A DROP IN THE OCEAN

Democrats may win big this year. But how much will it really matter?
PROTECTING THE PUBLIC SECTOR FROM RANSOMWARE

State and local government agencies are being held hostage by malicious adversaries and software designed to steal data.

How prepared is your organization to deal with a ransomware attack?

Take 3 minutes to learn more:
att.com/govsecurity

AT&T FIREWALLS
Fully managed security services to help prevent unauthorized access to your network

AT&T THREAT MANAGER
At-a-glance, situational threat awareness for multiple sites and “state of the org” view

AT&T CYBERSECURITY CONSULTING
Lifecycle approach to vulnerability, threat management and path to compliance

AT&T SECURE EMAIL GATEWAY
Best-in-class e-mail filtering and threat detection

All AT&T Cybersecurity solutions are powered by AT&T Threat Intellect.

© 2017 AT&T Intellectual Property. All rights reserved. AT&T and the AT&T logo are trademarks of AT&T Intellectual Property.
STATE LEGISLATURES 2018

24 ISSUES TO WATCH
Nine of the biggest policies and problems legislatures will tackle in 2018.

34 HOW MUCH CAN THE DEMS REALLY DO?
The election results from November suggest they’ll have a big year in 2018—but they need more than that.
By Alan Greenblatt

40 BATON ROUGE BALANCING ACT
Most politicians believe moderation doesn’t help Democrats much in the Deep South. John Bel Edwards isn’t one of them.
By J.B. Wogan

46 POLICING THE POLICE
Civilian oversight boards are popping up in major cities across the country. Can they make police departments more accountable for their own?
By John Buntin

52 INFECTIOUS
When computer viruses hit hospitals, the consequences can be dire.
By Mattie Quinn
PROBLEM SOLVER

56  Behind the Numbers
It's already hard to count certain residents. But the next Census could prove particularly difficult.

58  Smart Management
Shared services make rational sense. That doesn’t always matter.

59  Better Government
In local government, success is defined by what you leave behind.

60  Tech Talk
It will have taken 15 years, but the Real ID Act is finally going to happen.

62  Public Money
Who’s slurping up the benefits of sugary beverage taxes?

64  Last Look
Los Angeles has a surprising winter pastime.

POLITICS + POLICY

14  Assessments
Some cities are trying to measure their citizens’ happiness.

16  Potomac Chronicle
Looking back at two men’s careers fighting for federalism.

17  Politics Watch
Transgender issues have invigorated school board elections.

18  Health
High STD rates are challenging public health departments.

20  Green Government
Could China’s ban on certain materials curb recycling efforts?

22  Economic Engines
It’s time to reexamine the policies that benefit coastal elites.

23  Urban Notebook
Burdensome rules can hamper airport expansion efforts.
EASY TO GET HERE.
EVEN EASIER TO GET AROUND.

Centrally-located facilities just ten minutes from the airport and smack dab in the middle of a vibrant, energetic entertainment district. Restaurants, live music and hotels within walking distance make getting around even easier. Throw in our Zyp BikeShare program and you can forego the rental car altogether. Book your next convention in the place where getting around is half the fun. Right here in Birmingham.
inbirmingham.com | #INBirmingham | 800 - 458 - 8085

350K SQUARE FEET OF MEETING AND EXHIBITION SPACE • 10K SEAT ARENA • 4K SEATS IN TWO THEATERS • ALL ON THE BIRMINGHAM-JEFFERSON CONVENTION COMPLEX CAMPUS.
Jobs Without Bribes

This month, as they do every January, our editors and reporters provide snapshots of issues to watch, ones they think will get a lot of attention in state legislatures in the year ahead. Ranging from taxation to health insurance to the opioid crisis, these will be top-of-mind for lawmakers as they return to session. But there’s one other issue I wish would get more attention from legislators: curbing the use of tax incentives and other giveaways for economic development.

There’s little chance of that happening anytime soon. Shoveling taxpayer cash to corporations is almost universally embraced by Democrats and Republicans alike. Witness the frenzied competition to lure Amazon’s second headquarters. At a time when the financial condition of many jurisdictions is fragile at best, Amazon got 238 proposals from cities and regions in North America promising millions, sometimes billions, in tax breaks. There are certainly a few savvy folks who have said no to bribing Amazon. San Jose, Calif., Mayor Sam Liccardo, for one, wrote in The Wall Street Journal that his city wouldn’t be offering incentives because they’re “a bad deal for tax payers” and “don’t generate revenue commensurate with public expenditures.” Liccardo is right, as plenty of research has documented. Instead of chasing Amazon, here’s a better idea: incentives for employee ownership.

A recent study by the National Center for Employee Ownership found that high school-educated employee-owners had 83 percent greater median household wealth than similar employees at other companies. Among people of color, wages were 30 percent higher for employee-owners compared to other workers. For families with young children, employee ownership meant nearly twice the median household net worth. Legislation was introduced in Wisconsin that, among other things, would provide a capital gains tax exemption for employee-owners. A recent study by the National Center for Employee Ownership found that high school-educated employee-owners had 83 percent greater median household wealth than similar employees at other companies. Among people of color, wages were 30 percent higher for employee-owners compared to other workers. For families with young children, employee ownership meant nearly twice the median household net worth.

A few jurisdictions are beginning to explore this alternative. New York Gov. Andrew Cuomo has signed legislation to study how his state might support employee ownership. And in Newark, N.J., Mayor Ras Baraka launched an employee ownership initiative within his city’s Community Economic Development Corporation.

These are small steps, but they’re a start that might spark enough interest that revisiting tax incentives and embracing employee ownership will become one of next year’s issues to watch. I hope so.
CONVERSATIONS WITH WOMEN IN GOVERNMENT

A NEW PODCAST FROM GOVERNING

Hosted by Governing reporter Mattie Quinn

50 PERCENT OF THE POPULATION. ONLY 23 PERCENT OF STATE AND LOCAL LEADERS.

1 FRESH VOICE.
The Health Divide
In the November cover story “Tough Medicine,” Mattie Quinn profiled Seema Verma, the administrator of the Centers for Medicare and Medicaid Services. Verma, the chief architect of Indiana’s conservative health-care plan, has said she will rework Medicaid. “At the heart of Verma’s goals for Medicaid is the desire to loosen bureaucratic restrictions while emphasizing that recipients ‘take personal responsibility’ for their own health care,” wrote Quinn. “While there’s mounting consensus that universal coverage is good, there’s a fundamental disagreement on how to get there. Democrats think health care is a right that should be guaranteed by the government. Republicans—and Verma—argue that health-care recipients must have ‘skin in the game’ for the system to work properly.”

These ideologues who keep harping about personal responsibility clearly don’t live in the same world the rest of us live in. If there were plentiful jobs throughout the country that paid a living wage and [provided] accessible, quality health care, people would take advantage of both. As it is, millions were plentiful jobs throughout the country barely squeaking by. I’m utterly sick of seeing phrases like “skin in the game” bandied about by people who don’t even know what that means for vast numbers of Americans.

—Jasmin Guthrie on Facebook

Politics as Usual
In his November Assessments column “The Urban Penalty,” Alan Ehrenhalt looked at the animosity between state legislatures and cities, which have long competed for jobs in a given state, so rural and suburban legislators had no practical reason to oppose them, ”Ehrenhalt wrote. “Nevertheless, they did.”

What, he wondered, do state legislatures have against cities?

Before I read past the introduction, my guess is that it would be at least partly tactical: If you don’t care about something, as a legislator, you should start out opposing it so that you can gain some concessions from its supporters in exchange for your vote. So a big block of legislators who have nothing at stake on a bill would wind up being a big bloc of opposition.

—Dan Wylie-Sears on Facebook

I’ve been a locally elected official for more than eight years. ... My conclusion on this topic is simple: They do it because they can.

—Brian Jarvis on Facebook

Charters Aren’t the Answer
In his November Potomac Chronicle column “The Reinventor Returns,” Peter A. Harkness wrote about David Osborne’s new book Reinventing America’s Schools.

“What Osborne advocates is a significant increase in charter schools in a survival-of-the-fittest system whereby successful schools are expanded and replicated and unsuccessful ones are replaced,” wrote Harkness. Most readers took issue with the emphasis on charters.

Charter schools don’t matter. What matters is that we properly fund our schools and wraparound social services, and hold the staff accountable for performance and behavior.

—Ellie Levine on Facebook

Data on charter schools does not of itself suggest that they are the optimal model—let alone in a “survive or die” competition for positive change in American schools. I would turn to the index of Osborne’s book to look for references to the work of Seymour Sarason. We must understand the values and beliefs of people in the many parts of the school’s broad ecosystem. These [people] drive the dominant culture.

The key to school change and improvement is [including] all stakeholders in the dialogue—teachers, parents, community group leaders.

While I look forward to perusing Osborne’s new work, the premises as described by Mr. Harkness seem dubious at best.

—Bruce Waltuck on Facebook

All schools should be good. End of story.

—Elizabeth King on Facebook
In 2016, surety bonds protected approximately $580 billion. Over $350 billion was for construction projects alone. No other product protects government and taxpayer money like surety bonds.

Over the last 15 years, surety companies have paid nearly $12 billion to complete construction contracts. Often times, when a contractor defaults, it is not the public works project. If such a need arises, the surety company will step in to finance the troubled contractor and protect the government from default.

Through the prequalification process, a contractor has been vetted by an independent third party. The surety company has deemed that contractor to be a low risk for default. Government officials can rest assured that even if trouble does arise, the contract will be completed. Surety companies underwrite 100 percent of the risk for qualified contractors, offering value from both a prequalification and claims standpoint. Bonding helps public agencies assess and minimize their risk, while empowering contractors to undertake work they can deliver.

www.surety.org
There is Something New About America's Top Performing Cities

Phoenix was 2017's most Equipt City, flanked by two dozen high performers across 7 vital functional areas.

They are becoming Equipt to Innovate®

The Equipt class of 2018 — Coming in May
Multibillion-Dollar Meltdown

IT HAS TO BE ONE of the greatest wastes of money in any state’s history. Last summer, two utility companies halted construction on nuclear reactors in South Carolina. They had already sunk more than $9 billion into the project, which will never be completed or generate a kilowatt of power. The state is now trying to figure out who’s to blame, and who will pay.

The story started a dozen years ago. Back in 2006, South Carolina, along with several other states, passed legislation to try to jumpstart the moribund nuclear construction industry. At the time, energy was more expensive than it is today and there was talk of Congress perhaps imposing a carbon tax. In states with growing populations, encouraging nuclear energy through a new approach seemed like a good idea. South Carolina decided to allow utilities to bill customers for the cost of nuclear construction as it happened, rather than waiting until power plants were completed. “Rather than charge our elder Aunt Minnie in 10 years when it goes online,” says Brett Bursey, executive director of the SC Progressive Network, a social justice group, “this was presented as a consumer-friendly way to pay for construction as they go.”

The initial cost estimate was $7 billion. Westinghouse, which was contracted to build the reactors for the utilities South Carolina Gas and Electric and Santee Cooper, was using a new design for its plant. The company made thousands of engineering and design changes along the way, which slowed things down and contributed to increases in the cost. So did its taste for expensive materials. Westinghouse bought thousands of hand-machined nuts that cost $114 each, rather than sturdier, off-the-shelf nuts that retailed for $2.20, according to The Post and Courier. There was a reason for that: Westinghouse got to charge 15 percent overhead on everything it spent. Every thousand nuts meant $17,100 in revenue for the company, rather than the $330 it would have collected if it used the cheaper version.

There were other construction problems. An audit by Bechtel Corp. two years ago found that the construction plans and design were faulty, and that the project was poorly managed. As one legislator put it, the entire project was “built to fail.” The utilities tried to block public release of the audit, but Gov. Henry McMaster put it out last September. “There was obviously failure in oversight and management at the project site,” says state Sen. Shane Massey. “There were multiple breakdowns along the way.”

Westinghouse went bankrupt last spring and the utilities quickly called it quits on the project. Customers have already been billed some $2 billion for the reactors. Under current regulations, the utilities continue to collect $37 million per month. That means the average ratepayer is paying an additional $250 per year, or 18 percent of the bill. This could go on for 60 years. “You will literally have your children and grandchildren pay for this mistake,” says Bursey.

Some legislators have argued that consumers shouldn’t be on the hook for the billions already charged. But it may not be legally possible to recover the money. It may not even be feasible. The utilities don’t have the cash to give back, even if they wanted to. “That would be the fair thing, but it’s not realistic,” Massey says. Instead, the fight in the legislature this year will be about whether to curtail additional payments going forward. Needless to say, the utilities are opposed to that idea. They insist they must collect the money, or they won’t be able to continue operating or have access to capital. They aren’t sympathetic actors, but Santee Cooper is state-owned so legislators will have to take its concerns seriously.

Every state faces a balancing act when it comes to protecting consumers while also ensuring that electric utilities can provide power and remain solvent. Examining contracts and proposals more closely before they’re approved is a smarter regulatory approach than trying to clean up enormous messes after they’ve been made.
AS MAYOR OF NEW YORK, Bill de Blasio hasn’t eradicated income inequality or solved the city’s housing shortage. But his supporters insist that he has done more of the things he wanted to do, advancing a set of progressive priorities, than he’s generally given credit for.

One of those cheerleaders is Juan González, a veteran journalist who has written a book called Reclaiming Gotham. The book not only examines the entire arc of de Blasio’s career so far, but also compares him with other liberal mayors elected around the country at about the same time. De Blasio, he argues, has done as much in his four years as any politician to advance the progressive cause.

Some of de Blasio’s accomplishments are familiar: increasing the minimum wage for city workers to $15 an hour, requiring employers to provide paid sick leave benefits, and paying for tens of thousands of kids to enroll in both pre-kindergarten and afterschool programs. Less familiar is the mayor’s effort to hold rents in check. Under his predecessors, prices had gone up for more than 1 million private units in the city subject to rent regulation by an average of 3.2 percent per year over 20 years. Those rents increased just 1 percent during de Blasio’s first year in office and then were completely frozen the next two years.

All told, González estimates, residents of New York City have received direct cash payments, increased public services or new benefits cumulatively worth $21 billion. The majority of that sum came from wage and benefit increases for city workers under new contracts. González may exaggerate the value of the rest of the bounty, but it’s clear that both residents and public employees who looked to de Blasio for a change in their financial fortunes have received real assistance.

Comparing de Blasio’s approach to other progressive politicians—not only his mayoral peers such as Marty Walsh of Boston and Bill Peduto of Pittsburgh, but also liberal city council members elected a decade ago in cities that include Philadelphia, San Francisco and Seattle—González argues that their political success came in reaction to earlier policies that rewarded land speculators and other businesses at the expense of longtime residents. “The rank-and-file members of these movements,” González writes, “supplied the volunteer workers these novice politicians relied upon to win their first elections.” De Blasio has accomplished more, in González’s view, than most of them. Indeed, some of the mayors discussed in his book have already faded from the scene, notably Betsy Hodges of Minneapolis and Ed Murray of Seattle.

Perhaps not surprisingly, González devotes more space to de Blasio’s policy wins than his troubled relations with police or complaints about his campaign finance practices.

De Blasio hasn’t made noticeable progress against income inequality and faces tough challenges in his new term, such as closing the prison at Rikers Island. But there’s no question that big cities are now the nation’s leading incubators for progressive ideas, and de Blasio is working in the biggest incubator of all. After recently winning a landslide reelection, he gets four more years to keep pushing.

Mainly, González points to the fact that de Blasio and several of the others were elected with the backing of coalitions of activists concerned with climate change, inequality, immigration and police brutality. “The rank-and-file members of these movements,” González writes, "supplied the volunteer workers these novice politicians relied upon to win their first elections.” De Blasio has accomplished more, in González’s view, than most of them. Indeed, some of the mayors discussed in his book have already faded from the scene, notably Betsy Hodges of Minneapolis and Ed Murray of Seattle.
When students, parents, educators, and policymakers have the right information to make decisions, students excel.

As a policymaker, you need information about the schools in your state. What programs are the most cost effective and work best for students? How can your state attract and retain great teachers? What information do parents need to ensure that their kids are on track to graduate? For answers to questions like these, you need high-quality data. Information is a critical tool to help inform your policy decisions. Likewise, everyone involved in a child’s education needs timely, accurate data to provide insights and drive improvements for students.

Data has become a critical part of education policy conversations in every state, and this briefing book is meant to bring you up to speed on the major topics you need to know about. We have selected six of the most pressing topics and have provided the following for each:

- a basic overview of the topic
- why it matters
- the “state of play” on the latest progress states and others have made in that area
- recommendations to take action in your state
- additional resources to help build your understanding of data topics and policies

For help bringing these ideas to life, see the Data Quality Campaign’s (DQC) Four Policy Priorities to Make Data Work for Students, a set of recommendations for policymakers to transform data from a tool of compliance to one that empowers people and fuels continuous improvement. And please let DQC know if there are additional topics we may cover or other ways we can help you make data work for students: info@dataqualitycampaign.org.

6 things to know about data in education:

1. Student data helps improve student achievement.
2. State longitudinal data systems help answer questions and drive improvement.
3. Data linkages provide the fullest picture of student and school outcomes.
4. Student data must be kept private and secure.
5. State report cards provide the public information about student and school performance.
6. Data empowers teachers and parents with information to better support learning.
1. Student data helps improve student achievement.

Student data helps teachers, parents, and policymakers answer questions and take action to support student success.

What Is Student Data?
- Student data is more than test scores. It includes information such as attendance, grades, student growth, outcomes, enrollment, and more.
- Schools, districts, and states collect student data and use it to make decisions about instruction, interventions, policy development, and resource allocation.
- The majority of student data is stored at the school and district levels. A limited amount is reported to states, which use and share it in anonymous and aggregate forms.

Why Does Student Data Matter?
- Student data provides teachers a more complete picture of the strengths and weaknesses of each child in their classroom; with this information teachers can improve and tailor instruction to fit students’ needs.
- Student data empowers families with information so that they can be partners in their student’s learning, supporting learning at home and making informed choices about schools and programs.
- School and system leaders can use data to identify the needs and trends of broader student populations to make more informed decisions around professional development and school support.
- Aggregate data about student and school success helps inform policymakers as they shape policy and allocate scarce resources.
- Multiple data points presented together can provide the fullest picture of student outcomes, making parents, teachers, and leaders better able to support student success.

