Obama’s END RUN
How the president changed the relationship between Washington, the states and the cities
Only 18% of surveyed legislators currently sit on a committee with cybersecurity as part of its mandate.
State governments haven’t been the willing political partners President Obama once hoped they would be. He’s found some ways to work around that.

By Daniel C. Vock

Not our drivers, Uber keeps saying. But the company’s “independent contractor” policy may prove difficult to sustain.

By J.B. Wogan

As he seeks re-election, North Carolina Gov. Pat McCrory’s biggest problem isn’t a controversial LGBT bill. It’s the legislature that sent it to him.

By Alan Greenblatt

Slow to build and expensive to operate, streetcars could be the most maligned mode of transportation in America. Still, cities keep building them.

By Daniel C. Vock

At Denver’s innovative Peak Academy management program, there’s a big focus on celebrating small-scale wins.

By Brian Elms with J.B. Wogan
Behind the Numbers
More and more employers require college degrees. But not all degrees are created equal.

Smart Management
Budgeting is tricky when general funds are no longer the main source of money.

Better Government
What’s a mayor’s real job?

Tech Talk
Once laden with information, government websites are being decluttered and refreshed.

Public Money
New strategies take public-private partnerships to a higher level.

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Why We Regulate

In his feature on Uber in this issue, J.B. Wogan reports that while many local government leaders thought the ride-sharing phenomenon was breaking local transportation laws, they were reluctant to take action because they wanted their cities to be seen as welcoming places for innovative businesses.

I understand the dilemma, but when the issue is framed correctly, there is a role for government regulation that allows for disruptive new business models without stifling innovation. It seems to me that there are a couple of things that public officials need to think through.

First, what is the innovation that “sharing economy” companies have brought to the table? It is not the idea of treating workers as independent contractors and thus avoiding taxes and other traditional employer responsibilities. That has been attempted for years by lots of companies. FedEx has been fighting lawsuits over the classification of its drivers as independent contractors since at least 2000. And as The Economist has reported, in 2009, the year Uber was founded, 88 percent of all taxi drivers were already contractors.

The second thing is to be clear about the real purpose of regulation, which, generally speaking, is consumer protection. Think of the Pure Food and Drug Act of 1906, which was pushed through by President Theodore Roosevelt to protect the public from the unsanitary meat processing described in Upton Sinclair’s muckraking classic, The Jungle. The idea is for government to use its role to redress an imbalance of power between the corporation and the individual. Companies usually resist regulations vigorously, but once they are enacted, those same businesses embrace them as a barrier to competition. That’s why when Uber first arrived on the scene most of the protest was directly, there is a role for government regulation that allows for disruptive new business models without stifling innovation. It seems to me that there are a couple of things that public officials need to think through.

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**LETTERS**

**States’ Rights Rule**

In the April cover story “We Interrupt This Program…,” Alan Greenblatt looked at how states are increasingly preempting local laws. “There’s a fundamental mismatch right now between the desires of many cities and the policy preferences of states,” he wrote. That mismatch has led to states squelching city laws on contentious social issues such as LGBT rights and gun control, as well as labor policies like minimum-wage increases and paid sick leave requirements. Many readers wrote in to share their own observations of preemption, while others argued it’s the right of the state.

We have exactly this problem in Arizona. Interesting to find out we’re not alone. The state government here seems bent on destroying Tucson in particular, passing laws aimed directly at funding to cities exactly our size and forbidding programs in our local school districts. I’m not sure if it’s encouraging or discouraging to understand it as a more widespread pattern.

One thing you didn’t mention, though, was the systematic influence of “dark money” at the state level. As I understand it, our current governor, Doug Ducey, got most of his funding to run for office from the Koch brothers. So he may be more beholden to them than to any Arizona residents, urban or rural. I think that there has been a systematic effort by big money forces to increase influence in state legislatures and governors, and this may be part of the story.

—Golda Vylez on Governing.com

State and federal governments are recognized in the U.S. Constitution. Cities are not, so this is kind of a moot argument. I get the sentiment though.

—Jeremy Trebes on Facebook

That’s because local governments are creations of the state and the states can do as they please. Local control only exists at the pleasure of the state. Maybe these local governments should focus on their budgets and on transparency, not on social and regulatory issues.

—Jon Russell on Facebook

**Transform or Tear Down?**

In his April Urban Notebook column “In Defense of the Urban Freeway,” William Fulton wrote that many of the people who choose to live downtown actually work in the suburbs and use the “much-maligned urban freeway system” to get to and from work. Urban freeways are often blamed for dividing and damaging downtown neighborhoods, and there’s a growing movement to tear them down and replace them with surface streets. But, argued Fulton, that might not be the best solution as today’s urban housing boom and overall urban renaissance can be attributed, in part, to the urban freeway system. The debate continued online.

I feel like this is a bit of a false choice. Of course we want people who live in the city and work in the suburbs to be able to get to work quickly and easily. However, a freeway is not the only type of road that can get them there. Many major cities all over the world don’t have freeways through their downtowns. Instead, certain roads are designed more as through routes. They still blend nicely into the urban fabric, carrying not only cars but pedestrians, cyclists, buses and, sometimes, light rail. A multimodal surface street will allow people to drive to the suburbs—perhaps a few minutes slower, but often not—but more important, allow downtown to be the urban place it deserves to be.

—cden4 on Governing.com

First, the false choice is suggesting that arterials parallel to existing freeways can be used as a substitute for the freeways. If there’s any congestion at all that is already occurring, eliminating the freeway will make the arterials nearly far less efficient—as volumes approach capacity, delays increase geometrically. So the idea that the arterials would add “only a few minutes” to a commute is only true to the extent that other trips disappear, which means reduced accessibility between residents and jobs.

Second, there is also the suburb-to-suburb commute that goes through the downtown area. Interstate 5 in Seattle, for example, narrows to two through lanes in each direction through downtown because planners didn’t expect this phenomenon.

Last, where would the freight go? Does adding 10,000 trucks a day to an urban arterial sound like a nice addition to the urban fabric?

The real solution to these transportation issues is for planners to figure out how to encourage affordable and desirable housing that can accommodate a wide variety of households adjacent to jobs. And even then, we’d still need freeway ways to move freight and all the delivery vehicles that would be necessary to accommodate this lifestyle. Urban freeways have to be accepted as just another locally undesirable land use.

—Mapamagician on Governing.com
The City Accelerator is an initiative to speed the adoption of local government innovations to improve cities and the lives of their low-income residents.

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Why Tax-Cut Fever Has Abated

By Alan Greenblatt

TWO OF THE STATES that have been most ardent about cutting taxes in recent years now find themselves with serious and apparently chronic budget problems. That may be one reason other states have been more reluctant to cut taxes today than they have been in previous years.

When he took over as governor of Louisiana back in 2008, Republican Bobby Jindal inherited a $1 billion surplus. He cut taxes aggressively when oil prices were high and federal stimulus money was flowing, and refused to raise them again when the stimulus money dried up and oil prices tanked.

When his successor, Democrat John Bel Edwards, took office in January, the state was facing a $3 billion shortfall over the next 18 months. Edwards helped convince legislators to pass sales and cigarette tax increases earlier this year, but they’ll have to meet again in a special session this month to deal with an estimated shortfall of $750 million for the fiscal year starting in July.

In Kansas, Republican Gov. Sam Brownback promised back in 2012 to conduct a “real live experiment” on whether cutting taxes to the bone would fuel economic growth. He’s been haunted by those words ever since. Even after extensive spending cuts and some tax increases were enacted last year, the state has since fallen short of its revenue projections every month but one. The jobs boom Brownback promised has simply failed to materialize. Last year, Kansas was among the bottom 10 states in the nation in employment growth.

These experiences have made lawmakers in other states more circumspect about proposing big tax cuts, says Kim Rueben, an expert on state and local finance at the centrist Urban Institute. “A lot of the places that [tried it] aren’t doing particularly well right now,” she says. “There’s been some exposure to the idea that cutting taxes isn’t necessarily a silver bullet.”

Along with a proposal to roll back part of his tax package that allows more than 300,000 businesses to avoid paying any state income taxes, Brownback’s spokesperson quickly shot that idea down, saying "a plan to raise taxes on small businesses or anyone else” would not be part of the governor’s plan to deal with the latest shortfalls. It turned out to be a moot point, since the proposal died on the House floor.

For many conservative Republicans, the current pause in tax reduction may thus be just that—a brief hiatus before conditions allow more cuts to come. “We are definitely starting to see a break in the tax-cut fever, but it’s a remarkably stubborn virus,” says Nick Johnson, vice president for state fiscal policy at the progressive Center on Budget and Policy Priorities. “We still expect 2017 to be a banner year for big tax-cut proposals.”
CORPORATIONS GENERALLY don't like getting involved in politics. They spend a fortune on lobbying, but they don't want to be seen as overtly partisan for fear of offending half their potential customers. So why are so many big companies lining up in support of LGBT rights?

There are a couple of factors at play. To start, it's been expected for a while now that companies have in place corporate social responsibility programs, meaning they adopt formal policies to demonstrate that they're good citizens of their communities. “With the corporate social responsibility revolution, now it's OK for companies to take sides on things like environmental change and human rights,” says Frank Dobbin, a sociologist at Harvard University.

Still, Dobbin notes, corporations don't like to go looking for trouble. They tend to stay on the sidelines of contentious issues, waiting until there's a bandwagon they can jump on. That may have happened with the push to end discrimination against gay and transgender individuals. Just as legalization of segregation against African-Americans is no longer acceptable, LGBT rights are fast becoming a given within certain circles—the circles upper management tends to run in. “When you get to a certain elite social level, that analogy is entirely apt for them,” says Ryan Anderson, who researches social issues at the conservative Heritage Foundation. “It becomes a no-brainer.”

This dynamic is especially evident in centers of tech and finance. Some of the opposition to bills that restrict gay rights has come from locally based companies—Monsanto in Missouri, Bank of America in North Carolina. But objections have also been raised from the outside by companies such as Apple, Disney and Deutsche Bank.

Tolerance has become an essential value to most millennials. Companies that want to target that enormous demographic as potential employees feel they must be seen as on board with gay rights. In 2002, only 3 percent of the Fortune 500 companies had policies in place to protect transgender employees, according to the Human Rights Campaign, a gay rights advocacy group. Now, more than 75 percent do. “They have younger employees who, even if they're straight, would not be happy if they were supporting anti-gay laws,” says Mark Mizruchi, who studies corporate behavior at the University of Michigan. “How are they going to recruit a recent graduate of Harvard Business School to Atlanta or Charlotte if their states have relatively retrograde views on social issues?”

The principle applies to marketing as well. Researchers have found that today's young adults are more inclined to buy products from a company such as Apple if they believe its values are in line with their own beliefs. Those between the ages of 26 and 35 are 21 percent more likely to buy from a company they feel reflects their values, according to Melissa Dodd at the University of Central Florida.

Other researchers have found that becoming associated with a cause can boost brand loyalty, including for companies that are seen as conservative. “Perhaps it is better in 2016 to be intensely loved by a few than inoffensive to many,” conclude Aaron Chatterji and Michael Toffel, professors at Duke and Harvard universities' business schools, respectively.

There's still a risk. Companies that get too far ahead of their customers on sensitive issues risk a backlash or even a boycott. But quite a few of the largest companies have concluded that support for gay rights—along with other policies they are comfortable with, such as infrastructure spending and an open door for immigrants—will be good for their bottom lines.
TWICE IN THE PAST eight years, San Diego school officials have convinced voters to support big bond measures to pay for construction. They have raised a total of $5 billion that way, and have already spent $1 billion. Despite all this, the school district’s buildings are now in worse shape overall than when they started.

A report by the district’s Independent Citizens’ Oversight Committee uses a standard measure called the facility condition index. It calculates how much would have to be spent to replace, repair or renovate buildings, compared to the cost of new construction. An index score under 5 percent is good; above 10 percent is poor. The latest report showed San Diego at 22.7 percent—up from 18 percent in 2012, when the most recent bond measure passed, and much higher than the 15 percent score when voters approved the first measure back in 2008.

School district officials have sought to play down the findings, saying essentially that they found more wear and tear because they started looking harder. But the same consultant performed each of the recent assessments, and the district has yet to show why the different sets of data shouldn’t be viewed as apples and apples. So why are buildings apparently in worse shape, despite pretty significant spending?

It’s because maintenance isn’t sexy. The district has simply devoted a lot more money to new initiatives than upkeep. “San Diego Unified has spent large swaths of bond money on things like wireless Internet and iPads,” reports the Voice of San Diego. It has also taken some of the bond money targeted for construction and used it for operations.

Meanwhile, some actual construction projects, such as new stadiums, haven’t done anything to strengthen or repair existing buildings.

That’s not just San Diego’s problem. Schools throughout the state seem to do a bad job assessing their maintenance needs. A recent study from the University of California, Berkeley, found that 62 percent of state districts are inadequate on upkeep. “Building is sexy, maintaining is not,” says Jeffrey Vincent, the study’s author.

Vincent notes that there’s no broadly recognized standard in the state for assessing school buildings. Some districts, such as Los Angeles, do sophisticated analyses annually. Others seem to play it by ear. Not knowing what the needs are, it’s impossible for them to target funding where it would do the most good.

That is something California voters might want to ponder as they consider a $9 billion statewide school construction bond that’s on the November ballot.

Taxpayers in California’s second-largest city aren’t getting the shiny new school buildings they were promised.
The death penalty has been weakening in recent years, but a majority of Americans still back it. After the U.S. Supreme Court tossed out Florida’s death penalty law in January, legislators quickly passed a plan to overhaul its jury process so the law would pass legal muster. But a state judge threw the plan out in May. Nebraska residents will vote this November on whether to override the legislature and reinstate the death penalty. But it’s indisputable that the growing corps of death penalty skeptics now includes many conservatives. There are enough Republican legislators in Washington state ready to join with Democrats that a repeal measure there could pass, if a key committee chair would allow it to come to a vote. “Many of us conservatives don’t trust government to launch a health-care program or fill potholes, let alone carry out life and death,” Hyden says. “It’s the quintessential broken big-government program.”

IT’S A GOVERNMENT program that is prone to error, marred by long delays and far more expensive than alternative policies. So it may be little wonder that the death penalty keeps attracting new opposition. But it’s surprising where some of that opposition is coming from.

Over the past decade, the death penalty has been abolished in seven states. Most of those are dominated by Democrats. But the most recent is deeply conservative Nebraska, where lawmakers overrode Gov. Pete Ricketts’ veto of an abolition bill last year. Other red states are revisiting the issue as well. A bill to abolish the death penalty fell short by a single vote in a Kentucky House committee this year, while similar legislation actually passed the Utah Senate before failing in the House.

Last year, the Montana House killed an abolition bill on a tie vote. A few months later, a judge there imposed a moratorium on executions, citing the difficulty of obtaining appropriate drugs for lethal injection—an issue that has put capital punishment on hold in several states. Litigation over delayed or botched executions compounds problems with meting out the penalty. “Our death penalty is a joke,” Republican state Rep. Clayton Fiscus said during the debate.

