25 years after first “reinventing government,” states are still tinkering with how to get it right.
Only 18% of surveyed legislators currently sit on a committee with cybersecurity as part of its mandate.

Learn more by downloading a complimentary copy of the full survey results at: governing.com/cyberfindings
26 THE REINVENTORS
Twenty-five years after first “reinventing government,” states are still tinkering with how to get it right.
By John Buntin

34 TROUBLED WATERS
In the aftermath of Flint, communities all over the country are taking a new look at their water and the way it’s been managed.
By Daniel C. Vock

42 MISSING OUT
Why aren’t U.S. mayors taking part in what is arguably the world’s most important conversation about the future of cities?
By Carey L. Biron and Neal Peirce

48 REMOTE POSSIBILITIES
Rural counties are finally getting some help with an overlooked and underserved population—the mentally ill. But it will take entirely new approaches.
By Mattie Quinn

52 THINKING OUT OF THE BOX
Big-box retailers are deploying a ‘dark-store’ strategy that’s hurting city revenues.
By Liz Farmer
Have police become more reluctant to intervene in dangerous situations? There's no easy answer.

Data is increasingly helping to guide parole decisions.

Clearing homicide cases is the best way to reduce them.

Agencies are expanding tried-and-true tactics to keep hackers out.

Airbnb and its home-sharing ilk are taking a toll on affordable housing.

Chicago employs a unique solution to its big beach butt problem.
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*FordPass, compatible with select smartphone platforms, is available via a free download. Message and data rates may apply. SYNC Connect, an optional feature on select 2017 model year vehicles, is required for certain features.
One Book’s Legacy

In this issue’s cover story, John Buntin takes a retrospective look at the impact of the 1992 book Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector. For public-sector leaders, Buntin writes, Ted Gaebler and David Osborne’s book was a “revolution.” Count me among them. I read the book shortly after it was published, and when I came across this passage in the first few pages I was hooked: “First, we believe deeply in government. We do not look at government as a necessary evil. ... Government is the mechanism we use to make communal decisions.”

Gaebler and Osborne go on to list some of the huge challenges we faced—including drug addiction, crime and global warming—and then ask, “How will we solve these problems? By acting collectively. How do we act collectively? Through government.” I cannot tell you how revolutionary that bold statement felt after the Vietnam War, Watergate and the presidency of Ronald Reagan, in which government was characterized as the problem and not the solution to anything.

Buntin quotes Robert J. O’Neill Jr., the executive director of the International City/County Management Association, as describing Reinventing Government as “the most influential book of the past 25 years” for the public sector. Indeed, the book constituted a turning point in the way we think about government. Gaebler and Osborne focused on what they called the “entrepreneurial spirit,” but I think the most powerful idea they captured was of government never sparking a revolution puzzles Gaebler and Osborne focused on what they called the “entrepreneurial spirit,” but I think the most powerful idea they captured was of government. They recognized that bold statement felt after the Vietnam War, Watergate and the presidency of Ronald Reagan, in which government was characterized as the problem and not the solution to anything.

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LETTERS

Green Obstacles
In the July feature “Going Clean,” Elizabeth Daighneau wrote about Hawaii’s goal to generate 100 percent of its electricity from renewable energy sources by 2045. Hawaii is the most oil-dependent state in the nation, so the article explored whether the goal was actually achievable. It concluded that because the state boasts a wealth of renewable energies, it is. But according to experts, the real challenge to meeting the goal is restructuring the state utilities. Readers wrote in to suggest there are other reasons it won’t reach its 100 percent target.

Fascinating description of all the glories, and sufficient demonizing of the major electric company. But nowhere in this article is anyone talking, for attribution, about the costs to implement this ambitious plan. Yes, there might be a savings from not importing fuel, but what about the capital costs to rebuild a power system that can handle all these varying sources? The ultra-high costs of Hawaiian electricity incent changes, but let’s see the hard economics, not fuzzy, intangible benefits and scare tactics of the evils that will befall us if we don’t believe the hyperbole and pile on the bandwagon of renewables at any cost.

—John Powers on Governing.com

What about all the goods that have to be brought in by boat or airplane? This is like a company or country saying they have reduced emissions when all they have done is offshore the work. For Hawaii to really be a CO2 success story, it has to run a carbon surplus that compensates for the cost of importing almost everything.

—mhjhnson on Governing.com

Everything they need comes by boat. They can use whatever resources they want—it makes no impact.

—Jacqueline Lang on Facebook

Critical Solutions
The July article “Condition Critical” by Mattie Quinn looked at rural hospitals and how vulnerable many of them are to closing. She also evaluated possible solutions states have implemented to keep rural hospitals operating. One such solution was found in Louisiana, where there have been no recent hospital closures. Quinn credited this achievement to a law passed in 2013. But according to one reader that law is not the main reason Louisiana’s rural hospitals are still open.

This article highlights the growing problem of rural hospital closures across the United States since 2010, especially in those states that have not expanded Medicaid. However, I must take issue with one statement made regarding the state of Louisiana.

The article notes that while 58 percent of rural hospitals in Louisiana are considered vulnerable, there have been no recent closures of rural hospitals. The lack of closures is attributed to the action of state lawmakers in passing the Hospital Stabilization Fund. While it is true that the fund will help stabilize funding for all hospitals, it is not the key reason there were no rural hospitals closed in Louisiana in the last 20 years. That accomplishment is due to the enactment of the Rural Hospital Preservation Act in 1997.

The legislature, in response to the closure of rural hospitals in the late 1980s and early 1990s, recognized that something needed to be done on a state level to preserve rural hospitals. The act required that the state maximize Medicaid reimbursement to small rural hospitals long before the recent expansion of Medicaid and the establishment of the stabilization fund. That policy continues to be implemented to the present day. Since 1997, the state, through its appropriations process, has continued to support rural hospitals, and that, more than anything else, is the reason that there have been no closures of rural hospitals in Louisiana.

—Charles Castille, executive director, Louisiana Rural Hospital Coalition
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- Mayor Lester E. Taylor III, City of East Orange, New Jersey

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- County Executive Ed Mangano, Nassau County, New York

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LOOSE CANNONS

STATE ATTORNEYS GENERAL may be the freest actors in the American political system. Their broad discretion gives them enormous power, but it can also open them up to political and legal attacks.

Recently, a pair of Republicans found themselves caught in the currents of the presidential campaign. Pam Bondi, the attorney general of Florida, and Greg Abbott, who was attorney general of Texas prior to his election as governor, each canceled fraud investigations into Trump University and in short order their campaign accounts received five-figure checks, from Donald Trump in one case and from his foundation in the other.

Both AGs maintained that any allegations of cronyism were without merit. That may well be so, but it’s clear that attorneys general today have close and sometimes questionably comfy relations with entities looking to profit from their work.

Last year, The New York Times won a Pulitzer Prize for its report on companies willing to wine and dine AGs and contribute heavily to their campaign accounts, in hopes of avoiding investigations and settlements. “It’s a situation that invites abuse,” says John Crangle of the liberal advocacy group Common Cause in South Carolina.

Attorneys general, most of whom are elected independently, are often described as the chief law enforcement officers in their states. That’s really a misnomer. Criminal cases are nearly always handled by district attorneys at the county level. AGs can get involved in criminal matters, but most of their focus is on consumer protection and other civil issues.

Indeed, they have become de facto national regulators of various industries, demanding that banks or other businesses change their ways as part of legal settlements. Given their status as free agents, they can turn those pressures off as easily as they can turn them on. “AGs have found a way to transform the office, so it’s not just rate law enforcement but really important in terms of making policy,” says Paul Nolette, author of a recent book about state AGs.

Which cases they choose to pursue is pretty much up to them. That has allowed Republicans to challenge the Obama administration on fronts ranging from health care to environmental regulation. Conversely, Democratic attorneys general opted not to defend state laws banning same-sex marriage.

This year, Attorney General Roy Cooper, who is the Democratic candidate for governor in North Carolina, chose not to defend the state’s controversial law blocking municipalities from enacting anti-discrimination laws to protect LGBT residents. “In a lot of these states, if the governor and the attorney general take opposing positions, the attorney general gets to decide on litigation questions,” says Timothy Meyer, a law professor at Vanderbilt University. As Meyer notes in a law review article, AGs enjoy a near-monopoly on the state’s access to the courtroom, meaning the use of litigation as a tool to advance policy is “almost exclusively” in their hands.

All of this helps to explain why political opponents—recognizing the power an attorney general wields—have sought to link them to official misconduct. The aura of their office means that allegations that might be shrugged off as normal conduct for lawmakers can stick like glue when it comes to those tasked with enforcing the law.

