades of planning, people are finally starting to move in.

the vision. For 12 years, we've been looking forward to this coming to fruition," says Donna Aveck.

Crews first broke ground on the town in 2015; Kitson says it would have been earlier if not for the financial crisis. About 20 families have so far moved their belongings in, with about 100 expected by the end of the year. In 20 years, when the land is fully populated, Kitson plans to incorporate.

Babcock Ranch doesn't have all the features of a typical American city, such as a local government, but it does already have a public school, which serves 156 students who all currently live outside the community. As Babcock Ranch grows, any students from the town will be given preference. Like the city, the curriculum is also sustainably focused. The charter runs a STEAM curriculum, which stands for science, technology, engineering, arts and math.

In addition to the school, other town amenities include a gym, a community swimming pool, a gastropub that serves locally grown organic food and a co-working space.

Besides solar, the town also boasts other green bona fides. It has started testing a driverless bus network, which Kitson hopes will eventually be a major mode of transportation for the town's residents. Every home is outfitted with the fastest internet available, and metal roofs are installed for temperature control (a necessity during hot and humid Florida summers). All the vegetation is native, and all the irrigation water is reclaimed.

Kitson wants to prove sustainable development is not only possible in the state of Florida but also economical. He says installation of the fiber-optic cables, for example, added no extra cost because they were able to lay them down at the same time they were building out the rest of the city. "When you look at Florida, we have 1,000 people a day moving into the state. By 2030, there will be 26 million people living here," he says. "If we're going to grow, we have to grow the right way. Our greatest asset in Florida is our natural resources, and we have to preserve them." **G**

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RENDERING COURTESY OF BABCOCK RANCH

Problem Solver

Why Schools Are So Unequal

Spending differs enormously across districts—even those in the same state.

The Hopatcong School District, serving a solidly middle-class borough of Sussex County, N.J., has a lot of money to work with. It spent approximately \$40,000 per student in fiscal 2016—more than any other school district in the country with at least 1,000 students. A few other New Jersey districts of similar size were spending less than a third of that.

Such vast differences in education spending are common across districts, and come as debates over teacher pay and demands for more overall state support have garnered a lot of attention this year.

Looking at how spending varies across individual districts, *Governing* calculated per pupil current spending for all school districts in the nation with 100 students or more, using data from the Census Bureau's 2016 Annual Survey of School System Finances. In most states, as in New Jersey, the top elementary-secondary school districts reported spending from two to six times more than those near the bottom.

One measure frequently used to assess education spending disparities is the coefficient of variation, calculated using districts' financial numbers. When weighted for enrollment, per pupil spending discrepancies were largest in Alaska, Illinois and Vermont—more than three times as much as in states with more uniformity across their districts.

Many factors explain such wide variations. One of the biggest is property taxes, which typically provide much of a school district's budget. Wealthy enclaves with million-dollar homes tend to contribute tax revenues not available in poorer parts of a state. All states make an effort to offset local disparities by kicking in a portion of school funding, but just how far

they go in equalizing the budgets varies considerably. The states that do it really well, says Lawrence Picus, a professor at the University of Southern California, also provide additional money for children with extra needs.

Districts in a state with the steepest per pupil costs are typically serving more students living in poverty or with additional needs. Research suggests that educating special needs students costs roughly twice as much as providing education to those without disabilities.

Geography also matters. In Alaska, several small districts in outlying areas recorded some of the highest expenses nationally. They serve many students living in poverty and must pay high costs for bus transportation, heating and flying in supplies.

States with a large roster of small districts also tend to show greater cost differences. On average, districts with 100 to 500 students reported the highest per pupil spending, about \$3,000 per pupil more than those with over 10,000 students. The state with the most equalized district spending by our calculations was Florida, where entire counties make up school districts. Some poorer states, such as Alabama and West Virginia, show little inequity among districts because spending is relatively low across the board.

New York, meanwhile, spends more per student than any other state. Along with its high cost of living, it has a heavily unionized and costly school workforce. Michael Borges, executive director of the New York State Association of School Business Officials, says state requirements, such as special education funding obligations that exceed federal requirements, drive up expenses further. "There are a

lot of state mandates that prevent us from reducing costs," he says. "Even when we want to reduce them, our hands are tied."