The average death row inmate can cost tens of thousands of dollars a year more to house than run-of-the-mill criminals. Prisoners who are executed can cost upward of $1 million more than those sentenced to life without possibility of parole. “This is a program that’s so bad, the left and right can actually agree on it,” says Marc Hyden, a former field representative with the National Rifle Association who now works for an advocacy group called Conservatives Concerned About the Death Penalty.

Not everyone is ready to abandon the ultimate punishment for the worst offenders. Polls show support for the death penalty has been weakening in recent years, but a majority of Americans still back it. After the U.S. Supreme Court tossed out Florida’s death penalty law in January, legislators quickly passed a plan to overhaul its jury process so the law would pass legal muster. But a state judge threw the plan out in May. Nebraska residents will vote this November on whether to override the legislature and reinstate the death penalty.

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TO QUESTION THE SUBURBAN COUNTY'S AMBITIOUS SUBSIDIZED HOUSING GOALS IS TO RISK ALIENATING WHAT IS PERHAPS THE MOST VOCAL LOBBY IN TOWN. I KNOW THAT THE CITIZENS OF ARLINGTON WHO ADVOCATE FOR EXPANDED HOUSING OPPORTUNITY DON'T THINK OF THEMSELVES AS POWER BROKERS. THEY DON'T PUT BIG SUMS OF MONEY INTO CAMPAIGNS. THEY'RE ALMOST ALWAYS QUIET AND POLITE. BUT THEY ARE IN POSSESSION OF A SACRED COW, AND THEY KNOW HOW TO MILK IT.

I DON'T SAY THIS AS A CRITICISM, JUST AN OBSERVATION. THERE ARE WORSE THINGS FOR A COUNTY TO BE OBSESSED WITH THAN PROVIDING DECENT SHELTER FOR WORKING PEOPLE WHO NEED IT. BUT THE UNIFORMITY OF ELITE OPINION SOMETIMES PRECLUDES CONSTRUCTIVE DEBATE ON A SUBJECT FOR WHICH THE BEST POLICY CHOICES ARE FAR FROM CLEAR.

THERE'S NO DOUBT THAT ARLINGTON HAS A HOUSING PROBLEM. BACK IN 2000, IT HAD MORE THAN 20,000 PLACES TO LIVE THAT WERE DEEMED AFFORDABLE TO LOW- AND MODERATE-INCOME RESIDENTS JUST ON THE BASIS OF MARKET PRICE. SINCE THEN, MORE THAN 13,000 OF THESE UNITS HAVE DISAPPEARED, CASUALTIES OF ARLINGTON'S EMERGENCE AS AN Upscale DESTINATION FOR AFFLUENT YOUNG PROFESSIONALS. THAT LEAVES AT LEAST 7,000 LESS-FORTUNATE PEOPLE, MANY OF THEM EMPLOYED IN THE COUNTY, WHO CAN'T AFFORD TO LIVE THERE.

Arlington's elected officials have been promising to do something about this for more than a decade. In 2005 the county board passed an ordinance directing residential developers either to create affordable housing in their new projects or to pay a fee into an affordable housing fund. The majority of them chose to pay the money, and by 2014 the county had amassed more than $12 million in the fund while falling far short of the annual affordable housing targets.

So in 2015 the board unanimously approved an affordable housing master plan, committing to the creation of 400 new units every year, eventually reaching the number that existed before the rapid decline began. Some of this housing would be created through loans to private developers who agree to make their apartments affordable; some would rely on “bonus density” awarded in exchange for making portions of a new project rent-reduced.

THE MASTER PLAN won widespread approval even though it wasn’t apparent how the target of 400 units per year might be reached. Over the previous five years, Arlington County, Va., had more than 20,000 affordable units for residents in 2000. Today, more than 13,000 of those are gone.

THERE IS ONE WAY TO CREATE AFFORDABLE HOUSING WITHOUT SPENDING MUCH PUBLIC MONEY, AND THAT’S THROUGH MANDATORY INCLUSIONARY ZONING. IT’S A SIMPLE IDEA: YOU JUST REQUIRE A DEVELOPER TO PROMISE A FIXED NUMBER OF AFFORDABLE UNITS IN ORDER TO GET A PROJECT APPROVED.
It’s not hard to see the appeal of this to financially strapped communities, but it’s a risky game. If you set the mandate too high, projects don’t pencil out and buildings don’t get built. If the developer agrees to participate but there’s a high ceiling on income eligibility, then the project may be a nice idea for the middle-income lies but do virtually nothing for the poorer ones who need help the most.

These are issues that local governments all over the country are wrestling with right now. This month, San Francisco will vote on a ballot measure that would mandate developers to set aside 25 percent of new dwelling units in designated parts of the city for rent-burdened families. In San Francisco, 45 percent of all tenants are paying more than half their incomes for rent; anything above 30 percent is generally considered a burden. We’re not necessarily talking about poor people here: Some units would be available to anyone making less than 140 percent of the median area household income. For the San Francisco area, that comes to $128,000 for a family of four.

The ballot measure has drawn the opposition of Mayor Ed Lee, who thinks more can be accomplished through density bonuses than through rigid set-asides. Lee fought against putting the 25 percent mandate on the ballot, but lost the argument to the Board of Supervisors. In Lee’s view, a quarter of all the projects currently being planned in some neighborhoods won’t be built if the measure passes.

San Francisco actually has had an inclusionary zoning law since 2002, and it has been a flop. It mandates a 12 percent affordable set-aside, but allows developers to escape the mandate by paying a fee to the city. As in Arlington, this is what they have done. A study by the research firm BAE Urban Economics found in 2014 that after 12 years the San Francisco law had brought in $58.8 million in developers’ fees and had generated 1,560 units. That’s better than nothing, but it’s a drop in the bucket for a city facing an affordability problem that is virtually everywhere.

Just about every city that has tried an inclusionary zoning law has had a similar experience. In some cases, the results have been much worse. According to BAE, Chicago’s inclusion law produced $10 million in 11 years, but only 760 affordable units. Thirteen years of inclusionary zoning in Seattle brought the city $31.6 million in fees and a grand total of 56 units. As the urbanist Daniel Hertz wrote recently, inclusionary zoning has been “more powerful as a symbol than as a way of helping people.”

Of course, it’s possible to argue that the problem isn’t inclusionary zoning but flabby and loophole-ridden laws. Virtually all the laws passed since 2000 have allowed developers to pay their way out of the mandate. Maybe if you passed a law with some real carrots and some real sticks, you might get somewhere. That question may be answered in the coming years in New York City.

After winning election in 2014 on a platform that pounded away at affordable housing, Mayor Bill de Blasio pushed through the city council a law that imposes mandatory set-asides of 20 to 30 percent in a whole range of neighborhoods that will be rezoned to encourage the construction of multifamily projects. The goals of this effort aren’t merely ambitious; they’re enormous. The mayor’s plan aims to create or preserve 200,000 units of affordable housing over a period of 10 years, at an estimated cost, public and private, of $41 billion. “Years from now,” the mayor declared as he signed the bill into law, “we will look back on this as a watershed moment when we turned the tide to keep our city a place for everyone.”

Whether 200,000 is an achievable number is open to debate. No one disputes that New York’s law will generate quite a bit of subsidized housing—for more than any city has been able to build in the recent past. What else it may generate is also a debatable question.

Among those who have opposed the law are community activists who argue that it will mostly produce housing for the middle class, not the neediest class. The median income for a family of four in the New York area is $86,300. Some of the new units will go to people earning more than this amount—as much as 115 percent of the median in some cases. The exact numbers will be determined by the city council members representing each district. But families with an income of $40,000 or less may get only up a fifth of the new or reclaimed units.

Making New York affordable for the middle class is, on its own, a desirable objective. But critics of the law believe the true beneficiaries will be affluent renters who will occupy 70 to 80 percent of the units in buildings built under the set-aside. Many of them will pay whatever the market can bear in luxury units in projects that wouldn’t have been built prior to the law’s passage. Critics worry that it will drive up rents of the older properties in the surrounding neighborhoods, displacing more of the poor than will be affordably housed under the new rules. They may or may not be right; at this point, nobody knows.

Despite the uncertainties, there’s little doubt that mandatory inclusionary zoning is emerging as the solution du jour for a lot of large cities. This will continue even in the absence of any solid evidence that it works. I’m inclined to agree with Daniel Hertz and his fellow urban critic Joe Cortright of the City Observatory that the affordable housing problem may not be fully solvable at the local level. Hertz and Cortright argue that the ultimate answer might have to be federal action: Curtailing the federal tax deduction for home mortgages and using the money to pay for moderate-income rental vouchers, for example, would raise billions of dollars almost instantly. Of course, that isn’t politically possible, so there’s limited value to discussing it at this point.

But debating the issue in all its complexities is something any community ought to do as it ponders options for confronting a worsening problem. That discussion will be painful in itself, but it’s better than starting with assumptions whose validity no one has yet managed to establish. G
One State at a Time
Lobbying money once spent in Washington is being redeployed to state capitals.

Shelly LeGere, a grieving mother from Elmhurst, Ill., is an unlikely symbol of the changing face of lobbying in America. Her 13-year-old daughter, Annie, died from anaphylactic shock, most likely from something she ate. When a police officer arrived, LeGere asked, “Don’t you have anything? What can we do?” First responders rushed Annie to the hospital. But they weren’t equipped with an epinephrine injector, most commonly known as an EpiPen, and she didn’t get treatment fast enough. Annie died nine days later. To try to save other victims, LeGere launched a campaign to equip first responders with EpiPens. In doing so, she became part of a national effort spearheaded by the manufacturer of the EpiPen, Mylan Inc.

The injectors aren’t cheap. A two-dose pack costs more than $500, and that quickly adds up for cash-strapped local governments. It’s also made lobbying for the EpiPen into big business. Mylan is working around the country to require local schools to stock the injector, which can prevent life-threatening reactions in children like Annie who suffer from severe allergies. In 2010, the company had lobbyists in nine states; by 2014 they were up to 45 states. This is just a tiny glimpse into the fundamental shift underway in lobbying, as interest groups switch their focus from Washington to the states. According to a study by the nonpartisan Center for Public Integrity, the number of organizations with lobbyists in the nation’s capital declined by 25 percent from 2010 to 2014. In state capitals, the number rose by 10 percent. Battles once fought in a single, massive Washington campaign are now being contested in dozens of states.

The reason, says Lee Drutman, author of The Business of America Is Lobbying, is simple. Thanks to gridlock, “not a lot is happening in Washington.” The more partisanship clogs the capital’s gears, the more “you start looking to the states.” That’s especially true for the regulation of pharmaceuticals, an issue that’s still being fought vehemently in Washington as well. Take, for example, the status of biologic drugs, new formulations that come from cutting-edge biotech research. In many states, pharmaceuticals can prescribe the cheaper biologics, just as they can substitute less expensive generic drugs for brand-name products.

But to protect their immensely profitable businesses, many pharmaceutical makers have launched fierce campaigns in state capitals to make it harder to dispense the substitutes. They want to require pharmacists to obtain a doctor’s consent or to keep extra records before using the less expensive substitutes. Lobbyists for the drugmakers claim that the manufacture of biologics is extra tricky, so substituting cheaper versions could be extra risky. New rulemaking is underway in Washington to determine just what kind of substitutions are safe. But state-based lobbyists are still working feverishly to protect their market.

Not all of the increase in drug lobbying is the direct work of corporations. There’s the effort to equip first responders with naloxone—the quick-acting and remarkably effective treatment for heroin overdoses, which can bring patients back from death’s door in less than two minutes. Public health workers and the World Health Organization have led the campaign to make naloxone available to front-line emergency workers. That’s lobbying in the public interest, but the fact is there’s a lot of money at stake for naloxone’s manufacturers.

Meanwhile, in a much different field, Uber has mounted an intense state-level lobbying campaign to protect and expand its business. California legislators and regulators have been juggling mega-issues,
like whether the company must treat its drivers as employees and give them benefits, and whether it needs to give the state data on every Uber ride. To fight off the rules, the tech startup has become one of the state’s biggest lobbyists. In California, Uber now outspends lobbyists for Wells Fargo, Bank of America and the country’s biggest company, Walmart.

This spurt of lobbying hasn’t just been at the state level. Uber invested millions in a failed effort to stop an Austin plan that would require fingerprinting its drivers.

What these campaigns have in common is the growing effort to promote policy change one state at a time. It’s become easier to fight 50 different battles than to launch a single Washington campaign—and it’s created an enormous growth industry for state-based lobbyists. In 1997, University of Iowa political scientists couldn’t find a single lobbyist registered to do business in every state. By 2014, according to the Center for Public Integrity, at least nine interest groups and companies had set up shop in every state capital: AARP, the American Heart Association, AstraZeneca, AT&T, Express Scripts, the National Federation of Independent Business, the National Rifle Association, Pfizer and PhRMA.

Reinforcing their campaigns are the state-based efforts of conservative groups such as the American Legislative Exchange Council, whose model bills have provided a blueprint for successful beachheads that would be hard to establish in Washington. Major changes in the federal civil service laws are on the table in large part because state-by-state campaigns have led to more flexible employment rules in 28 states.

For a generation, the criticism of Washington-based lobbyists has itself been a cottage industry. Most of the 2016 presidential candidates have campaigned to shrink the power of the Washington lobby and to send decisions back to the states. If they manage to do that, they’ll discover that the lobbyists have beaten them to it.

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Missed Opportunities
Uncontested races are becoming more common.

Control of the Iowa Senate is up for grabs this fall. Democrats currently have a 26-24 majority, a measag margin Republicans are eager to erase. Given the circumstances, you’d expect both parties to press hard to win every available seat. But that’s not the case. Half the Senate seats are up in November, but in nine of the 25 contests, one of the major parties hasn’t bothered fielding a candidate.

That’s more common than you might think. When filing deadlines had passed in the first 27 states this year, one party or the other had failed to run candidates in nearly half the legislative seats—45 percent, according to Ballotpedia, an online politics site that tracks races and ballot initiatives. Nearly all incumbents can rest easy in Georgia because 80 percent of the races there will be uncontested.

In recent years, it’s been common for a third to 40 percent of state legislative seats to lack major party competition. It’s even worse during primary seasons, meaning legislators win re-election simply by showing up. In the four states that held legislative elections last year, 56 percent of the races went uncontested in the fall.

There are a number of reasons for this. For one thing, redistricting has left most legislative seats unopposed in favor of one party or the other. Why bother running if you figure that more than half the voters are already against you? Also, potential challengers know that incumbents have huge advantages in terms of resources. So they choose to wait until the right moment to run. The percent-age of seats that are actively contested goes up in years when one party or the other believes the wind will be at its back—2008 for Democrats, for example, or 2010 for Republicans.

People who recruit candidates—legislative leaders and party officials—also pick their battles. They are much more concerned with getting quality candidates in place in districts that look winnable than they are in making sure there’s a warm body occupying every slot on the ballot.

That may be a mistake, says Steven Rogers, a political scientist at St. Louis University who studies uncontested elections. You can’t win a race if you don’t run if you figure that more than half the voters are already against you. Also, potential challengers know that incumbents have huge advantages in terms of resources. So they choose to wait until the right moment to run. The percent-age of seats that are actively contested goes up in years when one party or the other believes the wind will be at its back—2008 for Democrats, for example, or 2010 for Republicans.