Besides Abbott and Bondi, attorneys general in several states have found themselves accused of legal or ethical missteps in the past couple of years. Last month, Pennsylvania’s Kathleen Kane was found guilty of perjury and subsequently resigned. Ken Paxton, who succeeded Abbott as the Texas AG, finds himself facing charges from both local prosecutors and the Securities and Exchange Commission regarding allegations flagged by liberal groups that he misled business investors before taking office. “In a different era, when the AG was not seen as a highly partisan person or high profile in the state, activists wouldn’t have pushed so hard on the case,” says Mark Jones, a political scientist at Rice University.

By Alan Greenblatt

Pam Bondi, Florida’s attorney general

September 2016 | GOVERNING 9
WHEN HE WAS ATTORNEY GENERAL of Texas, Greg Abbott sued the Obama administration more than 30 times. Now that he's governor, Abbott is seeking to challenge Washington in a more fundamental way.

Abbott is leading a push for a national constitutional convention in hopes of enacting numerous amendments to restrict federal power. “I realized it’s going to take more than lawsuits to fix what’s wrong in Washington, D.C.,” Abbott says. “We have all three branches of government that are trampling the Constitution.”

Under Article V of the U.S. Constitution, a constitutional convention can be called by a vote of two-thirds of the state legislatures. It’s not unusual for legislatures to approve such resolutions. Typically, however, they call for amendments to address individual topics—a balanced budget requirement, for example, or campaign finance restrictions that would overturn the Supreme Court ruling known as Citizens United.

Abbott’s plan is wider in scope. He seeks not only to require a balanced federal budget, but to block federal agencies from preempting state laws. He wants a vote by two-thirds of the 50 states to have the power to override federal laws or Supreme Court decisions. Abbott has a total of nine amendments that would restrict federal authority in one fashion or another.

Already, a half-dozen states have answered Abbott’s call. But questions surrounding a proposed convention of the states arise immediately. For one thing, it’s not clear whether the votes already taken will still count next year, or if a two-thirds majority of states must approve resolutions all within the same year. It’s uncertain whether the anti-Citizens United resolutions that have been approved would count along with Abbott’s proposal toward reaching the two-thirds threshold, or whether states have to be uniform in terms of a proposed agenda. “The states keep piling on calls for a convention, and no one is sure how they should be counted up,” says Jonathan Marshfield, a law professor at the University of Arkansas.

If and when Abbott or some other organizer gets two-thirds of the states to agree, presumably one of the disagreeing states would sue to block the convention from taking place. The Supreme Court would then have to decide whether a convention can happen.

Even if justices gave the green light, there’s no certainty about what the rules governing a convention might be, such as whether delegates from a state would vote as a bloc or as individuals. For all these reasons, some legal scholars have argued that the first order of business should be proposing an amendment that would clarify the entire process. “Article V is the black hole of constitutional law,” Marshfield says. “There’s just so much we don’t know.”

The uncertainty is one reason why an Article V convention has never taken place. It’s not even clear whether a convention would or could be limited in terms of its agenda. The entire Constitution might be fair game. That makes lots of people nervous.

But not Abbott. He fully recognizes that liberal states are likely to propose changes that he and other conservatives would balk at. His response is, in essence: Bring it on. Because Republicans control a majority of states, he asserts, now is the time to fix the Constitution.

“I was fascinated by the Abbott proposal because it seeks to turn into a virtue what had been seen as a drawback—the inability to put a lid on topics,” says Walter Olson, a senior fellow at the libertarian Cato Institute’s Center for Constitutional Studies. “Abbott turns it around and says, ‘Let’s go ahead and open the agenda, fully understanding there are ideas that I don’t like.’”
Dental plans and technology are constantly changing, particularly in the last two decades. Procedures that were once commonplace have fallen out of favor among dentists who are always exploring newer and better approaches to oral health. As a result, public sector agencies may not be delivering the best dental package to their employees, or may be overspending on their plan. Finding the right plan is critical for employee satisfaction, retention, recruitment and cost reductions. According to the Bureau of Labor Statistics, dental benefits are extremely popular with public sector employees: 88 percent of state government workers with access to a dental plan participate in it.

Despite this fact, public sector organizations’ dental plans are often more outdated than those of private employers. Increasingly, it’s critical for public sector employers to determine whether their current plans cover the evidence-based procedures that dentists now recommend.

**IS YOUR DENTAL PLAN STUCK IN THE PAST?**

Dental plans were designed after World War II, and were structured similarly to medical plans. Much of their coverage wasn’t backed by evidence-based research. That’s not the case today, and the services recommended by dentists have changed significantly in the past 15 to 20 years. Here are several examples of how modern dentistry is changing:

- A composite resin, or white filling, is a tooth-colored plastic and glass mixture used to restore decayed teeth. More than 80 percent of U.S. dentists today only use white composite fillings, but many dental plans still only pay for silver fillings on the back teeth.
- Dental implants have been around for 30 years and are the standard for replacing missing teeth, but many dental plans still don’t cover them.
- Teeth-grinding, or bruxism, is on the rise. Severe bruxism can lead to jaw disorders, headaches, damaged teeth and other problems. Historically, plans haven’t covered it.
- Cone beam imaging — essentially a CAT scan that a dentist uses to view 3D images of your teeth and jaw — helps to place dental implants more accurately, but some plans don’t cover it.
- New procedures, including saliva testing to determine the patient’s risk for dental disease, should also be covered by dental plans.

Public sector organizations should work with their carriers or an intermediary, such as a broker or consulting firm, to learn about the latest in dental technologies and procedures.

**THE IMPORTANCE OF PLAN VALUE VS. NETWORK SIZE**

After public sector employers educate themselves on the latest dental technologies, they must closely examine the value they’re getting from their current plan or network. With the rapid growth in dental PPO networks, an employer should ensure each carrier’s negotiated discounts are truly significant. It’s essential to study the discount levels closely: Public sector employers have to look at how carriers control costs, and that benefits are paid accurately for necessary services. Look under the covers too. Your carrier may have a big network and good discounts. But how is it monitoring and controlling costs to ensure your company and employees are getting the best value?

A responsible carrier, for instance, will have a team of licensed dentists who review claims to ensure they are appropriate. If the carrier spots dental
practice patterns that are inappropriate, it should contact the treating dentist and address the issue.

For a public sector organization, collecting and analyzing dental plan information can be daunting. The best way for an organization to research current plans is with its carrier, or it can work with an intermediary, such as a broker or consulting firm.

RCL’s formula multiplies the in-network discount by the in-network utilization to determine the effective discount: effective discount = in-network discount X in-network utilization. While effective discounts don’t factor in important criteria such as claims and quality management, they are an objective, reliable measure of network value and worth your consideration.

**FINDING A DENTAL PLAN THAT MEETS ALL NEEDS:**

**STEPS FOR SUCCESS**

Survey employees and carriers. When doing research to find the best plan, ask targeted questions to see if your current dental plan meets employees’ needs. Poll your employees and inquire, “What do you like or dislike about your dental plan coverage?”

Interview your carrier too. A sample question: “If you’re going to recommend changes to my dental plan, where is the research that supports your conclusions?”

Be open to plan design changes during the procurement process. Fifty-three percent of employees allow carriers to propose additional products or services during the procurement process. And 48 percent allow alternate plan designs in In tight responses. Since some RISs can contain outdated plan designs, it’s important to allow carriers to propose solutions to ensure you are taking advantage of the latest advancements.

Increase the annual maximum. In both the private and public sector, employers are being asked to shoulder more benefit costs every year due to employer financial constraints.

**ENDNOTES**

3. MetLife’s 14th Annual U.S. Employee Benefits Trend Study
4. MetLife’s Benefits Trend Study, Public Sector-Only Questionnaire/Sample

This piece was developed and written by the Governing Institute custom media division, with information and input from MetLife.

Ask your carrier where you stand with your annual maximum, and compare it with poor public sector organizations. This is the best way to determine whether your plan is keeping up with industry standards. **Tip:** You can offset the increased cost of a higher annual maximum — such as moving from a $1,000 to $1,500 yearly cap — by making other plan adjustments, such as reducing benefit costs for elective services or ones that are not backed by evidence-based research.

**CONCLUSION**

In public sector organizations, the participation rate in dental plans has always been high. Seventy-two percent of government employees consider dental a must-have benefit. Offering dental coverage is a valued benefit that keeps employees healthy and happy.

Dental problems are highly treatable in nearly all cases, and small issues are easy to resolve at a low cost. If you avoid them, however, an inexpensive filling becomes an expensive crown or root canal. Therefore, it’s critical for a public sector organization to have a well-designed, well-used dental plan.

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A Statehood Scheme

WHILE A NUMBER OF STATES want to amend the Constitution to change Washington, the city itself may adopt a constitution to become a state.

Washington, D.C., Mayor Muriel Bowser is pushing for a state constitution as a means of convincing Congress that the nation’s capital is ready for statehood. In July, the city council voted unanimously to put the constitution question before voters in November. Assuming residents back the measure, the city council would then be in charge of approving a constitution.