Absent high poverty, geographical issues or other special circumstances, unusually high spending in a district may signal inefficiency. A recent audit identified nearly \$800,000 in potential annual savings for the Hopatcong district, recommending a restructuring of its facilities department and hiring of an internal auditor.

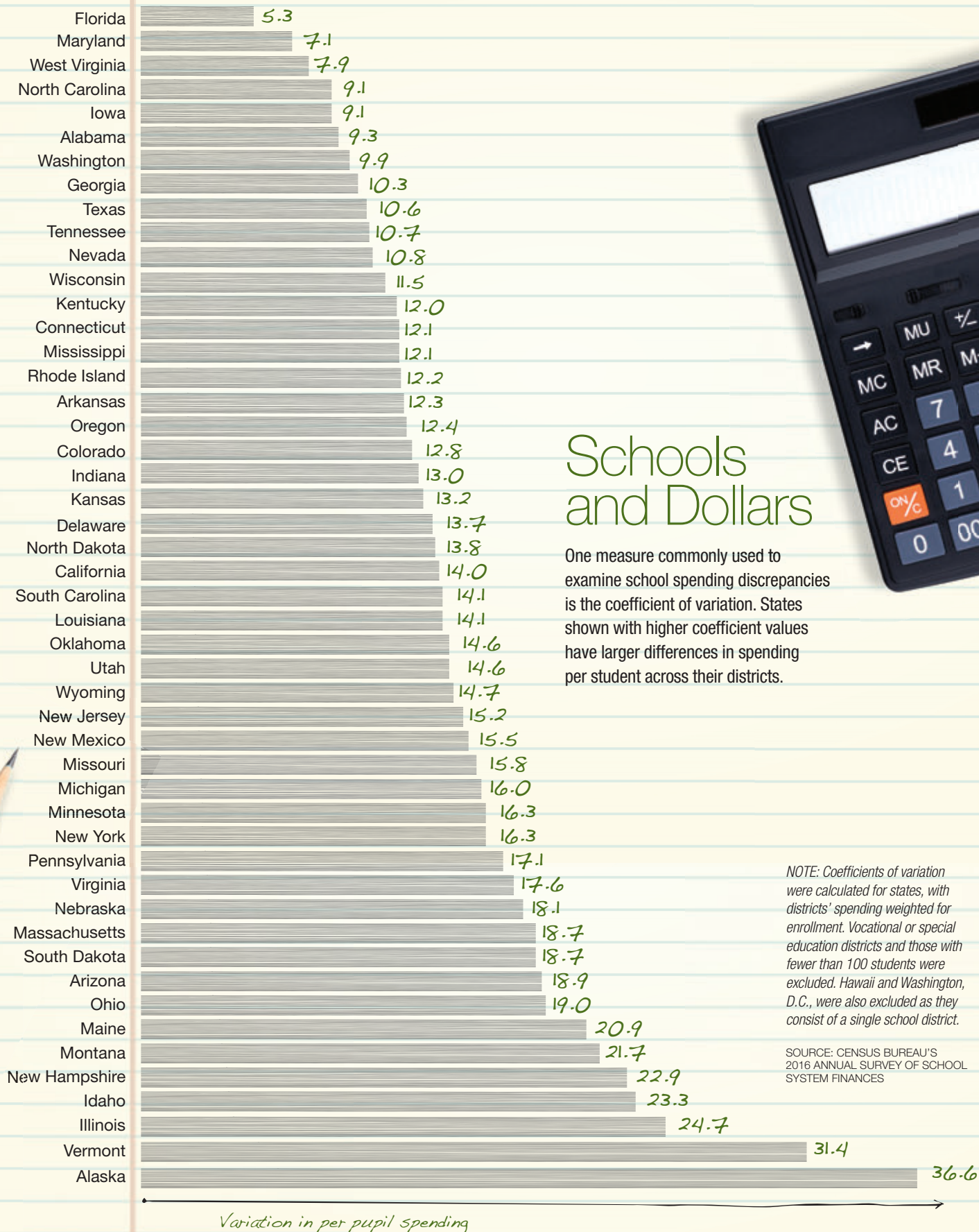
Research attempting to gauge the effects of spending on student performance has produced mixed results. Recent studies, though, suggest that increases in per pupil spending yield improved scores on standardized tests and higher wages after leaving school. In 40 cases where state courts have assessed a relationship between spending and student outcomes, 35 concluded a "substantial" correlation exists between funding and performance, according to the Center for Educational Equity at Columbia University.