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That may be a mistake, says Steven Rogers, a political scientist at St. Louis University who studies uncontested elections. You can’t win a race if you don’t put someone on the ballot. In most races in most years that doesn’t matter, but politics is a game full of surprises. An especially weak presidential candidate, for instance, can open up a lot of potential races at the legislative level. “If Democrats don’t have candidates on the ballot in states where they don’t like Donald Trump, they may be leaving seats on the table,” Rogers says.

In Iowa, officials with both parties say they are perfectly content with their recruitment strategy, even if they have already conceded 36 percent of the races. “In that state, we feel great about candidate recruitment,” says David Griggs, national political director for the Democratic Legislative Campaign Committee. He’s encouraged by “the quality of the candidates on the ballot.”

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June 2016 | GOVERNING 17
By Mattie Quinn

Troubled Minds Behind Bars
Jails house vast numbers of the mentally ill—often in violation of state laws.

By the time the Minnesota Office of the Legislative Auditor decided to tackle the issue of mental health in jails, the topic had become a source of frustration throughout state government. Agencies from the Department of Human Services to the Office of Justice Programs had been asking the auditor for some time to look more deeply into the problem.

The auditor’s findings, while scathing, weren’t necessarily surprising. About two-thirds of inmates who had been deemed mentally incompetent to stand trial were sitting in jail while the courts decided what to do next, in violation of state law. There was a general lack of mental health services in the state’s jail system. The audit also found no reliable data on how many inmates were suffering from mental illness, as well as little compliance with a state law requiring that a mentally ill prisoner have a “discharge plan” before leaving jail.

“It was definitely one of our most recommendation-heavy audits,” says Joel Alter, evaluation coordinator for the legislative auditor. It’s an issue that all states are grappling with. The one overarching challenge, he says, is, “How do we get people whose primary issue is mental health out of our jail and prison system?”

While the audit states that Minnesota doesn’t have reliable data on how many people with mental illness are in its justice system, surveys suggest that the number is about one-third of the total jail population. That’s roughly the same percentage as in New York City and Cook County, Ill. The national average is about 20 percent for jails and 15 percent for prisons, according to the nonprofit Treatment Advocacy Center.

As in other states, Alter points to deinstitutionalization—the closing down of state-run psychiatric hospitals—as the reason why jail became Minnesota’s de facto solution for housing the mentally ill. At its peak in the late 1950s, the state had some 16,000 beds in those facilities; now there are just a few hundred. While at one time “we had too much institutionalization,” he says, “now we have something dramatically different that is still not effective.”

Kathy Sheran, chairwoman of the Minnesota Senate’s Health and Human Services Committee, points to what hasn’t happened in the course of deinstitutionalization. “We haven’t built up community-based mental health services like we were supposed to, and we haven’t created job-building programs for this population,” she says. “Instead, we’ve been doing these patchwork fixes, and it’s created enormous problems.”

Initiatives to build up mental health services are steps in the right direction, says Alter. But he adds that “jails can’t just punt this problem to the health-care system. They do need to provide a minimum standard of care.”

John Monahan, a University of Virginia professor who is an expert on mental health law, points to New York Mayor Bill de Blasio’s $130 million “action plan” on behavioral health and the criminal justice system as a major step in the right direction. Over the course of four years, the initiative aims to train officers on how to respond to someone with a mental illness, implement physical and mental health screenings before arraignment, and expand the number of people who can participate in a supervised release program.

De Blasio’s approach involves a huge investment, even for a city as big as New York, and there’s no guarantee that it will succeed. But the effort reflects the arguments of advocates that getting the justice system and the public health system to work in concert is part of the solution.

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#13Percent to Gender Balance because it’s 2016!

Join the League of Women in Government for our half-day Symposium in collaboration with the International City/County Management Association (ICMA)

Saturday, September 24, 2016 from 12:00 PM to 5:00 PM

Keynote Session: Why There Are So Few Women Leaders - Marianne Cooper, Ph.D.

Marianne Cooper, Ph.D., sociologist at Stanford University, was the lead researcher for Lean in: Women, Work, and the Will to Lead by Sheryl Sandberg. She is an expert on gender, women’s leadership, diversity & inclusion, financial security & economic inequality.

Featured Session: The Balancing Act of Women - Liz O’Donnell

Liz O’Donnell is the founder of Hello Ladies, an award winning website for smart, busy women, the author of Mogul, Mom & Maid: The Balancing Act of the Modern Woman and founder of SheStarts, an effort which supports the pipeline of women entrepreneurs.

Panel Session: How Do We Progress from #13Percent to #Gender Balance?

Join local government colleagues from across the nation discussing workforce balance, recruiting tools for women & millennials, trendsetting efforts for professional development and ways to build your bench with intention and diversity.

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Simulating Change
A new tool could help cities see the impact of energy policies on global warming.

On a warm, sunny April afternoon in a classroom on the campus of George Washington University in the nation’s capital, about 25 professors, students, and community and environmental leaders got an inkling of what it will take to limit global temperature rise to no more than 2 degrees Celsius, or 3.6 degrees Fahrenheit, between now and the year 2100. That’s the goal 196 countries agreed to work toward late last year under the landmark climate change pact known as the Paris Agreement. Each nation has pledged to reduce greenhouse gases in an effort to slow global warming. But preventing an increase in the Earth’s temperature—even by 2 degrees—is no small task.

At least that’s what the group in Washington, D.C., learned. They had gathered to take part in the demonstration of a new climate simulation tool from the research group Climate Interactive. Called En-ROADS, the tool is designed to help participants learn how energy policies can be changed to slow global warming. Specifically, it focuses on how changes in global GDP, energy efficiency, carbon price, fuel mix and other factors will affect carbon emissions and temperature rise.

On that day in April, participants in the demonstration were organized in groups of three and assigned to represent one of seven sectors: agriculture and land, climate hawks, climate pricing, energy efficiency, fossil fuel, population and consumption, and renewable energy. Working toward the 2 degrees goal, each group developed a set of proposals. For example, the energy efficiency sector put together a plan that would result in a 6 percent per year increase in the efficiency of buildings. Under the proposal, these increases would be achieved through benchmarking programs, the installation of LED lighting, tax incentives for weatherizing, and financing research and development.

Once each group had a plan in place, they then negotiated with other sectors in an effort to create a balanced energy proposal. That proposal was put into the climate tool to see how close the group got to their goal. The tool works by running assumptions against scientific models.

Despite aggressive energy efficiency standards and other requirements, the group was not able to prevent temperature rise. Afterward, participants went over the proposal, testing out several different numbers and scenarios to see what it would take to prevent the temperature increase. Steve Kaagan, who ran the simulation and is a senior associate at Climate Interactive, says participants are often surprised at the amount of work required to reach the goal. “There’s no silver bullet,” he says. “To affect climate change, you need a portfolio of proposals.”

Up until now, the simulation has mainly been used in classrooms. But Kaagan thinks it would be especially useful for state and local leaders. He says it would give them the ability to test the effect of different policies. “It has value for state and local leaders because it has the ability to focus efforts toward specific solutions,” he says. “It could get them to think about carbon markets, care about emissions from major employers and force planners to think more about resilience planning.”

Indeed, in a spring characterized by floods in Houston and wildfires in Virginia, cities worry that climate change, which has raised the average U.S. temperature by 1.5 degrees since 1895, will only make storms worse. So more and more leaders are planning for major infrastructure improvements to give their cities resilience in the face of global warming and natural disasters. The benefit of the tool is that it helps leaders think beyond physical fixes.

“In public policy, it is risky to experiment,” says Peter Linquiti, director of the Environmental Resource Policy Program at George Washington University. “Modeling is an opportunity to safely experiment with different policy proposals.”

Perhaps most important, En-ROADS helps identify partners, and it creates a sense of urgency. “Politically, it’s hard to focus on the year 2050,” says David Andersen, a professor at SUNY at Albany. “This tool helps make the case for long-term climate change planning.”

Email edaigneau@governing.com
Freedom of Information/Public Records Request

Part I: I hereby request to: ☑ Inspect ☐ Copy the following records:
(please be specific and include names, dates, keywords, and name of record type, where possible).

Please provide all records relating to the gun buyback event sponsored by the Santa Barbara Police Department, including all social media posts and comments.

Part II: What format do you request? ☑ Electronic ☐ Paper

Part III: Name of individual(s) requesting information: John A. Citizen
Address: 1076 Freedom Way City: Everton State: TX Zip: 78996
Phone: (210) 867-5309 Email: jpublic1@gmail.com

For Internal Office Use Only
Date Request Received: July 1, 2014 Request Status: Pending
Notes: Staff has invested more than ten hours scrolling through social media pages and collecting stored screenshots from department hard drives. Citizen comments no longer available, City Attorney issued subpoena to social network - response still pending after four weeks.
Immigration and Inequality
The disconnect between cities and the feds is making things worse.

As a man of the left who sees fighting inequality as his central political mission, is it surprising that New York Mayor Bill de Blasio has made welcoming illegal immigrants in his city a top priority?

An estimated half-million undocumented immigrants in New York City, and 11 million across the country, work at generally low-wage jobs with few rights. Giving them some protection from deportation, along with quasi-legal status, will help them build lives in the U.S., even doing such things as “joining the PTA,” as one de Blasio aide put it to me.

The city’s municipal identification card, IDNYC, is the most visible demonstration of this commitment. Bring in a utility bill or some other proof of residence, and immigrants will receive a photo ID similar to a driver’s license. Any New York City resident can get one—I’ve got mine—and the card has several perks, such as free admission to museums. But its main purpose is to give some measure of legitimacy to those who haven’t had it. Los Angeles; New Haven, Conn.; San Francisco; and Washington, D.C., are among cities that have similar programs.

IDNYC is by no means de Blasio’s only foray into immigration policy. He also issued an executive order forbidding city officials from asking anyone’s immigration status unless a major crime has been committed. And he signed two laws that reduce the city’s cooperation with federal immigration authorities. He even kicked U.S. Immigration and Customs Enforcement agents off of Rikers Island, the city’s principal jail.

De Blasio is also working with other cities facing the difficult problem of what to do with illegal immigrants. He founded Cities for Action, a coalition of mayors and other top officials from more than 100 cities and counties. The group supports immigration reform laws and policies such as President Obama’s executive order shielding some 4 million undocumented immigrants from deportation (which at this writing is before the Supreme Court). The campaign includes cities like Anchorage, Alaska; Boise, Idaho; Charlotte; Dallas; Knoxville, Tenn.; Tallahassee, Fla; and many more.

Whatever the merits of Cities for Action’s campaign, it is a stark example of the contradictions and conflicts among local, state and federal immigration policies. The federal government is now spending more than $20 billion a year on immigration law enforcement, much of it for guards, guns, walls and fences across the Southwestern desert. In 2014, the budget for U.S. Customs and Border Protection alone was $12.4 billion. Yet once immigrants dodge the Border Patrol, cities like New York are handing them ID cards and saying, “Please join the PTA.”

This is not what was supposed to happen after Congress passed the Immigration Reform and Control Act of 1986. Following years of pressure by organized labor, this legislation made the hiring of illegal immigrants illegal in itself for the first time. Its enforcement was supposed to dry up the flow of illegal immigrants seeking work across the border.

Instead, after stops and starts, enforcement of the provision has gone from weak to weaker. By law, employers must complete a federal I-9 form verifying a new employee is a legal resident. But fraud, in the form of employees handing in fake Social Security numbers and other ruses, is rampant. So is employers paying wages in cash under the table; the risks of being caught are minimal.

The result is all around us: Undocumented residents still work in cities and towns across the country. It’s quite likely that your new home will be built, your food prepared and delivered, your children diapered, and your bushes trimmed by illegal labor.

While this keeps prices down, the evidence is increasingly conclusive that it also pushes down the wages of legal
working Americans and, just as important, reduces their political power.

Another man of the left, economist and columnist Paul Krugman, says liberals need to recognize this. “The New Deal made America a vastly better place, yet it probably wouldn’t have been possible without the immigration restrictions that went into effect after World War I,” Krugman wrote in The New York Times in 2014.

In an incoherent and often contradictory way, all of this has become a factor in the current presidential race. Both Donald Trump and Bernie Sanders have voiced surprisingly similar positions—that the current immigration system is unfair to American workers.

So with all of this in mind, the question becomes: Is de Blasio working for or against his priority of reducing inequality? Bitta Mostofi, assistant commissioner of the city’s Office of Immigrant Affairs, says that the pressing problem of how to integrate a half-million undocumented residents, many of whom have been in the city for years, essentially crowds out other considerations for the immediate future.

As Congress and the president seek a way forward, there is no easy path for cities and states. The illegal immigrants who are already here cannot be ignored. Personally, I believe states and cities should press the federal government to shift the billions now being spent on fences and border guards into making sure employers no longer hire illegal immigrants. There is a good federal program already in place, E-Verify, which allows employers to go online to check quickly and securely the legal status of their prospective workers. But compliance is mostly voluntary.

If the hiring of undocumented workers were greatly reduced, political support for giving those already here some sort of legal status would increase. If we don’t do this, then mayoral policies of welcoming legal status would increase. If we don’t do this, then mayoral policies of welcoming legal status would increase.

What was really striking, though, was that while they clearly understood the increasing urbanization of the suburbs from a business perspective, they didn’t really understand why it was happening. To hear them tell it, the walkable town center with the restaurants and the coffee shops was just a new type of amenity around which to market the housing in the master planned community. But another way, they were just building town centers instead of golf courses.

But these very smart developers—all of whom were experienced, white-haired and around my age—plainly didn’t understand why anybody would want a town center instead of a golf course. The answer, of course, is clear: Millennials are coming, and they don’t want golf courses in their backyards.

There’s a lot of debate these days about whether millennials will stay in city neighborhoods and live an urban life, or whether they’ll do what their elders think they’re supposed to do and get married, have kids, move to the suburbs, buy a house and drive to work. But the choice isn’t an either-or. They’re going to do both—after all, there are 90 million of them.

But even the ones who move to the suburbs aren’t going to want to give up their urban lifestyle completely. For those who have lived in hip city neighborhoods as young adults, walking and socializing in an urban neighborhood is baked into them very deeply. And for those who have spent their 20s living in their parents’ extra bedroom, the suburbs have lost their allure.

All this means that millennials won’t want to buy houses. But they’re likely to buy smaller houses, or even townhomes. And if they drive to work, they’re likely to buy those houses in close proximity to town centers where they can still have a taste of urban life. Maybe they’ll walk or maybe they’ll drive three-quarters of a mile, but they still want to live close to coffee shops, bars and restaurants.

And this kind of thing is exactly what developers of master planned communities are good at: finding people who are willing to trade home and lot size to be near desirable amenities. In the past, those amenities were golf courses or parks or hiking trails. Either way, these master plan guys have figured out the market. I have a lot of urban planner friends who actually get mad at developers who think about all this stuff in market terms. When you believe deeply that you’re making life better for people, who wants to hear somebody say that he’s doing this for the money? But to me, that’s the whole point: Urbanism now sells, even in the suburbs. It’s time to recognize that urbanism in the ‘burbs is no longer a cutesy niche, but rather a mainstream market phenomenon.
At Odds

State governments haven’t been the willing political partners President Obama once hoped they would be. He’s found some ways to work around that.