It’s an idea that already has popular appeal. District license plates complain about “Taxation Without Representation,” since D.C. has no congressional vote. Congress, which oversees district affairs prior to granting home rule four decades ago, continues to overturn local laws on a wide range of issues, including gun control and abortion access. D.C. tried a similar strategy in 1982, when voters approved a previous version of a constitution.

Bowser’s push has drawn complaints that the process is being rushed. A draft constitution was approved by a commission made up of Bowser and four other members, with limited public input. Voters, should they grant the city council authority to write a final version, will not be given a say over the language in the document.

Bowser dismisses all the complaints, saying that there has been consensus around all but a handful of items in the new constitution. She wants to come to Congress with one in hand, as proof that Washington—or New Columbia, as the state would be called—is ready for statehood.

She’s modeled this approach after one used more than two centuries ago by Tennessee, which was admitted as a state in 1796 after approving a constitution as a territory. The glaring weakness with this strategy is that Congress is highly unlikely to be persuaded. If the overwhelmingly Democratic city were to become a state, that would create a new Democratic House seat and two Democratic senators. A Congress under Republican control will never go along with that idea. Even when Congress was controlled by Democrats back in 1993, the House voted down statehood narrowly, the Senate voted down statehood narrowly.

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MANY STATES AND CITIES are not only raising the minimum wage, but raising it for more workers. Classes of employment that have typically been exempted from minimum-wage requirements, such as teenagers, farmworkers and restaurant servers who receive tips, are covered in most of the recent increases. “The over-riding philosophy of anyone trying to raise the minimum wage is to set a floor for everyone, regardless of industry,” says David Cooper, an analyst with the Economic Policy Institute, a group backed by labor unions that supports a higher wage.

The restaurant industry, which is used to getting its way during wage-increase debates, has largely been shut out in recent negotiations. Under federal law, restaurant workers who receive tips have to be paid only $2.13 per hour, as opposed to the federal minimum wage of $7.25. But restaurant workers in California will be paid the full $15 per hour that was recently approved by lawmakers.

That has some California restaurateurs talking about doing away with tips—a mini-trend right now in the industry. Instead, they would pay waiters and waitresses a flat wage, while collecting a service charge from customers that would be distributed to the kitchen help as well. But that approach hasn’t yet taken root in the state. Restaurant workers in California already enjoy a base minimum wage of $10 an hour, easily the highest in the nation for that employment category.

When New York state and Washington, D.C., passed $15 minimum-wage rates this year, lawmakers did maintain a different pay scale for restaurant workers. For the most part, however, minimum-wage exemptions are becoming a thing of the past. When Hawaii raised its wage in 2014, it preserved a tip credit for restaurants, but set the bar so high—the credit kicks in only if workers earn $7 more than the minimum wage—that there’s effectively no tip credit at all.

Back in 2013, the federal Department of Labor said that home health-care workers are covered under the Fair Labor Standards Act, meaning they are due minimum-wage pay. That order was upheld by the courts last year.

These days, when states or cities decide low-income workers need to get a raise, they usually mean everybody. “In most of the big ones that have passed in the last couple of years,” says Cooper, “there haven’t been the same type of exemptions that we used to see in minimum-wage legislation.”
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Clueless in the Voting Booth

A lot of voters don’t know much about government. Is civics education the answer?

D avid Broder, who died in 2011, was arguably the most admired political reporter of his generation, especially among his journalistic peers. He combined excellent judgment, unfailing energy and a fundamental decency that nobody who knew him could miss. I was a member of the fan club myself.

But one element of Broder’s persona always puzzled me: He had an unshakable belief in the ultimate wisdom of the American electorate. “The voters,” he often said, “are way ahead of the politicians.” In the heat of an election season, while other reporters were trading gossip with consultants and campaign managers, Broder would trudge down the residential streets of obscure American towns, knocking on doors and asking ordinary citizens for their opinions. He always emerged from these forays with his populist sympathies intact.

I was impressed by this effort, but I never really understood it. The wisdom that Broder saw in the average voter didn’t seem so obvious to me. From what I saw, most Americans scarcely knew anything about the candidates for major office, and even less about what these candidates proposed to do if elected. Every year, reputable surveys reinforced this sobering judgment. Voters were for the most part ill-informed. Not stupid, but factually challenged when it came to the basics of public policy and the political process.

And frequently they made decisions that reflected a subtle understanding of politics. They didn’t want either party to have too much power, so they deliberately split their tickets, creating divided government year after year in most of the country. So the argument went.

But this notion still seemed to fall far short of describing reality, at least for election contests below the level of the presidency. Every two years, in a majority of the states, Americans choose candidates to represent them in their state legislature. Polls suggest that most voters don’t know who’s running until they get to the ballot box, let alone what the incumbent has been doing at the state capitol.

I’m not exactly a role model myself on this. I’ve met Virginia state House member, Rip Sullivan, and I know that he is a nice fellow and pretty much a down-the-line Democrat. But what exactly has he been up to in Richmond the last couple of years? I haven’t made much of an effort to find out. And I write about government for a living.

All the surveys taken in the last few years point pretty convincingly to the cluelessness of the American electorate. The Gallup organization reported in 2013 that only 35 percent of poll respondents were able to say who represented them in Congress. A survey by the Newsoum Institute found that one-third of those questioned couldn’t cite even one of the protections guaranteed by the First Amendment. In 2011, the National Assessment of Educational Progress documented that three-quarters of high school seniors tested for a living. The results of surveys like these are often a bit shocking, but they haven’t changed much over time. Reading through them, one might begin to question why it would be a good idea to increase turnout at the polls. Presumably, the most knowledgeable American citizens are already voting. Boosting the turnout in a midterm election to 60 percent or 80 percent would seem to be taking the choices of a largely uninformed electorate and adding to them the preferences of a new cohort that’s even less informed.

But what if, instead of beating the drums for a bigger turnout, we made an honest effort to get Americans the factual knowledge they currently don’t possess? What if we actually started teaching them how to be better-informed citizens?

This idea has been around since at least the 1990s, in the form of periodic campaigns to restore education in civics to the role it once played in the nation’s public school curriculum. These efforts have tended to draw brief flurries of positive attention from editorial pages and good government groups, and then disappear without having any significant effect. Over the past generation, the teaching of civics has actually eroded in public schools. There are just too many other subjects clamoring for attention.

But the most recent crusade for civics is more ambitious than the previous ones have been. Three years ago the Joe Foss Institute, an Arizona-based foundation named after a South Dakota governor and war hero, decided that civics would henceforth be its single-minded focus. It set out a simple but seemingly difficult goal: Persuade state legislatures to enact laws requiring high school students to pass a test of governmental knowledge to graduate. “Civics is being boxed out of the classroom today,” one of the foundation’s documents complained, “by an all-consuming focus on science, technology, English and math.”
I wouldn’t have given the Civics Education Initiative much of a chance at a time when many legislatures are having trouble getting anything passed without partisan rancor and ill feeling. But the initiative is actually doing quite well. As of the end of June, 34 states had written it into law, and several others were considering it. “It’s the simplicity that attracts people,” says Lucian Spataro, the institute’s chairman of education initiatives.

The test students must take is a battery of 100 questions derived from the exam that is administered to aspiring American citizens. Immigrants do quite well on it; more than 90 percent pass on their first try. But when it is administered to current U.S. citizens, about a third flunk. “When we show people that our kids can’t do what immigrants can do,” Spataro says, “they’re first stunned and then ashamed.”

Most of the multiple choice questions are straightforward and not very difficult. It’s reasonable to expect a high school student to know that general elections are held in November; that Thomas Jefferson, not Bill Clinton, wrote the Declaration of Independence; and that Dwight Eisenhower was not a general in the Civil War. It’s reasonable to expect a high school student to know that general elections are held in November; that Thomas Jefferson, not Bill Clinton, wrote the Declaration of Independence; and that Dwight Eisenhower was not a general in the Civil War.

There has been pushback from some educators and state legislators who argue that high school students are already being asked to take too many tests and that the exam reduces the teaching of American government to a routine of rote memorization. These don’t seem like crippling objections to me. It might also be argued that filling people full of governmental facts at age 16 won’t necessarily make them smart voters at age 30. That’s undoubtedly true, but it’s no reason not to make the effort. I do have a couple of quibbles, though. Let me try to explain them by invoking the 2016 presidential campaign.