State of Play
- Every school, district, and state collects information about students. Most of this information stays at the local level.
- Every state has a system to collect information about K–12 students over time, and many states have linked that data with other information, such as student progress in postsecondary institutions.
- State and federal laws drive data collection.

Take Action
- Learn about the data your state collects and how it is used.
- Start with your questions—determine your state’s education priorities and explore how data helps meet them.
- Consider policies that get data into the hands of teachers and parents so that they can use it to support student success.
2. State longitudinal data systems help answer questions and drive improvement.

State longitudinal data systems link data over time, offering the ability to observe trends and answer questions about why and how behind student outcomes and to drive continuous improvement from classroom instruction to policy development.

**What Is a State Longitudinal Data System (SLDS)?**
- An SLDS integrates state education data over time to provide a complete academic history for each student.
- A robust SLDS includes student-level data such as enrollment, attendance, test scores, and demographics that can be reported at the school, district, and state levels.
- One of the greatest benefits of an SLDS is that it can securely link K-12 data with prekindergarten, postsecondary, and workforce data to help policymakers understand the long-term trends and outcomes of students and systems. (See Section 3 on data linkages.)
- An SLDS is not just an IT project—building a quality SLDS requires leadership from educators and policymakers committed to using the power of data to meet individuals’ needs.

**Why Does an SLDS Matter?**
- An SLDS helps policymakers and educators answer questions that districts alone cannot, such as How are students from my middle school performing in high school? Which schools are producing the greatest amounts of student growth? How many students go on to succeed in college?
- Longitudinal data, when reported at the aggregate level, shows system leaders and educators trends in student performance, which can help them determine what is working and design more targeted interventions and supports for students.
- The opportunity to observe trends in student learning and growth over time can help policymakers design and monitor the impact of policies and programs to reach the big-picture goal of college and career readiness for all students.
- As students move between schools and across districts their data within the SLDS is able to move with them, eliminating the administrative burden of transferring paper files.

**State of Play**
- While an SLDS is a state-driven effort, as of 2017 the federal government has supported 47 states with more than $650 million to build an SLDS consistent with the 10 Essential Elements of Statewide Longitudinal Data Systems, DQC’s roadmap for a high-quality SLDS.
- Demonstrating the value of longitudinal data, as of 2014 policymakers in 41 states have made financial investments in their SLDS.
- An SLDS has the most impact when it answers questions beyond K–12; as of 2014, 43 states link K–12 and postsecondary data.
- As of 2014, 43 states provide teachers access to longitudinal data they can use to inform instruction, such as on-track indicators and student growth data.

**Take Action**
- Find out about your state’s SLDS; the current state of prekindergarten, postsecondary, or workforce linkages, and how the data is being used in the service of students.
- Communicate to stakeholders the value of longitudinal data to student success.
- Demand the data for yourself—policymakers need longitudinal data to make informed decisions to support the students in your state.

**Using longitudinal data** is like being able to watch a video of student progress over time rather than in a series of snapshots.
3. Data linkages provide the fullest picture of student and school outcomes.

Securely linking education data between systems, such as K–12, postsecondary, and the workforce, ensures that educators and policymakers have a comprehensive picture of school and student outcomes that can inform state decisionmaking and resource allocation.

What Are Data Linkages?
- A data linkage is a technical mechanism that connects different data systems, enabling the state to securely share information across state agencies.
- States use different models to link their data systems to ensure that state and local leaders have rich pictures of different pathways to success in their state.
- Effective P–20/W linkages require a strong data governance body that is tasked to ensure coordination, data privacy and security, and accountability across state agencies.
- Data linkages are a part of a high-quality state longitudinal data system.

Why Do Linkages Matter?
- P–20/W data systems can provide a fuller picture of student progress and pathways through the education system and into the workforce. With linked data, feedback loops can be established between these systems to inform state and system leaders of changes needed to drive continuous improvement.
- Absent P–20/W linkages, data often sits in silos within state agencies, creating inefficiencies and preventing policymakers from fully understanding students’ pathways through the P–20/W system.
- Data linkages enable leaders to answer important questions, such as: What is the relationship between high school courses and college success? Is our state’s education system producing career-ready graduates with knowledge aligned to the employer needs in my state? Are all children entering school kindergarten ready?

State of Play
- As of 2017, only 17 states and the District of Columbia have built a full P–20/W system linking early childhood, K–12, postsecondary, and workforce data. Thirty-three states have established a cross-agency data governance body with authority over how data is collected and used.
- Linked data is most valuable when the data informs decisions. For example, most states use linked data to produce high school feedback reports, which provide school leaders with information about whether their graduates enrolled, persisted, or needed remediation in postsecondary education.

Take Action
- Learn what data is (and is not) linked in your state and how the information is being used.
- Ensure that policy leaders are in charge of this work and are present on your state’s data governance body.
- Develop strong privacy and security policies while ensuring that they do not unnecessarily limit data linkages and use.

P-20/W refers to state-level data systems that include linked data from prekindergarten, K–12, postsecondary, and the workforce.

Learn More

Roadmap for K–12 and Postsecondary Data Linkages This roadmap outlines recommendations for states to securely link limited K–12 and postsecondary data to ensure quality implementation and determine how best to support students’ transition into college.

Roadmap for Early Childhood and K–12 Data Linkages This roadmap outlines recommendations for states to securely link limited early childhood and K–12 data to help states ask and answer questions about whether policies and programs help children successfully transition from early childhood to the classroom.

Pivotal Role of Policymakers as Leaders of P–20/Workforce Data Governance This guide outlines actions policymakers can take to effectively develop and lead P–20/W data governance and ensure that data systems meet stakeholder needs.
4. Student data must be kept private and secure.

Safeguarding data—and building trust in how it is used—is an essential part of effectively using education data to support student learning.

**What Is Student Data Privacy?**

- Safeguarding students’ information is about ensuring that individual student data is being collected for meaningful purposes and kept confidential, secure, and private. This can be done through both technical solutions such as secure systems and role-based access and non-technical solutions such as training for those with access to students’ information.
- To safeguard students’ personal information, policies and practices must be in place at the state and local levels to provide guardrails for the protection of student data and ensure that systems are secure.
- The public, especially parents, must have a clear understanding of what data is collected, how it is used, who has access to it, and how it is protected.

**Why Does Protecting Student Data Privacy Matter?**

- Education data is used every day by teachers, parents, and state leaders to make decisions in support of student success. That information must be safeguarded and used only to help students.
- With high-quality policies and practices in place governing data protection and use, state leaders can more confidently rely on data to guide critical decisionmaking.
- Public trust in the privacy and security of data collected by schools, districts, and states is necessary for maintaining support for using data in service of student learning.

**State of Play**

- The Family Educational Rights and Privacy Act (FERPA) is the foundational federal law that protects the privacy of students’ education data and provides families rights to review their children’s information.
- State legislators have acted to build on the foundation of FERPA. Since 2013, 41 states and the District of Columbia have enacted 94 student data privacy laws.
- 18 states have passed laws that require publicly reporting inventories of what data is collected so that parents and the public understand what student information is being used.

**Take Action**

- Determine whether policies, laws, and practices in your state promote robust governance and provide protection for students’ information.
- Support policies and allocate resources that equip those with access to students’ personal information, such as teachers, with training to effectively and ethically use, protect, and secure students’ information.
- Communicate with the public about the value of data and how states and districts protect the data they collect.

Learn More

- **Education Data Legislation Review: 2017 State Activity** This report provides a review and analysis of all introduced legislation related to student data privacy in 2017.
- **Roadmap to Safeguarding Student Data** This brief provides specific, practical recommendations for state education agencies as they prioritize the safeguarding of student data and continuously review and update their data privacy policies and practices to address changes in technology.
- **A Stoplight for Student Data Use** This tool summarizes some of the main provisions of FERPA and related regulations and identifies when students’ personally identifiable information may be securely shared under the law.
- **Key Elements for Strengthening State Laws and Policies Pertaining to Student Data Use, Privacy, and Security:** Guidance for State Policymakers (Education Counsel) This resource contains guidance for state policymakers around safeguarding student data.
5. State report cards provide the public information about student and school performance.

Parents and the public want and deserve information about how their students and schools are doing. State report cards present an opportunity to provide the public a clear picture of student and school success that is easy to find and understand.

**What Is a State Report Card?**
- States are required by federal law to produce a report card to help the public understand how students and schools are performing each year.
- Report cards provide information on the types of students that schools and districts educate (e.g., Latino, special education), how well those students are doing academically, how often students come to school, the school's financial resources, and what types of qualifications teachers have.
- Report cards include information about the measures included in a state’s education accountability system alongside other contextual information about students and schools.

**Why Do Quality State Report Cards Matter?**
- Everyone deserves to know how the public schools in their communities are doing.
- When information is difficult to find or understand, parents must cobble together information from different sources. This can breed mistrust between families and the education system serving their children.
- State report cards are an opportunity to communicate with parents and the public about state priorities and education goals.
- State report cards are also an opportunity to present a clear picture of student and school performance in a one-stop format that states are uniquely positioned to produce and provide.
- At their best, state report cards should answer questions and inform action. Quality report cards help parents make decisions about their child’s education and help state and local leaders allocate scarce resources.

**State of Play**
- Every state produces an annual report card about school, district, and statewide performance, but the report cards are of varying quality and usefulness.
- The federal Every Student Succeeds Act requires that certain information be reported on a state report card, but states have the opportunity to provide additional data based on state and local needs.
- While report cards should be a key source of information, in many states, clunky formats, missing data, and technical jargon prevent the public from understanding the information available on report cards.
  - 42 states produce report cards in English only and provide no translation services.
  - 18 states do not disaggregate student performance by at least one legally required subgroup, which can hide achievement gaps and the students who need support.
  - The average state report card is written at a grade 15 reading level, making it difficult for all families to understand.

**Take Action**
- Review your own state’s report card to see if it answers key questions using DQC’s scavenger hunt tool.
- Engage stakeholders, including parents and teachers, about what information they want to see on your state’s report card and how it should be displayed.
- Work with fellow leaders (legislators, education board members, state education agency, the governor’s office) to improve the accessibility and usefulness of your report card.

---

**Show Me the Data 2017: States Can Improve Report Cards This Year**
DQC’s 2017 analysis examines the information, accessibility, and usefulness of all 50 state report cards in helping the public ask and answer important questions about their schools and students.

**A State Guide to Building Online School Report Cards (ExcelinEd)** This resource, created in partnership with DQC, features a step-by-step process guide for creating a high-quality school report card.

**Sample College and Career Readiness Indicators for a School Report Card (Achieve)** This model report card outlines sample college and career readiness indicators that can be included within a state’s school-level report card.
6. Data empowers teachers and parents with information to better support learning.

With access to the right information, those closest to students, especially teachers and parents, are positioned to make better decisions in support of their students’ learning.

**What Does Parent and Teacher Access to Data Look Like?**

- Access to individual student data, including attendance, behavior, grades, progress, and assessment results, provides teachers and parents a holistic view of a child’s learning.
- Parents need timely access to their child’s current data as well as information on past performance presented with clear explanations on how to understand the data and what to do next.
- Teachers need timely access to data on their students’ present performance and past progress, so they can use it to inform their practice and better support learning for each student.
- Access to data about student progress over time can supplement traditional report cards, helping parents and teachers identify long-term trends and patterns in student learning.
- When they are the highest quality, secure portals or dashboards allow parents and teachers to regularly log in and see students’ up-to-date information including attendance, grades, current performance, and past progress.

**Why Does Parent and Teacher Access to Data Matter?**

- When parents and teachers have access to information about student performance, they can be more effective partners in their students’ learning.
- Empowered with their child’s data, parents can select the right programs and school for their child and help boost learning at home.
- When educators have access to timely information they can strategically intervene with students who may be falling behind and help those who are ready to learn ahead go further.
- With access to longitudinal data, teachers can get a sense of their students’ education progress over time and tailor instruction to properly challenge and grow each student.
- Providing parents and teachers access to data that they find valuable and actionable helps build trust in student data.

**State of Play**

- States must support districts in providing parents and teachers data about student progress over time, side by side with day-to-day information; as of 2014 only 13 states ensure that teachers and parents have access to their students’ longitudinal data.
- Only 36 percent of public school parents strongly agree that they have easy access to all of the information they need to make sure their child gets a great education.
- On average, teachers view data as “worth it” and report using it frequently in their practice, but 67 percent of teachers are not fully satisfied with the effectiveness of the data and tools they have access to on a regular basis.

**Take Action**

- Determine what information your state makes available to parents and teachers.
- Consider policies that provide educators and parents with timely and accessible student information.
The number of the poorest counties in the U.S. that are in Eastern Kentucky, which has been hit hard by the coal industry's decline. In general, the South had the largest rate (41 percent) of people living in poverty last year.

The value of Texas-owned gold currently stored in a vault in New York City but scheduled for transfer to a new Texas Bullion Depository being built outside Austin.

The number of doctors in Louisiana who have applied to dispense medical marijuana.

The old minimum age to hunt deer in Wisconsin. Thanks to a new law, the state is now one of 35 where children of any age can hunt.

The California Legislature isn’t big enough. That seems apparent on its face. Each state senator represents about 930,000 people—far more than members of the U.S. House do. Those in the state Assembly represent half as many, but that’s still nearly a half-million constituents for each of them to keep track of and speak for.

The idea of expanding the legislature has been kicked around in Sacramento for a long time. “I’ve been hearing the basic idea of increasing the number of seats for the past 10 years,” says Eric McGhee, a research fellow at the Public Policy Institute of California. “There’s no question that California, relative to the rest of the country, has legislative districts that are huge.”

A businessman and gubernatorial candidate named John Cox has spent millions collecting signatures for an initiative that would create what he calls the “Neighborhood Legislature.” State senators would represent 5,000 people, members of the Assembly twice that many. Given California’s size, that means there would be nearly 4,000 state senators and 8,000 Assembly members.

That’s a lot of legislators. And while there’s an argument to be made that lawmakers representing a fraction as many people would be able to pay more attention to voters’ specific concerns, it could also be argued that each individual member would have very little clout and would be hard pressed to pass any legislation at all. Similarly, when it comes to constituent services, the average person would have an easier time getting the attention of a legislator, but that politician, in turn, would have a harder time influencing state agencies.

Cox’s initiative, even if voters approve it in November, won’t actually give them more voices in Sacramento. There would be 100 times as many elected legislators, but there would still be only 40 senators and 60 members of the Assembly actually meeting. That’s because the new legislators would select senators and representatives from among their number to go to the Capitol. There wouldn’t be 12,000 legislators holding sessions at an arena.

Why adding a layer of elected officials to select an elite subgroup of 120 would make the process more representative is puzzling. It’s not clear anyway how many legislators are needed in a state to do the job. There probably is a “sweet spot”—a point at which legislators are representing the right number of constituencies—says Nathan Monroe, a political scientist at the University of California, Merced. But what exactly is that? The New Hampshire House is the nation’s largest legislative chamber, with 400 members representing 1.3 million people. That doesn’t mean legislators there do a clearly superior job for their constituents than legislators elsewhere who represent several times as many people. “The theory is that it makes it so everybody knows who their state rep is,” says Andrew Smith, a pollster at the University of New Hampshire. “The truth is, nobody knows who their state rep is. They’re completely anonymous.”
Military Scambuster

New York Assistant AG Deanna Nelson, right, offers quarterly updates to personnel at Fort Drum about the newest scams.

Deanna Nelson is trying to do something about military consumer practices before taking on the job nine years ago, but she quickly got up to speed due to the number of fraud cases coming out of the Army’s neighboring Fort Drum. “Companies in the area and nationally have made it their business to separate the military from their income streams,” Nelson says.

People in the Army and the other service branches make unusually attractive targets for grifters for several reasons. They typically are young, often living away from home and managing their own finances for the first time. They collect steady paychecks and pay their bills on time, because keeping their credit records clean is a condition of their employment. If they are in any kind of financial trouble, they can lose their security clearances for fear they’d be subject to blackmail or other pressures. So service members pay their bills no matter how blatantly they’ve been ripped off. “The companies realize that service members are going to pay,” Nelson says. “It’s not worth it to sacrifice their security clearance or military status not to pay.”

When particular types of scams become common, Nelson and her counterparts in other states are often called in by financial counselors on the bases. As civilians and representatives of the state, there are limits to what they can do. They aren’t going to represent individual men or women, but they can act as mediators.

Nelson and her peers can also file lawsuits against the perpetrators. Due to the national nature of the crimes, state AGs around the country often call on each other for assistance in doing that. Collectively, they’ve recovered something in the neighborhood of $100 million in restitution and debt forgiveness in recent years. “Frankly, it’s a real issue of military readiness,” says Bob Cooper, a former attorney general of Tennessee who won a $2.2 million settlement against a retailer and financier who violated consumer protection law. “We have military men and women who should be focused on their mission, who were being distracted by these fraudulent sales that were creating unnecessary anxiety for them.”

Thanks to Nelson’s work with federal agencies, there’s now a regularly refreshed database of current scams going around that AGs can explore. Locally, she offers quarterly updates to personnel at Fort Drum about the newest scams they need to be on the watch for. She never expected to end up working on consumer fraud cases involving the military, but she’s demonstrated “unreal tenacity,” says Tim Crytser, a case manager for the Central New York Veterans Outreach Center in Watertown. “She’s small and slight and you wouldn’t think there’s a mean bone in her body. But this woman’s serious. I’ve never seen such a switch from being that nice to being that fierce.”
First responders are the force behind FirstNet. It’s the only wireless broadband network created by and for first responders. A dedicated network ensures communications are reliable and highly secure across jurisdictions and agencies, without congestion by civilian traffic.

Learn more at FirstNet.com

©2017-2018 AT&T Intellectual Property. FirstNet, First Responder Network Authority, and FirstNet logo are registered trademarks and service marks of FirstNet, an independent authority within the U.S. Department of Commerce. All other marks are the property of their respective owners.
How Happy Do You Feel Right Now?

Citizens’ sense of well-being may tell a lot about whether a community is thriving.

It’s been a rough couple of centuries for Jeremy Bentham. When he died in 1832, he was perhaps the most famous moral philosopher in the English-speaking world. But the further people looked into his ideas, the more implausible they seemed. Within a few decades he was more of a laughingstock than a source of enlightenment.