Inequity could be intensifying in some places. The Education Law Center has determined that fewer states allocate higher poverty districts additional funding to mitigate local disparities than a decade ago.

Regional funding differences are a perennial issue in New Hampshire, which contributes relatively little from state sources, largely because there is no state income tax. A number of recent events have exacerbated the state's funding inequities, says Nathan Greenberg of the New Hampshire School Administrators Association. He points to a sharp reduction in property values, a major source of school funding that was hit hard in the last recession. Lawmakers then eliminated the state's contribution to teachers' pensions in 2011, shifting the cost to localities. Taken together, equity isn't getting any better, says Greenberg. "We're back to where we were when the first [education funding] lawsuit was filed." **G**

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By Mike Maciag



Schools and Dollars

One measure commonly used to examine school spending discrepancies is the coefficient of variation. States shown with higher coefficient values have larger differences in spending per student across their districts.

NOTE: Coefficients of variation were calculated for states, with districts' spending weighted for enrollment. Vocational or special education districts and those with fewer than 100 students were excluded. Hawaii and Washington, D.C., were also excluded as they consist of a single school district.

SOURCE: CENSUS BUREAU'S 2016 ANNUAL SURVEY OF SCHOOL SYSTEM FINANCES



Bad Actors or Bad Data?

Performance data let us know if programs are working well—unless someone cheats.

Over the years, we’ve written often about performance-informed government and the reticence of managers or elected officials to use that data to make decisions—mainly, they say, because they don’t trust it. We’ve tended to cast this claim as an excuse to ignore data-based reality in favor of politically popular decisions.

More recently, even though we’re still strong supporters of the move to make decisions based on measures, we’ve begun to get a little skeptical about the validity of some measures and concerned about the way government officials sometimes misuse the data—inadvertently or, on occasion, intentionally. As Kip Memmott, the audit director for the Oregon Secretary of State, tells us, “Reporting that information is critical and important, but the information can be a lot of smoke and mirrors.”

Sometimes, that’s done purposefully. You could call it cheating. For example, when Cynthia Eisenhower, a now-retired expert in government performance measurements, was giving customer service training sessions in New York City, she discovered that the staff person assigned to work with her threw away the results of the people who had the lowest scores.

There was the well-known case in Atlanta a few years ago, when 11 teachers were convicted by a jury for altering student scores on standardized tests. According to media reports at the time, teachers and administrators were under pressure to meet certain scores or they risked termination.

A few years back, the Ohio auditor told us this story: “If

there’s an oil spill and fish die, you send a biologist out to count dead critters. They get a [certain] amount for each dead critter [they find], and they send you the bill. I’m not saying anyone is cheating, but how can you possibly consider those numbers reliable?”

Then there’s this incident at the New York City Department of Homeless Services, which in 2017 experienced a sudden drop in “critical incidents,” such as fights or weapons possession, in its Bedford-Atlantic Armory shelter. When the *Daily News* looked into the “surprising” results, it found the real reason for this allegedly good news. The mayor’s office had changed the definition of critical incidents to involve firearms possession, but not other weapons commonly found in shelters, such as shivs, steak knives and locks in socks. In fact, even when an arrest is made, that incident doesn’t necessarily show up in the city’s performance

measures if the arrest was not made for a particularly serious offense.

Officials of the Homeless Services Department believed that the numbers it was using before the definitional change exaggerated concerns about safety. But others see the situation differently. “Though I can only state surely that the numbers are underreported,” says Gregory Floyd, president of Teamsters Local 237, which represents employees in the department, “my speculation is that the city is underreporting numbers so it can show that the shelters are safer than they are.”