In one significant respect, this year’s presidential primaries conform to David Broder’s vision of the political system. The voters were ahead of most of the presidential candidates. They saw matters of verifiable fact. Knowing the answers to them would be a step toward producing well-informed voters—the sort of voters who were at the heart of Broder’s idealistic vision. If we are going to be serious about teaching civics, which it seems to me we should, it might be a good idea to zero in a bit more on the century in which we live and vote. I wouldn’t have given the Civics Education Initiative much of a chance at a time when many legislatures are having trouble getting anything passed without partisan rancor and ill feeling. But the initiative is actually doing quite well. As of the end of June, 34 states had written it into law, and several others were considering it. “It’s the simplicity that attracts people,” says Lucian Spataro, the institute’s chairman of education initiatives.

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Doubts About Debt
Crucial safety-net programs are in trouble, but we can’t be sure how much.

Few subjects perplex me as much as public debt. This is true for all forms of debt currently plaguing the nation’s economy, but especially for state and local pension programs and Social Security. Whenever I think I’ve settled on an informed judgment about what we should be doing in either of these areas, someone better informed than I am convinces me otherwise.

Part of the problem is that so much of the decision-making apparatus in handling public debt is hidden away in a forest of acronyms and indecipherable slogans. The organization known as GASB, the Governmental Accounting Standards Board, is the source of a lot of this stuff. GASB is a private, nongovernmental group; the federal government has no role in it, and the states and localities want to keep it that way.

For much of my information on this crazily complex subject, I rely on the Center for State and Local Government Excellence, on whose board I serve. The center conducts research on state and local workforce trends, as well as on pension and health issues. It operates an impressive database on the financial condition of more than 150 public pension plans in this country.

Research by the center, the Pew Charitable Trusts, the Rockefeller Institute and others who have studied this subject points to conclusions that are remarkably similar. In round numbers, states and localities are running around $1 trillion in unfunded pension costs, plus almost $600 billion in unfunded retiree health-care liabilities. Add in more than another half trillion in other outstanding state and local debt, and you’re talking real money.

The good news is that as the Great Recession fades further into our past, the scary numbers of unfunded pension liabilities slowly have begun to recede. The bad news is that, in order to achieve a position of presumed stability, public pension managers have been forced to invest in much more volatile investments, particularly in the stock market. As interest rates have plummeted, stocks offer the only hope of achieving the numbers that fund managers must attain just to keep their accounts stable.

So it’s no wonder that some key players in this complicated mix are leaning on the Federal Reserve to finally allow interest rates to rise. Historically low rates have been an effective tool in avoiding economic collapse, but now they increasingly are seen as harming the patient. This past spring and summer, the stock market has been lapping up the rewards of almost nonexistent borrowing costs, even though productivity is lagging and corporate profits have been disappointing. At some point, the market will reverse. And then what happens to the balances on pension funds? You don’t want to know.

“There is no easy way out,” a recent analysis from the Rockefeller Institute concludes. “Pension plans can de-risk, reducing the volatility of their investment returns and reducing the volatility of contributions. However, reducing risk almost certainly will require lowering earnings assumptions, which will drive...
up contribution demands from govern-
ments and crowd out services or require
tax increases.” Those aren’t choices politi-
cians want to be forced to make.

They’re also not eager to hear about
the so-called “third rail of politics,” the
federal Social Security program. It also
is running a deficit, but it’s not clear how
big the deficit is now and what its future
prospects might be. Allan Sloan, a former
editor of Fortune magazine, has warned
for years of the dire state of Social Secu-
rit-y’s finances. It’s hard to say with cer-
tainty just how bad they are, he writes,
because “the system’s serious problems
are hidden by ridiculous accounting”
that seems almost designed to obscure
the truth. His best guess now is that the
Treasury has had to borrow more than
$200 billion over the past three years to
keep the system afloat.

Sloan’s frustration is shared by other
experts who have researched the subject.
A year ago, economists from Harvard and
Dartmouth universities issued a report
concluding that since around 2000, offi-
cial forecasts of the health of the Social
Security trust funds have been increas-
ingly biased toward positive results, to
the point where the funds could become
insolvent before anyone has a chance to
come up with remedies. “The bias in their
forecasts results in a picture that’s rosier
than it really is,” co-author Gary King told
the Harvard Gazette. “They’re not saying
the system is in good health. Pretty much
everybody who evaluates Social Security
realizes there’s a problem. But the system
is in significantly worse shape than their
forecasts are indicating.”

So it appears that both the state and
local public pension systems and the
Social Security trust funds are in a fair
amount of trouble, but it’s hard for even
people who know a lot to figure out how
much. You can see why I’m perplexed,
and we haven’t even touched on what
might be the most frustrating issue of all
the overall federal debt bomb, currently
estimated at more than $18 trillion. That’s
a subject for another column.

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Meddling Governors
Targeting lawmakers is a tricky proposition.

It’s always been risky for governors to meddle too much in legislative primaries.
If the candidates they’re backing don’t win, governors can be stuck working
with political enemies. But that hasn’t stopped a slate of top executives in 2016
from taking their chances.

Governors such as Maine’s Paul LePage and South Carolina’s Nikki Haley
have picked several legislators to campaign against this year. Haley targeted
eight lawmakers, with backing from a big-money political action committee run
by her former chief of staff. Just four years ago, it was big news when Kansas
Gov. Sam Brownback actively campaigned against a cadre of moderates from his
own party who were holding up his agenda in the state Senate. Now it’s almost
common, particularly among Brownback’s fellow Republicans.

But it can backfire. It did in Haley’s case. She managed to knock out three
incumbents, but was unable to unseat the other five. To make matters worse,
two of the legislators who survived are now chairs on two of the state Sen-
ate’s largest committees. When that happens, GOP consultant Chip Felkel says,
you’re forced “to pick up the pieces and try to get something done with people
you actively opposed.”

All of this year’s fricting is indicative of continuing splits within Republican
ranks. Just as 17 different Republicans sought the presidency, different Republi-
cans are tossing with one another to implement their various policy visions within
states. Governors, by their nature, tend to be pragmatists. Nowadays, they have
even more ideologically driven legislators to contend with.

That’s why governors in Arkansas, Nevada and South Dakota have sought
in this year’s legislative primaries to prop up allies who had stuck with them
on tough votes. In the case of Asa Hutchinson of Arkansas, six out of the eight
legislative candidates he supported won their primaries, despite hundreds of
thousands of dollars devoted to their defeat. The governors in Nevada and
South Dakota, however, battled little better than .500 in races where they played
a role. “As in 2012, the governor’s contributions to
GOP legislative primary candidates in 2016 appear to have produced no better results than flipping a coin,” commented Cary Allen Heidelberger, editor of
a liberal blog called Dakota Free Press.

Being political animals, governors have always
played some role in legislative elections. Typically,
though, this amounts to raising money for the party.
Given the natural tension between branches, many
legislative leaders would prefer their governors stay
on the sidelines.

Meddling in legislative elections, particularly in primaries, is perilous. Even
when governors succeed, they can make lasting enemies. That’s certainly true
in Brownback’s case. Last month, Brownback supporters in the legislature faced
a backlash from moderates seeking revenge. In June, a bipartisan group of
former governors sent out a fundraising letter on behalf of that group, accusing
Brownback and his allies of carrying out the “calculated destruction” of state
functions and finances.

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September 2016 | GOVERNING 17
When It Isn’t an Emergency
A new kind of paramedic is helping cut costly nonurgent use of the ER.

If there is one issue confronting our health-care system on which just about everyone agrees, it’s this: Unnecessary emergency room visits are a significant driver of costs. But getting the people who most abuse emergency services under control has been an uphill battle.

Now a new approach is showing promise in reducing visits to the ER by what the Centers for Medicare and Medicaid Services calls “super-utilizers,” typically defined as those who use emergency services four or more times a year. The National Conference of State Legislatures estimates that up to 27 percent of all visits to ERs are for nonemergencies. But so-called community paramedic programs are finding new ways to manage those frequent flyers.

Minnesota has been a pioneer in community paramedicine. Under its program, a hospital will typically identify four or five super-utilizers who need a managed care approach. Then community paramedics will go into those people’s homes to look not only at their overall health issues but also at factors like safety precautions and nutrition. Through the program, Minnesota has seen ER use by super-utilizers decrease by 60 to 70 percent.

Community paramedics are generally more seasoned emergency medical services personnel who have undergone training to help them identify community-based health needs. “We’re not asking them to do a brain transplant,” says Jim Dunford, the EMS director for San Diego, which has a community paramedicine program that’s part of a state-launched pilot covering nine cities. “The majority of issues that confound our health-care system are social ones. We need to be teaching our patients to connect the dots.”

San Diego’s program uses data to help determine whether a community paramedic should show up at a scene where 911 has been called. “All of the data that resides in these 911 systems gives us the ability to identify individuals who have been using services in the last week, the last six months, the last year,” says Dunford. “We can look at factors like: Do they have co-occurring illnesses? Are they over 65?”