And it’s easy to see why: Bentham not only believed that pleasure and pain were the one true standard for assessing right and wrong, but also that they could be measured precisely, in an algorithm known as the “philosophic calculus,” and counted out in units called hedons, dolors and utilis. The greater the proportion of hedons, the happier you would be. This was as true of communities, Bentham wrote, as it was of individuals. The basic task for community leaders, then, was to get the hedon count up.

Bentham seemed to confute transitory pleasure and enduring happiness. No modern moralist would do that. But in dismissing Bentham’s bizarre calculus, generations of moral thinkers also dismissed a reasonable premise: the idea that it might be possible in some way for a community to gauge the overall happiness of its inhabitants.

This was about where things stood 30 years ago, when Richard Layard, a British economist now ennobled as Baron Layard of Highgate, began promoting a radical doctrine. Maybe, he posited, the time had come to take Bentham seriously again.

Layard’s work stemmed from research that showed that rising incomes didn’t make people any happier. Follow this out, Layard said without embarrassment, and the road leads straight to Bentham.

“Bentham seemed to conflate transitory feelings of well-being. The neurology of happiness became a legitimate subject of research.”

Then came behavioral economics, the branch of social studies that uses controlled experiments to learn how people make decisions and why so many seemingly rational choices lead to sadness rather than contentment. Behavioral scientists such as Harvard University’s Daniel Gilbert argued that while people are happy at a given moment, they are largely incompetent when it comes to predicting what will make them happy in the future. It was quite plausible that measuring people’s happiness and helping them approach the future more intelligently was a task that clinicians and educators—and even governments—might reasonably undertake.

The result has been systematic efforts to apply Bentham and Layard’s philosophy in diverse parts of the world. The tiny nation of Bhutan, for example, began measuring its “gross national happiness” and looking for ways to increase it. The World Values Survey and the Gallup World Poll include questions on the subject. And David Cameron, when he became Britain’s prime minister in 2010, conferred with Layard and other happiness scientists about how to apply their work.

It was only a matter of time before a government somewhere in America ventured into the same territory. This happened in 2011 in Somerville, Mass. That year, residents of the Boston suburb opened their periodic survey from the mayor’s office and found something they had never seen before. The survey asked, “How happy do you feel right now?” And, “How satisfied are you with your life in general?” The 10 response choices ranged from “very unhappy” to “very happy.” The median response was a relatively encouraging 7.7, as one might expect in a community that was in the midst of a transformation from industrial-era slums to gentrified affluence. Consistent with academic research in the new field of happiness science, Somerville learned that there was relatively little correlation between people’s income levels and their perception of personal well-being.

In two subsequent surveys, the happiness number in Somerville has remained very close to the original level. It was 7.8 in 2015, the most recent survey for which results have been tabulated. Taken alone, it didn’t offer any direction at all for public policy. But some of the more specific responses did. Somerville found that its residents were least happy when they thought about the “beauty or physical setting” of the place where they lived. It was a logical response in a gritty old blue-collar suburb, even one that was rapidly getting spruced up. But it was also useful information that pointed to the need for a little more public emphasis on aesthetics. What was the government doing that made citizens really unhappy? Forcing them to sort their garbage into separate bins for recycling. That requirement came to an end.

Just as Somerville was embarking on the third round of its happiness inquiry, an even more ambitious effort was getting started all the way on the other side of the country. Santa Monica, Calif., the affluent
Los Angeles suburb on the Pacific Ocean, launched the Wellbeing Project with the help of a $1 million grant from Bloomberg Philanthropies. While Somerville’s survey focused on just a few hundred randomly selected households, Santa Monica’s outreach was larger and received 3,800 responses. A few months ago, the city published the second edition of its probe into civic well-being.

The two places have relatively little in common, but their survey results are similar. This year, Santa Monica came in at 7.4 on the happiness scale. Most of its numbers seemed to suggest a contented city. Some 69 percent of its respondents reported that they were happy most or all of the time; 90 percent said they were never or rarely lonely; 80 percent said daily life was worthwhile. White residents actually reported less happiness than minorities, but they were also more likely to report that they were “living the best life possible.”

How radical a departure are Somerville and Santa Monica making from what other cities do? In some ways, only a modest one. In both places, the questions about personal well-being are part of a larger survey that asks the standard questions about consumer satisfaction with local government. The questions cover topics like street and sidewalk maintenance and the quality of the public schools.

But when a resident of either of these cities opens up the questionnaire and is confronted with “how happy do you feel right now?” and “how satisfied are you with your life?,” there is no way to hide the fact that something is going on. These may be customer surveys, but they are also existential inquiries. The question is whether happiness and well-being are subjects that local governments should be diving into.

To most traditional economists, the answer is no. Citizens express their preferences and desires in the decisions they make every day. They buy the commodities they desire and sell the ones they don’t want. Ordinary economic transactions are all the information any community needs to determine what makes its inhabitants satisfied.

This might have been a compelling objection 30 years ago, before behavioral economics began turning up evidence that all of us make terrible choices, misjudging what will bring us happiness and then living with the unpleasant consequences for the rest of our lives. It may be useful to know that people are purchasing remote McMansions that force them to commute in traffic three hours a day. But it’s equally useful to ask how much satisfaction those purchases give them 30 years later.

Beyond the economists’ objections, there’s the libertarian argument that governments have no business quizzing constituents about their state of mind. To a true-believing libertarian, happiness surveys have a dystopian quality about them, faintly reminiscent of science fiction societies in which drugs are used to make people placidly content with life under an autocratic regime. If the happiness count dips too low, an ambitious dictator sometime in the future might decide to experiment with a pharmacological solution.

Personally, I’m not too worried about that. The problem with gauging happiness isn’t that an unscrupulous politician might try to manipulate it, but that we still know next to nothing about how to enhance it. Somerville learned from its survey that homeowners are happier when they don’t have to sort their garbage. That’s worth knowing, but on a scale of existential insights, it doesn’t rank very high. As Somerville’s survey director remarked a couple of years ago, “One of the biggest lessons is just how nebulous a concept happiness is, and how difficult it really is to influence through policy... It’s easier to measure than to manage.”

There is, however, one reason for measuring happiness that genuinely makes sense. It gives us numbers to place alongside the long list of dubious statistics that we use every day to try to assess which places and policies in this country are meeting with success. We judge states and localities according to how many jobs they are creating, how fast the population is growing, whether productivity is rising or falling, and by a whole array of other yardsticks that tell us very little about the inner lives of the people who reside there. In 2016, we didn’t really understand the economic data didn’t tell us what was important. A few well-chosen questions about happiness might have.

Email aehrenhalt@governing.com
To my great sadness, one of the people I have most admired in the 30-year history of Governing passed away not long ago. Paul Posner was a professor at George Mason University and former executive with the U.S. Government Accountability Office (GAO), where he spent his long career looking for a way for federal budget capacity to match up with state and local financial needs.

Posner was a leader in thought and action, and a tireless advocate for strengthening the relationship between governments at all levels. He was well respected by his colleagues, the only person ever to be elected both president of the American Society of Public Administration and chairman of the board of the National Academy of Public Administration.

For 15 years, Posner headed up the academy’s standing panel on intergovernmental relations. He was known for his boundless enthusiasm in organizing scores of sessions on a wide variety of intergovernmental issues. He brought together key officials from various presidential administrations and federal agencies, the top brass from the Big Seven state and local associations, and leading academics from all over the country. That kind of acumen is crucial today, because the existing infrastructure for managing our federal system has largely dissipated in recent decades. There is very little capacity in the top tier of the executive branch or the U.S. Congress to understand or analyze intergovernmental issues, much less manage them.

Thirty years ago, that was not the case. Aside from the GAO that Posner ran, there was a vibrant infrastructure of offices and departments in the White House, both chambers of Congress, and in nearly every federal department or agency. The granddaddy of them all, formed in the 1950s, was the U.S. Advisory Commission on Intergovernmental Relations, a congressionally chartered independent agency designed to help steer our federal system. More than half the states created their own “little ACIRs” bodies that not only concentrated on intergovernmental activity within their states, but formed a network of such agencies in other states. That network collaborated closely with the commission in Washington, D.C.

It didn’t last. By the mid-1990s, much of that intergovernmental infrastructure had faded away. The Council of State Governments, which supported the ACIR, the state commissions and their network, sadly concluded at the time that the “dynamics of intergovernmental relations today, especially at the state and local level, have shifted from what might be described as coordination and cooperation to competition and adversity. ... In such a climate, the value of the perspectives that commissions contribute to the intergovernmental area is greatly diminished.” In 1996, the federal ACIR was disbanded and today only 10 state commissions are still operating.

Parris Glendening, who thankfully is still very much alive and active, has pursued the idea of a vibrant federal system just as Posner did. Glendening has spent decades at the center of that system: eight years as governor of Maryland and 12 years as a county executive, as well as 27 years teaching political science at the University of Maryland. He now leads a nonprofit promoting smart urban growth.

But his career-long fascination has been with the way governments at all levels work together—or don’t.

For Glendening, having “a flexible, innovative and effective intergovernmental
system” is crucial to solving problems such as income inequality, environmental deterioration, a broken immigration process and infrastructure that is falling behind much of the developed world.

At the heart of it, he argues, is a multi-level fiscal apparat “so dysfunctional it cannot produce the revenues to meet the most basic services and instead finds solutions in passing on costs to other levels of government or future generations.”

It may not be obvious to you that reorganizing bureaucratic and political structures is key to reforming and re-investing our public effort. But look at our political landscape now, with the central government abandoning international agreements on worldwide problems, forcing a coalition of states and municipalities to create their own alliances, in effect to represent the United States. The city of Los Angeles has created a new position of deputy mayor for international affairs, staffed largely by former State Department employees. European countries are establishing quasi-embassies in Silicon Valley. States are swatting down policies promoted by their municipalities on everything from minimum wages to plastic bag bans.

And as the financial costs of super-storms and flooding soar, the central government finds itself paying most of the bill while those governments best equipped to avoid catastrophes lack the resources or even clear authority to do so. It’s what academics call “the intergovernmental paradox of emergency management.” In fact, that paradox applies to many other issues as well. Glendening argues that a “smoothly functioning federal system” is necessary to “bring about needed innovation, experimentation and diversity of policies.”

I agree, although in the current environment I am dubious that we can do much about it. The effectiveness of our federal system has fluctuated considerably over the nation’s history. To improve it from this low point will require a significant political change. That change is, to say the least, overdue.

Email pharkness@governing.com

---

School Fights

Transgender issues have invigorated school elections.

School board elections are far from sleepy affairs these days. Million-dollar races are not unheard of, often ignited by hot-button issues such as vouchers and charter schools. The latest flashpoint is over transgender access to bathrooms and lockers. The issue was central to campaigns last year in districts in Illinois, Iowa, Missouri and Virginia.

Schools around the country—sometimes under pressure from the Obama administration—changed their policies to allow transgender students to use facilites that conform with their gender identity. But parents have objected in many places, including suburban Chicago.

Early last year, Illinois state Rep. Tom Morrison introduced legislation that would compel students to use bathrooms in line with their biological sex at birth. When schools in his district took the opposite approach, Morrison supported a slate of candidates seeking to unseat incumbent school board members that he said had failed to reflect the values of the community. “Parents have a reasonable expectation to know that there is a policy that these private areas are designated by biological sex,” Vicki Wilson, founder of a local parents’ group, said during the campaign last spring.

Despite support from a prominent conservative donor—outside money came into the race from both sides—the incumbent slate prevailed, although the margins were close. “The result may not have been reflective of the issue itself,” Morrison says. “With such a low turnout election, it’s hard to say how much this was a factor.”

But a similar fight over transgender access led to record turnout in Fairfield, Iowa. For the past decade, state law has offered anti-discrimination protections based on gender. “Transgender civil rights are written into our constitution,” says state Rep. Phil Miller, who was president of the school board when it set its access policy. “You cannot discriminate against a person if they choose a gender different from their birth.”

As in Morrison’s district, the entire slate that opposed the policy lost. “We’ve had no incidents of trans individuals assaulting a cisgender individual,” says Nate Monson, executive director of Iowa Safe Schools, an LGBTQ youth organization. A cisgender individual is someone whose gender identity conforms with his or her biological sex. “But we have had instances of trans students being bullied.”

The Trump administration withdrew Obama-era guidance to schools regarding transgender bathroom access. But the issue isn’t likely to fade away anytime soon. Morrison predicts there will continue to be arguments about transgender kids participating in athletics. Individual states or districts may also pursue policies on their own, as with a California district that recently rejected a “model parental rights” proposal to allow charter schools to opt out of transgender instruction.

What’s more, transgender candidates were elected to local school boards in New Hampshire and Pennsylvania in November. “We expect to see more progress and more transgender people and parents of transgender students running for school boards in 2018,” says Harper Jean Tobin, policy director for the National Center for Transgender Equality.
A Risky Rise
STD infection rates are higher than ever, challenging public health departments.

When Fredrick Echols joined the St. Louis County Department of Public Health as director of communicable disease control services a couple of years ago, he did an assessment of the county’s sexually transmitted disease (STD) program. It wasn’t hard to see where things could be improved. “I saw some gaps in services,” Echols says, “particularly in the community.”

Echols is referring to the fact that the county had made almost no effort to involve community members in a conversation about safe sex. The absence of a discussion has contributed in part to its distinction for more than a decade as home to the nation’s highest rate of STD infections. The number of chlamydia cases in St. Louis County increased by more than 500 in 2016, gonorrhea cases were up by 1,300 and syphilis cases also spiked, according to the Centers for Disease Control and Prevention (CDC).

But what’s particularly troubling is that St. Louis County isn’t alone. With more than 2 million cases reported in 2016, STD rates nationwide are at a record high. “STDs are a persistent enemy, growing in number and outpacing our ability to respond,” Jonathan Mermin, director of the CDC division that deals with STD tracking and prevention, said in a press release accompanying a September report on the issue.

The CDC noted a surge of syphilis cases in women and newborns, with mothers passing the disease along thanks to injectable drug use. There’s also been a spike of chlamydia cases among gay men, which a 2014 report says is associated with an increase in casual sex due to the use of smartphone apps.

Even before the CDC numbers were released, Echols says, his team in St. Louis County was already working with a sense of urgency. He hired several disease intervention specialists who go into the most impoverished areas in the community and connect people to care. Echols also worked with the city health department to train barbers and beauticians to talk to customers about the importance of safe sex and getting tested. Now many salons and barbershops carry condoms and information on testing next to the cash register.

St. Louis County had a brief reprieve from its No. 1 ranking when the new CDC data showed Etowah County, Ala., with the nation’s highest rate of sexually transmitted diseases. But the numbers were incorrect, due to a glitch in the reporting system; Etowah County actually showed a slight improvement in its STD rates from 2015.

That may be good news, but it’s hardly cause for celebration. Karen Landers, medical director for communicable diseases at the Alabama Department of Public Health, notes that the state dealt with a syphilis outbreak last year, and those numbers remain steady. “We know that sex in exchange for drugs is the primary driver of these rates, although getting syphilis from injectable drugs is also an issue,” she says.

Like Echols, Landers focuses on educating people in the community about STDs. But at a point when STD rates are at an all-time high, more money and resources are also needed. “It’s just a challenge to get fully funded at every level,” Landers says.
Stay up to date on the latest trends and gain insights to some of your most pressing challenges.

Visit our website for some of our most recent work!
www.governing.com/papers
Pickup Hiccup
Could China’s ban on scrap paper and plastic from the U.S. curb recycling efforts?

Starting this month, China will no longer buy most of the paper and plastic U.S. consumers recycle. In July, Chinese officials told the World Trade Organization that they will limit the entry of “foreign waste” by banning two dozen types of materials that often contain “dirty wastes or even hazardous wastes.”

The announcement has thrown recycling programs across the country into turmoil. With China out of the picture, American waste and recycling firms are scrambling to find new buyers for the scrap they collect from curbside bins. For many years now, China has been the largest global importer of most recyclable materials. The U.S. alone exported about two-thirds of its wastepaper and more than 40 percent of its discarded plastic to the country last year. China plans to replace the materials it imports with recycled material collected at home.

In a statement on its website, the Oregon Department of Environmental Quality said the announcement, “coupled with earlier import restrictions on these materials, has severely disrupted recycling markets worldwide with major impacts in Oregon.” The Washington State Department of Ecology struck a similar note. “In the short term,” a statement on its website read, “more potentially recyclable materials are likely to go to the landfill because no market is available for them.” But both agencies urged residents to continue recycling as normal.

While there is no denying the ban will have serious repercussions on recyclers and recycling programs, many observers see China’s decision as a golden opportunity. Some U.S. paper mills that use leftover paper as pulp for the making of cardboard and other products, for example, will benefit from the ban. “America has an endless supply of waste and it just got more endless,” Anthony Pratt told The Wall Street Journal. Pratt is the executive chairman of Pratt Industries, which uses 100 percent recycled material to make boxes for Amazon, pizza joints and other companies.

In addition to a business opportunity, the decision could boost municipal programs. Phoenix’s waste innovation hub, the Resource Innovation Campus, focuses on what city leaders call the “5 Rs”: reduce, reuse, recycle, reconsider and reimagine. The idea is to turn, say, a beer bottle into new glassware or compost into natural gas. While China’s ban will certainly affect the city’s recycling efforts, it also plays into the hub’s larger goals of reusing and reimagining waste. “If you can come up with a way to use Phoenix’s garbage,” Mayor Greg Stanton said recently at a Governing event, “it’s yours.”

But perhaps the biggest opportunity, observers say, is for cities and recyclers to finally address the contamination issue that led in large part to China’s ban. U.S. consumers regularly throw unrecoverable materials into their curbside bins: items that range from the mundane—plastic forks, metal coat hangers, trash bags and even food waste—to the outrageous—diapers, syringes, appliances, bowling balls, doggie beds. In most cities, about 30 percent or more of what residents throw into their recycling bins cannot be recycled as is or at all. To fix the problem, more and more cities have been launching “recycle often, recycle right” campaigns to educate residents on what’s recyclable and what’s not. If they don’t want to see their hard work end up in a landfill, they might have to step up those efforts.

Email edaigneau@governing.com
"I want to be a bench. Recycle me."

IWantToBeRecycled.org

AdGency | KEEP AMERICA BEAUTIFUL
Much has been written about our “winner-take-all” or “superstar” economy, in which elite coastal metropolises and other knowledge hubs have disproportionately thrived in terms of GDP and per capita income growth.