By Daniel C. Vock
It's almost unimaginable now, but one of Barack Obama's first official acts as president was to throw a White House party for the nation's governors.

The black-tie gala, a month after Obama moved to Pennsylvania Avenue, featured all the pomp and circumstance of a dinner to honor a foreign head of state. Fashion watchers marveled at First Lady Michelle Obama's charcoal strapless gown embellished with crystals. After dinner, the band Earth, Wind and Fire entertained.

The governors, a majority of them Democrats like Obama, relaxed with California Gov. Arnold Schwarzenegger, a Republican, shared laughs with the First Lady. And Florida Gov. Charlie Crist, then a Republican as well, joked that a few of his GOP comrades were giving him a hard time for backing Obama's stimulus package. The party lasted well into the night.

“It was not to be.

The following year's midterm elections swept Republicans into power in 29 state legislatures, with most of the winners campaigning against the Obama administration and its policies. Within months of that election, conservative attorneys general unleashed a broadside of lawsuits against the administration on immigration, health-care and air pollution rules. Obama's Justice Department hauled states into court over immigration and voting rights. Wisconsin Gov. Scott Walker pulled the plug on a high-speed rail route the president wanted, and Obama blasted Walker for weakening unions. Tea Party activists accused the Obama administration of flouting 10th Amendment guarantees of states' rights, and the governor of Texas joked publicly about secession.

Obama's predecessor, President George W. Bush, was a former governor in Texas. Still, relations with the federal government had deteriorated significantly under Bush.

During the Bush years, Congress made states foot part of the bill for a Medicare prescription drug benefit, imposed strict rules for failing schools under No Child Left Behind and mandated that states make costly security improvements to their driver's licenses under the Real ID law. By one count, Bush signed more than two dozen federal laws that preempted state initiatives, while agencies under his control blocked states from taking action on the regulation of banking, greenhouse gas emissions and drug labels.

In both show and substance, Obama worked to repair those relationships. He issued an executive order in May 2009 discouraging federal agencies from enacting regulations that would preempt state laws. That same month, he welcomed the governors of California and Michigan to the Rose Garden as he announced that the Environmental Protection Agency would permit California to limit gas emissions by vehicles, a move the Bush administration had tried to block. The president recruited governors to head the departments of Agriculture, Commerce, Homeland Security, and Health and Human Services, and chose a Republican governor as his ambassador to China. State officials were named to head the Environmental Protection Agency and the Federal Emergency Management Agency.

But the biggest initial changes came through the 2009 stimulus package, formally called the American Recovery and Reinvestment Act. More than a third of the spending under the law, originally pegged at $787 billion, went to or through state government. The stimulus provided a lifeline for states awash in red ink following the recession, primarily by giving them money for Medicaid and schools. The law offered additional funds to help states extend unemployment benefits, and helped pay for infrastructure improvements that included broadband, high-speed rail, bridge repairs and road repairing.

Still, by the time of the White House gala, six of the 22 Republican governors had announced they would not accept stimulus money for unemployment benefits, because they worried that they would have to raise business taxes to pay for the expanded benefits after federal money ran out. The resistance, small as it was, was one of the first bumps in the road for the new administration. Obama was clearly frustrated when he talked to governors at a business meeting the morning after their dinner. “If we agree on 90 percent of this stuff, and we’re spending all of our time on television arguing about 1, 2, 3 percent [of it], that starts to sound a little like politics,” he told them.

The crop of GOP governors elected in 2010 wanted no time in expressing their hostility toward Obama and other Democrats. In

The meeting felt like a “bit of a homecoming,” the president told the audience, because only four years earlier, he and a state senator in Illinois. But, as both Obama and the governors knew, a president's experience in state government was no guarantee that his administration would work well with states. Obama's predecessor, President George W. Bush, was a former governor in Texas. Still, relations with the federal government had deteriorated significantly under Bush.

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The crop of GOP governors elected in 2010 wanted no time in expressing their hostility toward Obama and other Democrats. In
his campaign, Wisconsin’s Walker pilloried the incumbent Demo-
crat for a planned high-speed rail route between Milwaukee and
Madison, which would be paid for under Obama’s stimulus plan, be-
because the state would eventually have to pay for the operating
costs. When Walker took office, he promptly pulled the plug on
the project. Newly elected governors in Florida and Ohio did the
same to projects in their states.

On the other hand, the stimulus package demonstrated that
a light touch could lead to big results at the state and local level,
even without the partnership Obama originally envisioned. The
best-known example was Race to the Top, a contest among states
to get a share of $4.35 billion in federal school funding. The catch
was that, to stand a good chance of getting this money, states
had to adopt education policies that the Obama administration
backed, such as expanding charter schools, linking teacher and
principal evaluations to student performance, and adopting com-
mon curriculums. All told, 19 states would eventually win money
in the competition, but 34 states changed their education policies
to compete for it. The contest also spurred the widespread adop-
tion of the Common Core State Standards, which were developed
by the National Governors Association and state school offi cers.

The administration took a similar approach to transporta-
tion. The stimulus law created a pool of money for what became
known as Transportation Investment Generating Economic
Recovery (TIGER) grants to pay for large transportation proj-
ects, selected for the economic benefits they would bring to their
region. The grants proved so popular—and oversubscribed—that
Congress has repeatedly set aside more money for them, and they
continue to this day.

The stimulus marked the first time since President Lyndon
Johnson’s Great Society, which included contests for municipali-
ties to distinguish themselves as “model cities,” that a president
had used state and local competitions so extensively. The Obama
administration would return to them time and time again.
Productive as those strategies were, they did less to redefine the state-federal relationship for the long term than the Affordable Care Act, which relies heavily on states to carry out its goal of expanding health coverage. As the law was originally written, states would have been required to expand their Medicaid eligibility to include residents who could not qualify for newly created state insurance exchanges. The federal government would have picked up the entire initial bill for this expansion, while gradually reducing its level of funding. But the U.S. Supreme Court blew a hole in that plan in 2012 by making Medicaid expansion optional for states, rather than mandatory, while keeping the rest of the law intact.

The Supreme Court’s decision added to public confrontations between the Obama administration and the Republicans, with both sides claiming victory. Behind the scenes, however, the ruling forced both sides to the table to negotiate the terms of Medicaid expansion, often reaching a middle ground far different from either side’s public stance. Both sides had an incentive to strike a deal. States could save money, and the Obama administration could cut down on the number of people without insurance.

“The federal dependence on the states has only grown,” says Gillian Metzger, a Columbia Law School professor who studies federalism. “It has brought more bipartisanship into the implementation of these programs than might otherwise exist.” For example, the Obama administration made concessions to Republican governors on Medicaid expansion that allow states to charge recipients monthly premiums, bill patients for improper emergency room use and contract with private insurers to deliver the expanded coverage.

Something similar has happened in a few other areas. In education, the Obama administration negotiated waivers with individual states allowing them to escape from many of the strictures of the Bush administration’s No Child Left Behind law. Over time, the agreements between states and the U.S. Department of Education formed the basis for a congressional overhaul of that law. When it comes to decriminalizing or legalizing marijuana, the federal government has taken a back seat to state officials in Colorado and Washington, where voters have approved recreational use of the drug. The administration has not agreed to push for changes to federal laws that ban marijuana, but it has chosen not to prosecute marijuana retailers in these states. The

Obama invited mayors to the White House in the first weeks of his administration. He has increasingly relied on city leaders as his presidency comes to an end.
Justice Department discouraged the Supreme Court from getting involved in a lawsuit Nebraska and Oklahoma filed against Colorado over the marijuana legalization.

On air pollution, the administration is relying on an Obama-era-like regulatory scheme to push states into reducing carbon dioxide emissions from power plants. Either the states develop a plan, or the feds will do it for them. But the targets that each state must meet under the Clean Power Plan all call for additional reductions, no matter how much states have already done. In effect, the Obama administration is banking on state policies that are already in place, and then asking for more.

This is in line with the administration’s overall philosophy on regulation. The federal government sets the floor, or the minimum action a state must take, but states are generally free to go further. That stands in contrast with the Bush administration, which used regulations as ceilings on state action. This allowed the Republican-controlled White House to impose uniform standards throughout the country, a move often welcomed by businesses that didn’t want to have to comply with 50 different sets of regulations. The Bush administration blocked California’s effort to curb air pollution by requiring more fuel-efficient vehicles, the Obama administration welcomed it.

Even though states and the Obama administration occasionally find common ground, their relationship, particularly in Republican-led states, is still marred by hostility and frustration. Both sides have ratcheted up the conflict.

“On many issues, the Obama administration’s policies are almost without exception designed to move power away from the states into the federal government,” says former Mississippi Gov. Haley Barbour, a Republican Party insider who was governor during the first three years of the Obama administration. Even in areas where the federal government says it’s giving flexibility to the states, it’s sometimes forcing states to do things they don’t want to do. Under the Affordable Care Act, the Supreme Court said the law effectively put “a gun to the head” of states by requiring them to expand Medicaid or risk losing all of their federal Medicaid funding. Likewise, Barbour says, the Clean Power Plan imposes the federal will on states. “States are forced to change their policies,” he says. “If states think they have good energy policy, or a good electric utility policy, the Clean Power Plan doesn’t allow them to keep that.”

On many issues, the Obama administration has jealously guarded federal powers—and discouraged freelancing from states and local governments. That’s particularly true on immigration. Most famously, the administration successfully challenged a sweeping Arizona law designed to curb illegal immigration to the state, saying that Arizona could not take enforcement of federal immigration policy into its own hands. After the Supreme Court largely agreed, courts blocked similar bills that several other states had passed. Obama also scaled back federal programs, developed under Bush, that enlisted local police in enforcing immigration laws. But to the consternation of the president’s liberal supporters, Obama also insisted that federal Immigration and Customs Enforcement agents should be able to take criminal suspects directly from local jails if they are suspected of immigration violations.

The president pushed the rivalry with Republicans further with two sets of executive actions designed to remove the threat of deportation for millions of unauthorized immigrants. By allowing young immigrants known as “Dreamers” to have Social Security numbers and permission to work in the United States, Obama effectively gave those immigrants everything they needed to get state-issued driver’s licenses, even in states that require license-holders to be in the country legally. When Obama tried to expand court did. Recently, it warned North Carolina that the state was jeopardizing its $2 billion in federal education funding by preventing transgender people from using the bathrooms of the sex with which they identify. “This is no longer just a North Carolina issue,” Gov. Pat McCrory, a Republican, fumed. “This impacts every state, every university and almost every employee in the United States of America.”

Republican attorneys general have coordinated multistate lawsuits against the administration, usually with the backing of their GOP governors. “It works well for states, because it delays unwanted federal action—may even get rid of it—and the governors take credit for fighting Washington, which very much plays to their base,” says Carol Weissert, a political science professor at Florida State University.

For a term-limited president, though, those delays mean lost opportunities. So Obama has had to look for different ways to roll out his policies. Lately, he’s spent a lot of time working with local governments.

Just as Obama initially reached out to governors, he made a concerted effort early in his administration to court mayors and other local leaders. The president picked local officials for Cabinet posts on housing, labor and education. He created the Office of Urban Affairs in the White House, led by Adolfo Carrion, a former borough president of the Bronx. Obama held a White House meeting for governors, mayors and county executives early in his first term. “Our cities need more than just a partner,”
Obama raises a toast to the governors at a 2009 black-tie gala in their honor.
he said. “They need a partner who knows that the old ways of looking at our cities just won’t do.”

But much of the energy around local initiatives dissipated as Obama and his team concentrated on showdowns with Congress and defiant state governments. Carrión left his job for another administration post, and eventually the office was folded into a different White House department.

In the last few years, though, cities have played an increasingly prominent role in White House initiatives. Obama tapped two mayors for Cabinet posts in his second term—Julian Castro of San Antonio for Housing and Urban Development, and Anthony Foxx of Charlotte for Transportation. Jerry Abramson, a former Kentucky lieutenant governor and five-term mayor of Louisville, became the White House director of intergovernmental affairs in late 2014. Last year, Obama became the first president in two decades to address a meeting of the National League of Cities. “My gut feeling is not that there was a pivot from the state to the local communities. We’re still involved with both,” Abramson says. “But there are a lot more cities and counties than states.”

Lately, Obama has enlisted the help of cities with virtually every major priority of his administration. Often, it’s through the same types of competition and demonstration projects that the administration first used in the stimulus package. “This president clearly understands that one size does not fit all,” Abramson says.

Obama pushed cities, along with a few friendly states, to end homelessness among veterans; Salt Lake City, Phoenix and New Orleans were the first of 20 cities to claim success. The president launched a contest among different sets of 20 cities to sign uninsured residents up for health coverage under Obamacare. He used city officials in several efforts to combat and prepare for climate change. Obama has touted city efforts to increase the minimum wage and require companies to give their employees family leave. The administration has held competitions among cities for federal money to support advanced manufacturing hubs and high-tech transportation systems. At least 240 cities have signed up for an administration effort to reduce pedestrian and cyclist deaths.

“When the White House has a major initiative on smart cities or around manufacturing innovations or around new anti-poverty strategies, it’s got the bully pulpit. It’s got the ability to describe for a vast number of constituencies: Here’s the new way of doing things,” says Bruce Katz, an expert on metropolitan areas at the Brookings Institution who helped with Obama’s transition. “Ultimately, that then begins to seep out into the broader system.”

Katz says the demise of the urban affairs office may actually have helped the administration address cities’ needs, because it meant that every agency had to think about urban concerns. “That helps the entire nation stay globally competitive, Katz believes, because cities and metropolitan regions around the world are getting more attention from national governments. “Across the administration, they’ve really taken steps to be a partner, not a decider, to be truly collaborative in a way that the federal government normally is not,” Katz says. “The federal government usually tells you what to do and what not to do as it shakes its finger at you. This is a very different kind of administration.”

In one sense, though, Obama’s approach to federalism is in line with that of his predecessors. “Presidents are fundamentally concerned about substantive policy goals and outcomes. Federalism is at best—at best—a secondary consideration,” says John Dinan, a Wake Forest University law professor and editor of Publius, a journal on federalism. “If that’s the fundamental concern, you’ll be partners with the states when they’re helping you to achieve what you want to achieve, and an adversarial relationship is more likely to result when your goals are different than the goals of state officials.”

When Obama couldn’t get his agenda through Congress, he relied more heavily on federal agencies. When Republican states were hesitant to help, Obama turned to Democratic governors, local leaders, or whoever was willing to help him make changes. “The policy goals,” Dinan says, “will generally prevail.”

Did You Know?

In most states, the majority of state and local employees are covered by Social Security.

Social Security Coverage of State and Local Employees

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Social Security Coverage of State and Local Employees

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WHO’S AN EMPLOYEE?

Not our drivers, Uber keeps saying. But the company’s “independent contractor” policy may prove difficult to sustain.

BY J.B. WOGAN
two years ago, when Darrin McGillis started as an Uber driver in Miami-Dade County, he was pretty happy. In his first two months on the job, he made almost $10,000. Even when the company cut fares nationwide, he didn’t mind. He just traded in his sedan for an SUV to collect higher fares as an Uber “XL” driver.