Some of the big insurance players involved with government health-care programs are starting to get in on the action as well. Blue Cross and Blue Shield of New Mexico has begun pilot programs for its Medicaid patients in a few of the state’s more urban areas. The company says a group of patients identified in one of the programs has cut its ER use by 60 percent. One former super-utilizer hasn’t been to the ER in the 11 months he’s been enrolled in the program, says Kerry Clear, the company’s manager of community social services.

In setting up its program, Minnesota included legislation that allows the state’s Medicaid program to reimburse community paramedic services. But most of these programs are either subsidized by ambulance companies operating under fixed-price contracts or funded by grants from foundations or the federal government. In San Diego, whose program is funded through an ambulance service, Dunford is optimistic that the results from the pilot will encourage lawmakers in Sacramento to follow Minnesota’s lead.

The success of the community paramedic model has many EMS directors encouraged that this could be the future of emergency care. On the federal level, U.S. Sen. Al Franken of Minnesota has introduced legislation advocating for community paramedicine nationwide. That’s an idea that appeals to people like Clear. With the number of primary-care physicians at an all-time low, he says, “we all know prevention is key to keeping our communities healthy.”

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Stifling Solar
Will scaling back incentives hurt solar adoption? Vermont’s about to find out.

Depending on whom you ask, Vermont has either struck a life-threatening blow to solar adoption in the state or thrown it a critical lifeline. In late June, the Public Service Board announced a plan to rework its solar incentives. Under the new regulations, consumers who generate solar energy may be paid less and, in some cases, charged more.

For several years now, Vermont has encouraged homeowners, businesses and communities to build thousands of solar projects through a so-called net-metering program. Under the program, solar customers are able to sell any excess electricity generated back to the utility at a guaranteed price. That program is credited with making Vermont one of the most solar-friendly states in the nation. As of 2015, Vermont ranked seventh nationwide for the amount of solar energy it generates per person.

But now the state wants to restructure those incentives, and some are worried those changes will set back solar adoption in the state. Under the proposed new rules, Vermont has suggested lowering prices for some categories of net-metering projects, imposing an annual cap on allowable net-metering development and subjecting existing project owners to new fees. These reforms are in part meant to protect the utilities, who are losing revenue to net-metering programs. The utilities say that as solar grows in the state, it’s eating into their profits. They argue that an ever-smaller base of traditional power customers could get stuck paying all the costs of maintaining the grid if things don’t change.

It’s an argument utilities are making nationwide. Vermont is only the latest state to weigh changes to its solar incentives in an effort to balance the interests of utilities, solar companies and customers. In Nevada, for instance, the state abruptly ended generous incentives for homeowners with rooftop solar. As a result, energy providers SolarCity Corp. and Sunrun Inc. decided to lay off hundreds of employees and pull up stakes there in December. Hawaii has also slashed incentives; California, however, has retained high rates for the energy that solar customers sell back.

If Nevada represents one end of the spectrum and California the other, then Vermont represents the middle. It still wants to incentivize solar adoption, but it wants to incent people to generate solar where it’s most valuable. In essence, the state wants to encourage solar in already developed areas, such as roofs, parking lots, landfills and other preferred sites. People who build solar projects in these places will be guaranteed a higher rate for the energy they sell back. “As solar becomes more important, you start making the system more sophisticated and encouraging people to adopt it,” says Nathanael Greene, a policy director at the Natural Resources Defense Council. “There can be tradeoffs, but we want to use those in the right places.”

Still, some solar advocates in Vermont worry that increased costs and reduced incentives could discourage residents from going solar. More than 900,000 homes across the U.S. now have solar panels thanks largely to these programs, which have helped reduce the cost of home solar panels by up to 30 percent. But it still costs residents between $15,000 and $25,000 upfront to install solar panels. If there’s no savings down the road, critics worry, then what’s the point of taking on such a large expense?

In addition, constantly changing the incentive system also hurts people’s faith in the future of solar energy, according to Olivia Campbell Andersen, executive director of the nonprofit Renewable Energy Vermont. “It’s difficult for customers and businesses to operate not knowing if they will be able to [earn a profit],” she says. “You can’t make investments—in equipment, in project development, in employees—if every single year you don’t know at what point, all of a sudden, it will change.”

Critics of Vermont’s new proposed rules are worried that they will also impact the state’s ability to achieve its goal of using 90 percent renewable energy by 2050. But David Hill, managing consultant of the Vermont Energy Investment Corporation, remains optimistic. “The overarching message,” he says, “is that Vermont’s [solar energy] process is growing and being responsible to public concerns about siting and long-term viability.”

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Making Connections

To thrive in a global economy, cities need to work more with immigrants.

The globalized economy is about the networked flows of goods, services, capital and talent. What hobbled so many post-Industrial cities’ ability to reinvent their economies is that they were not connected to these global flows. This lack of a connection has left cities like Cleveland and Detroit as “cul-de-sacs of globalization,” in the words of geographer Jim Russell.

Today, of course, most cities recognize the importance of connections to global flows and are working to make sure they are part of the right networks. One small way they do this is through conferences, both hosting them and attending them. I attended two recent global urban conferences, the Chicago Forum on Global Cities and the latest iteration of the New Cities Summit in Montreal, and got to see this in action.

As with many such conferences, the content was almost secondary to the connections made. Both had attendance from all over the world. So while it was good to hear about developments in national and international urbanism, civic tech and other trendy topics, I got more out of chatting with the people I met there.

And by hosting these global conferences, Chicago and Montreal helped enrich their own global connectivity.

One of the most important ways for cities to get connected is through migration. Jim Russell and his collaborator Richey Pijpiparinen at Cleveland State University’s Center for Population Dynamics have been documenting how Cleveland has been getting more connected to the global world through this process. This includes foreign immigration but isn’t limited to that. A key part of it is the influx into places like Cleveland of people who have lived in major global cities like New York, then cycled out.

There are many reasons for this kind of migration, but living costs are certainly one of them. America’s major global urban centers have become extraordinarily expensive to live in. Life in a “microapartment” in New York is less attractive when you are in your 30s and married with kids than it is when you are 22, single and fresh out of college.

What Rust Belt cities like Cleveland can offer is an authentic urban experience in a genuinely historic place at a price that can’t be beat. No one will mistake it for life in Brooklyn, but these cities’ price/ performance ratio has a growing appeal, as their downtown population growth shows.

Newcomers from global cities are bringing more than just a desire to save on the rent. They are bringing international connections and ideas to Cleveland and other cities, connecting them to the global economy in ways that these places were not connected before. And they are laying down new “migration pathways” that will help to grow that connectivity in the future.

But while greater connectivity for cities big and small is something to be celebrated, we need to be careful not to fall prey to illusory versions of it. It’s no secret that we live in an increasingly segmented...
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and divided society. The hyper-personalized nature of social media like Facebook and Twitter can give us the feeling that we are tapped into the zeitgeist, but too often it’s really just the opinions of hermetically sealed networks of people who, wherever they might live, already think just like us. One need only look at the United Kingdom’s recent vote in favor of leaving the European Union. With the exception of the U.K. Independence Party, whose entire raison d’être was getting Britain out of the EU, the leaders of all of the country’s major parties as well as the vast bulk of the business establishment supported the option to remain. Yet 52 percent of the voters felt otherwise. The British establishment clearly was not very connected to what was going on in its own country. At the Chicago Forum, which took place prior to the Brexit vote, British speakers assured the audience that London wanted to stay in the EU. Yet 40 percent of Londoners voted for the “Leave” option. That’s a not-insignificant minority of the population of one of the world’s foremost global cities. It turns out that quite a large number of Londoners weren’t that well connected even to what was going on in their own city. This connection deficit is also true of much of the urban intelligentsia. While they may be favorably disposed to ethnic minorities and immigrants, for example, the ones they spend a lot of time chatting with are part of the same educated global class. As essayist Nassim Taleb has observed, they “never went out drinking with a minority cab driver.” So attending a global conference or living in a newly gentrified neighborhood in the reviving center of a city does not always provide all the connections we need. As Piiparinen puts it, “The paradox... is that the more a city returns, the greater the number who get left behind.” If those who are connected to the global economy don’t work to be an on-ramp for those in their communities who aren’t, this divergence will ultimately fuel even greater social destabilization. 

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Land of Opportunity

Today’s immigrants are more affluent than in the past.

The typical view of an immigrant in this country is not far removed from the image of thousands of people pouring in to Ellis Island in the early 1900s—people with little money to their names and big dreams of making their fortunes in America. That view is still true in many ways, but it’s also true that many of today’s immigrants are well-to-do international elites. For instance, in Miami—long associated with Cubans arriving by raft—there are now a lot of rich South Americans. West Coast cities like Seattle and San Francisco have many affluent East Asians. Houston has wealthy Indians, New York City many Russian tycoons, and so on. These immigrants bring financial and human capital. But are cities leveraging their immigrants, and their broader connection with certain countries, to generate growth locally?