But what’s less discussed is what has driven this divergence, which has left large swaths of the country struggling. If we want to promote more even development, what should we do?

The drivers of this continuing economic centralization are a few mutually reinforcing trends: globalization, technology and changing lifestyle preferences.

The globalization of the economy has rewarded increasing scale. Larger scale is needed to run a seamlessly global business versus a national one, or an international one made up of largely independent country-based operations. Federal policy lifted many of the caps that previously limited consolidation in industries like banking and media. The result has been rollups of many major industries, with some becoming de facto “two-towers” configurations like AT&T and Verizon, or Walgreens and CVS.

As detailed by sociologist Saskia Sassen, globalization also fueled demand for new financial and producer services needed to help companies manage more complex global businesses. These required specialized skills possessed by a limited number of people who tend to cluster in global cities.

There are other new trends contributing to economic centralization, such as the relocation of corporate headquarters into central cities to take advantage of proximity to professional services, talent and international flights. Companies like ADM, Caterpillar and GE have made or announced such moves. These are typically only small executive headquarters, but the loss of senior staff is significant for many of the less advantaged communities these companies are moving away from.

Then there’s technology, which has revolutionized business and many areas of everyday life. Technology-based businesses like Facebook or Google have network or other scale effects that create winner-take-all situations in some domains. This has centralized significant economic power in tech hubs. Technology also requires specialized skills, and the distribution of people with those skills is not even. They are again concentrated in global cities.

And then there are changes in lifestyle preferences, especially among younger adults. Compared to Generation X and baby boomers, millennials with college degrees have shown a greater preference for urban living with its dense, mixed-use development, walkability and public transit. Those amenities are also unevenly distributed, mostly existing in older cities built in the railroad and streetcar era.

A comparison of the share of young adults with college degrees in 2000 versus 2016 shows that many of the highest gains over that time were made in the usual-suspect coastal cities of New York, San Francisco and Seattle, although Chicago has done well along with a few other interior cities that include Nashville and Pittsburgh. The latter has an ongoing tech boom centered around Carnegie Mellon University, and the former has emerged in recent years as a hip destination. Cities such as Charlotte, N.C., Columbus, Ohio, and Dallas have done OK playing to their strengths. But the biggest winners continue to be the coastal metropolises and tech hubs.

Many have argued that rising living costs will threaten these elite cities’ success, and that they are especially limited by their lack of housing affordability and construction. That may well be. Everything eventually suffers a correction. But it hasn’t happened yet. As...
The Air Down There

Airports need to expand, but federal rules are getting in the way.

By Scott Beyer

Airport expansion is a key part of improving urban America’s infrastructure. The ability of major metros to attract corporations, workers and tourists depends at least in part on whether their airports can provide cheap, frequent flights around the world. This has caused many municipalities to publicly subsidize mass expansions.

In November, the Denver City Council approved $1.5 billion to add gates to Denver International Airport. This mirrors similar expansion projects in Los Angeles and Dallas-Fort Worth. Meanwhile, calls for improvement persist for older terminals in Chicago, New York City and San Antonio.

The need for this mass airport modernization is evident. America’s population is growing, particularly in major metro areas. This is reflected in flight passenger numbers. Since 2009, more people have flown each year, reaching a record 955 million passengers in 2015, according to the U.S. Department of Transportation. As a result, major airport terminals are remarkably crowded, even at off-peak times.

Beyond just the terminals is the outdated surrounding infrastructure, which makes it hard to increase the frequency of flights. Today’s airports need longer runways, more gate capacity and modernized air traffic control systems.

The question is whether cities can address these needs in a way that pays for itself. The key is rethinking counterproductive subsidies and regulations, says Marc Scribner, a senior fellow at the Competitive Enterprise Institute, a libertarian think tank. This includes reforming regulations that prevent airports from collecting user fees.

Theoretically, says Scribner, major airport runways could reduce congestion by installing dynamic pricing systems—such as the kinds found on toll roads—that would charge for takeoffs and landings based on fluctuating traffic demand. But the Federal Aviation Administration has regulations that prevent this. Airports could also charge airline passengers market rates for their use of terminals. Right now, these rates are capped by Congress at $4.50 per passenger per flight segment. Deregulating these price systems would generate more money for airport expansion, while placing the costs onto the user, not the general taxpayer.

Another alternative would be privatization. This has already occurred in foreign countries, but has lagged in the U.S. because private airports here don’t enjoy the advantages given to public ones, such as receiving federal grants, tax-exempt bonds or waivers on federal income taxes. What this means is that America’s major airports function more like public utilities than profitable corporations. “They just don’t behave like businesses,” says Scribner, “and that’s in large part due to the fact that the federal government doesn’t let them.”

This not only limits airports’ ability to generate revenue, but also to obtain financing. So when it comes time to fund these needed expansions, airport authorities must go begging to the government—including local governments that could use the money on other services. Denver’s $1.5 billion expansion is just the latest result of this public subsidy paradigm.
Nothing big happens in election years. At least, that’s the conventional wisdom on legislative action in many state capitols. And in a year when 36 states will choose governors and 44 will elect state lawmakers, that feeling is understandable. Political paralysis in Congress is also keeping many states in a holding pattern, as their officials try to judge how best to react to potential changes from Washington. But many state issues are simply too important or too timely to wait. Here are a few that will likely draw a lot of attention this year.
FEW DEVELOPMENTS IN WASHINGTON will have as direct an effect on state budgeting as the Republican efforts to revise the federal tax code. As of press time, lawmakers were still working to reconcile the House and Senate tax plans. But the Republicans’ priorities are clear.

One of the main GOP goals is to simplify tax returns for most Americans. This would be done in part by increasing the amount of the standard deduction while eliminating certain itemized deductions. The idea is to give taxpayers an incentive to use the uncomplicated standard deduction rather than undertaking the often thorny process of itemizing deductions. But in the 43 states with their own income tax, the idea has more sobering implications. A dozen states automatically use the same standard deduction as the federal government. They risk losing out on revenue because residents will have less taxable income. Meanwhile, 31 states and the District of Columbia use the federal list of itemized deductions. Congress is considering eliminating a few of those, such as the student loan interest paid and medical expenses. States that stay linked to federal itemized deductions could see revenues increase. This all means that lawmakers in each state will have to determine how their revenue will react to tax reform and whether or not to stay linked to federal tax definitions.

Republican leaders in Congress have also proposed ending the federal deduction for state and local income taxes and capping the deductibility of local property taxes. Proponents argue that this would give high-tax states some incentive to hold down their own rates. But the results might not be so straightforward. In California, for example, the state has a 40-year-old constitutional amendment known as Proposition 13 that artificially caps local property taxes. A new federal tax scheme that favors property taxes over income taxes could spur debate in Sacramento over whether to repeal the measure and lower state income taxes.

These proposed changes to the federal income tax, of course, would not directly impact the seven states that don’t have one of their own. But the more indirect effects of federal tax revision will impact every state. For instance, some Republicans support eliminating so-called private activity bonds, a move that could affect economic development around the country. State and local governments use these tax-exempt bonds to finance projects built and paid for by private developers. Low-income housing advocates, nonprofit hospitals and infrastructure associations have warned that eliminating private activity bonds would significantly hamper needed projects because it would increase government borrowing costs by as much as 30 percent.

—Liz Farmer
HEALTH INSURANCE

THE REPUBLICAN CRUSADE to repeal the Affordable Care Act (ACA) fell short in Washington in 2017, but big changes could still be in store for the nation’s health-care system this year. That’s especially true for Medicaid, the joint state and federal health insurance program that covers 74.6 million low-income and disabled Americans.

Seema Verma, the administrator of the Centers for Medicare and Medicaid Services (CMS), announced in November that she will usher in a “new day for Medicaid.” Verma, who was named to her post by President Trump, outlined a stricter, market-based vision for the program, which has grown by 30 percent since Barack Obama signed his signature health law. Verma is talking about curbing that growth. Many people who gained coverage under the ACA’s Medicaid expansion, she said, “are individuals who are physically capable of being actively engaged in their communities, whether it be through working, volunteering, going to school or obtaining job training.”

Several states have already proposed changes that would address these concerns. As of December, 18 states were waiting for CMS to decide whether to approve substantive waivers to reshape their Medicaid programs, many of them by making it harder for people to qualify for or maintain their benefits. Wisconsin wants to implement drug testing. Six states want to impose work requirements, even though 59 percent of adult Medicaid recipients are already working.

Maine’s request would be the most far-reaching. The state’s Republican governor wants to impose premiums, require Medicaid recipients to work or volunteer, and impose upfront asset tests to prove that the applicants are poor enough to receive Medicaid. The ACA specifically prohibits asset tests, so a waiver allowing them would mark a major change in policy. At the same time, though, Maine voters in November overwhelmingly supported a measure to expand Medicaid. Gov. Paul LePage said he would block the move until the legislature finds funding for it, setting the stage for likely clashes there this spring.

Meanwhile, the Trump administration has taken steps that could undermine the success of another key piece of the ACA: state insurance exchanges. The administration shortened the open enrollment period for health coverage under the act by six weeks, cut the outreach budget by 90 percent and stopped funding cost-sharing reductions, which keep out-of-pocket costs down for those whose incomes are between 100 and 250 percent of the federal poverty line. But initial data showed that more—not fewer—people were seeking out ACA coverage: 600,000 signed up for coverage on HealthCare.gov during the first week of the open enrollment period in November, breaking a record.

—Mattie Quinn
BUILDING 5G

States are increasingly being asked to referee fights between mobile phone carriers and local governments, as the wireless industry sets out to build the next generation of data networks.

The reason for the clash is that the new 5G wireless networks are built differently than their predecessors. Existing mobile systems rely on equipment installed on towers and tall buildings that are relatively far away from one another. But 5G technology requires a much denser network of 10 to 100 times as many antenna locations, so that the networks can handle the surging demand for data from mobile phones, driverless cars, wearable devices, surveillance cameras, high-tech streetlights and other building blocks of “smart cities.”

Telecommunications companies are eyeing city-owned or city-controlled infrastructure—particularly utility poles and streetlights—as sites for their new equipment. But the companies worry that city zoning and other approval processes, plus the high fees that many local governments charge for permits, could stymie the development of the new networks. “Today, it can take a year or more to get a permit, but only an hour to install a small cell. This has to change,” says Sprint CEO Marcelo Claure.

Instead of seeking approval city by city, the telecom giants have turned to state legislatures, where most of them enjoy comfortable relationships with lawmakers, to preempt local regulations. More than a dozen states, including Ohio and Texas, have passed laws setting statewide rules for phone companies that want to use public infrastructure to build their 5G networks.

While the industry sees such efforts as streamlining regulation, many municipalities see them as brazen attempts to preempt local authority and effectively take over public infrastructure. They’re worried about the loss of revenue and the effect that a proliferation of ugly equipment will have on neighborhood aesthetics.

California Gov. Jerry Brown, a former mayor of Oakland, vetoed the telecom industry’s bill in his state, and court challenges could threaten recently passed laws in Ohio and Texas. But the industry is pushing forward with statewide licensing bills in Pennsylvania, Illinois, Michigan, Washington and Wisconsin. The Federal Communications Commission is examining the issue as well.

—Daniel C. Vock
SEXUAL HARASSMENT

Sexual harassment has run rampant in state capitols for decades. But now, state officials are being forced to confront it.

First on social media and then in more formal venues, women responded to last fall’s #MeToo campaign with an outpouring of stories that showed lawmakers have too long ignored bad behavior in their workplaces. They told of lawmakers, lobbyists and staff using positions of power to get away with groping, insulting, propositioning, extorting and humiliating the women they work with.

Specifically, women accused legislators of inappropriate conduct in Arizona, California, Florida, Illinois, Kentucky, Massachusetts, Minnesota, Ohio, Oregon, Rhode Island, South Carolina and Washington. Half a dozen states were still reeling from recent sexual harassment scandals before the social media campaign began.

If coming forward wasn’t easy for these women, then what comes next may be even tougher: figuring out how to stop the harassment.

The most common step so far has been to require lawmakers and others who work at the capitol to take sexual harassment training—something that’s regularly required of other state workers. The success of those efforts depends both on the quality of the training and on the willingness of lawmakers to participate. Some chafe at any mandates for elected officials, while others complain that training alone is ineffective without clear consequences for future violation.

Elected officials can’t be fired easily for violating personnel policies, so legislatures have resorted to other forms of punishment for offenders. These include taking away staff, revoking leadership or committee assignments, revealing information about accusations or settlements to the public, and excluding offenders from party caucuses or expelling them from the legislature.

An equally difficult question that many legislatures are reexamining is who handles sexual harassment complaints in the first place. Legislators often police their own membership for ethics violations, but many employment law specialists recommend that independent professionals look into the allegations. To be credible, the procedure has to protect both the accusers and the accused in today’s politically charged atmosphere.

But the stakes are high. If lawmakers cannot enact effective policies, public confidence in the integrity of state legislatures will decline even more than it already has.

—Daniel C. Vock

FAIR WORK SCHEDULES

Some places are imposing new laws or regulations to make the employee workweek more stable and predictable. With the advent of on-demand scheduling software, large retail companies can now staff up or down by the hour. The technology helps business efficiency, but it comes at a cost for workers who sometimes don’t know until the last minute when they will be called to the job. Working mothers, for example, who make up a large share of these new “irregular workers,” can’t be sure if they should arrange for child care.

Last year, Oregon became the first state to pass a fair scheduling law: Retail, food service and hospitality companies with at least 500 employees worldwide must make work schedules available two weeks in advance. The law includes other pro-employee features such as the right to a rest period between consecutive shifts and the right to...
express scheduling preferences without retaliation from an employer, as well as the right to receive “reporting pay,” which requires employees to be compensated when they are sent home early.

At the local level, New York City, San Francisco and Seattle have scheduling protections for workers. Chicago may be the next large city to adopt a similar measure. Apart from Oregon, though, states have been slower to enact scheduling protections. Labor advocates are looking to revive legislation that failed last year in Connecticut, Maryland, Massachusetts and New Jersey. Another state to watch is New York. In November, Gov. Andrew Cuomo proposed regulations that largely resemble the Oregon law and could take effect without the legislature’s approval.

—J.B. Wogan

OPIOIDS

EVERYONE IN GOVERNMENT is well aware of the opioid crisis, and most states have taken action to fight it. But year after year, the death count rises. The New York Times estimates that 59,000 people died of drug overdoses in 2016, and 2017 appears to have been deadlier still.

The nature of the crisis, though, is changing. Prescription drugs continue to be responsible for the largest number of deaths, but that rate has leveled off, while heroin has taken an increasingly heavy toll. Most recently, the number of deaths from synthetic opioids such as fentanyl and carfentanil has shot up. Carfentanil is 10,000 times more potent than morphine and was used initially as an elephant tranquilizer. “Our current addiction crisis and especially the epidemic of opioid deaths will get worse before it gets better,” President Trump said as he formally declared the epidemic a public health emergency in October. “But get better it will.”

Trump’s declaration cleared the way for federal officials to relax certain regulations, so that more people can get treatment. The Centers for Medicare and Medicaid Services, for example, has been waiving a rule barring Medicaid payments to patients in large mental health or substance abuse treatment facilities. Seven states have received waivers to allow Medicaid to pay for treatment no matter the size of the facility, and more are expected to apply in the coming months.

But Trump’s action, to the dismay of many public health advocates, did not come with any additional funding.

States and cities, meanwhile, are increasingly turning to lawsuits to discourage drugmakers from overzealous promotion of prescription opioids and to recoup the costs that the epidemic has inflicted on localities. More than 100 governments have filed civil cases against pharmaceutical companies, which could lead to high-profile trials or sweeping settlements.

In the states, public health advocates will likely continue to press for fewer restrictions on the use of naloxone, which can counteract the effects of opioids, and increased funding to make the antidote more readily available. Advocates will also seek more treatment options for patients with addictions and will push to limit the amount of drugs doctors can prescribe at any one time.

—Mattie Quinn
UNIONS UNDER SIEGE

DESPITE CRIPPLING SETBACKS in the private sector, organized labor has remained a force among state and local government workers. The U.S. Supreme Court, however, appears ready to deal public employee unions a big blow.

Last year, the court heard a case challenging a 40-year-old precedent regarding agency fees. What that means in a nutshell is that, while unions can’t always require workers to join and pay dues, they can require employers to collect fees that are nearly equivalent to the dues and are used for collective bargaining. That way, workers who benefit from unions negotiating on their behalf aren’t getting a free ride.

Conservatives have attacked this arrangement. They frame their complaint as a First Amendment concern where workers are being forced to support organizations they aren’t choosing freely to join. In 2016, it appeared that a majority of justices on the Supreme Court were sympathetic to that argument. But Justice Antonin Scalia died before the decision was finalized, resulting in a 4-4 deadlock.

This year, with the conservative Neil Gorsuch in Scalia’s seat, union critics are confident they’ll prevail. The court has agreed to hear a fresh challenge to agency fees in the case Janus v. American Federation of State, County and Municipal Employees, Council 31. A decision is expected by June.

Labor officials aren’t willing to concede defeat, but they know that the legal landscape is not promising. An adverse ruling will make their lives much more difficult. A 2015 survey found that only 35 percent of AFSCME members would continue to pay dues if they didn’t have to.

If the court rules against them, unions will have to devote far more time and effort to recruiting and retaining workers. Critics counter that this is all to the good, that unions should be responsive to the wishes of their members, rather than being able simply to demand fees. But convincing workers that they should pay for services they can get free would clearly result in a drain on union resources.

Labor has been able to organize in some places in the absence of an agency fee. Las Vegas is a prime example; many service workers there continue to be unionized without one. But an anti-union decision from the Supreme Court is likely to encourage Republican state lawmakers to put more pressure on labor through legislation. Last year, the Iowa Legislature passed a requirement that each individual bargaining unit hold recertification votes, in which a majority of workers covered by agreements would have to support continued union representation. In most of these elections, unions have been able to win. Still, labor will have to work harder to remain viable if it loses in the Janus case. It can be done, but collective bargaining in the public sector may end up being largely a regional phenomenon.