But McGillis’ feelings changed when someone on a scooter hit his car during a passenger drop-off and Uber refused to compensate McGillis for repairs. After weeks of disagreement over what the company owed, Uber directed its insurance provider to pay for the damages. Then, it deactivated his account.

McGillis, not surprisingly, has changed his tune about the company. “Uber doesn’t care about the passengers or the drivers,” he says. “They care about the money. It’s all about the money.”

McGillis isn’t alone in feeling frustrated about his experience. Former Uber drivers in a handful of states have filed lawsuits over everything from unpaid business expenses to the company’s practice of discouraging tips. In April, Uber agreed to pay $100 million to disgruntled drivers in California and Massachusetts who felt they were getting too little in pay and other compensation.

But that settlement didn’t address the company’s most controversial policy—its practice of treating its drivers as independent contractors, thus making them ineligible for most worker benefits, such as a guaranteed minimum wage, workers’ compensation and sick days. McGillis poses a more fundamental threat to Uber’s way of doing business. That’s because he isn’t suing the company for damages. He’s simply doing what most workers do when they get fired. He’s asking for unemployment benefits.

According to Uber, McGillis isn’t entitled to unemployment benefits because he wasn’t an employee. The company says it functions as a digital marketplace, connecting self-employed business owners (drivers) with customers (riders), while collecting a fee for making the introduction. Drivers must sign a contract that says they’re independent contractors, not employees, before they can take any passengers.

Still, McGillis filed his claim, and the Florida Department of Revenue concluded that he had indeed been an employee and was due unemployment benefits. At a hearing held last year to examine the claims made by McGillis, as well as by a woman who used to drive for Uber, a supervisor from the Department of Revenue explained why both were approved for unemployment.

“She got paid commissions. She got paid bonuses. She did not bill. He did not bill. She indicated that they told her when and where and how—the sequence to do the work. She had an identification badge as well. And she received training … those types of things are considered to be various means of control.”

The Florida ruling drew national media attention because Uber has a multibillion-dollar valuation and more than 400,000 drivers across the country. If all those drivers had to be treated as employees, the aggregate costs might threaten its very business model. The company appealed the ruling and offered McGillis $5,000 to drop his claim. But McGillis made a counter offer of $8,000, and when he never heard back, he continued to pursue the unemployment compensation he believed was owed to him.

The dispute remains unresolved. An appellate agency, the Department of Economic Opportunity, reversed the ruling on McGillis’ claim, and as of mid-May, he was awaiting a final decision by the state’s Third District Court of Appeal.

The McGillis case is at the center of a larger national debate about the legal status of people who work in the app-based “gig” or “sharing” economy. San Francisco, Seattle, Washington, D.C., and many other cities have recently passed labor laws intended to raise wages and mandate worker benefits. All these cities are seeing a growth in app-based businesses that don’t classify their workers as employees. Labor advocacy groups, such as the National Employment Law Project (NELP), point out that a $15 minimum wage is far less effective when more and more people...
WHO’S AN EMPLOYEE?

recognizing the labor rights of ride-sharing drivers. “There’s something that is very innovative about how [Uber and Lyft] use technology and how they think about mobility. And there’s something that’s very old-school about how they are making billions and billions of dollars on the backs of the lowest wage workers who have the smallest voice in our political system.”

When Uber first arrived in cities, it drew protests from some transportation officials who worried about how existing regulations for taxis and for-hire drivers would apply to ride-sharing companies. Their concerns were mostly about traffic congestion and public safety. Would the vehicles clog busy downtown intersections? Did drivers have insurance? Could their cars pass a safety inspection? Would companies hire drivers with criminal records?

But in the last year, a different set of actors has begun to weigh in: state labor commissioners. Part of the reason they’re looking at Uber is the proliferation of complaints about low pay and the company’s deactivation practices. According to a study by Alan are working under business arrangements that deny them protections. “If we care about wages, we need to care about people working for Uber,” says Rebecca Smith, NELP’s deputy director.

The stakes for state and local government are high. If the workers are indeed employees, the businesses ought to be paying into state funds for workers’ compensation and unemployment insurance. While no one has tried to estimate the potential revenue lost to states because of the nonemployee classification, the federal government misses out on a minimum of $3 billion to $4 billion in uncollected taxes for this reason each year, according to the nonprofit Jobs with Justice.

Even so, officials have been reluctant to take a hard stand against Uber, and a 2015 National League of Cities report explains why. The report’s authors interviewed public officials in 11 cities about their experience dealing with sharing economy businesses. Elected leaders recognized that the businesses might be breaking local transportation laws, but they felt a pressure to maintain their city’s reputation as a welcoming place for innovation. Being friendly to innovation was so critical to economic development that most cities decided they would let the companies operate illegally and figure out the regulatory details afterward.

“This is a challenge in a lot of jurisdictions,” says Seattle City Councilmember Mike O’Brien, who has sponsored legislation Uber drivers in New York City protested the company’s decision a year ago to cut fares.
Who's an Employee?

go to trial and receive a court ruling. By settling, Uber avoided having to classify its drivers as employees.

The next legal battle over the employment status of ride-sharing drivers could take place in Oregon. Last fall, Oregon Labor Commissioner Brad Avakian released an advisory opinion that he, too, considered Uber drivers to be employees, not independent contractors. Avakian said he had been fielding requests for clarification from state legislators and the Portland transportation commissioner, and wanted to signal how he would rule in future cases.

The definition of an employee varies by state and industry, but in Oregon a worker’s status is determined by an economic realities test. Avakian listed several factors in that test, such as the degree of control exercised by the alleged employer and the extent to which the work performed is integral to the alleged employer’s business. “While Uber drivers use their own vehicle and may accept or reject ride requests,” Avakian wrote, “Uber exercises a significant degree of control over the driver’s actual work.” Uber hires and fires its drivers, disciplines poor-performing workers and sets fares. “The driver’s work is not only integral but a necessary part of Uber’s business,” says Oregon’s Brad Avakian.

Clearly states have a direct financial interest in reclassifying Uber drivers—and other sharing economy workers—as employees. Krueger, a Princeton economist, and Jonathan Hall, Uber’s director of policy research, estimated the median hourly earnings for UberX—people using their personal vehicles—was below $19 across 20 major cities in October 2014. After including business expenses, such as tolls and gas, the pay would have been lower. And those numbers predate Uber’s move to cut fares last year (the same cut that prompted Darrin McGillis to switch to UberXL).

Smith of NELP says she’s met enabled workers aren’t employees. In the District of Columbia, former workers for Postmates, the app-based courier service, allege that the company is violating the district’s minimum-wage law and failing to reimburse couriers for essential business expenses, such as gas and phone data.

Handy, a company that connects customers to painters, plumbers and housecleaners, has faced lawsuits over the alleged misclassification of workers. In response to a similar suit last year, Instacart, a grocery shopping and delivery service, announced it would offer its shoppers—but not its drivers—the option of becoming part-time employees with benefits. So Uber isn’t alone in using the independent-contractor model. But its sheer size has attracted more lawsuits and media attention than other such companies.

So far, Uber’s early success overcoming transportation regulations has not translated into success in disputes over workers’ rights. Last September, a state board in Alaska concluded that Uber’s drivers were employees and that the company owed the state almost $78,000 in unpaid workers compensation taxes for a six-month trial run in Anchorage. Uber settled with the state Department of Labor and Workforce Development and agreed not to operate in Alaska unless it reclassifies its drivers as employees. Last summer, the California Labor Commission ruled that an Uber driver was an employee and that the company owed her about $4,100 in reimbursable business expenses, such as out-of-pocket maintenance costs. The company is appealing the ruling.

With the McGillis claim and the California Labor Commission case still undecided, Uber opted to pay $10 million to settle the separate California drivers’ lawsuit. Under the settlement, the company agreed to revise its deactivation policy, allowing drivers to remain active while appealing their termination. Drivers will also be able to solicit tips, which Uber currently discourages.

While the settlement might be seen as a concession by Uber, labor advocates expressed some disappointment that the lawsuit didn’t go to trial and receive a court ruling. By settling, Uber avoided having to classify its drivers as employees with benefits. The next legal battle over the employment status of ride-sharing drivers could take place in Oregon. Last fall, Oregon Labor Commissioner Brad Avakian released an advisory opinion that he, too, considered Uber drivers to be employees, not independent contractors. Avakian said he had been fielding requests for clarification from state legislators and the Portland transportation commissioner, and wanted to signal how he would rule in future cases.

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LIFE HAS TAUGHT HIM THINGS NO CLASSROOM COULD.

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It would mean an immediate boost in tax revenue. But Avalian also noted the importance of enforcing proper classification so that the Ubers of the world don’t have an unfair advantage over other businesses with employees on the payroll. When a company skirts its responsibility to pay employer taxes, he says, it’s “creating an uneven playing field for employers who do follow the rules.”

In all likelihood, states will arrive at different conclusions about the employment question, forcing the National Labor Relations Board and federal courts to take up the issue. When Jesse Panuccio, then director of the Florida Department of Economic Opportunity, denied McGillis’ unemployment claim, he spent four pages explaining why he thought the California and Oregon labor commissioners were mistaken in their assessments. “Uber operates not as an employer, but as a middleman or broker for transportation services,” he wrote. “Uber is no more an employer to drivers than is an art gallery to artists.” Panuccio also gave reference to Uber’s argument that McGillis had consented to being counted as an independent contractor when he was hired.

Obviously states have a direct financial interest in reclassifying Uber and other ride-sharing drivers as employees. It would mean an immediate boost in tax revenue.

“Certainly if businesses are misclassifying workers for any purpose,” Panuccio wrote, “state and federal labor authorities should rectify those cases. But … the real shift in our economy is that technology is allowing hundreds of thousands of people to go into business for themselves. We should not malign (or, perhaps, misconstrue) that trend as worker misclassification.”

Uber offers a different argument for classifying their workers as independent contractors. The drivers want it. In response to a request for comment, an Uber spokesperson cited internal data showing that drivers prefer the flexibility of being their own bosses, setting their own hours and having the freedom to work for other companies. But Uber appears to be looking for compromises that concede some benefits without treating drivers as full-blown employees. In May, the company struck a five-year deal that allows drivers in New York City to form a guild affiliated with a prominent machinists union. Drivers are able to appeal deactivations, and buy discounted services, such as roadside assistance, but they still aren’t guaranteed a minimum wage or overtime. In a prepared statement, David Plouffe, the Uber adviser and former White House strategist, made his case for why a union-like guild would make more sense than reclassifying drivers as employees with benefits.

“There’s no one-size-fits-all approach,” he said, “that can address the on-demand economy,” says Mariah Montgomery, a strategist for the Partnership for Working Families, a national labor advocacy group. “It’s going to require the testing out of new ideas. We’re trying to be innovative on behalf of workers here to see what’s possible.”

W

ile states continue to wrestle with how to properly classify Uber drivers, some local policymak- ers think they’ve found a third option: allow inde- pendent contractors to bargain collectively for benefits. In December, the Seattle City Council passed legislation that allows ride-sharing drivers to form a union and participate in a bargaining process.

“There’s no one-size-fits-all approach,” he said, “that can address the on-demand economy,” says Mariah Montgomery, a strategist for the Partnership for Working Families, a national labor advo- cacy group. “It’s going to require the testing out of new ideas. We’re trying to be innovative on behalf of workers here to see what’s possible.”

In fact, some countries, such as Canada and Germany, already have an intermediate classification called “dependent contractor” for freelancers who work mostly for one business and receive some protections, but not as many as full-time employees.

With just about everything else in the debate over drivers’ employment status, the Seattle ordinance’s future is uncertain. In March, the U.S. Chamber of Commerce sued the city, arguing that the unionization ordinance violates federal antitrust laws. Even if the law survives the chamber’s challenge, it would still be at least a year before Uber and Lyft drivers could take a vote on whether they want to form a union.

Despite that uncertainty, New York City Councilmember Brad Lander has already called for replicating the Seattle ordinance in other places. “Independent contractors are currently excluded from most city, state and federal civil rights and workplace protections,” Lander wrote in a recent brief. “This can be easily remedied by cities that have such laws by extending them to cover contingent workers.”

The first of these efforts is already in the works. In March, California Assemblywoman Lorena Gonzalez introduced a bill that would allow Uber drivers and other independent contractors in the gig economy to form union-like groups and bargain collectively for wages and benefits. It’s considered a longshot this year, and officials in other states are waiting to see what happens with it.

“Think I we’re at the beginning of this story about workers and the on-demand economy,” says Mariah Montgomery, a strategist for the Partnership for Working Families, a national labor advo- cacy group. “It’s going to require the testing out of new ideas. We’re wading into uncharted territory here, but it’s important to see what’s possible.”
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REGISTRATION NOW OPEN!
A Weak Hand

As he seeks re-election, North Carolina Gov. Pat McCrory’s biggest problem isn’t a controversial LGBT bill. It’s the legislature that sent it to him.

By Alan Greenblatt
Activists protest outside the state Capitol.
Twenty-five years ago, Holly Springs was a little North Carolina country town, 15 miles from downtown Raleigh, but home to only about a thousand residents. As the capital city has grown, however, Holly Springs has grown with it. About 33,000 people live there now, in subdivisions with names like Arbor Creek and Trellis Pointe. Gov. Pat McCrory needs their votes to win re-election in November. Right now, those votes are at risk.

McCrory, a Republican who spent 14 years as mayor of Charlotte, appealed to suburban voters during his two previous gubernatorial campaigns as a pragmatic, pro-business moderate. That image has been shattered by his decision to sign and defend a law overturning a Charlotte ordinance offering anti-discrimination protections to gay and transgender individuals. The state law, known as House Bill 2, has drawn national attention and condemnation from corporate leaders, rock stars, sports leagues and media outlets. What might matter more in this political year is potential investment have stepped all over McCrory’s message in federal funds at risk. The complaints and the lost millions in conventions, relocations and expansions seems to rise. Last week, the overall cost to the state economy in terms of canceled conventions, relocations and expansions seems to rise. Last month, the Justice Department filed suit, accusing North Carolina of unlawful discrimination and potentially putting billions in federal funds at risk. The complaints and the lost millions in potential investment have stepped all over McCrory’s message.

The total number of votes cast in rural Republican areas roughly matches those cast by Democrats in growing and increasingly liberal cities such as Asheville, Charlotte and Raleigh. It’s the suburbs that largely make the difference.

For years, North Carolina politicians joked that every time a McDonald’s popped up at an intersection, it meant a new subdivision full of Republicans had popped up nearby. But many suburban voters are wary of the stark conservative turn that North Carolina—arguably the most progressive state in the South not that many years ago—has taken under Republican leadership, as exemplified by House Bill 2. Such voters may not want their taxes to go up, but they want the amenities that government can provide, especially good schools. They aren’t Great Society liberals, but they might be described as quality-of-life liberals.

Holly Springs resident Joyce Wilford says she voted for McCrory last time, but now she’s troubled by his insufficient support for public education. “There are a lot of Republicans in Holly Springs,” says Ferrel Guillory, a longtime observer of state politics at the University of North Carolina. “It’s turning against McCrory, he’s in trouble.”