The answer varies, but one successful example has been the relationship between San Antonio and Mexico. Their ties run deep. Texas was a part of Mexico until its independence in 1836. Since then, San Antonio has attracted Mexican immigrants. But as crime has risen in Mexico in recent years, there’s been a professional-class exodus of Mexican nationals to affluent northern San Antonio. The influx also has to do with long-existing business partnerships that have been actively encouraged by San Antonio’s political establishment. The relationship really blossomed in 1981, when Henry Cisneros was elected as the first Hispanic mayor of a major U.S. city. Cisneros wanted to connect local San Antonio businesses with Mexican consumers. So he established a relationship with the Mexican president, further bolstered existing sister city partnerships, promoted tourism and attended Mexico’s trade fairs.

The relationship has grown ever since—getting a strong boost from the signing of the North American Free Trade Agreement in 1992. NAFTA made San Antonio a prominent stop on the Mexico-to-Canada trade route. All this has combined to spur growth in San Antonio, which according to the Milken Institute is one of America’s best-performing cities economically. Various Mexican institutions, such as Cemex concrete and the University of Mexico, have opened branches there. According to the local Hispanic Chamber of Commerce, San Antonio exports more goods and services to Mexico than 42 U.S. states combined. Such commerce has encouraged the residential growth of Mexican nationals. “San Antonio is a platform for Mexicans and Mexican companies that want a halfway step [into the U.S.],” says Cisneros. “It’s culturally comfortable; business is conducted in multiple languages.” San Antonio, which is 63 percent Hispanic and has been called “Mexico’s northernmost city,” may be an extreme example of this local-foreign alignment. But the concept is applicable elsewhere. It is common, after all, for municipal officials to travel nationwide recruiting companies and building partnerships. In cities with business-savvy immigrants and existing foreign ties, there is the potential to create lucrative international partnerships that generate growth locally.

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The registry room on Ellis Island

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The Reinventors

25 years after first “reinventing government,” states are still tinkering with how to get it right.

BY JOHN BUNTN
ILLUSTRATIONS BY TREVOR ANDERSEN
In the fall of 2011, Washington Gov. Christine Gregoire convened a meeting to review one of the proudest accomplishments of her two terms in office—the state’s Government Management Accountability and Performance system. GMAP was inspired by earlier experiments that had succeeded in the New York City Police Department and in Baltimore. Gregoire had worked for six years to put a similar system in place in Washington. Hundreds of performance measures had been identified and linked to strategic agency plans. The governor and her leadership team had held quarterly meetings—all open to the public—with the heads of 30 agencies to work on specific problems in eight priority areas (health care, public safety, transportation, vulnerable children and adults, education, natural resources, economic vitality, and government reform and efficiency).

GMAP helped agencies such as Child Protective Services bring a new focus to their mission. Following up quickly on referrals about potential child abuse can prevent serious, even fatal, injuries. When GMAP was launched in February 2005, only 69 percent of referrals were acted on within 24 hours. By focusing attention on this metric, GMAP pushed the agency to streamline its processes and improve response times. In two years, the quick response number rose to 90 percent. Such results, achieved by departments all across the executive branch, won widespread praise. In 2007, the Council of State Governments gave the state its first governance transformation award. By “measuring results and delivering practical, useful tools and solutions,” the council found, “the program is driving accountability and helping make Washington state government better.”

As Gregoire approached the end of her second term, she decided to take stock of the system. She asked Wendy Korthuis-Smith, GMAP’s director, to assemble a group of agency directors to discuss what was working, what wasn’t working and what changes could make GMAP more effective. Gregoire and Korthuis-Smith envisioned a tune-up. What they got was a far more serious warning.

“Some of the directors felt like the measures weren’t relevant anymore but that they couldn’t or shouldn’t change them,” says Korthuis-Smith. Some saw the GMAP meetings with the governor as “dog and pony” shows. “The system we’d built didn’t feel flexible and nimble,” she says. “There was too much focus on polishing presentations, when what we really wanted were cycles of experimentation, improvement and results.” As the conversation proceeded, Korthuis-Smith realized that unless major changes were made, GMAP ran the risk of becoming just another stale compliance regime.

Other places that have tried ambitious performance management systems have encountered similar complaints. Of course, it’s not surprising that stubborn managers would resist accountability. What is surprising is who’s doing the resisting—one of the most innovative people working in government today.

Take Mike Flowers, chief analytics officer during the last years of the Bloomberg administration in New York City. Flowers was a leading figure in the effort to use civic data to solve city problems. Yet his assessment of the city’s performance reporting system is decidedly mixed. The accountability component—“sending a message that you don’t have a right to be incompetent”—is good, Flowers says. But city agencies get focused on pumping up their numbers. Instead of paying attention to new problems or looking for new methods of problem-solving, managers focus on what they already do well. When Flowers first met the head of Maryland’s acclaimed StateStat performance measurement system at a conference, he did not hide his belief that the approach did more to inhibit problem-solving than to promote it. “I was very honest,” says Flowers. “I told her, ‘You people just make matters worse.’”

What Flowers found was that even the best performance measurement systems tend to ossify. In 2010, 11 state and local public interest associations joined together to form the National Performance Management Advisory Commission. In its report, A Performance Management Framework for State and Local Government, the commission singled out Nashville, Tenn.’s Results
Matter system as an example of a robust success in managing for results. But when Kristine LaLonde became Nashville’s co-chief innovation officer two years after Results Matter was cited as a national model, she found a city government suffering from what she calls “Results Matter PTSD.”

“The department heads I have the most respect for hated it the most,” says LaLonde. Skeptics saw it as a system created by outside consultants with no knowledge of agencies’ true challenges. Instead of promoting problem-solving, it encouraged agencies to post good numbers. Suspicions about the accuracy and meaningfulness of those numbers were widespread. “Many people didn’t trust the system,” LaLonde says.

That wasn’t how it was supposed to work. A generation ago, governments across the United States embarked on ambitious efforts to “reinvent” how government worked. Much of the inspiration for this effort came from the bestselling 1992 book Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector by veteran city manager Ted Gaebler and journalist David Osborne. Gaebler and Osborne challenged one of the most common complaints about public administration—that government agencies were irredeemably bureaucratic and resistant to change. The authors argued that that need not be the case. Government managers and employees could and should, the authors wrote, be as entrepreneurial as their private-sector counterparts. This meant embracing competition, measuring outcomes rather than inputs or processes, and insisting on accountability.

For public-sector leaders, Gaebler and Osborne’s book was a revelation. “I would say it has been the most influential book of the past 25 years,” says Robert J. O’Neill Jr., the executive director of the International City/County Management Association (ICMA). At the federal level, Reinventing Government inspired Vice President Al Gore’s National Performance Review. But it had its greatest impact on state and local governments. Public-sector officials across the country read Reinventing Government and ingested its ideas. Osborne joined the consulting firm Public Strategies Group and began hiring himself out as an adviser to governments.

There’s no question states and localities function differently today than they did 25 years ago. Performance management systems, though not universally beloved, have become widespread. Departments and agencies routinely measure customer satisfaction. Advances in information technology have allowed governments to develop and share outcomes more easily than ever before. Some watchdog groups consider linking outcomes to budgets—also known as performance-based budgeting—to be a best practice. Government executives in many places talk about “innovation” as if they were Silicon Valley executives. This represents real, undeniable change.

Yet despite a generation of reinvention, government is less trusted than ever before. Performance management systems are sometimes seen not as an instrument of reform but as an obstacle to it. Performance-based budgeting has had successes, but they have rarely been sustained. Some of the most innovative efforts to improve government today are pursuing quite different approaches, emphasizing grassroots employee initiatives rather than strict managerial accountability. All of this raises a question: Has the reinventing government movement left a legacy of greater effectiveness, or have the systems it generated become...
roadblocks that today’s reformers must work around? Or is the answer somehow “yes” to both of those questions?

Reinventing Government presented dozens of examples of “entrepreneurial” problem-solving, organized into 10 chapters. Each chapter illustrated a theme, such as results-oriented government or enterprise government. This structure—concrete examples grouped around larger themes—reflected the distinctive sensibilities of each author. Gaebler, as a city manager, had made a name for himself by turning plagues like homelessness and gang violence into opportunities for a real “steering” (concentrating on overall strategy). They should contract out more, embrace competition and insist on accountability. This aspect of Osborne’s thinking became more pronounced as time went by.

“We are well beyond the experimental approach,” Osborne and Peter Hutchison, a former Minnesota finance commissioner, wrote in their 2004 book, The Price of Government: Getting the Results We Need in an Age of Permanent Fiscal Crisis. A decade of experience had produced a proven set of strategies, the book continued. The foremost should be to turn the budget process “on its head, so that it starts with the results we demand and the price we are willing to pay rather than the programs we have and the costs they incur.” In other words, performance-based budgeting. Then, they continued, “we must cut programs we have and the costs they incur.” In other words, performance-based budgeting. Then, they continued, “we must cut government down to its most effective size and shape, through strategic reviews, consolidation and reorganization.”