~Alan Greenblatt
STATE LEGISLATURES 2018: ISSUES TO WATCH

January 2018
GOVERNING
One of the most important things state lawmakers have to determine each year is how much money the state can expect to collect from its taxpayers. But answering that question is becoming increasingly difficult.

State revenue levels have been disturbingly volatile since the Great Recession. Consequently, more state forecasters have been missing the mark. Two years ago, 19 states had to make mid-year budget cuts because of faulty forecasts. Last year, the problem got worse: 23 states faced mid-year corrections. In the past, these numbers have rarely been seen outside of a recession.

There are two big reasons for the recent difficulty. The first is that states, particularly those with progressive tax rates, are increasingly dependent on income taxes. Income taxes are especially unpredictable revenue sources because they are closely tied to the individual fortunes of high earners whose incomes can swing wildly from year to year.

Despite that volatility, many states are doubling down on taxing the rich. Since the recession at least six states—many of them home to the nation’s wealthiest households—have passed a so-called millionaire’s tax or raised rates on their richest earners. There’s likely to be more. This coming November, voters in Massachusetts will decide on a millionaire’s tax, while the Democrats who control the New Jersey Legislature have said a tax hike on high-earners is their top priority this year.

This increasing reliance on taxpayers’ incomes hasn’t been entirely intentional. It’s partly a side effect of the sales tax base shrinking and becoming a less effective revenue stream as more consumers buy goods tax-free online or spend their money on tax-free services. Since 1960, states have gone from collecting about 60 percent of their revenue from sales taxes and 10 percent from income taxes to 45 percent from sales and 35 percent from income.

Meanwhile, the prospect of lower rates under federal tax reform has taxpayers acting rather unpredictably. Income tax revenue across all states was down 4 percent in April 2017, compared to the previous year, according to the Nelson A. Rockefeller Institute of Government. Although many states had forecast declines in April and May 2017 (the biggest months for income tax returns), the revenue losses were worse than expected. This may be because wealthy taxpayers were shifting income out of 2016, in anticipation of getting a lower tax rate if they waited a year.

State budget offices likely won’t get an accurate picture of what’s really happening until returns start flowing in again this spring.

—Liz Farmer
The 2018 elections could provide an opportunity for states and localities to restore confidence in voting systems that came under intense scrutiny during the 2016 presidential campaign.

This year is likely to see unprecedented coordination among state and local election officials on security-related issues. Last October, they formed a working group with the U.S. Department of Homeland Security to address concerns over hacking. In exchange for partnering with Homeland Security, state election officials now can obtain security clearances, which will allow them to receive intelligence about specific cyberthreats.

The cooperation came about last year after Homeland Security notified 21 states that Russian hackers had targeted their voter registration files or websites. No evidence suggests hackers actually tampered with voting machines or vote counts, but the federal agency still moved to designate election systems as “critical infrastructure.” Under the designation, states and localities should have an easier time getting federal assistance to protect voting machines, storage facilities and voter registration databases.

But a wide range of election administrators, including the National Association of Secretaries of State, initially balked at the designation, characterizing it as a potential power grab over an election system that has traditionally been decentralized and locally controlled. The working group was set up in response to those concerns.

Voting machines that collect and count ballots aren’t connected to the internet, so a cyberhack that changes the outcome of an election isn’t likely. But the hackers continue to undermine public confidence in the results. That’s why some election advocacy groups say the single most important change jurisdictions can make is switching to paper-based systems, which can help restore people’s trust in election outcomes.

With paper ballots, officials can verify vote counts by comparing digital tallies with the paper record. Some 32 states and the District of Columbia now require post-election audits. Last year, Iowa and Virginia joined the list, while at least five other states considered similar bills. Observers say more states are likely to take up such legislation in 2018.

As election audits become more widespread, so will paper-based voting. About a month before its general election in 2017, Virginia abruptly decertified its paperless voting machines over cybersecurity concerns; Georgia is piloting paper ballots for the same reason. And Delaware put out a bid for machines that used paper. About a quarter of the nation’s voters still live in election districts with paperless voting machines, but after Virginia’s announcement last fall, that number is sure to shrink.

—J.B. Wogan
How much can the Dems really do?

The election results from November suggest Democrats will have a big year in 2018—but they need more than that.

By Alan Greenblatt
It looked like a mathematical impossibility. In November, every Democrat running for re-election to the New Jersey Senate won with a bigger victory margin than had been the case during their previous efforts back in 2013. On the Republican side, the reverse was true: Every single incumbent did worse. In other words, Democrats improved on their performance everywhere in the state. Despite the impressive showing, however, they didn’t come away with much to show for it. Democrats added only a single seat to their majority.

The mismatch was more striking in Virginia. There, Democrats went into the November election facing an enormous deficit in the state House. Republicans held 66 of the 100 seats in the chamber. No one believed that Democrats would gain more than a half-dozen seats, at best. Instead, they captured 15. It was a terrific showing, yet still short of a complete victory. At press time, it appeared that Republicans would continue to control the chamber, albeit with the slimmest of margins. And although Democrats did well, they won in places that were fairly easy targets. Of the 15 districts they flipped, all but one voted for Hillary Clinton for president in 2016.

Out of the chamber’s 100 districts, 6% of them voted for the same party they’d supported for president the year before. These days, fewer voters split their tickets than they used to and there’s simply more territory—way more states and counties and arguably more legislative districts—that tends to favor Republicans.

Nationwide, the Democrats will almost certainly be in better shape in state politics a year from now than they are at the moment. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back.

The mismatch was more striking in Virginia. There, Democrats went into the November election facing an enormous deficit in the state House. Republicans held 66 of the 100 seats in the chamber. No one believed that Democrats would gain more than a half-dozen seats, at best. Instead, they captured 15. It was a terrific showing, yet still short of a complete victory. At press time, it appeared that Republicans would continue to control the chamber, albeit with the slimmest of margins. And although Democrats did well, they won in places that were fairly easy targets. Of the 15 districts they flipped, all but one voted for Hillary Clinton for president in 2016.

Out of the chamber’s 100 districts, 6% of them voted for the same party they’d supported for president the year before. These days, fewer voters split their tickets than they used to and there’s simply more territory—way more states and counties and arguably more legislative districts—that tends to favor Republicans.

Nationwide, the Democrats will almost certainly be in better shape in state politics a year from now than they are at the moment. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back. They are starting at such a low ebb—with a smaller share of offices than at any time since the 1920s—that they’re due to bounce back.
Inside Michigan Politics, notes that voters in that state are already “antsy” after eight years of increasingly unpopular rule under GOP Gov. Rick Snyder. Bill Schuette, the state attorney general and a leading Republican candidate for governor, has given Trump his full embrace, which might not play so well come November should he be the Republican nominee. “He’s going to have to keep going hard to Trump to keep the base energized,” Demas says. “That’s going to put Schuette in a perilous position in the general, when he will have to defend a lot of unpopular ideas and unpopular rhetoric.”

By the nature of their jobs, Republican legislative candidates will have a harder time separating themselves from an unpopular president, given the limited amount of media and voter attention their individual races will receive. They face other headwinds as well. Rank-and-file Democrats and party donors seem finally to have discovered the importance of legislative elections, mirroring the level of focus and fundraising that Republicans have brought to this particular cause for years. In most recent cycles, the two parties have left about 40 percent of legislative seats uncontested. As Democrats have already shown in Virginia, that may not happen this time. Democrats seem to be eager to run in many more places, and they’re finding unprecedented numbers of volunteers ready to lend them a hand.

“There is a fascinating change that happened after 2016, where people perked up and remembered there are such things as state legislative elections,” says Nily Rozic, a Democratic state assembly member in New York. “When I ran in 2012, it was difficult to get donors, let alone voters, to focus on state races.” That’s all changed. A welter of new groups has sprung up to recruit and support Democratic candidates, including Future Now, Forward Majority, Run for Something, Sister District and Flippable. They join older groups such as Daily Kos, EMILY’s List and Emerge America. The National Democratic Redistricting Committee, which is being run by former U.S. Attorney General Eric Holder and is backed by former President Barack Obama, has pledged to spend $30 million on legislative contests this year. Some of the other new groups have the backing of wealthy donors, including the free-spending billionaires Tom Steyer and George Soros. Forward Majority, run largely by Obama administration alumni and chaired by Colorado Gov. John Hickenlooper, claims it can raise $100 million. “We know there is going to be a new level of interest in the states and an increased level of spending,” says Matt Walter, president of the Republican State Leadership Committee. “In Virginia, the level of engagement of their donor groups was even higher and stronger than we anticipated. It should be a cause of deep concern for anyone who supports Republicans and conservative government.”

It became a political truism during the Obama years that midterms favor Republicans, because the electorate tends to be whiter and older than during presidential years. After this year, we may hear that midterms favor Democrats, because they have the educated voters, and educated voters have higher turnout. The reality

STATE LEGISLATURES 2018: HOW MUCH CAN THE DEMS REALLY DO?

Republicans have a trifecta—control of the executive branch and both legislative chambers—in 25 states, while Democrats have eight. That means Democratic wins won’t change the balance of power in many states.
is, it’s the president’s supporters, regardless of party, who tend with rare exceptions to be less enthusiastic in midterms.

But even if this is the year Democrats start their comeback, it could end up being more of a rebuilding year than an unadulterated triumph. It’s a safe bet that Democrats will take some governorships and chambers back from Republicans, but they may have to wait until 2020 to claw their way back to parity. “It might be unrealistic for us to flip entire chambers this year,” says Catherine Vaughan, CEO of Flipable, one of the new Democratic campaign groups. “That’s the trickiest piece, getting people to think of a two-cycle strategy.”

One of the known unknowns heading into campaign season is redistricting. In October, the U.S. Supreme Court heard a case challenging the Wisconsin Assembly map, with plaintiffs arguing it amounted to an unconstitutional gerrymander for the GOP’s benefit. “There’s no telling how the court will rule, but there’s a chance the justices will make good on their decade-old threat to disallow maps that tilt too far to one party or the other. Even if the justices agree that there can be such a thing as an unconstitutional partisan gerrymander, they may not agree on how to identify or measure such a thing, which would present an open invitation to more lawsuits all over the country. Last month, the court agreed to hear a separate partisan-gerrymandering case regarding Maryland’s congressional map.

Redistricting is clearly a top-of-mind factor for many donors and strategists on the Democratic side. The Republican sweep in 2010 was a huge head start for the party’s dominance of both state legislatures and the U.S. House during this decade, putting the GOP in position to draw highly favorable maps for itself in key states such as North Carolina and Pennsylvania. Most of the governors elected in 2018, as well as state senators with four-year terms, will be in office during the next round of redistricting, following the 2020 Census. Where they can’t win control this year, Democrats will be seeking to put themselves in place to take over in 2020, or at least break up some veto-proof GOP supermajorities. “So many of the races that matter for redistricting are going to be up in this cycle, in a lot of places where Democrats have been hampered by bad maps,” says Leopold, who also serves as spokesman for the National Democratic Redistricting Committee.

Redistricting has undoubtedly given Republicans a strong edge in many states, with the party packing as many Democratic voters into as few districts as possible. But Democrats have packed themselves as well. The party’s support increasingly comes from people who cluster in dense places—city centers and the most populous suburban counties. In a lot of states, that has meant there aren’t enough districts in play to build Democratic majorities. Consider Minnesota, where Republicans took control of the state House in 2014 and the state Senate last year. Democrats haven’t lost a statewide race in Minnesota since 2006, thanks to strong support in the Twin Cities area around Minneapolis and St. Paul. But Republicans have picked up so many legislative seats in smaller towns and rural areas, that even in a wave year it’s going to be tough for Democrats to take back the House. (The Senate is not up in 2018.) “The map in Minnesota favors Republicans by a few seats,” says Paul Thissen, a former Democratic leader in the state House. “It remains an uphill battle.”

Democrats were cheered by the results in November that hinted they might make inroads into new territory. Ralph Northam, the new Democratic governor of Virginia, dominated the once-competitive suburbs around Washington, D.C. He took a higher percentage of the vote in suburban Fairfax County, the most populous jurisdiction in the state, than Bill de Blasio got in his reelection as mayor of New York City. Northam also won by 20 points in Loudoun County, a wealthy suburban enclave, which his Republican opponent, Ed Gillespie, had carried as recently as 2014 in a U.S. Senate race. Northam became the first Democratic candidate for governor to carry Chesterfield County, outside Richmond, since 1964, when Virginia, like most of the South, was still solidly Democratic.

Inroads among affluent suburban voters were essential to Democrat Doug Jones’ startling upset victory in the U.S. Senate race in Alabama last month. What’s more, Democrats won contests for local office last year in suburban jurisdictions around New York and Philadelphia where they’d been shut out of power for years and even decades. Democrats won the race for town supervisor in Hempstead, N.Y., which has a population of 760,000, for the first time in more than a hundred years. “All the Democratic changes in those suburbs are bad news for Republicans,” says Lawrence Levy, dean of the National Center for Suburban Studies at Hofstra University in Hempstead. “The inner-ring suburbs are increasingly well-off and well-educated, or poor and more minority.” In other words, ripe to trend Democratic.

But not every suburb flipped to the Democrats. In Huntington, about 20 miles farther out on Long Island from Hempstead, Republican Chad Lupinacci was elected supervisor, succeeding a Democratic incumbent who held the office for 24 years. In Michigan, Democrats have earned an advantage in Oakland County, an affluent suburban area north of Detroit that formerly favored Republicans. In exchange, however, they’ve lost their traditional hold on neighboring blue-collar Macomb County. Macomb is famous in political circles as the original home of the so-called

Michigan GOP gubernatorial candidate Bill Schuette’s full embrace of Trump could put him in a perilous position.

GOV01_34.indd   38
GOV01_34.indd   38
12/15/17 10:49 AM
12/15/17 10:49 AM
Reagan Democrats, the working-class voters who had mostly been with the Democratic Party since the days of Franklin Roosevelt but started voting Republican with Ronald Reagan. Now, those Reagan Democrats are simply Republicans. “Macomb County is solidly for Trump,” says Marjorie Sarbaugh-Thompson, a political scientist at Wayne State University. Meanwhile, she says, Republicans in Oakland County are “horri-

fied by the Donald Trumps and the Roy Moores and the turn the Republican Party is taking.”

Trump’s national advantage in 2016 among whites lacking a college degree was 30 percentage points. Democrats have picked up more support from college-educated whites, but even in the Trump era they don’t dominate that category. According to exit polls, the vote among college-educated whites was split evenly in the gubernatorial races in both New Jersey and Virginia in 2017.

In order to win more legislative elections, Democrats need minorities to turn out. Unfortunately for them, most minority voters—along with most educated professionals—are still clustered in metropolitan areas, where their votes simply push up the totals in lopsidedly Democratic con-
stituencies. Whites without college degrees, by contrast, are spread like peanut butter all over the country. The nation’s demographic changes as a whole may favor the Democratic Party, but clustering has given Republicans disproportionate strength in many states.

Ever since early November, Republicans have dismissed the results in New Jersey and Virginia as not much more than Democrats winning home games. Both states have been trending blue and the last five presidents have watched their party lose those governorships during their first year in office. Democrats dismiss that argument—“horse hockey,” Jessica Post, executive director of the Democratic Legislative Campaign Committee (DLCC), calls it. And certainly the GOP was singing a different tune about those states before the results came in. But there’s some truth to the notion that New Jersey and Virginia, demographically speaking, represent best-case scenarios for the Democrats. “There just aren’t that many states in the country that have this mix of educated white voters, plus large numbers of black and Latino voters,” says Patrick Egan, a professor of politics and public policy at New York University. “That’s really the best recipe for Democrats right now.”

The pull of midterms toward the opposition party, as well as Trump’s sustained and even deepening unpopularity, guarantee some good news for Democrats. There are states where legislative margins are tight, or where gubernatorial performance might normally have opened up some space for the GOP, but where Democrats can now probably rest pretty easy, such as Colorado, Connecticut, Pennsylvania and Rhode Island. “One result of the political environment may be that Democrats will ultimately be less accountable because of the president,” says Kyle Kondik, managing editor of Crystal Ball, a political newsletter put out by the University of Virginia. “If Hillary Clinton were in the White House, Connecticut might be favored to elect a Republican, but because of national politics, it might be too much of an ask.”

If Democrats won’t have to worry much about playing defense, there clearly are a lot of places where they can go on offense. In New York, they are hoping to gain enough seats in the state Senate for the party to take real control of the chamber, rather than watching a Democratic rump group keep Republicans in power. There are other chambers where the Republican majorities are sufficiently slight that it wouldn’t take all that many breaks for Democrats to gain power, such as the state senates in Arizona, Florida, Iowa, Maine and New Hampshire.

But then there are chambers where Republican margins are so large it’s difficult to imagine Democrats winning enough seats to cobble together a majority. The GOP has enormous ad-

vantages in reliably red states such as Indiana, Missouri, South Carolina, Tennessee and Wyoming, among others. Then there are states like Pennsylvania, which is competitive when it comes to statewide elections, but where Democrats would have to win 20 seats to take back control of the state House. And then there’s Michigan. “It’s almost statistically impossible for them to take back the state Senate,” says Demas, the Michigan analyst. “I don’t think that’s even on the table.”

Demas points to a potential bright spot for Democrats. In a special election in November, they easily won a state House seat on Michigan’s Upper Peninsula in a district that Trump had carried the year before. The most promising portent for Democrats, in fact, is their performance in recent special legis-
lative elections. These are low turnout affairs and each has its own dynamic. Still, some of them amounted to wake-up calls for Republicans, as even Republican strategists will concede. Democrats took 14 legislative seats from Republicans in special elections last year, in districts that had supported Trump in 2016 by margins as great as 39 percentage points. Republicans, by contrast, picked up just a single seat each in Louisiana, Massachusetts and Mississippi.

Democrats in these special elections typically ran well ahead of Hillary Clinton’s performance in their districts. That spoke to greater turnout and enthusiasm on their side, in many instances, than among Republicans. Winning in midterms has always been about turning out supporters, but it’s especially pressing these days when partisan voting habits have hardened and persuading anyone to swing to the other side has become difficult.

That could be a saving grace for Republicans. In contrast to elections even in the early 2000s, fewer voters are willing to support candidates of the other party. That might put a limit on the size of the wave Democrats are counting on. The results in New Jersey and Virginia, although clearly good outcomes for Democrats, didn’t suggest that the bottom had totally fallen out for Republicans when it came to turnout.