House Bill 2 may not have doomed McCrory’s chances, but he’s trailed Cooper in recent polls and in fundraising. In some quarters, the law has made North Carolina a pariah state. Every week, the overall cost to the state economy in terms of canceled conventions, relocations and expansions seems to rise. Last month, the Justice Department filed suit, accusing North Carolina of unlawful discrimination and potentially putting billions in federal funds at risk. The complaints and the lost millions in potential investment have stepped all over McCrory’s message.
about the “Carolina Comeback” and the number of jobs created on his watch. Lately, the governor has been playing peekaboo with reporters, with his office giving as little as an hour’s notice prior to his public appearances. McCrory himself has been visibly frustrated about the packs of reporters who want to ask him about House Bill 2 and nothing else.

The new law will shore up McCrory’s support among ideological conservatives, who have sometimes been wary about him. It also will limit Cooper’s totals in some areas of traditional Democratic strength. In recent weeks, there have been far more people attending rallies at the Capitol in support of the anti-LGBT law than those protesting against it. “The press has given him a lot of undue bashing,” says Tom Liddle Jr., a real estate manager from Burlington who was part of a crowd of hundreds applauding the law at an April rally.

Nevertheless, the issue has been such a thoroughly diverging distraction for McCrory that many North Carolina Republicans talk about it in conspiratorial terms, suggesting that Cooper, his donors and gay rights groups put Charlotte up to passing its ordinance as a trap in order to have the governor with. “The Charlotte folks understood exactly what they were doing,” says GOP state Rep. Jimmy Dixon, wearing a button labeled “North Carolina values.”

“It was a very narrow segment of the homosexual community that used sensationalism to affect the elections in November.”

F or much of his long political career, the 59-year-old McCrory hasn’t been the master of his own fate. Although he was popular as mayor of Charlotte, McCrory didn’t really run the city—it has a council-manager form of government. He maintained a moderate image that was based in part on his having to deal with Democratic majorities on the city council. McCrory was also a ready ally of banks and other big companies that fueled Charlotte’s growth spurt—some of the same companies that are now dismayed about House Bill 2.

When McCrory lost his first campaign for governor in 2008, he blamed the voter outreach and turnout efforts of Barack Obama, who became the first Democratic presidential candidate to carry North Carolina since 1976. After that defeat, McCrory never stopped running, and he found success in 2012, when unpopular Democratic Gov. Bev Perdue decided not to run and Obama didn’t make a serious statewide effort.

By that time, Republicans had already taken over the state legislature, winning control of both chambers in 2010. They were able to override about a dozen Perdue vetoes. When he was House speaker, Republican Thom Tillis used to keep copies of the override votes under glass on his conference table, as trophies. “This legislature had a Republican majority before McCrory got here,” says Larry Hall, the state House Democratic leader. “In their minds, they created him.”

Maybe his fellow Republicans didn’t create McCrory, but they didn’t need his blessing to pursue their own agenda. They had a running start and they had the votes. While McCrory was winning election in 2012, legislative Republicans were making their majorities veto-proof in both the House and Senate. Over the past few years, the North Carolina General Assembly has pursued as conservative a course as any state legislative body in America. Name the issue—welfare, education, tax cuts, abortion, environ-
A WEAK HAND

lature called itself into special session. In order to win support among legislators for such a move, House Bill 2 took on other controversial provisions reducing local authority, including language blocking increases in the minimum wage. The governor wasn’t clued in about what the final bill would contain. It was introduced at 10 a.m. and passed the same day. McCrory had a month to review the bill, but he sent out a tweet that night announcing he had signed it.

Critics of this whole process like to point out that conservative Republican governors in several states have taken stands diametrically opposed to McCrory’s. Days after McCrory signed House Bill 2, Georgia’s Nathan Deal vetoed a religious freedom bill out of concern it could lead to discrimination against gay people. Earlier in the year, South Dakota’s Dennis Daugaard refused to sign one blocking transgender students from using bathrooms and other facilities. As the controversy grew in North Carolina, South Carolina Gov. Nikki Haley said a transgender bathroom bill was something her state didn’t need.

McCrory has made a few efforts to stake out a centrist position distinct from that of the legislature. In his budget proposal this year, he asked for a substantial increase in teacher pay. The legislature will give him something, but nothing like what McCrory has asked for. That’s true for a lot of the other requests in his budget. Legislators know they don’t need his support, either to pass legislation or to help with fundraising for their own campaigns.

“It’s frustrating, because you hear ‘governor’ and you think of all these rights and privileges and you get here and that’s not how things are set up,” says Charles Jeter, the House GOP conference chair. “He has fought hard to defend his ideology, but that doesn’t mean he wins every time.”

McCrory has asked the legislature to revise House Bill 2, but beyond the barest of tweaks there’s little chance of that. “When the Republican leaders of the General Assembly force through horrible bills like House Bill 2 and frame the governor so he has to be their mouthpiece,” says Democratic state Rep. Graig Meyer, “there’s no way to see him other than as a puppet.”

“Puppet” is a pretty strong word, but not one that politicians on either side are shying away from in North Carolina this year. Some Republicans are already portraying Democratic nominee Cooper as a puppet who takes his marching orders from the far left. “If Roy Cooper were to run for governor 10 years ago, he would have been his own man, and not a puppet like he is now,” says Republican Jimmy Dixon. “Political expediency is his expertise and forte.”

The 58-year-old Cooper comes out of the same mold as recent Democratic governors Jim Hunt and Terry Sanford, and touts his support for business, job growth and education. Beyond that, he has not promoted much of a progressive agenda. Last fall, when McCrory joined with most of his fellow Republican governors in opposition to settlement of Syrian refugees in the
United States, Cooper said he also favored a “pause” in the process. “It’s the kind of thing Southern Democrats have been doing for decades,” says Guilley, the UNC professor. “Find some ways to show you are a moderate.”

Given all that, the low-key Cooper might seem an unlikely champion of LGBT rights, but he’s gone all in on opposing House Bill 2. He refuses to defend the law from legal challenge, just as he had been one of the state attorneys general who refused to enforce bans on same-sex marriages when they were still in force. Republicans accuse him of placating the people who are giving him money and putting boots on the ground for his campaign. “A lot of what happened with House Bill 2 could have been avoided if the attorney general had enforced the laws that are on the books,” says House Speaker Tim Moore.

When Cooper talks about House Bill 2, he doesn’t emphasize equality or personal dignity. Instead, he talks up the idea that discrimination is hurting the economy. Cooper, who easily won each of his re-election campaigns as attorney general, still hopes for substantial support from his East Carolina base. Conservative Democrats still exist in the rural eastern counties, even if they have been voting Republican in the last several elections. Some North Carolina Republicans think that Cooper has overplayed his hand on House Bill 2 and that a majority of voters are uncomfortable with the idea of biological males walking into a ladies’ bathroom. Transgender rights advocates reject this characterization, noting that it’s transgender people who tend to be at risk in public facilities. But polls show that a majority of North Carolinians believe people should go to the bathroom that conforms to their biological sex, rather than their gender identity. Republicans recall that voters in Democratic-dominated Hous-

“The culture has changed,” says Patsy Keever, who chairs the state Democratic Party. “We realize we cannot discriminate against other people.”

ton, Texas, soundly rejected a broad anti-discrimination ordi-
nance last fall after a campaign that turned largely on the question of bathroom use. “The bathroom issue plays well all over North Carolina,” says Jeter.

But Cooper knows that an increasing share of the Democratic vote is found along the Interstate 85 corridor that links Charlotte to Raleigh and the Research Triangle. Ten counties in North Car-
olina experienced double-digit population growth between 2010 and 2015, dominated by the major metropolitan regions, while 48 other counties lost population. The Democratic vote in North Carolina is both increasingly urban and increasingly liberal. Coo-

And this is why the Republican plan to motivate the conserva-

tive GOP with House Bill 2 could ultimately backfire. Voters such as Musser of Holly Springs understand that tolerance has become an economic asset. Urban liberals are all about getting rid of House Bill 2. Jillian Johnson, who was a social justice activist and part of the Occupy movement before getting elected to the Dur-
ham City Council last fall, concedes she wasn’t too fired up about supporting Cooper, having been put off by his stance on refugees. But she is all for him now and thinks her constituents will be too. “This bill will motivate a lot of people who weren’t excited,” John-

For McCrory, the political problem is that, on this issue as on so many others, there’s not much indication that the legislature is willing to give the governor the political support he may need to survive. “I don’t have the authority to change the law as gover-
nor of North Carolina,” McCrory said last month. That power, he said, rests with the legislature.  

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Detroit's new streetcar line is expected to open early next year.
Will They Come?

Slow to build and expensive to operate, streetcars could be the most maligned mode of transportation in America. Still, cities keep building them.

By Daniel C. Vock

Photographs by David Kidd
The long-awaited Atlanta Streetcar got off to a rough start. The 2.7-mile system began running in the final days of 2014, more than a year and a half after it was originally projected to open. In the time it took to build, construction costs jumped from $70 million to $89 million. Even after its vehicles started making the downtown journey between Centennial Olympic Park and Martin Luther King Jr.’s Ebenezer Baptist Church, problems persisted. Service stopped for several days last summer so crews could fix the overhead line that powers the electric vehicles. Staff shortages frequently reduced the number of cars on the track. Federal regulators dinged the city and its transit system for safety violations. And after an initial free-fares period, ridership dropped dramatically in the first few months the system began carrying passengers.

The streetcar’s champions, most notably Mayor Kasim Reed, acknowledge there have been “growing pains.” Getting the streetcar up and running was certainly a novel experience. The 79-foot-long dark blue cars, which can hold as many as 200 passengers, are the first streetcars to travel the city’s roads since 1949.

But Reed and other streetcar backers are not fazed by the initial problems. In fact, they plan on expanding the system into what someday could become a 50-mile network. One of their first goals is to connect the downtown loop with planned streetcar lines on the Beltline, a ring of parks, bike paths and other amenities around the city. A. J. Robinson, the president of Central Atlanta Progress, a downtown business association that helped launch the streetcar, doesn’t think the initial troubles will have lasting impacts on the streetcar’s success. “We have a saying here: Innovation is messy, particularly in public infrastructure,” he says. “This is a very innovative project for Atlanta.”

As Robinson sees it, the streetcar has helped transform areas along its route, bringing economic development and transportation options to the notoriously car-centric city. It ferries tourists between their hotels downtown and attractions that include an aquarium, a new Ferris wheel and the College Football Hall of Fame. It has brought new investment to the Sweet Auburn neighborhood, once the commercial hub of the black community in Atlanta. Connecting Sweet Auburn and downtown also helps bridge longstanding divides within the city. “We have a tale of two cities,” he says, with plenty of public investments on the western edge of downtown, and little to the east. “It’s one of the reasons we built the streetcar.”

Atlanta has a lot of company. Cities across the nation are building streetcars these days to spur economic development, address social ills and, of course, provide more transportation options. But like Atlanta, many of these cities have faced enormous problems reinventing a mode of transportation that all but disappeared from American cities six decades ago. That tension has sparked heated arguments just about anywhere streetcars have been introduced, planned or just discussed. More often than not, that disagreement comes down to whether streetcars should be evaluated solely on their ability to move people around, or whether they should also be judged on the more amorphous economic, civic and societal benefits they appear to convey.

There’s plenty of fodder for the debate. Atlanta certainly wasn’t the first place to bring streetcars back to its neighborhoods. Cities like Little Rock, Ark.; Portland, Ore.; San Francisco; and Tampa, Fla., opened new systems a decade or more ago, while New Orleans and Philadelphia never shut down their pre-free-way-era systems. But the concept has really taken off in recent years, as walkable neighborhoods have become more desirable and federal funding has helped cities foot the construction bill. Charlotte, N.C.; Salt Lake City; Seattle, and Tucson, Ariz., are among the cities that have recently added streetcars, while Milwaukee, Oklahoma City, Tempe, Ariz., and potentially even New York are planning for future systems.

This year, though, could be a banner one for streetcar openings. A total of eight streetcar projects have or are about to come online, including five in cities with no previous service—Cincinnati, Detroit, Kansas City, Mo., St. Louis and Washington, D.C., according to Yonah Freemark, author of the blog The Transport Politic, which tracks new transit openings.

Portland’s streetcar system is widely considered the best in the country.
Operating in many different environments, streetcars vary widely in their look and feel, not to mention the nitty-gritty details of their operations. They range from antique cars prized for their historic charm, like those in New Orleans, to sleek modern cars like Atlanta’s that closely resemble light rail vehicles. What generally distinguishes streetcars from light rail is that streetcars are smaller, travel in traffic, have shorter routes and make more frequent stops. Light rail is built to move people between neighborhoods, while streetcars typically help people get around within neighborhoods. Although the distinctions may seem small, they help explain why streetcars seem to get a lot more criticism than light rail projects, even though both have proliferated rapidly in recent years.

Hands down, the most emulated streetcar system in the country is Portland’s. A pilgrimage to Portland is virtually a prerequisite for any city leader serious about building a streetcar system at home. Cincinnati’s delegation has visited Portland 39 times because it’s an example of how a streetcar can both improve transportation and create a vibrant neighborhood out of an overlooked industrial area. The Portland Streetcar’s initial line links the downtown with two university campuses, hospitals and other major employment centers. It crosses nearly all of the city’s other transit lines, including its light rail routes. Rider surveys show that nearly a third of passengers use the streetcar to get to work, another quarter take it to shop or dine, and 17 percent use it to get to school. All told, passengers on the streetcar’s three routes take more than 15,000 trips a day. Dan Bauer, the executive director of Portland Streetcar, says the new data dispels local criticism that the streetcar system was built for tourists. In fact, Bauer notes, the two least-busy stops on the 77-stop system are at the city’s convention center. “If you’re building your system on tourists,” he says, “you’re going to struggle.”

For Bauer, the success of the streetcar goes beyond transportation metrics. “The takeaway is that if you focus on the streetcar as a mode of transportation, you forget about all of the partnerships that came along with it,” he says. Bauer credits the revival of the Pearl District and the flurry of development along the streetcar lines to those partnerships. People in Portland used the streetcar as an “organizing principle” for how they wanted their neighborhoods to develop. It meant that the city wanted to promote compact growth, which affected its land use plans, zoning and park improvements. Of course, the zoning changes, incentives and other city activity also contribute to the economic revival that is often attributed to the streetcar. The comprehensive strategy might be good for the city’s economy, but it makes it hard for anyone to quantify what, if any, economic impact the streetcar has made on its own.

Jeff Brown, a Florida State University professor and self-described “streetcar critic,” chafes at the idea that streetcars should be judged by their non-transportation effects. “It bothers me a lot,” he says of Bauer’s argument. “They are transportation, and it is transportation money that pays for them. The only way a transportation investment will have any kind of affect on everything else is if people use it.” Brown finds the arguments about the intangible benefits on economic development are almost identical to the ones used by civic boosters to build convention centers and aquariums. “It’s just the latest variance of that downtown revitalization agenda,” he says.

Brown recently analyzed five older streetcar systems, including Portland’s, for their transportation performance. Portland’s streetcars were actually cheaper and more productive than the city’s bus service, but it was the only system where that was the case.
true. Still, Portland’s streetcars “would be middle performers if they were bus routes,” Brown says. “But nobody gets excited about buses.”