Assessing the influence and efficacy of these ideas is difficult. According to the U.S. Census, the United States has 90,106 state and local governments. Tens of thousands of public employees read Reinventing Government and the books that followed. Surveys have shown that the use of performance measurement systems is widespread across state, county and municipal government. Yet only a handful of studies have sought to evaluate systematically the impact of Reinventing Government’s core ideas. Most have focused on just one, the idea highlighted in The Price of Government: budgeting for outcomes.

To evaluate the reinventing government movement primarily by assessing performance-based budgeting might seem a bit narrow. But paying close attention to the budgeting process is the key to understanding the impact of the entire enterprise. It reveals the difficulty of sustaining even successful innovations. The experience of Iowa illustrates the potential of a vigorous reinventing government initiative—and the pitfalls of that approach.

It started in early 2001, when the U.S. economy fell into a recession. Iowa’s revenues dropped by 11 percent, the steepest decline in the country. The resulting budget gap was too large to close with incremental across-the-board cuts. It was clear to everyone that deep spending reductions and/or significant changes in the way government operated would have to be made. To help with this process, Iowa Gov. Tom Vilsack turned to the reinventing government playbook, and to the consulting firm for which Osborne worked, the Public Strategies Group (PSG).

The first priority was the budget. Instead of universal cuts, PSG suggested that the state try budgeting for outcomes. Rather than starting with the previous year’s budgets and then making incremental adjustments, PSG wanted state agencies to assume they were working with a clean slate and plug in their desired outcomes. This wasn’t a new idea. Government reformers had talked about “zero-based budgeting” since the early 1970s. However, few state governments had tried it. That didn’t deter Iowa Budget Director Cynthia Eisenhauer.

At first, agencies had a hard time figuring out what to do. When, for instance, the Department of Corrections submitted its budget request, it did what it had always done. It used the last year’s budget as its baseline. Eisenhauer asked the department head to do something different: Imagine, she told him, that you were creating your department from scratch. What would that budget request look like? The director said if given the chance, he’d spend more on substance abuse treatment and skills development. It might take a few years, but doing those things would ultimately allow the state to reduce its spending on incarceration, which was far more costly.

Despite a generation of reinvention, government is less trusted than ever before.

The corrections department got the funds to make this investment. Other state agencies, notably the departments of Transportation and Human Services, were led through a vigorous process of rightsizing. Field offices for health and child welfare were consolidated; middle management was pruned. Fields of experts were closed with incremental across-the-board cuts. It was clear to everyone that deep spending reductions and/or significant changes in the way government operated would have to be made. To help with this process, Iowa Gov. Tom Vilsack turned to the reinventing government playbook, and to the consulting firm for which Osborne worked, the Public Strategies Group (PSG).

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But as time went on, it became clear that the reinvention effort had neglected to pay sufficient attention to an important actor—the legislature.

“One thing that I believe we did not do well was engage legislators and the public in what we were doing,” says Eisenhauer. That led to some fights that might well have been avoidable. One was over executive branch efforts to improve the child welfare system. When the state sought to base payments to nonprofit agencies on outcomes (such as child safety) instead of processes (such as the number of children served), the nonprofit managers went to their legislators to protest. Legislators took their complaints to the governor’s office. The problem was that the legislature had not really been included in the reinventing government process.

“Reinventing government was relatively blind to the role of legislatures in general,” says University of Maryland public policy professor and Governing columnist Donald F. Kettl. “There was this sense that the real problem was that good people were trapped in a bad system and that freeing administrators to do what they knew how to do best would yield vast improvements. What was not part of the debate was the role that legislatures might have played in creating those constraints to begin with.”

Over time, a pattern emerged. During periods of crisis, chief executives were able to implement performance-based budgeting. Often, it worked. But eventually legislatures pushed back. Maine offers a striking case in point. In 2002, agencies began using a performance-budgeting system that was supposed to give them greater autonomy in exchange for providing greater accountability. But that’s not what happened, says Grant Pennoyer, director of the office that administers the state legislature.

Instead, he says, legislators were ultimately unwilling to give up traditional ways of thinking and focus on results. “They created programs, and they wanted to keep them and make sure they were funded.” So in 2008, the legislature rolled back the system and returned to incremental budgeting. “When we ask for performance goals and measurements,” she says, “there are very few agencies that have something ready to hand over to us.”

This points to another problem that has bedeviled reinventing government efforts—sustainability. Again, Iowa is a good example. According to both the state and PSG, Iowa’s reinventing government initiative saved tens of millions of dollars. Yet when Chet Culver took over as the state’s new governor in 2007, he promptly rolled back reinventing government initiatives including the charter status previously granted to five state agencies. What was the rationale for rolling back such an effective reform? The new administration wanted the leeway to make across-the-board cuts. Politicians and agency leaders like to talk about culture change. But in the public sector, locking in permanent change is hard. That’s by design, says Vanderbilt University political scientist David Lewis. After all, he notes, “The public sector has regular elections whose purpose at least in part is to determine what the purpose of government should be.” To further facilitate policy changes, it also provides for the entire upper management of government agencies to change regularly.”
the highest executives, lop them off every four years and replace them with new people. That is not a recipe for sustainability,” says Lewis.

Even public-sector leaders who do enjoy greater job stability—city managers—have been reluctant to connect performance measurement with budgeting. In 2011, ICMA sent a questionnaire to city managers across the country. The questionnaire was written by Barry Feldman, the city manager in West Hartford, Conn. Feldman knew that many of his fellow city managers talked a big game when it came to reinventing government. Previous studies had shown that the use of performance measures was widespread among state, county and municipal governments. But were they connecting outcomes to budget requests? Were they budgeting for training and education? For investments that would pay off in years to come?

“What I was trying to find out,” says Feldman, “was whether we were talking about this stuff or actually doing it. Were city managers acting more entrepreneurially, taking risks like the private sector?” The answer, he found, was that most were not. City managers were paying lip service to performance-based budgeting, but not acting on it. “They talked,” Feldman says, “but they did not take the actions.”

Clearly, performance-based budgeting has been hard to sustain. What about Reinventing Government’s other ideas? Osborne himself offers a mixed review. “In terms of what got the most traction, clearly catalytic government (the idea that government should steer, not row), mission-oriented government, customer-driven government, decentralized government, all of those got a lot of traction,” Osborne says. Ideas that didn’t find a lot of support included enterprising government, the notion that government should sometimes operate profitable businesses, and community-owned government, the concept that government should enlist the people as partners.

“That’s a take that Sandy Borins, a Harvard professor who charts organizational trends, largely agrees with. “There are a lot of aspects that did work and are still with us,” Borins says. “One is the focus on measuring and improving the quality of service.” Compare renewing a driver’s license today, he says, “to what the process once entailed. You can thank Reinventing Government...
government, and toward its opposite. Lean started at Toyota as a move away from the familiar top-down concept of reinventing different approaches to these problems, a set of principles and tools of one of the country’s most acclaimed performance management systems. She believes these systems, when used properly, can offer executives valuable assistance in making policy decisions. At the state level, she sees it as “a way to de-silo government and get agencies thinking about enterprise-wide problems.” But she also believes that Osborne tried to do too much with performance-based budgeting. “When I departed [from the Reinventing Government playbook] was around the budget,” she says. “The work we were doing was about working with the legislature, about dealing with interest groups and achieving regulatory reform. The budget played a big role in the process, but it wasn’t what was leading the way.”

There was another problem. Measuring results, insisting on accountability—these were supposed to spur creative problem-solving. But in practice, says Blauer, “whenever the budget was invoked in performance conversations, it automatically chilled innovative thinking; it chilled engagement,” she says. Agencies got defensive. Rather than focusing on solving hard problems, they focused on justifying past performance. This was precisely what Gregoire discovered in Washington at the end of her second term.

For Gregoire’s performance management director, Korthuis-Smith, the degree of managers’ disillusionment came as a surprise. Many had come to believe “it was just about compliance,” she says. “People weren’t necessarily committed to it,” she says. “It did little to motivate the front-line employees who were actually working directly with customers and clients on a day-to-day basis. ‘People weren’t necessarily committed to it,’” she says. “It wasn’t sustainable.”

A group of state agencies had begun to experiment with a different approach to these problems, a set of principles and tools adopted from the manufacturing system known as “Lean.” This was a move away from the familiar top-down concept of reinventing government, and toward its opposite. Lean started at Toyota as a process for identifying and eliminating waste. It encouraged assembly-line workers to identify problems—even small problems—and to suggest solutions. The role of the manager in this process was closer to that of a coach than to that of a performance evaluator. Korthuis-Smith thought this softer bottom-up approach might play well in state government. Gregoire embraced the idea, as did her successor Jay Inslee, who took office in 2013. Later that year, his administration rolled out a new framework: Results Washington. He turned to Korthuis-Smith to run it.