One of the areas in which measurements frequently leave misleading impressions is emergency response time. David Ammons, professor of public administration at the University of North Carolina at Chapel Hill, tells us that when local governments report the average emergency response time, citizens and members of the city council tend to think that it is a



New York City changed how it measures critical incidents among the homeless in a way that is potentially misleading.

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measure of the time from when a citizen calls with a 911 emergency until the emergency unit rolls up onto the scene.

But in fact, the stopwatch may start when emergency units are dispatched, not when the calls come in. That means that citizens and council members may believe the emergency response time in their city is around six minutes when it may actually be eight minutes once the time between calls and dispatch is figured in. Fire chiefs say they use this measure because their departments don't directly control the dispatch, so they don't want those minutes included in the measures. "But if they're doing that," Ammons says, "then there may be a problem with dispatch and the city council and the citizenry are oblivious to that."

There are instances in which the data are inadvertently misleading and create an unfortunate impression. Phoenix, for instance, is known for its high rate of reported bias-related crimes, which makes the city look bad when compared to other communities and in benchmarking exercises. But, in reality, the Phoenix police are one of the few agencies in the country with a dedicated Bias Crimes Unit. It has mandatory reporting when officers suspect bias. As a result, more cases are identified, investigated and reported.

Unfortunately, unlike financial data, which is certified through the audit process, very few performance measures are validated in a scientific way. As a result, fallacious or misleading data can pass from an agency to the legislature or the public without the kind of confirmation that inspires confidence.

This is all unfortunate because, as Sharon Erickson, the city auditor of San Jose, Calif., says, "The basic premise of American democracy is that people will trust their government, if their government provides accurate information."

We still believe that measuring and disclosing data about government operations is useful and meaningful. But we also know that much more attention needs to be paid to the data behind the measures. **G**

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Beyond the Autopilot Budget

An outcomes focus helps politicians keep their promises.

When I was running for mayor of Kansas City, Mo., my campaign mantra was "Clean, safe neighborhoods in a city that works for regular folks!" I admit that my slogan wasn't all that creative or a lot different from the vision of mayoral candidates everywhere. These policy objectives are nearly universal: to create and maintain conditions that make a city a place where people want to live and work and, perhaps, raise a family.

The budget is the primary tool to achieve what is promised. That's what the public administration textbooks will tell you, and the politicians will agree. But most of the time the reality is closer to how then-Baltimore Mayor Sheila Dixon put it to Andrew Kleine in early 2008, as he recounts his interview with her to become the city's budget director. "The budget is like a \$3 billion black box to me," she told him. "The decisions brought to me are at the margins, which means that, as far as I know, 99 percent of the budget is basically on autopilot."

When I was in Kansas City, the total budget was about \$1.3 billion, but only a small fraction of it was truly discretionary. In 22 years with the city, first as auditor and then as mayor, I attended an awful lot of contentious budget hearings. The fight was almost always over something like a \$5,000 grant to some nonprofit. The bulk of the budget was just as Dixon described, on autopilot.

In city after city, mayors are creating an alphabet soup of new positions—chief innovation officers, chief performance officers and so on—focused on improving results. These are not bad things to do, but they are not by themselves going to make the birds sing. What is needed is a way to harness the budget-setting process for outcomes. A powerful argument for this was set forth in *The Price of Government*, the 2004 book by David Osborne and Peter Hutchinson. Their ideas struck a deep chord in Kleine. In his new book *City on the Line: How Baltimore Transformed Its Budget to Beat the Great Recession and Deliver Outcomes*, he tells the story of his 10 years as Baltimore's budget director, pushing for and steadily improving outcomes-focused budgeting.

Kleine's book brings to mind the fraught relationships between the professionals and the politicians. An aggressive and muscular posture on the part of a staff person is going to be threatening to a lot of politicians, and agency heads can use that tension to undermine and eventually eliminate a staff leader who is innovating. Innovation almost always brings conflict.

But it's worth the struggle. I was mayor during the last recession and frequently heard that Kansas City was "broke." During the budget battles I would say, "We're not broke, we're going to spend \$1.3 billion. That's an awful lot of money. The question is how to get the best results for it." Kleine's book offers a game plan for how to get that done. **G**

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“ The budget is the primary tool to achieve what is promised. That's what the public administration textbooks will tell you, and the politicians will agree.”