Some of the special elections, though, told a different story. And the fact that Democrats captured so many seats in the Virginia House makes the gains they’ll need to flip more chambers this year seem conceivable, if not easily doable: “Our swings sometimes come in big numbers,” says Post of the DLCC. “After winning 15 seats in Virginia, suddenly the nine seats we need in the Michigan House don’t look quite as intimidating anymore, or the 11 seats in Minnesota.”

Email agreenblatt@governing.com
Most politicians believe moderation doesn’t help Democrats much in the Deep South. John Bel Edwards isn’t one of them.
Now 51 years old, Edwards grew up in a rural town with fewer than 5,000 residents, married his high school sweetheart and raised three children. Before getting a law degree, he graduated from West Point and served eight years in the Army, eventually becoming a captain. He is an unapologetic advocate of gun rights and an avid hunter. He also hails from a family of elected sheriffs, and supported legislation to make targeted violence against law enforcement a hate crime. As a Roman Catholic, he is also pro-life—another example of his Democratic heterodoxy—and he and his wife chose to disregard their doctor’s advice to have an abortion when they learned that their first daughter would be born with a congenital defect that could leave her unable to walk.

As a candidate, though, Edwards championed many traditional liberal causes, such as raising the state’s minimum wage, expanding Medicaid and changing the state’s criminal justice system to incarcerate fewer nonviolent offenders and help ex-convicts find jobs. (Louisiana has a higher percentage of residents incarcerated than any state in the country.)

Edwards, who is not related to former Gov. Edwin Edwards, believes his electoral success two years ago points the way for Democrats to win back control of Southern states that have become reliably red over the past decade. “If we want to be a 50-state party, we have to appeal to people where they are,” he says. “I think there are some in my party who believe that the current dysfunction in the Republican Party and the low approval ratings of our president means that we’re going to automatically be successful going forward. I reject that idea. It means that we have the opportunity to be successful. But we have to go out and seize the middle of the political spectrum. You don’t get it by simply not being a Republican.”

Right now, however, Edwards is preoccupied by a crisis more immediate than the national future of his party. His state has been plagued for several years by massive budget deficits, and 2018 is no exception. A temporary one-cent sales tax is set to expire at the end of June, creating a $1.6 billion shortfall in a budget of less than $30 billion. This month his office will submit a budget request to state lawmakers that outlines hundreds of millions in spending cuts, mostly from higher education and health care. “They won’t be cuts that we want,” he says.

The budget is not only the central challenge of his administration, but also the biggest test of whether Edwards can govern from the center as well as he campaigned. To quarterback budget negotiations, he appointed a Republican and former rival, Jay Dardenne, as his commissioner of administration. Dardenne was on the state Senate Finance Committee for eight years and served as both Louisiana’s lieutenant governor and secretary of state before losing in the GOP gubernatorial primary. Several other senior officials in the Edwards administration are either Republicans or former appointees under a Republican governor. “I told people we would have a state government that looks like the state of Louisiana, and that’s true of men, women, black, white, Hispanic, but I also meant that in terms of party,” Edwards says. “I want to fashion solutions in the political center, and it’s important to me to have a Republican sitting at the table every time we make a high-level decision.”

Last year, Edwards, Dardenne and Secretary of Revenue Kimberly Robinson crisscrossed the state making a pitch to local elected officials and business leaders about how to avoid the fiscal cliff. They framed their proposal as a modest request to keep Louisiana government at its current size, which is already much smaller than it once was. The state brings in about $1 billion less in revenue, they said, and has roughly 30,000 fewer employees, than it did a decade ago. It’s a point the governor keeps making every time Republican critics insist he should focus on further spending cuts, not on raising revenue. “This notion that this governor has come in and wants to raise revenue and spend money willy-nilly is not correct,” Dardenne says. “This is not a wild-eyed liberal Democrat. This is a conservative Democrat governing in a conservative state.”

In his first two years, Edwards has had mixed success in turning his campaign priorities into reality. He expanded Medicaid for more than 433,000 low-income residents and signed into law his package of bipartisan criminal justice changes. At the same time, his proposals to raise the state minimum wage and close the gender pay gap have not garnered widespread support in the
Capitol. Courts have thrown out his executive order issuing anti-discrimination protections for LGBT state workers. Nonetheless, he still enjoys respectable support from voters in a red state. A national poll in November found that despite political setbacks and continued trouble addressing long-term structural issues in the budget, he had a 53 percent approval rating. “He’s shown good leadership through some of the incidents that we’ve had with floods and police shootings,” says Barry Erwin, president and CEO of the Council for a Better Louisiana, a nonpartisan think tank and advocacy group. “In the public, even though he’s a Democrat in a very red state, he’s very well thought of.”

Erwin gives Edwards credit for producing more accurate budgets that highlight ongoing imbalances between revenues and expenses. “The budget that they’re presenting now is much more transparent than it used to be,” Erwin says. “There were a lot of gimmicks in the old ones. A lot of smoke and mirrors.”

But shifting the conversation from an honest assessment of the current budget to potential solutions has proved elusive. The governor and legislature have resorted to Band-Aid approaches, Erwin says. “It’s been much more of a challenge to craft a permanent solution and we don’t have one.”

By now, the legislature was supposed to have addressed the fiscal cliff. In 2015 and 2016, it enacted a series of temporary revenue increases, raising taxes on cigarettes, alcohol, hotel rooms and car rentals, in addition to a short-term increase in the overall sales tax. Lawmakers gave themselves a June 2018 deadline for replacing the $1.6 billion raised through those temporary fixes, which both Democrats and Republicans considered imperfect solutions. Democrats didn’t like the regressive nature of the sales tax, which disproportionately burdens low-income residents. Republicans didn’t like the fact that Louisiana has one of the highest combined state and local sales tax rates in the country. The three national credit rating agencies, which all downgraded the state in Edwards’ first year, have also criticized the failure to find a sustainable source of revenue for ongoing expenses.

When the legislature bought itself time to avoid the shortfall, Republican leaders also created an independent task force to study the budget and make long-term recommendations. Within six months, the 13-member working group, stocked with a mix of bipartisan appointees, produced a list of tax proposals. Their report included more than a dozen ideas, such as removing a sales tax exemption for business utilities and eliminating state deductions that a reduction of more than $1 billion in spending wasn’t realistic. It did say the legislature should review existing contracts, tax breaks and funds protected by the state constitution to see if any could yield savings. But as Schroder said, the task force focused on specific remedies for replacing expiring tax revenue, not ways to shrink the budget.

Schroder, who is now the state treasurer, is following the playbook of his predecessor, current U.S. Sen. John Kennedy. As treasurer for 16 years, Kennedy argued that the state government spent too much money on consultants and managers and needed to live within its means. “We don’t have a revenue problem,” Kennedy wrote in one op-ed. “We have a spending problem.” It’s likely that Schroder will echo those sentiments again this year if lawmakers consider a tax package to stave off cuts.

This year, though, lawmakers can’t consider tax bills unless Edwards calls a special session, which he won’t do unless he hears from Republican House leaders that they have a plan. The budget his office will present at the end of January is likely to show politically unpopular cuts that both the governor and lawmakers will actually want to avoid.

Last year’s lack of progress highlights one of the key problems Edwards faces in attempting to score bipartisan wins. Ever since the days of Long, the legislature has allowed governors to pick the House speaker, who in turn chooses committee chairmen. This tradition meant that even when Democrats controlled the legislature—a reality for most of the 20th century—Republican governors had powerful influence over House leadership, and stood a good
GOVERNING and right in Louisiana is “no longer about how we structure ad-

torting the issues for political gain. The debate between the left

tant. She argues that both liberal and conservative politicians are

state’s balance sheets as a legislator and a certifi  ed public accoun-

averaged $1.2 billion in annual shortfalls. Stokes has studied the

economy, the ramifi  cations of those 2008 tax cuts weren’t evident

immediately. But from fi  scal year 2010 through 2016, Louisiana

voters approved the plan as a state constitutional amendment, but

and increased income tax collections. In 2002, a slight majority of

so-called Stelly plan, a tax reform package authored in 2002 by a

Means Committee.

Julie Stokes, a Republican who sits on the state House Ways and

oil prices resulted in a “massive false economy,” says state Rep.

Federal aid after hurricanes Katrina and Rita, private-sector
growth related to the rebuilding eff  ort, and a boom in gas and
oil prices resulted in a “massive false economy,” says state Rep.
Julie Stokes, a Republican who sits on the state House Ways and

Means Committee.

In his fi rst year, Jindal signed into law a partial repeal of the
so-called Stelly plan, a tax reform package authored in 2002 by a
Republican state lawmaker. In general, the plan lowered sales taxes
and increased income tax collections. In 2002, a slight majority of

voters approved the plan as a state constitutional amendment, but

six years later, the income tax provision had become unpopular
among middle-class residents unhappy with the change on their
annual tax returns. The repeal kept the lower sales taxes, but also

cut the personal income tax.

Because the state was experiencing a temporary boom in its

economy, the ramifi cations of those 2008 tax cuts weren’t evident
immediately. But from fi scal year 2010 through 2016, Louisiana
averaged $1.2 billion in annual shortfalls. Stokes has studied the
state’s balance sheets as a legislator and a certifi ed public account-

ant. She argues that both liberal and conservative politicians are
distorting the issues for political gain. The debate between the left

and right in Louisiana is “no longer about how we structure ad-

quate funding for the government,” she says. “It’s the right saying,

“We’re flush with cash and wasting your money,” and the left saying,

“We’ve cut and cut and cut to the point where it’s dangerous for

our future.’” As she suggests, the gulf between those two stories
leaves the public feeling frustrated and confused.

The Edwards administration is largely correct that the state
government collects less revenue today than it did in the 2000s,
but Stokes challenges its point of comparison. By 2007, the year
that the governor uses, the state was already enjoying the benefi ts
of the “false economy,” so it’s no surprise that state collections were
higher then. Still, she says, looking at the 2005 fi scal year, the last
budget before the hurricanes, the state had lost about $100 million
in inflation-adjusted general fund revenue. If the temporary sales
tax goes away, that number will grow to more than $1 billion.

Conservative critics who say state government spending is out
of control have a point, Stokes believes, but they often leave out
important context. It’s true that state spending is about $1 billion
higher today than in 2005, but the main drivers for that increase
have nothing to do with annual appropriations or recent budget
practices. One contributor is old debt payments for employee pen-
sions, which are mandated under the state constitution and were
scheduled to start small in 1989, peak around now and then taper
off at the end of the 40-year pay period. The annual cost of pension
debt in the 2016 fiscal year was nearly $1 billion more than it was in 2005. After taking into account those debt payments and a few other mandatory items, Louisiana actually spends $300 million less today. Its spending cuts, though, haven’t been enough to cover the budget shortfall. What the state needs is an influx of stable income. “To say that there’s no problem on the revenue side is pretty disingenuous,” Stokes says. “It’s definitely not my preferred message because I’m a conservative in a conservative district, but we have to embrace the facts, and the honest problems, and get that communicated to the electorate so that we can fix this and move on.”

As of last month, it remained unclear whether Edwards and legislative leaders would find enough common ground to replace the expiring one-cent sales tax. Last year, Edwards proposed a commercial activity tax on businesses after it became clear that the budget task force recommendations had failed to gain traction in the House Ways and Means Committee. Now, Edwards wants House Republicans to put forward a plan of their own. “I’m trying to leave maximum maneuver space and flexibility to negotiate [a budget] with the legislative leadership,” Edwards says.

One of the governor’s talking points is that Republican House leaders are refusing to own unpopular cuts. At the roundtable meetings, Robinson, the revenue secretary, invited proposals that would close the budget gap through reduced spending. “If you’re of the mind to go ahead and cut, I can respect that, even though I disagree with it,” she says. “But if so, help us out with what to cut.” In other words, be specific.

Under Jindal, Louisiana saw the steepest college tuition increases of any state, which was a direct response to the most drastic reductions in state higher education funding anywhere in the country. With so much of the remaining budget tied up in dedicated funds protected by state law or the constitution, state money that flows to universities may be one of the only discretionary items where significant cuts are possible. That’s why Edwards believes conservative lawmakers will have to come around on taxes. “There is no comfort about raising revenue,” he says, “but there’s a lot of discomfort around continuing to cut, especially as it relates to education.”

What Edwards portrays as flexibility, Rep. Cameron Henry, Republican chairman of the House Appropriations Committee, describes as an attempt to avoid responsibility for potential tax increases. “He’s trying to almost circumvent his leadership role by getting everyone else to tell him what to do,” Henry says. “Well, that’s not how governors work. It’s his job to at least let the legislature know, ‘Hey if I was king,’ which as governor of Louisiana you pretty much are, ‘these are the five taxes I would want to raise. These are the five exemptions I would want to get rid of.’ It’s got to be driven by the governor.”

State Senate President John Alario, who is a Republican but also an Edwards ally, suspects the solution will have to involve raising taxes or fees to replace the expiring sales tax. “Nobody wants to have additional revenues put on them, but they also want the services that government provides,” he says. “I’m hoping that somewhere down the line we can find a compromise to make it work.”

Democratic House Rep. Leger, who is now speaker pro tempore, says lawmakers have made enough bipartisan deals in the past two years to give him hope that they’ll avoid the fiscal cliff. The temporary one-cent sales tax and other short-term measures are an example of the legislature compromising to address a deficit. Last year, Edwards and the Republican legislative leadership managed to fully fund the TOPS college scholarship program while avoiding higher education cuts for the first time in almost a decade. Lawmakers also left gas tax revenue available to use on the state’s backlog of transportation infrastructure projects, a shift from prior years when they used that money to plug holes in the general fund.

Louisiana has been able to enact budgets in the past because majorities of both Democrats and Republicans came together on an option. The consensus is that this will ultimately happen again. But it may not be a long-term solution. “It’s not that nothing has been accomplished,” Leger says. “The largest pieces of the puzzle, however, are left undone.”
Civilian oversight boards are popping up in major cities across the country. Can they make police departments more accountable for their own?

By John Buntin
Sharon Fairley remembers how she felt when she first saw the dash cam video of the Chicago police shooting 17-year-old Laquan McDonald. “Shock and concern,” she says. “It’s just heartbreaking to watch that kind of violence being done to a person.”

Fairley, a former federal prosecutor, knew police work could be tough. She also knew that video could be misleading. But what this video showed was genuinely shocking. Police cars converge on a young man walking erratically down the middle of a street in an industrial neighborhood at night. Two officers jump out of a marked SUV. Seconds later, Officer Jason Van Dyke, who is white, empties his 16-bullet clip into McDonald, who is African-American. Van Dyke’s partner then walks over and kicks a 3-inch knife from the hand of the motionless teen.

Officers at the scene said that McDonald had turned threateningly toward Van Dyke with the knife. The video told a different story. The shooting occurred in October 2014, but Mayor Rahm Emanuel’s office took no public actions against the police department. Nor did the city release the video. Seven months later, a local journalist filed a Freedom of Information Act request for the video. Hours before its release, prosecutors arrested Van Dyke and charged him with first-degree murder.

That didn’t prevent protests, which persisted downtown for days. Marchers demanded that Emanuel resign. Instead, he fired Police Superintendent Garry McCarthy and, with U.S. Attorney General Loretta Lynch announcing a civil rights investigation into the department, assembled a police accountability task force to recommend reforms. Last April, the task force delivered more than a hundred recommendations. Among them was a call for the creation of a new civilian oversight agency, the Civilian Office of Police Accountability (COPA).

Emanuel asked Fairley, the city’s deputy inspector general, to head it. She accepted. In doing so, she became one of the leading participants in a movement reshaping law enforcement in cities across the country: the steady growth of civilian oversight of policing. It’s a development that has been welcomed by people concerned about the frequency with which police in the United States use lethal violence and the high levels of mistrust between minority communities and law enforcement. But there’s a problem with this solution. Past experience suggests it doesn’t work. In fact, it may make matters worse.

Civilian oversight boards aren’t new. In 1948, Washington, D.C., was the first to set up such a board. In the next two decades, enthusiasm for civilian oversight waxed and waned, but since the 1970s the number of civilian review boards has grown steadily. Today, roughly half of the country’s 50 largest cities have oversight boards with independent investigative authority, according to Udi Ofer, deputy national political director for the American Civil Liberties Union. But activists across the country want more independent and more powerful boards. Last year, Newark, N.J., created one of the most robust civilian review boards in the country. It has the power to subpoena records and witnesses, audit police practices and discipline rule violators. Seven of its 11 members will be appointed by community and civil rights organizations, with the remainder named by the mayor and the city council. Voters in Denver, Honolulu, Miami, New Orleans and in the California cities of Oakland, Sacramento and San Francisco also have voted to strengthen civilian oversight.

Some police chiefs are troubled by different aspects of civilian review boards. In particular, they are concerned about demands that they relinquish disciplinary powers to the boards. “The chiefs believe—and I agree—that disciplinary decisions need to be the responsibility of the police chief, not an oversight body of some type,” says Darrel Stephens, the former Charlotte, N.C., police chief and recently retired executive director of the Major City Chiefs Association.

There’s another problem as well. Civilian oversight of policing, as it is most commonly implemented, simply hasn’t met expectations. Consider the case of Chicago. Before COPA, there was the Independent Police Review Authority. Before IPRA, there was the Office of Professional Standards. Before OPS, there was the Chicago Police Board. All of these oversight entities were created in response to scandals. Far from improving accountability, some observers of policing in Chicago believe civilian oversight may actually have impeded it. Fairley acknowledges the problem.

ROUNGLY HALF OF THE COUNTRY’S 50 LARGEST CITIES HAVE OVERSIGHT BOARDS WITH INDEPENDENT INVESTIGATIVE AUTHORITY. BUT ACTIVISTS ACROSS THE COUNTRY ARE PUSHING TO MAKE THEM MORE INDEPENDENT AND MORE POWERFUL.
“Because you had this separate entity responsible for evaluating and dealing with complaint reports, it’s almost like it let the department off the hook,” she says. “They felt like, ‘Oh, we don’t have to worry about that because it’s IPRA’s job.’ They didn’t have the sense of needing to hold themselves accountable. They felt like they had this external entity doing it for them.”

Yet today, Chicago is doubling down on civilian oversight. COPA will be bigger and more independent than the agency that came before it, with more investigators—90 instead of 70—and a larger budget. The way COPA is set up reflects the belief of Fairley and others that civilian review boards fail for two reasons: lack of independence and lack of resources.