Most of the added costs from streetcars, compared with buses, come upfront with construction. Building tracks in downtown districts—digging up streets, adding power lines and moving other utilities—can be expensive. The picture is more mixed when it comes to operating expenses. Nationally, streetcars cost $1.50 to run for every mile a passenger travels, compared with $1.05 for standard buses and 70 cents for light rail, according to 2014 data from the Federal Transit Administration. On the other hand, streetcars generally collect a higher percentage of their operating costs (36 percent) than either buses (26 percent) or light rail (28 percent).

Still, if every streetcar system produced the same ridership, reliability and economic development that Portland’s did, it’s a safe bet that there would be far fewer streetcar critics. But it’s the experience of several beleaguered systems that frighten the public and make streetcars a tough sell.

One of Leif Dormsjo’s first decisions when he became director of the Washington, D.C., Department of Transportation in 2015 was whether to kill off the district’s long-stalled streetcar. Efforts to get the streetcar up and running along H Street, north of Capitol Hill, spanned multiple mayoral administrations. By the time the line opened this winter, the tracks on the street had been laid for six years with no service to the public. The district had run into problems with the construction of a maintenance facility. Behind the scenes, the agency also had trouble with document management and scheduling. As a non-transit agency, it had little expertise on staff and had to rely on outside vendors. When testing finally started, streetcars ran into parked cars along the narrow street, and one even caught fire.

Dormsjo called in transit experts from around the country to provide a frank assessment about whether the project could go forward and, if so, how. For Dormsjo, the question was more nuts-and-bolts than whether the H Street line was a good idea. “It was more of an operational question: Is this thing built in such a defec-tive way that we can’t really fix it?” he says. “That was the test.”

The experts told him there was nothing fatally flawed about the system, but it would need a lot of work. A year later, the H Street streetcar finally carried its first passengers.

During the delays, though, the H Street corridor began to flourish. The commercial strip had suffered since it was burned in the 1968 riots following the assassination of Martin Luther King Jr., but now trendy restaurants and bars replaced abandoned storefronts. A grocery store moved in, and nearby housing prices shot up. For the most part, the renaissance happened after the district announced it would build the streetcar, but before the trolley ever left the barn. A busy bus line had been serving the same area well before the boom and, in fact, continues to provide more frequent service than the streetcar on the same route today. So how necessary was the streetcar to sparking the revitalization? Was development following the streetcar, or was the streetcar following the development?

New Orleans’ iconic streetcars not only move residents around the city, but also are a draw for tourists.
Dormsjo believes the streetcar was key to the H Street boom. Yes, he says, the district overall has seen an economic resurgence at the same time. But then he ticks off the neighborhoods that benefitted the most. The thing that all of them have in common, he says, is that they have easy access to fixed-rail transit. For the vast majority of them, that means a Metro subway stop. For H Street, it was the streetcar. “Any developer who’s got a decent track record and access to capital is going to tell you that the first box they check for a new project is: What is the nearest transportation?” he says.

If anything, Dormsjo believes that one of the biggest problems with the district’s streetcar is that there is not enough of it. It basically stays in a single neighborhood, and it only comes near one Metro station, where transfers are a hassle. His agency is working on plans to extend the line in both directions: across the city to Georgetown in the west, and across the Anacostia River to a subway stop in the east.

When it comes to handing out advice, Dormsjo says other cities should make sure their projects deliver big impacts upfront. “The level of effort required to build a four-mile segment is not that much more than a two-mile segment,” he says, “so what’s the most cost-effective segment that you could deliver in a reasonable timeframe?”

The biggest problem with Washington’s streetcar is that it was built too little and too late, the biggest problem with Tampa’s might be that it was built too early. The Florida city’s 2.7-mile system, which opened in 2002, connects Tampa’s historic Ybor City neighborhood with the port, allowing cruise ship visitors to access the convention center and downtown. In keeping with the historic character of Ybor City, Tampa uses refurbished streetcars. They have modern amenities like air conditioning, but almost all of the mechanical parts are 80 to 90 years old. They’re far less reliable than modern streetcars, typically being pulled out of service once every seven days as opposed to once every two months for newer vehicles. That’s a big reason why few of the newer streetcar systems use refurbished vehicles. In fact, Charlotte recently opted to ditch its nostalgic streetcars when it extended its line.

Tampa’s early debut has meant that it started at a time when streetcar systems were still viewed as tourist draws. Tampa’s system wasn’t designed to connect with other transit lines. The early start has also meant that the service faced severe budget crunches during the Great Recession, which devastated Florida. Budget cuts forced the city to scale back the streetcar’s opening hours. Tampa has the ignominy of being a transportation system that doesn’t run during the morning commute. Most days, it opens at noon.

What’s more, says Kevin Thurman, a former executive director of Connect Tampa Bay, a transportation advocacy group, “the focus on trying to fix the streetcar has taken energy away from building a wider system that would make that streetcar more successful. Just like anything else, a streetcar by itself will never be as successful as it would be if it were combined with other systems.”

For all of its obvious shortcomings, though, the streetcar now runs through up-and-coming neighborhoods, particularly around the Port of Tampa. “If we didn’t exist, millions and millions of dollars of infrastructure would not exist here today,” says Richie Bauman, the senior manager of streetcar operations at the Hillsborough Area Regional Transit Authority. “The area would not be the tourist draw that it is. It would be depressed.”

Bauman hopes one day the Tampa streetcar can increase its hours to include the morning commute. He wants to extend the line to a transit hub used by local and national buses. It’s a difficult vision, especially after the county board blocked a ballot measure this spring that could have increased funding for the streetcar. Bauman, however, is unfazed. “Was the streetcar a success? Absolutely. Could it get better? Of course,” he says. “It just takes time and dollars.”

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Sweat the Small Stuff

At Denver’s innovative Peak Academy making a point about celebrating small-scale wins. By Brian E
Small Stuff

management program, there’s a big focus

in Elms with J.B. Wogan
This article is adapted from a new book by Brian Elms, the director of the Denver Peak Academy, with J.B. Wogan, a Governing staff writer. The book, Peak Performance: How Denver’s Peak Academy Is Saving Millions of Dollars, Boosting Morale and Just Maybe Changing the World (And How You Can Too!), is now available at governing.com/pushbook.

During the last recession, Denver government had cut costs everywhere. The city had instituted furloughs, laid off staff, increased employee pension contributions, and frozen pay and more. Yet when Denver Mayor Michael Hancock took office in 2011, we were still facing an $80 million shortfall.

Hancock wanted to find further savings without taking any more from his workforce, and that’s how the Peak Academy started. We would leverage the vast knowledge and expertise of current front-line city employees to improve the efficiency of our services. To me, it sounded like a brilliant idea. Using the principles of Lean manufacturing and other established process-management ideas, city employees would train each other on how to improve and innovate.

But not everybody agreed with us.

One night during the first year of the program, I turned to my wife and asked if she’d be OK if I was unemployed for a while. “I don’t think I can keep doing this,” I said. At that point, the experiment that would become the Peak Academy wasn’t going well.

People weren’t signing up for our trainings. When we did teach classes, many of the employees were combative. There were some exceptions, but most didn’t trust us and didn’t want our help.

It’s important to understand how unwelcome the Peak program initially was. My team collects and saves feedback from our trainings. There were some exceptions, but most didn’t trust us and didn’t want our help.

Here are some examples from those early days:

“Just because you work for the mayor doesn’t mean we care.”

“That may work at Public Works, but that won’t work here.”

“My boss would never let me do that.”

“I’m an innovator. All I do is fix stuff. I just don’t think my job can be fixed.”

“I don’t have any power or authority to do anything.”

“I’ve been working here for more than 20 years. This red bouncy-ball crap you’re teaching isn’t going to work.”

And it wasn’t just front-line employees. Their bosses didn’t want them at the trainings, either. In their eyes, having an employee out for special training just meant more work for everybody else. Managers refused to send employees for a four-hour class, not to mention a full week of training. I spent the first three months of my job going door to door, meeting with about a dozen department directors to ask if they would send some of their staff.

Stupidly, I had thought this would be easy, or at least easier than it was. Before coming to the budget office, I’d been a lobbyist for Denver International Airport. As a favor to us, directors in both agencies were trying to do something we believed in, and we were met with hostility at every turn. It wore us down, a couple of my original team members left within the first year. Everyone likes the idea of spreading innovation, but what that really means is long hours, lots of confrontational meetings, angry emails from trainees and their bosses, inevitable moments of self doubt, and no guarantee that you’ll be thanked for your hard work in the end.

Still on board? Good, me too. There’s a reason I’m still here at Peak, in spite of that rough start. It got better—a lot better. We started with small victories.

Remember, most department directors had turned us down, but two hadn’t. And there’s a reason why: prior relationships. One of my bosses in the budget office, Scotty Martin, had previously worked with Denver Human Services. And as I mentioned, my preceding job had been with Denver International Airport. As a favor to us, directors in both agencies promised to send a handful of employees each for our initial trainings. Without their help, the Peak Academy never would have gotten off the ground.

So we started small. In addition, we got a few more agency directors to agree to undergo an abbreviated four-hour course to at least become familiar with the core concepts and tools we teach. Later on, some of them would encounter a work issue that reminded them of Peak, and they’d send a couple of their employees to take our training.

Slowly, our graduates would return to their departments and begin using the simple tools we teach—process maps, production boards, fishbone diagrams—at their desks. Their co-workers would become interested in learning those tools and volunteer for the training.

Somewhere along the way we had our first big success. I think that’s when we knew we were going to be OK. It was in the first few months, before Scotty and I had even hired other trainers.

Two graduates from one of our initial trainings, Loretta Bennion and Amber Vancil, worked at Denver Wastewater Management.

They had identified a potential money-saving opportunity in their department, and they implemented it once they finished their training. You see, the agency was sending out warning notices whenever the city was about to put a lien on a property for late payments. They were sent using certified mail, which costs about $4.50 per notice. Bennion and Vancil switched the notices to $4.50 per notice. Bennion and Vancil switched the notices to
regular postage, a simple change that saved the city an estimated $40,000 a year.

It was a big moment for us. We had been preaching the power of these various improvement techniques, but here was concrete evidence. It felt like validation, and it helped in our classes, too. We could point to their innovation and tell trainees that they too could make this kind of impact: an immediate $40,000 in savings, simply by stopping an unnecessary practice.

Near the end of our second year, we gathered momentum. The trainings became their own advertisement. Now, we're regularly overbooked months in advance.

We have a long list of inspiring achievements by our graduates, and it’s been a powerful tool in overcoming people’s initial skepticism. Demonstrable results mean more than the fanciest PowerPoint presentation we could ever give. Those results show department heads that what we’re doing isn’t a management fad, because it’s not about the managers. It’s about the employees. And that's when they stop calling your program crap. Well, some of them anyway.

It really is the little things that can transform a process, the small questions that can cause you to reexamine the way something’s always been done. When you're looking for an opportunity to learn and to innovate, think small and ask yourself this question: Is there anything you do just because it’s always been done that way? If it wasn’t done that way, if you could start from scratch, could you come up with something better?

One of my favorite Peak innovations received exactly the kind of rapid initial reception I’m describing. Here’s what happened:

A group of employees from the city controller’s office took a four-hour training course from us. The next day, one of them, a guy named Chris Tubbs, sent me an email with the subject, “What is this report?” In the email, Chris described a frustrating situation. For years, the controller’s office had been emailed a daily report from one of its vendors. Every day, the office would receive the report and print it out. We’re not talking about a couple sheets of paper. Each day’s report was about 500 pages long. But here’s the kicker: Chris’ team only needed the information contained in the final six pages of the report. So every day, they’d hit “Print,” wait for the report to print out, flip to the last six pages and toss the other 494 in the recycling bin. It was the height of inefficiency, and it was costing the city about $5,000 a year.

I know what you’re thinking right now: You know how to solve this problem. Yes, I caught you. You’re saying, “Just tell the printer to only print the last six pages!” In theory, yes, that should work. But in practice, people would forget, and the entire report would get printed out. At Peak, we encourage people to mistake-proof the process. In this case, that meant finding a solution that never resulted in printing 494 unnecessary pages.

Again, a simple innovation won the day. Chris’ team asked the vendor to stop sending the entire report and only send the pages they cared about. Then they wouldn’t have to print the entire thing. If the report only has the six pages, you can’t print more than you need.

When I received Chris’ email, I was really impressed. I thought it was a keen innovation that should be celebrated. A couple days later, I was out with some friends who work in the private sector, explaining the type of work that Peak performs. I proudly mentioned Chris’ innovation. My friends gave me a look. “Dude, only in government would someone get away with that type of stupid thing,” one of my friends told me. “And only in government would you be excited about it.”

There are two ways to respond to every innovation. You can roll your eyes and say, “Why didn’t you do that before?” Or you can support that innovation no matter how big or small, whether it succeeds or fails. The more celebrating, the better. The more you support innovations, the more you will see them happen.

So yes, we celebrate not printing a report. We even bought Chris and his entire team a Starbucks gift card. When you celebrate the small innovations, the big innovations become easier and easier. The truth is, incremental improvements add up. They sometimes even pave the way for a breakthrough change.

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SWEAT THE SMALL STUFF

Peak Academy Director Brian Elms teaches a class on innovation.

PowerPoint presentation we could ever give. Those results show department heads that what we’re doing isn’t a management fad, because it’s not about the managers. It’s about the employees. And that’s when they stop calling your program crap. Well, some of them anyway.

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The Credentials Gap

Problem Solver

Few American cities have experienced the kind of devastating economic blow Pittsburgh incurred when the steel industry collapsed in the 1980s. Tens of thousands of workers left town as the mills shuttered, and the city lost nearly a third of its population over the following two decades.

Today, the hollowing out of the workforce has left the region with a relatively small number of experienced older workers. Those just starting out are finding ample opportunities, but they need new sets of skills to land jobs in the Steel City.

Over the past 30 years, more jobs in Pittsburgh industries have come to require a postsecondary education. At the same time, one’s field of study is increasingly important in determining job prospects. This turns out to be true not just in Pittsburgh but in many places around the country that are seeking to retool their economies. The pace of the shift, though, varies greatly from region to region.

Nationally, the proportion of college-educated workers keeps going up. About a third of Americans age 25 and older have completed four or more years of college, up from only one-in-six in the late 1980s and 11 percent in 1970, according to U.S. Census Bureau estimates.

But while the attainment of a four-year degree is commonly held up as the most important predictor of future success, it isn’t always what best distinguishes higher income earners from everyone else. Anthony Carnevale, who directs the Georgetown University Center on Education and the Workforce, prefers to draw a line between those with a postsecondary education in better-paying subjects and those without one. “It’s getting to be more about your field of study and less about your education level,” he says. In some fields, a bachelor’s degree doesn’t guarantee a well-paying job.

Regional differences in education requirements are vast. Employers aligned with manufacturing or tourism in smaller economies tend to have the fewest jobs needing postsecondary education, according to 2015 occupational employment data and Census estimates of educational attainment for each occupation. By comparison, jobs in tech-heavy areas such as North Carolina’s Research Triangle; San Jose, Calif.; or metropolitan Washington, D.C., are up to twice as likely to require at least a bachelor’s degree.