Running a Road Show

Brand recognition can spur bond sales.

Earlier this year, Georgia sold \$1.2 billion in new bonds. No news there. Like most big states, Georgia goes to the bond market at least once a year with a large new offering. And as in most big states, especially those with strong financial and economic fundamentals, investors snapped up those bonds at competitive prices.

But this time, Georgia's debt managers tried something different. Before they went to market, they put on a series of presentations and conference calls designed to convince investors that Georgia bonds are a great deal. In other words, they ran an investor road show. Such events are common in the corporate world, but are mostly new to states and localities.

Georgia has a strong credit rating and a stellar fiscal reputation. So why did it take the extra time and resources to burnish that reputation? There are three main reasons, and they collectively remind us of the policy challenges that surround brand recognition in the municipal bond market.

One big reason is December's federal tax overhaul, which lowered tax rates for corporations and individuals, meaning investors have less to gain from tax-exempt investments such as munis. A strong investor relations program can help governments attract new investors and encourage longtime investors to stay in the game.

Meanwhile, interest rates are normalizing. They've sat at record low levels for almost a decade, and during that run, municipal bonds offered a bit more yield than U.S. treasuries with effectively no additional risk. That stoked record investor demand for munis and gave governments easy access to cheap money. Now with rates back on the rise, muni borrowers need to offer up more yield to draw the same investor interest. Again, strong investor relations can help highlight the bargain that munis offer.

Finally, there is the lingering threat of severe fiscal stress. Detroit, Stockton, Calif., and other fiscally strapped cities have worked out their most pressing issues, but investors remain understandably weary of fiscal problems just beneath the surface. Better investor outreach can help investors draw their own conclusions

governments saw them as a bit riskier. But at the same time, larger Alabama borrowers with better credit ratings actually experienced a "reverse contagion" effect. They saw their interest rates decline.

How could one of the biggest local fiscal catastrophes in history actually benefit nearby governments? To repurpose the

“Investor relations programs are becoming part of the government chief financial officer's toolkit. If you have a great brand to sell, and the resources to sell it, then why not sell it?”

sions about an issuer's actual strengths and weaknesses.

For these and other reasons, investor relations programs are becoming part of the government chief financial officer's toolkit. If you have a great brand to sell, and the resources to sell it, then why not sell it?

But what about the tens of thousands of smaller issuers who don't have that same brand recognition? Tax reform, normalizing interest rates and fiscal stress also present them with some unique challenges.

For instance, a recent paper from Kate Yang at George Washington University shows that in Alabama, in the aftermath of the Jefferson County bankruptcy, interest rates on bonds from smaller, lesser-known cities in the state increased. That's consistent with the "contagion" effect we'd expect after a major financial catastrophe. Investors unsure about Alabama

old Tip O'Neill saying, "All muni markets are local." Alabama investors enjoy unique tax benefits from investing in Alabama governments. That pool of investor money is more or less locked into the state. So as money flowed away from Jefferson County, the other Alabama bonds it flowed to saw higher prices and lower yields. Tax policy changes and normalizing interest rates can also animate this intrastate zero sum game.

All this suggests that states ought to consider how they can facilitate better muni investor relations for all the governments within their borders. Without strong state policy frameworks, and robust private-sector investor relations solutions, many small governments could be left behind in the rapidly changing municipal bond market. **G**

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Last Look



It's the season of outdoor music festivals. There's Coachella in Southern California, Bonnaroo in Tennessee, Austin City Limits in Texas, Lollapalooza in Chicago, and lots more. But few have been running as long as the Redlands Bowl Summer Music Festival in Redlands, Calif. Held two nights a week all summer long, it's the longest-running annual free music festival in the U.S. Started in 1924, the festival is approaching a century of free music. Initially, performers made do with a wooden stage until a prominent citizen donated funds in 1930 to design and build the stage in use today, known as the Redlands Bowl. Besides the music festival, the city-owned park hosts lots of other events throughout the year. The music festival may be more sedate than, say, Bonnaroo. With performances ranging from the Beach Boys to jazz to Vivaldi concertos to Polynesian dance troupes, it just might be more eclectic, too. —David Kidd

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