That’s an analysis that worries Harvard University professor Mark Moore. Despite his anchor in academia, Moore is an influential person in the world of policing. In the early 1980s, Moore at Harvard’s Kennedy School of Government convened a group of reform-minded police chiefs who were seeking to reduce crime and excessive use of force today. Instead of taking authority and responsibility away from police departments, Moore wants police chiefs and their command staffs to view reducing misconduct and excessive use of violence as integral parts of their jobs. He has in mind a specific playbook for how to do this. It comes from 1970s New York City, when an independent commission and a police chief worked together to eradicate police involvement in illegal bookmaking and payoffs.

In April 1970, The New York Times published a bombshell story about corruption inside the New York Police Department. Plainclothes officers in vice hot spots such as East Harlem were “on the pad”—that is, taking payoffs from organized crime figures to ignore illegal gambling. Higher-ups in the NYPD and city hall had ignored reports of such corruption for years.

Faced with a public outcry, Mayor John Lindsay formed a committee, which included the police commissioner and the Manhattan district attorney, to investigate. But as more reports of corruption surfaced, Lindsay came under pressure to appoint an independent commission.

The result was the Knapp Commission, named after its chairman Whitman Knapp, a former assistant district attorney who had turned Wall Street lawyer.

With a small staff and budget, and only six months to work (a timeframe that was later extended), the Knapp Commission faced an immediate challenge: How could it change a large bureaucracy like the NYPD? Its response was to recruit informers and create a media spectacle. The commission hoped that this in turn would generate public pressure for reform. In many ways, this strategy worked. New Yorkers watched, rapt, as officers such as Frank Serpico came forward with stories of corruption he had witnessed. However, the most important effect of the clamor was to change the leadership of the police department itself.

A few months after the scandal broke, Lindsay appointed Patrick Murphy to head the department. Murphy had started his career as a Washington, D.C., and finally Detroit police departments. In the process, he had gained a reputation as a savvy, tough reformer. “If you were a big-city mayor with a slightly berserk police department on your hands,” Washington Post reporter James Lardner, himself a former police officer, would later write, “there was one preferred remedy: You hired Patrick V. Murphy.”

It fell to Murphy to address a culture of corruption and the code of silence known as “the blue wall.” Murphy’s predecessors addressed corruption by creating a centralized unit of investigators, the Internal Affairs division. Although its exact name and organization chart sometimes changed from one commissioner to the next, the approach was basically the same: Internal Affairs was a special division of cops, separate from the others, whose
Murphy believed that approach was misguided. Instead of consolidating authority and responsibility in Internal Affairs, he chose to disperse it. Commanders would henceforth be responsible for corruption in their areas of command. Captains were given “field internal affairs units” so that they could conduct investigations on their own. To demonstrate his seriousness, Murphy forced several high-ranking members of the command staff to resign. He then informed the borough chiefs that the commander judged to be the least effective in addressing corruption would be relieved of his command. Internal Affairs was not disbanded. On the contrary, its range of activities was expanded. Instead of merely investigating complaints, it began to run so-called integrity operations—stings—that tested police conduct.

Murphy’s hardball tactics got results. By the time he retired from the department three years later, 90 percent of the NYPD’s top 180 commanders had resigned and “the pad” was a thing of the past. But Murphy’s reforms did not eliminate corruption permanently. Twenty years later in 1994, another corruption scandal convulsed the department. This time it involved a small group of officers shaking down drug dealers. Another independent commission, the Mollen Commission, was formed to investigate. It tapped Harvard’s Moore as a consultant.

Moore started with a kind of paradox. On the one hand, police departments did not effectively police themselves. Yet taking responsibility for investigations away from the police seemed to backfire because it made them even less accountable. Moore believed that the path to more respectful, less violent law enforcement ran through the department itself. He wanted to find a way to pressure and reward commissioners and commanders who took that responsibility seriously. To promote that, he proposed an independent, outside agency that would audit police investigations and policies. “The job of the external agency would be to warrant to the broader public the quality of police investigations,” says Moore. It would also provide political cover to reform-minded chiefs willing to look for and address problems within their department. The Mollen Commission ultimately rejected these suggestions. Instead, it created the Civilian Complaint Review Board. However, the subsequent experiences of civilian complaint boards have largely borne out Moore’s concerns.

Attorney Lori Lightfoot, who chairs the Chicago Police Board—which serves as a kind of court of last appeals for disciplinary proceedings for the police department—co-chaired Chicago’s Police Accountability Task Force. As part of the process of assembling recommendations, Lightfoot spoke with a number of police experts who shared Moore’s concerns about civilian complaint review boards. “Frankly,” she says, “in some ways it robs a leader or superintendent or commissioner of both the obligation and the opportunity to set the culture of the department.”

Lightfoot is still a strong supporter of civilian oversight, but like other advocates she is thinking less in terms of incidents and more in terms of systems. One city reformers have taken a close look at is Denver. In 2004, it created the Office of the Independent Monitor to watch over the police and sheriff’s departments. Nicholas Mitchell, who got his start as an investigator with New York City’s Civilian Complaint Review Board, heads the 15-person office. “Our model is a little bit of everything,” he says. The office’s main function is to collect complaints. People can file them in person, through the mail or online. Investigations themselves are conducted by the police or sheriff’s internal affairs bureaus. However, the Independent Monitor’s staff tracks cases moving through the disciplinary process, making recommendations as to how the investigation can be more thorough and fair. The knowledge they gain from these individual cases informs the office’s audits and policy recommendations.

Gaining the trust of both law enforcement agencies and sometimes skeptical community groups requires Mitchell and his employees to maintain a difficult balance. “One of the most important aspects of our model is the public reporting we do. That really helps us drive change in the policy and practices of the agencies we oversee.”
POLICING THE POLICE

At the same time, Mitchell says that the idea of complete transparency is unrealistic. “You have to be strategic about when you publish and what you publish and how you present your findings,” he says. “Timing is everything. And publishing findings at the wrong time or in the wrong ways can prompt agencies to shut down rather than be willing to listen to new ideas.”

All oversight agencies live with this tension. “You can’t understand how a department operates and how its culture functions unless you get really up close and have a peek inside,” says Walter Katz, Chicago’s deputy chief of staff for public safety. “But by virtue of getting close and being able to have that deep insight, it starts fomenting the perception that you are too close.”

One way cities can escape this conundrum is to think in terms of “front-end” and “back-end” accountability systems, says New York University law professor Barry Friedman, the author of the new book Unwarranted: Policing Without Permission, that argues for more public participation in police policymaking. Front-end accountability comes from agreeing on rules and providing input on policies. This is common in most parts of government. In education and transportation, for instance, elected officials set policy but agencies solicit public comment in numerous ways.

In contrast, Friedman says, police accountability is focused entirely on back-end systems—on investigations and audits that occur after the fact. Giving members of the public, particularly people in high-crime neighborhoods, more opportunities to participate in front-end decision-making is, in Friedman’s opinion, an urgent necessity.

“It’s a perspective Lightfoot shares. “One thing that has been driven home to me over the years is that the process is almost as important as the outcome,” she says. “If people don’t feel they are being heard, if they don’t feel they have a voice, then you could have the best solution in the world, but it’s not going to have any legitimacy.”

Chicago’s current approach seems to be to try everything. In addition to creating COPA to investigate complaints, the city has also created a new position, inspector general for public safety, with responsibility for performing the kinds of auditing functions that Moore and other police accountability experts encourage. The city is also in the process of forming another civilian oversight board, which is expected to oversee COPA and perhaps provide the police with guidance on policy and priorities.

Yet some residents are already worried. At a recent meeting in the far West Side Chicago neighborhood of Austin, residents expressed concerns. After Paul Peterson, a COPA public affairs officer, explained how the group’s investigators would investigate complaints and make recommendations for discipline to the police superintendent and the Police Review Board, residents seemed skeptical. One asked how the agency could be independent if its budget came from the city.

Peterson explained that COPA was part of the city government but independent from the police. He then went on to explain that residents could submit complaints without coming in and filling out an affidavit. They could submit video clips or even file complaints on Facebook. “My primary concern is retaliation,” said one resident. “The police, they carry guns.”

As for the new civilian safety oversight board, no one seems to know yet what exactly it will be or how it will work. Front-end accountability for police departments is new. “This is really difficult,” says Friedman. “I don’t think we know how to do it.”

In a sense, Chicago is the experiment. As for Fairley, 11 days after COPA officially launched in September, she stepped down to run for state attorney general. Even so, she’s confident that COPA’s leadership will succeed and that the most important determinant of success will be the attitude of the Chicago Police Department. “Accountability,” she says, “has to be baked into the core values of the department itself.”

NEW!

Create the customer-centered culture of excellence. Win leadership challenges ignored by LSS, ISO and others. Make visible the possible you cannot see.

Inspire, engage, delight and triumph with C3.

4th book by best-selling author and top speaker
5-star ranked at Amazon in paperback and Kindle
Chapters by experts on Baldridge, ISO, LSS, COQ
20 exercises for leaders and teams
Many examples of results
Depth with humor


Workshops, Keynotes, Books, Tools, Mentoring:
Creating the Customer-Centered Culture
Uncovering and Satisfying the Voice of the Customer Project Management When the Solution is Unknown Knowledge Product Design and Innovation Process Break and Fracture

Robin L. Lawton

January 2018 | GOVERNING 51

Email jbuntin@governing.com
The Erie County Medical Center serves as the Level 1 trauma center for all of Western New York. The 550-bed hospital hosts the region’s HIV care and burn units, and is the teaching hospital for the University of Buffalo.

In the early morning hours of Sunday, April 9, 2017—a quiet time of day when large hospitals like Erie County’s are nonetheless buzzing with activity—hackers infiltrated the medical center’s computer systems. The screens went blank, replaced by a pop-up message that read, “What happened to your files?” Hospital staffers could get their data back, the message said, but it would cost them: 24 bitcoin, the cybercurrency that, at the time, was equivalent to about $30,000.

Hospital leadership acted quickly. They determined that they wouldn’t pay the ransom. Instead, they shut down the entire computer system, following protocol that had been put in place for a massive power outage. Doctors, nurses and other staffers relied on more rudimentary systems such as pen and paper until they could get back online safely.

That didn’t fully happen until six weeks later. Rebuilding the network—and suffering from some lost revenues during the recovery period—cost the hospital nearly $10 million.

Erie County wasn’t a sitting duck. In fact, the hospital had recently undergone a risk assessment for cyberthreats and had tweaked different parts of its system to make them more secure. It had upgraded its cybersecurity insurance from a $2 million annual plan to $10 million. (That insurance means the hospital wasn’t on the hook for most of the recovery costs after the attack.) In terms of security, the hospital was actually rather advanced, says CEO and President Thomas Quatroche. “Our
When computer viruses hit hospitals, the consequences can be dire.
cybersecurity team said they would have rated us above-average before the attack.”

Many other hospitals across the country have been victims of a similar hack. MedStar Hospitals—a Washington, D.C.-based chain—was forced to shut down its computer systems for days after getting hit by a cyberattack in 2016. Princeton Community Hospital in West Virginia had to revamp its entire network after a global cyberattack hit its medical records system. Hollywood Presbyterian Medical Center in Los Angeles decided to pay the $17,000 its hackers requested after the hospital’s computers were taken over.

Ransomware in general has rapidly become an extremely lucrative operation. In 2015, according to FBI reports, cybercrime victims paid about $24 million to unlock their computers after an attack. By 2016, that number had hit $1 billion. Cyberattacks have become an omnipresent threat. High-profile hacks of companies from Equifax to Uber to Target to Sony Pictures have made it clear that all sorts of data are vulnerable. Credit scores, Social Security numbers, email addresses, credit card numbers. Everything. But the health-care sector finds itself in a special predicament. Health data can be extremely valuable: National reports suggest that while credit card numbers can be sold by hackers for 10 to 15 cents apiece, a medical record can fetch between $30 and $500. “People don’t think of their health data with the same urgency they would their checkbook,” says LeRoy Foster, chief security officer at Advocate Health, an Illinois-based health system. “But if I get your health-care data, I get everything. I get insurance information, I get part of your financial info and your pharmaceutical information.”

At the same time, health-care systems are often complex and fragmented, and the health sector in general lacks the kind of across-the-board standardization that, say, the banking industry has. Experts say most hospitals and health systems are trying their best. But as the threats keep shifting, health IT has had to get more nimble—something it’s not very good at. If the spotty, halting implementation of electronic health records over the past decade has taught IT experts anything, it’s that health data is uniquely tough to lock down. If the industry can’t figure out an easy way to get health records online, then it also isn’t going to be easy to create systems that secure the data. “There is no standard for what health records look like. Every single different health records system has a different format and process,” says Teri Takai, the former CIO of California and Michigan, as well as the former CIO for the Department of Defense. (Takai is now the executive director of the Center for Digital Government at e.Republic, Governing’s parent company.) Takai recalls working once for a small insurance company focused on Medicaid, and she says she was struck by how many small, regional health-care firms were out there, each with their own way of doing things. “There’s such fragmentation,” she says.

Part of that fragmentation comes from just how sprawling health care is. Under the giant umbrella of health care are insurance companies, Medicaid, thousands of hospitals, private practices and health departments—each holding different bits and pieces of a person’s medical history. That sprawling nature is why getting health data online at all has been a struggle. Today, more than 80 percent of doctors and more than 90 percent of hospitals use electronic health records, but that’s largely attributed to financial incentives from the Obama administration. And moving records online is only the beginning: A 2015 survey from the American Medical Association found that only 34 percent of providers were happy with their own electronic health records.

Health data also doesn’t lend itself well to standard security measures like automatic logouts and two-step verification. Doctors already complain that accessing relevant information when they’re in front of a patient can take more than 20 clicks of a mouse. Adding more onerous security measures would require extra time that doctors and nurses often don’t have. “You have hundreds of people who need to access things fast,” says Andrew Boyd, an assistant professor of health information sciences at the University of Illinois, Chicago. “You can’t have automatic logouts after 15 seconds—you’re adding several minutes to a procedure. If you put up too many barriers, that can hurt patients.”

Health practitioners complain that there’s been little help from government, particularly from Washington, to protect health-care systems and help them stay in front of emerging threats. “The federal government is really good at helping the financial sector on cybersecurity, says Quatroche in Erie County. “There really is no support system from the feds for hospitals. It’s quite the opposite.” He adds, “There needs to be some recognition that we were victims of a crime.” State legislatures are slowly trying to address cybersecurity needs. But their efforts usually aren’t targeted to health care, and policy experts say they need to do more: A bill introduced in Ohio in October would offer businesses a legal safe harbor from...
penalties of a breach, as long as they had some kind of cybersecurity program in place. That’s a good first step, because “a large number of breaches go unreported or unresolved simply because providers do not know what steps to take,” says Mitchell Parker, executive director of information security and compliance at Indiana University Health. ZDNet, a business technology news site, reported in 2013 that about half of data breaches go unreported. The New York Department of Financial Services last year mandated that all financial institutions must have in place a cybersecurity program approved by the state. That requirement wasn’t directly related to health care, but it’s an approach that a state health department could copy, says Thomas MacLellan, director of policy and government affairs at Symantec. During their annual meeting in August, members of the National Association of Insurance Commissioners discussed adopting New York’s policy for every state, although it would have to be approved by state legislatures first.

A good place for states to start is just making sure they fund cybersecurity insurance and training in public hospitals and health departments. More than a dozen states require cybersecurity insurance, though there is currently no national or legal standard for what the policies should protect. Having an adequate insurance plan is what allowed the Erie County Medical Center to weather its attack last year. “Is it burdensome? Yes,” Quatroche says. “But it’s the reality now.”

The problems can be especially acute for rural hospitals. Many of those facilities have been struggling financially for the past decade, with declining populations, sicker patients and more people relying on Medicaid, which doesn’t pay as well as private insurance. It’s tough to tell small hospitals to maintain a million-dollar cybersecurity insurance plan when they can barely keep their doors open as it is. The attack that blindsided Erie County could have decimated other medical centers that didn’t have the same resources, Quatroche says. “If you’re a rural hospital, that could have closed you.”

MacLellan says he encourages health systems to contract IT work offsite through a cloud system if they can’t afford to hire someone on their own. “After all, what business are you in? Are you in health care or are you in cybersecurity?” he says. “When you look at some of these smaller hospitals, can they afford to bring someone on, or should you contract it out?”

The stakes are high in any data breach. But health-care attacks can be particularly scary. Along with putting sensitive health records information at risk, hospital cyberattacks could impact doctors’ ability to deliver care to their patients. Delayed surgeries, postponed tests and canceled prescriptions are all very real threats. As technology continues to evolve, health experts say there’s a new looming concern: the security of medical devices. Hacking into insulin pumps or anesthesia machines or a whole host of devices could have extremely dire consequences. “Ransomware of patient data is one thing,” says MacLellan. “But imagine you get a text saying your pacemaker is being held ransom in exchange for 100 bitcoin.”

Ultimately, says Takai, it’s an issue of proper management. “This isn’t a technology problem, it’s a business leadership problem,” she says. “Think of it like a disaster plan. How would you recover? What will you tell people?”

And health-care departments can’t treat cybersecurity as an afterthought, says Boyd at the University of Illinois, Chicago. “There’s this permanent new cost that can be tempting to waive to balance a budget. But there will always be new threats,” he says.

“Health-care IT needs to be a permanent line item.”

Email mquinn@governing.com
Every time the U.S. Census is conducted, New York City makes for an especially tough place to count. Its diverse demographic groups typically respond at lower rates than most of the country. The large immigrant population often requires language assistance. And just getting up-to-date addresses for the city’s many transient residents is a problem in itself.

So as the 2020 Census approaches, city staff are already canvassing neighborhoods, identifying potentially problematic blocks and doing other work to ensure these residents are counted. “We’re starting earlier than in the past because of threats to enumeration,” says Joseph Salvo, the city’s chief demographer.

For a number of reasons, concerns over missing hard-to-count residents are perhaps greater than ever. The Census Bureau’s current budget hasn’t gotten anything like the funding boosts it’s received prior to previous counts. If limited funding persists, it could hamper outreach budgets and in-person enumeration, both key to accurate counts. Online responses are also being used for the first time, but many urban poor still lack access to the internet. And more nontraditional living arrangements will make it harder to count certain households.