As it continues to recover from the collapse of the steel industry, the Pittsburgh region has increasingly become a magnet for emerging industries. General Electric Co. recently opened up a new center incorporating 3-D manufacturing techniques, while Pittsburgh-based Aquion Energy has developed new battery technology.

Laura Fisher, who heads workforce development efforts in Pittsburgh at the Allegheny Conference on Community Development, says the core skillset required for many of today’s jobs spans multiple industries. Nearly 60 percent of open jobs in the Pittsburgh area have some information technology component. Even employees working on drill-
ingrige—a job that once relied on physical strength now must operate computers. Every area has its share of “eds and meds”—higher education and healthcare jobs—that tend to pay good wages. The key defining characteristic often is whether regional economies also feature STEM, or educational opportunities in science, technology, engineering and mathematics. “Generally, everybody is chasing the same type of economics,” Carnevale says. “If you don’t have the industries, you don’t need the workforce. It’s a race to the bottom.”

As one would expect, regions with more stringent education requirements pay the best wages. The San Jose and Washington, D.C., metro areas report the highest median wages, while smaller metro areas in Texas with a low cost of living pay the lowest area median wages in the country. A few outliers exist, such as Odessa, Texas, and other areas with large energy sectors or military bases.

While workers with bachelor’s degrees have always earned more than high school graduates, data compiled by the Federal Reserve Bank of New York suggests the wage gap has widened further in recent years. Last year, workers with bachelor’s degrees earned median wages about $18,000 higher than high school graduates, data compiled by the Federal Reserve banks last year found that the number of jobs paying at or above the national median wage but typically not requiring four years of college dropped by 1.7 million between 2005 and 2014. Meanwhile, the number of well-paying occupations calling for at least a bachelor’s degree climbed 4 million. Part of this is said to result from “upcredentialing,” or employers seeking college graduates for positions traditionally not requiring four-year degrees. It’s too early to say, though, whether this is only a temporary consequence of the recession or a more permanent shift.

To better align educational offerings with job opportunities, Van Horn recommends that schools maintain a constant dialogue with the business community. “It doesn’t happen often enough,” he says. “We’ve tended to look at those as two separate worlds that don’t interact on a regular basis.”

It’s especially crucial given that some employers don’t invest much in training and development for new hires. In the end, students must decide what to study. A handful of states have begun reporting data to make the decision easier, linking academic programs to job prospects and expected earnings. The information, however, isn’t well publicized. North Carolina and a few other states have launched online data portals to make the data more readily available, and business leaders at the Allegheny Conference are exploring the option.

“Well, people can still pursue whatever education and training pathway they want,” says Fisher of the Allegheny Conference, “but we want to make sure that they have the information about where the jobs will or won’t be.”
Smoke, Mirrors and Special Funds

Budgeting is tricky when general funds are no longer the main source of money.

State and local budgets are based on general fund revenues. The cash usually comes from such primary sources as income and sales taxes, and pays for a wide swath of government services. When managers talk about “balancing the budget,” they’re almost always referring to balancing the spending and revenues from this repository.

Reliance on the general fund as the centerpiece of fiscal management, however, has growing flaws. This is largely because the general fund is diminishing as the main source of money for governments. Data from the National Association of State Budget Officers shows a fairly steady drop in the portion the general fund makes up of the total—41 percent in 2014 compared with 52 percent in the early 1990s. In Virginia, the general fund made up 47 percent of the total in 2006 and only 39 percent in 2015.

Some of the drop comes from an increase in bonds and, even more so, federal funds, but there’s also been a slow and steady rise in the size and quantity of special funds that are earmarked for specific purposes and get little attention in the annual budget debate.

The Fiscal Futures Project at the University of Illinois at Chicago (UIC) has pinpointed a number of problems with this shift. Depending on state law, special funds may bypass the appropriations process, and unlike the general fund, money collected and unspent may be retained at year’s end rather than being returned to the general coffers. This makes special funds an appealing target when tough budget times hit. Lawmakers see these plush balances outside the general fund as a means to balance the budget. They may transfer or lend money from the special funds to the general fund.

That leads to additional problems. It is a common tenet of responsible budget management that one-time money be used for one-time expenditures. If these funds are raided, then unless revenues are raised or expenses are cut, the government will still come up short in the next budget cycle.

The movement of money between general and special funds “has reduced the transparency of budgeting,” says David Merriman, a professor at the Institute of Government and Public Affairs at UIC. The cloudiness of the budget picture enables political leaders to boast about a reduction of general fund spending, when spending has just been added to one or more special funds.

States can also put themselves in legal peril by using funds for general purposes that are restricted to a specific use. Just after the recession ended, for example, the Wisconsin Supreme Court nixed the transfer of money from a malpractice fund into the state’s general fund. The state had to pay back the $200 million along with interest.

New Mexico’s reliance on special funds has led to a host of policy and management problems. As the state auditor pointed out in a February analysis of fund balances, New Mexico had $4.4 billion in unused balances socked away outside of the general fund at the end of 2013. The state’s budgeting problem, he noted, is the $8.8 billion general fund deficit.

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end of fiscal year 2015. Some of that money is untouchable because of ironclad restrictions about its use.

The large amounts of unspent money raise questions about whether so much should be in funds that get so little attention. Auditors in New Mexico, for instance, found that a significant amount of money was being retained in revolving funds, which are intended as a cash-flow device for agencies and local governments. Localities are supposed to use this money and then return it so it can be used again. The practice isn’t the problem, but the auditor found that some of the funds had very little lending activity, even though the state faces critical infrastructure needs for which it could be used. For example, $34 million sat unused in a revolving fund account for rural infrastructure between fiscal years 2014 and 2015. “You can’t justify a loan fund that had no loans out of it,” says Tim Keller, New Mexico’s state auditor.

Keller, who was a legislator for six years before he took over last year as state auditor, spells out the real-life drawbacks of low-attention money. As a member of the legislature, he helped secure financing to build a dam in Las Vegas, N.M. “I thought that fixing the dam was important and I put my political weight behind it,” he says. He wasn’t alone. The governor and local legislators “were all taking credit for the dam,” he says.

But that back-patting was premature. With less visibility, money outside the general fund can go unspent, particularly when a legislative appropriation only provides partial funding as was the case for the dam. “That’s because ‘there’s no one constantly monitoring it,’” says Sarita Nair, general counsel in the auditor’s office.

Today, the dam is half finished, the money that was appropriated is largely unspent, the project’s opponents have brought a lawsuit to stop its progress and the town still has a water crisis. “You can take credit for funding something, but that’s a different question than actually having it built,” Keller says.

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**BETTER GOVERNMENT**

By Mark Funkhouser

**What’s a Mayor’s Real Job?**

Some say it’s to build community—and that’s never easy.

R. T. Rybak says he tried to write *Pothole Confidential: My Life as Mayor of Minneapolis* as a “journalist embedded at city hall.” That’s something he could legitimately pull off, since his first job was as the entire staff of a suburban Minneapolis newspaper, followed by stints as a crime reporter at the Star Tribune and publisher of an alternative weekly. The result is an intimate and, from my own perspective as a former mayor, highly authentic view from inside the maelstrom of urban governance.

From an early age, Rybak was obsessed with politics. He went to Boston College for a double major in political science and communications. But the real object of his interest was architecture and city planning, and he spent nearly all the time he was not in class immersed in those subjects.

But as the great philosopher Mike Tyson once put it, “Everyone has a plan until they get punched in the face.” When Rybak moved into the mayor’s office in 2002, he found that instead of the grand city building he had dreamed of doing, he was confronted with the first of a series of stadium controversies. In addition, the city’s finances were in much worse shape than he had known, and dealing with crime and police-community relations would consume a huge amount of time.

Solving problems usually means making tough choices, and, of course, making mistakes. Good journalist that he is, Rybak spells out his mistakes in specific detail. In his first year in office, for example, he tried to fire the police chief. That “inept” attempt, he writes, “got me on pretty much every news show, day and night” and gave key council members cause to worry about working with him. At the end of his first term, he says he was making enemies faster than he was building new partnerships.

The key to his eventual success was hiring an exceptional political team.

Rybak writes that while every city has a stage set that it presents to visitors—his was a rejuvenated waterfront, pretty residential districts—underneath lies something “more complex and sometimes far more disturbing.” He’s right, of course, and dealing with that sometimes ugly reality is ultimately, I believe, the most important thing that a mayor should do.

In big cities in America today, what’s most often at the heart of that reality are issues of race and class. And the leader confronting those issues has to be the mayor for all the people—black, white and brown; women and men; straight and gay; rich and poor; progressive and conservative; racially sensitive and bigoted. In the end, running a city is about building community, and you can’t do that by vilifying people. The job of building community is bigger and so much more complex than most people can imagine, and that shines through in Rybak’s vivid and honest stories.

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Editorial Prepress

Designer Creative Dir.

Other OK to go
Dot-Govs Get a Facelift

Once laden with information, government websites are being decluttered and refreshed.

It’s time to give the government website a makeover? For years, city and state sites have been designed as portals through which the public could find as much information as possible. The motto was clearly, “the more, the better.” But the result has been an overwhelming hodgepodge of columns and boxes filled with tiny text, drop-down menus that run on and on, and buttons everywhere.

With so much information crammed on to a home page, visitors are lucky if they manage to find what they’re looking for, says John McKown, president of Evo Studios Inc., a Web design firm that works with municipalities. “The problem with so many government websites has been information overload.”

That’s certainly the case with the city of Philadelphia’s website, which contains more than 60,000 pages and documents, some of which have never been viewed, according to Aaron Ogle, the city’s former civic technology director.

Information overload is just one problem. Another is the way information is organized, typically around the name of an agency or department, rather than how it can help someone. And exacerbating the issue are the growing number of online services that cities and states have added. These and other new services, such as slideshows and videos, weigh down sites, making them slow and frustrating for users.

Perhaps the biggest problem is that these sites were built for PCs, but users are going mobile. Forty percent of people who visited a federal website in the first three months of this year used some kind of mobile device, according to the site analytics.usa.gov. This is a real concern since lower-income users tend to rely on their smartphones as their one and only device for accessing the Internet.

Aware of the issue, some states and localities have begun modernizing the look and feel of their websites. In 2014, New York state updated its 15-year-old site. In the redesign, the state emphasized ease of use, simple design and a more intuitive way to find information. The new home page uses a photo-rich design, with a high-resolution image dominating the screen and just a few buttons to direct the user to content. Gone is a typical photo of the state’s chief executive, Gov. Andrew Cuomo. The refresh has paid off: Page views jumped from 313,170 in 2013 to 1.1 million in 2014.

Boston and Philadelphia are redoing their websites as well. Both cities have launched beta versions of their new websites that users can visit and try out while the existing website is still up and running. The pilots will give the cities a way to test with actual users what works and what doesn’t.

Boston’s new pilot version went live in January. It’s far cleaner looking and more efficient. “It represents a cultural change around what a portal is,” says Lauren Lockwood, the city’s chief digital officer.

The biggest lesson that cities and states are learning is to make the new websites more reflective of the work that is done by the city and to present the information in a more readable fashion. Some of the information on Boston’s site was found to be written at a post-graduate school level. “Everybody is your audience,” says Lockwood, “so you want to humanize their experience.”

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AT THE CROSSROADS
Celebrating Legacy, Defining the Future
Public-private partnerships are the future of public finance. That little sentence can light a fire in the world of public money, which is struggling to find the wherewithal to pay for infrastructure.

For a while now, public-private partnerships (P3s), which let a private entity handle everything from the development and operation of a public project to its financing, have become a standard option to replace roads, bridges, wastewater treatment facilities and other core infrastructure. Recently, there’s been talk of using P3s for the reimagining of such icons as New York’s Penn Station and LaGuardia Airport, Chicago’s “L” train, and the Los Angeles Convention Center.

It has become increasingly clear that P3s are a badly needed alternative to public finance. One reason: Many states and localities have reached either the end of their political will to take on more debt or their legal limits on borrowing inexpensive, tax-exempt money. Federal law does not permit the use of tax-exempt bonds on a project if more than 10 percent of the money comes from private sources, which is why projects are usually financed with all public money or all private money.

At the same time, there is concern that P3s are giveaways to the private sector. The pushback centers on a contention that many P3s don’t shift enough of the financial, operational and political risks onto the private sector.

Despite the unease, there is widespread agreement that the private sector can add value. This is especially true for project management and operations. Private partners don’t answer directly to a political process. They can deploy new technology, invest in preventive maintenance, rearrange staffing and bring in new expertise, all without asking permission. Many government infrastructure managers would give anything for that kind of speed and flexibility.

So what’s got public finance folks excited about P3s’ future? Recent attempts to blend the public sector’s access to low-cost, tax-exempt financing with the private sector’s expertise and agility. Three emerging strategies are moving in that direction.

One is to bring nonprofit partners into the mix with the goal of allowing private partners to have financial skin in the game so that they are more excited about managing or operating a piece of public infrastructure.

Here’s how this strategy would work. A government and its private partners structure a P3 around a nonprofit corporation. That nonprofit sells tax-exempt municipal bonds to finance most or all of the project, leases the project back to the government and then uses those lease payments to pay off the bonds. Because it’s a nonprofit, it can also take money from private-sector investors and write contracts with private partners to maintain and operate a project.

The National Development Council claims to have pioneered this “American Model” of P3s. Seattle’s South Lake Union and the Riverside County, Calif., Law Building are good recent examples.

A second strategy is to expand the scope of tax-exempt financing. Under federal law, a government can use tax-exempt private activity bonds to finance infrastructure that’s managed by private operators—airports and water-sewer systems, for example. However, federal law also limits the size and scope of the private activity bond market. Expanding the amount of private activity bonds allowed and the types of projects they can finance would expand these joint benefits.

A third is for governments to grow their role as lenders. States have a variety of infrastructure loan programs for local governments. The federal government does the same through Transportation Infrastructure Finance and Innovation Act loans and similar programs. Under some P3 models, private partners can access these programs and use them as loan guarantees against other investments. This can help to leverage enough private investment to make a P3 pencil out. The Move America Act legislation now pending in Congress seeks to boost these types of loan financing tools.

Right now these “blended” P3 models are just a small part of the infrastructure finance landscape. But they have potential to bridge some big gaps.
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At 7,580 feet, Seattle’s Albert D. Rosellini Bridge already had the distinction of being the world’s longest floating bridge. Now, its replacement is even longer, by about 130 feet. Connecting Seattle to neighboring Bellevue across Lake Washington, the new six-lane bridge opened in April, marking the end of a $4.5 billion project that began decades ago. It replaces a four-lane version built in 1963 and is more weather- and earthquake-resistant. It also reduces pollution. New drainpipes have been added to capture oil, brake linings and pulverized tires, which under the old bridge had been leaking into the lake. Because of the lake’s depth and silty bottom, the bridge can’t be supported by columns. Instead, it’s built on 26 pontoons the size of football fields, which are equipped with sensors to detect leaks. For the floating bridge’s grand opening, thousands of people turned out to see it—it’s so many, in fact, that the state Department of Transportation declared the event “at capacity” and halted buses shuttling people to the structure. The old bridge is expected to be dismantled by the end of the year. —Elizabeth Daigneau
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