All of this explains why government officials and local advocacy groups are looking to get a head start. Ditas Katague, California’s Census coordinator, says several of the state’s larger jurisdictions have formed teams and started preparing earlier than usual. “I’m encouraged that localities are taking responsibility for what’s typically more of a federal operation,” she says. Officials are well aware that the Census count will carry far-reaching implications for federal spending and apportionment of political representation.

One of the best measures of participation is the mail return rate. Census statisticians compare the number of completed Census survey forms to the number of occupied housing units that received them. The national return rate in 2010 was 79.3 percent, but it varied significantly by state and region. Less than three-quarters of households responded in Alaska, Louisiana and New Mexico, while nearly 86 percent did so in Minnesota. In certain counties, more than a third of households failed to return their forms, and some parts of cities responded at even lower rates.

In order to respond, people have to receive the forms in the first place. Renters are typically undercounted because the forms don’t reach many of them, while homeowners are overcounted. High-rise apartments with mail delivered to a single central location also pose problems.

Census participation is largely tied to a jurisdiction’s demographics. The last Census is estimated to have undercounted the nation’s black population by 2 percent, and Hispanics by only slightly less. Whites, particularly older white women, were overcounted. One of the toughest groups to count is children under the age of five, many of whom live in low-responding neighborhoods. According to calculations from the Leadership Conference Education Fund, the great majority of young children in cities such as Cleveland, Memphis and New York reside in hard-to-count Census tracts.

Immigrants could be especially hard to reach this time, given heightened fears of deportation. New York’s Salvo says it’s not just the city’s undocumented residents who may not respond, but naturalized citizens as well. “The environment of hostility toward immigrants is a huge threat to the Census,” he says. Also reluctant to respond are those in any demographic who have a cynical view of government or don’t trust the Census. A report prior to the 2010 count identified 19 percent of the U.S. population holding such views.

Hard-to-count demographics don’t always spell reporting problems. Residents of Washington Heights in New York City, a predominantly Hispanic neighborhood.
with large numbers of undocumented immigrants, responded at high rates in the last Census. Community leaders and neighborhood groups worked assiduously to ensure people were counted. But Washington Heights was an exception to the typical pattern of poor response in low-income urban neighborhoods.

Some rural areas of the country have also been historically difficult to reach. One region that responded at low rates in 2010 is southeastern Oklahoma, which includes many Native Americans and high-poverty communities. Melanie Poulter, who coordinates counting efforts for the Tulsa-based Community Service Council, says they’re exploring partnerships with convenience stores to advertise the Census.

The single biggest source of anxiety for officials has been funding. To save money, the Census Bureau plans to rely more on administrative records to accumulate its list of mailing addresses, spending less on canvassing operations. Julie Dowling, a University of Illinois associate professor who convened a working group on the issue, warns that transient individuals, immigrants living with other families and other difficult-to-reach groups are frequently missed in such records. “The fact that administrative records will be used will leave certain people out,” she says.

In 2020, Americans will be able to respond for the first time to the Census online. But this, too, could undercount poorer households without internet access. An analysis by the City University of New York’s Center for Urban Research found that in the past, congressional districts with lower mail return rates were correlated with higher percentages of households who don’t have internet access or are burdened by poor connections.

To better reach these neighborhoods, the Census Bureau has pushed partnerships with local organizations. New York’s Salvo is asking philanthropists to help local community groups raise money for hiring staff and Census outreach. In the past, California has contracted with supplemental nutrition program counselors to talk about the Census with their low-income clients.

Reaching the hard-to-count, says California’s Katague, requires trusted messengers in communities. These can include pastors and faith groups who emphasize completing the Census. It’s also crucial that messages are tailored to individual communities. Katague explains that, depending on cultural attitudes, some communities might not trust any web address that ends with “.gov.”

One point that no one disputes: For communities that are determined to get an accurate count, the time to begin work is now. “States and localities need to be doing things in 2018,” Katague says. “You need to be engaging and finding out who these leaders are in the community.”

### HARD-TO-COUNT COUNTIES

<table>
<thead>
<tr>
<th>2010 Census Final Mail Return Rate</th>
<th>Rate is not applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;65%</td>
<td></td>
</tr>
<tr>
<td>65% to &lt;70%</td>
<td></td>
</tr>
<tr>
<td>70% to &lt;75%</td>
<td></td>
</tr>
<tr>
<td>75% to &lt;80%</td>
<td></td>
</tr>
<tr>
<td>80% or more</td>
<td></td>
</tr>
</tbody>
</table>

Many parts of the country completed and returned their last Census forms at relatively low rates.

---

By Mike Maciag

---

SOURCES: U.S. CENSUS BUREAU; VIEW DATA AT GOVERNING.COM/CENSUSCOUNTS

---

Email mmaciag@governing.com
Wary of Sharing

Shared services make rational sense. That doesn’t always matter.

Shared services are one of the most ballyhooed management techniques for communities nationwide. That’s not surprising. The concept isn’t complicated and has the potential to save tax dollars through economies of scale and improved efficiencies. Rather than duplicate parallel services in separate communities that share borders, the communities can join forces.

Consider a physically deteriorating town hall in Marbetown, NY, that needed to be replaced. Marbetown formed an agreement with the neighboring town of Rosendale to share administrative office space in a former elementary school. This avoided town hall construction costs of $4 million for Marbetown and cut down on administrative expenses for both places.

But common sense isn’t enough to turn shared services into a dominant approach. There are a number of reasons why jurisdictions don’t marry physical spaces, programs and schools. For one thing, opportunities don’t just pop up like a well-managed rabbit in a hat. “When it’s a question of how to start, you get blank stares,” says MarySue Barrett, president of the Metropolitan Planning Council in Illinois. “They just have no idea of the construct of services in the next community. They don’t meet with one another.”

That’s a real pity. Illinois has more than 7,000 jurisdictions; many of them are tiny and could benefit from combining forces. But even when one jurisdiction sees the possibility of synergy with another, the process can stall when citizens and public officials have a strong sense of ownership in the status quo. “There’s resistance to change in procedures when there is a vested interest in the way things are being done,” says Grant Reeher, director of the Campbell Public Affairs Institute at Syracuse University.

It’s a matter of human nature, rather than rational thinking. “This is one of those things that can play to people’s fears,” Barrett says. Just as proponents of shared services show that services can be enhanced and savings increased, “opponents turn them on their head and say you’re going to lose control. You’re going to lose your say. People are going to lose their jobs.”

Two school districts, for instance, may resist a merger because they aren’t willing to lose a high school team. “I’ve been all over the country,” says Joe DeLong, executive director of the Connecticut Conference of Municipalities, “and I’m certainly familiar with this. People don’t want to take away two football teams with a great rivalry.”

One of the biggest fears that can stand in the way of shared services is the notion that when efforts in two jurisdictions are combined some of the savings will be accrued by laying off top administrative jobs. Turn two school districts into one, and you may lose one superintendent’s job. That makes one superintendent unhappy.

Additionally, elected officials may fear that combined services will deprive them of the praise they’ve historically gotten for...
Defining Leadership Success
in local government, it’s about what you leave behind.

Former Salt Lake City Mayor Ralph Becker, who is now a fellow with the Open Society Foundation, met with a group of us at Governing a few months ago to discuss the project he is working on for the foundation, an effort to identify the characteristics of leadership that result in success for state and local government officials. Of course, before you can identify those traits, you have to define the goal itself. In local government, for example, what constitutes success for a mayor or a city manager?

To me, success means leaving the community in better shape than you found it. That may sound somewhat squishy and hard to measure, but it is possible to apply a fairly rigorous evidence-based, outcomes-focused assessment of the extent to which public officials accomplish that goal by evaluating the community, along five dimensions: finances, social capital, infrastructure, shared prosperity and involvement in a regional network.

So to my way of thinking, a successful local official is one who leaves behind a city or county government that is in a stronger financial position, whose residents have more trust and confidence in each other, whose infrastructure is better maintained and with increased capacity, whose generated wealth is spread more evenly among the population; and which is more closely connected with and collaborating with other local governments in its region. Each of these dimensions could be explored in greater depth, but each is amenable to fairly sophisticated measurement and analysis, whether through tools that sift through existing data, studies that compare jurisdictions or surveys that measure shared prosperity and the strength of social ties.

While not every project or initiative will encompass all of these five dimensions of success, the story Becker told us of his involvement in building a new performing arts center in Salt Lake City struck me as a good real-world example. Shortly after taking office in 2008, he learned that there was a strong movement to build such a facility in the region. Becker was convinced that building it downtown, rather than in the suburbs, would mean a more positive future not only for the city but also for its region. It would be a catalyst for more downtown activity and development. It would also increase the region’s sustainability: Having a theater with easy transit access in the heart of downtown would bring efficiencies in the use of space, energy and travel and also avoid reinforcing the suburbanization of the Salt Lake region.

The Eccles Theater opened, to great acclaim, in October 2016 in the heart of Salt Lake City. Becker had left office by the time it opened. But few would dispute that he and those who collaborated with him on the theater project had, in at least one way, left behind a better community.
Better Late Than Never
It will have taken 15 years, but Real ID is finally going to happen.

Remember Real ID? The act, passed in 2005, that requires states to follow federal security standards when issuing driver’s licenses or ID cards? After repeated delays to enforce it, the Department of Homeland Security (DHS) has set Oct. 1, 2020, as the final deadline. And after years of fighting it, states finally seem to be on board. Twenty-seven have complied, and the remaining states either have received an extension or are under review for one, according to DHS spokeswoman Justine Whelan.

So what has all the fuss been about? Following the 9/11 attacks, in which terrorists easily obtained fraudulent driver’s licenses, Congress pushed through the Real ID Act to beef up security standards, including the requirement that states verify that a license applicant is in the country legally, and that the states use biometrics to ensure the authenticity of the person. That meant setting up a federal database to crosscheck applications and to require drivers to show valid birth certificates and Social Security cards.

When the law passed, states balked at what they considered to be federal overreach. Some were concerned the new federal requirements for identification to board any flight within the U.S. would amount to an internal passport for citizens. And observers complained bitterly that it would severely impact privacy. “It was a bad piece of legislation that left many stakeholders out of the policymaking process,” says Jay Stanley, a senior policy analyst at the American Civil Liberties Union.

Seventeen states ultimately passed laws restricting or barring implementation. And as they dug in their heels, the federal government was forced to delay enforcement four times. Eventually, DHS dropped some of the more extreme measures, such as a national database. Real ID was also assaulted as a huge unfunded mandate for the states, according to Stanley. Back in 2008, DHS estimated the cost to the states at $3.9 billion; earlier estimates had it at more than $11 billion. While some of that expense involved training workers, a large share was for technology upgrades.

Today, as states slowly move toward compliance, they have begun to provide specific figures on what it will take to modernize their IT systems. Many departments of motor vehicles operate on technology that is several decades old, using software that can only be replaced, not upgraded. Maine, which recently rescinded its law blocking compliance, has been granted an extension until October 2018 and expects to spend as much as $3 million to install new software and train its staff on how to use it. Montana estimates the cost to become compliant at $4.6 million; Massachusetts expects to spend $62 million on new software that will replace a system that’s more than 30 years old. And California is planning to spend more than $220 million.

One piece of technology that could give states an upper hand in detecting the kind of fraud that Real ID wants to deter is biometric identification. But this ability to verify the identity of a person through digitized images of fingerprints or facial features remains too advanced for at least one state’s existing policies. Vermont’s attorney general recently suspended the use of biometrics, which was part of its motor vehicles department’s effort to be Real ID compliant, because the software apparently violates a state privacy law that restricts what type of personal information can be shared.

Meanwhile, DHS is urging the remaining 23 states to press on with their commitments to secure identification. Less than three years remain, a precariously short period for government when it comes to adopting a new policy tied to new technology.

Email tnewcombe@governing.com
Magic can’t make digital transformation happen. But we can.

We’re Dell Technologies, seven industry leaders working together to make your digital transformation happen. Let’s make it real.

DellTechnologies.com
In 1951, West Virginia imposed an excise tax on bottled soft drinks. The tax was pegged at an unsweet one cent per half liter. The levy was to raise revenue to help finance a school of medicine, dentistry and nursing at West Virginia University. The state is still collecting the money, and the revenue is still earmarked for the medical school, but no other state followed in West Virginia’s footsteps.

A lot has changed since then. Nearly seven decades later, it’s local governments that are acting up. Since 2014, there have been nearly a dozen attempts at passing so-called soda pop laws—special excise taxes on soda and other sweetened beverages. To date, such taxes have become law in four localities in California, as well as in Boulder, Colo., Philadelphia, Seattle and the Navajo Nation.

Researchers at Tufts University and Harvard University’s Kennedy School of Government looked into the reason for success and failure. Their findings, co-author Dariush Mozaffarian wrote, “suggest that voters respond to [the promise of] improved health, rather than simply raising revenue for more city spending; while in contrast, inside the city council chamber, politicians appreciate having more money to spend.”

So the new versions of the laws represent not just a jurisdictional change, but also a reflection of recent research and a shift in public opinion. There is now a much greater awareness about the effect of sweetened sodas and beverages on public health—and the costs those health issues visit on state and local budgets. In other words, the tax is seen as a way to tilt people toward healthier behavior and cut back on health-care expenditures.

“If you’re going to make a policy change, you want the best value for the revenue, and boy, a sugar-sweetened beverage tax is a really good value for the money,” says Steven Gortmaker, a professor in the Department of Social and Behavioral Sciences at the Harvard T.H. Chan School of Public Health. When Philadelphia was considering its soda pop tax, Harvard researchers ran a study that found the tax could help 36,000 people per year avoid obesity, prevent 2,280 annual cases of diabetes, avert 730 deaths over a decade and save almost $200 million in health spending.

Three years ago, voters in Berkeley, Calif., took factors like that into account when they weighed in on Measure D. Measure D proposed a fee of one cent per ounce on sodas and energy drinks and sweetened iced teas. These sugar-laden beverages, proponents of the measure argued, were contributing to the nation’s obesity epidemic. The measure also called for the creation of a panel of experts in child nutrition, health care and education that would make recommendations to the city council about how to use the soda pop revenue to improve children’s health. Measure D passed by more than three-quarters of the votes cast, according to the Alameda County Registrar of Voters.

While a few states have considered the tax in the past year, passage at the state level has been slow going. Illinois legislators looked for fixes for its imploding state budget and discussed a penny-per-ounce tax on sugar-sweetened beverages. Researchers estimated that the tax could raise $561 million a year, while also saving millions in health-care costs associated with obesity and diabetes. Illinois lawmakers have passed on the tax so far, but the state’s largest and most populous county implemented one on its own—briefly. Cook County’s tax went into effect in August and was projected to raise $67.8 million this year and more than $200 million next fiscal year. But two months later, the board voted 15-2 to repeal it, thanks in part of a multimillion-dollar “Can the Tax” campaign waged by the American Beverage Association.

Not to be left behind by the changing times, West Virginia is revisiting its sweetened beverage law in the hopes of raising more revenue. If legislators do enact a higher tax, the money would still be earmarked for the medical school.

Email fshafr01@gmu.edu

Soda Pop Quiz

Who’s slurping up the benefits of sugary beverage taxes?
As you plan for the future of the communities you serve, know that PNC provides integrated banking and financial solutions to government institutions through a seamless business model. We offer the size and capabilities of the largest banks with the values and community focus of a Main Street bank. Whether you need insights on credit products, treasury management or capital markets, we can deliver comprehensive solutions with a collaborative, relationship-oriented approach. When you need end-to-end financial results, know that PNC is here to help.

For more information, please contact Rob Dailey, Head of Public Finance, at 215-585-7357 or robert.dailey@pnc.com

PUBLIC FINANCE | As you plan for the future of the communities you serve, know that PNC provides integrated banking and financial solutions to government institutions through a seamless business model. We offer the size and capabilities of the largest banks with the values and community focus of a Main Street bank. Whether you need insights on credit products, treasury management or capital markets, we can deliver comprehensive solutions with a collaborative, relationship-oriented approach. When you need end-to-end financial results, know that PNC is here to help.

For more information, please contact Rob Dailey, Head of Public Finance, at 215-585-7357 or robert.dailey@pnc.com
Skating is a favorite winter pastime in places like Minneapolis, Buffalo and, perhaps most famously, New York's Rockefeller Center. But who would have thought it would be popular in sunny Los Angeles, where daytime temperatures average a balmy 67 degrees in January? Celebrating its 20th year, the downtown Holiday Ice Rink at Pershing Square is the biggest of a half-dozen outdoor rinks in the area. Open from Nov. 15 to mid-January, the 7,200-square-foot rink hosts about 54,000 skaters and 450,000 spectators each season. And in a twist on polar bear plunges where hearty souls immerse themselves in frigid lakes and oceans, skaters at Pershing Square are encouraged to show up in swimming attire on New Year’s Day for the Polar Bear Skate. The facility offers the usual rink-side amenities; the only difference is that skaters get to drink their cocoa under a palm tree.

— David Kidd
IF YOUR CITY USES THESE

YOU’RE REQUIRED TO KEEP RECORDS FOR UP TO 10 YEARS.

BUT DON’T WORRY. WE GOT YOUR BACK.

archivesocial.com
Your public entity’s financial picture is unique. That’s why your banking solutions should be, too.

MUFG provides innovative solutions tailored to the needs of government organizations from major cities to large federal agencies. From budget planning to procurement efficiencies, you’ll work with a partner who understands the complexities of government banking at the most comprehensive level. Additionally, MUFG can offer a wide range of services including municipal bond underwriting, tax-exempt lending, and transaction banking that can accelerate collections and streamline accounting.

With over 135 years’ experience supporting government agencies through all economic cycles, our proven track record of strength and stability means you can count on us in the long run to deliver the financial solutions you need. It’s what makes us more than just a bank—we’re your partner for helping you build a better future for your community.

mufgamericas.com/government

Government banking for the future. From a bank with vision.

Garrett G. Bell
Managing Director
gbell@us.mufg.jp
213-236-4078

Kathryne Daniels
Director
kdaniels@us.mufg.jp
925-947-3430

Coleen Sullivan, CTP, AAP
Vice President
csullivan@us.mufg.jp
415-273-2533

Eileen Perez
Vice President
eperez@us.mufg.jp
213-236-7589