Results Washington has not abandoned performance measurement. There are specific goals around homelessness, recidivism, traffic fatalities, high school graduation rates and environmental cleanup. However, the flavor of Results Washington is very different from the system that came before it. Instead of making presentations to the governor the primary venue for accountability, Korthuis-Smith and her team have assembled five “goal councils,” each made up of 12 to 15 state agency directors. The councils meet monthly to review data, discuss strategies and collaborate on solutions. “Agencies and customers helped build and test this system with us,” says Korthuis-Smith. “It’s not just ours—it’s theirs.”

David Osborne has now been in the business of advising governments for more than 20 years. Ted Gaebler is retired but still travels and speaks on reinventing government issues. Both take enormous pride in Reinventing Government. Both believe it changed the way the public sector works. Yet both recognize that it did not achieve their larger goal.

The fact that reinventing government never sparked a revolution puzzles Gaebler to this day. “Why didn’t more of my colleagues pick it up and run with it?” he asks. He thinks the answer may be that many public managers were simply too risk-averse.

“Ted and I wanted to change the world,” Osborne says. He believes the crusade ultimately was a victim of bad luck. In the beginning, he insists, reinventing government did restore trust in the public sector. “If you look at the survey data,” he says, “in the ’90s, trust in government was rebuilding from a very low point. And a lot of basic services got better. Then the politicians began to screw things up. Clinton and the Lewinsky affair, that was a big hit. Then Bush invaded Iraq and then we had the recession, and now we have the most polarized politics in my lifetime. Distrust is focused on the politicians. It’s not focused on service delivery. And it is even deeper than it used to be because the politicians are doing such a bad job.”

Despite their concerns about the current political climate, Gaebler, Osborne and their fellow reinventors retain a sense of optimism about the future. “All of the things related to data and technology are really astonishing,” says Hutchinson, who worked with Osborne at PSG and now heads Accenture’s state and local government practice. “It’s happening so fast. We are going to know so much more than we ever did and be able to reallocate resources in ways that we never have before. There are huge breakthroughs coming.”

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Troubled

In the aftermath of Flint, communities all over the country are taking a new look at their water and the way it’s been managed.

By Daniel C. Vock
or years, Denver Water, like many other drinking water utilities, would refer its customers concerned about the lead content in their water to state-approved labs that could collect and analyze samples from the homeowners’ faucets. This summer, Denver Water made the process much easier: Now if a resident is concerned, the agency will send out a testing kit, analyze the water in its own labs and report the results back to the customer—all for free. More than 100 homeowners used the new service in its first month. Perhaps this should have been done earlier. But it wouldn’t be happening now had it not been for Flint, Mich. The Flint water crisis, which exposed adults and children to dangerous levels of lead in their drinking water, is reverberating throughout the country.

The Denver agency, which serves 1.4 million people in the city and nearby communities, has also started automatically replacing lead service lines as it finds them in its normal maintenance work. The service lines, which connect water mains under streets to individual buildings, are the main source of lead contamination in water systems. But they usually have split ownership. The utility owns everything up to the sidewalk, while homeowners and other landlords own everything on their property. The divided ownership makes it difficult to replace the pipes. So Denver Water is offering to do the replacements for free, at least in places where it’s already digging to do other work.

“Since the tragedy in Flint, people are more aware of what could be happening in their own plumbing and in their homes,” says Travis Thompson, a Denver Water spokesman. “But now with people paying attention, how can we use that to get the lead completely out of our community?”

It’s a clear-cut goal, but not an easy one to achieve. Just a handful of cities have actually eliminated all the lead in their drinking water systems, and then only through a years-long process. Local officials who want to replace lead pipes completely still have to ensure that the lead plumbing already in the ground is safe until the day, however distant, when those lead pipes are finally removed.

Lead in drinking water has been an issue for decades. Thirty years ago, Congress banned the use of plumbing that contained lead after research showed that any exposure to it can be dangerous, particularly to pregnant women and children. It can damage the brain, red blood cells and kidneys, and can cause lifelong disabilities, especially in young children.

The disaster in Flint reminded the country, though, that lead was still a serious problem. In 2015, Flint officials switched their water source from Lake Huron to the Flint River. Because Flint failed to add antitrust chemicals to the river water—as required by the EPA—the new water source corroded the pipes, and the toxic metal entered the drinking water.

It’s to prevent disasters like the one in Flint that the EPA requires water systems to conduct tests in homes regularly for high levels of lead. Local and state officials in Flint broke these rules. For example, the water samples are supposed to be taken from homes most at risk of lead poisoning, ones which the utility knows or suspects are served by lead service lines. But in Flint, more than half of the samples submitted by the city after the switch to river water were taken from homes with service lines made of copper, rather than lead. Flint’s water utility also told customers to run their water for several minutes before taking a sample. The practice, known as “pre-flushing,” can lower lead levels in samples submitted for testing.

The testing violations in Flint were particularly egregious, and three officials from the city and Michigan’s Department of Environmental Quality face criminal charges for the apparent deception. But environmental and health activists have long complained that the EPA’s testing protocol is too lax and ambiguous.

As news of the Flint water crisis spread, it became clear that the EPA wasn’t all conducting their tests the same way. Some, as in Flint, recommended pre-flushing. Others told customers to remove aerators before collecting the sample. Most wanted samples of the water that first came out of the faucet; some asked for samples after the water changed temperature. “One thing that the water utility industry wants is very specific instructions on how we do things,” says Scott Potter, the director of the Nashville Metropolitan Water Agency. "If you have specificity, then the entire industry is doing it one way—the way scientists say is the best way—and we can all trust the data.”

New rules to address these issues could come as soon as next year, as the federal agency wraps up a six-year effort to rewrite the Lead and Copper Rule. In light of
Flint, the new rules could require major changes for water utilities. The federal government could require them to test homes more often. It could lower the threshold of lead in water that requires utilities to respond. And it could even push water utilities to replace lead service lines altogether.

Activists say it’s not just the rules that matter, but the way they are enforced. They hope the EPA and the state agencies charged with administering the rules will become more aggressive in making sure they’re followed. “Flint is an extreme example of governmental indifference and callousness,” says Eric Olson, the director of the health program at the Natural Resources Defense Council. “But I do believe it highlights a more systemic problem with a lack of attention to and, frankly, political will for enforcement and for stepping in and insisting on compliance.”

Only 11.2 percent of the 8,000 violations of the Lead and Copper Rule throughout the country resulted in any sort of enforcement action in 2015, according to Olson’s analysis of EPA data. Even in those cases, which mostly involved small water systems, regulators operated with a soft touch, typically just prodding the utilities to fix their systems. It’s the regulatory equivalent of being let off at a traffic stop with a written warning. Regulators sought or assessed penalties in only 3 percent of the reported violations. There is also evidence that suggests states are under-reporting violations. Flint isn’t even included in the list of Michigan water systems that broke the rule in 2015. Only government regulators, not individual residents, can start the enforcement process, so if the regulators fail to do their jobs, nothing happens. “There is,” Olson says, “no cop on the beat.”

Regulators don’t usually penalize water utilities because state and federal regulators try to act as “partners” to the water agencies they oversee. “Yes, it’s true, you want collaboration. You want partnerships if the folks are doing their jobs,” Olson says. “But if the water utility is simply failing to comply with the law, that’s where enforcement is legally required.”

Diane VanDe Hei, the CEO of the Association of Metropolitan Water Agencies, admits that a “handful” of states have trouble regulating drinking water. “I don’t think it’s a secret that some states do not have the resources to do all of the things they’re supposed to do,” she says. “They have a lack of funds or personnel.”

A slow response from utilities and their regulators—or no response at all—is another problem. About a decade ago, Virgil Bernero, then a Michigan state senator, grew increasingly frustrated when he and his office tried to track down information about lead levels in Lansing’s water. Bernero started looking into it when a constituent raised the issue. It became more urgent when he learned about a major lead-in-water crisis in Washington, D.C., where the local water agency tried to minimize the extent of its problem.

At a recent congressional hearing, Virginia Tech engineering professor Marc Edwards, one of the first people to identify the high levels in both Washington and Flint, said the crisis in Washington in the early 2000s had been “20 to 30 times worse” than that of Flint. As many as 42,000 children were affected before the crisis was resolved. The district’s problems had started when its water utility switched from using chlorine to chloramine as a disinfectant, making the water more corrosive. Bernero—energized by what he learned about Washington’s lead-in-water crisis—wasn’t satisfied with the answers he was getting from his local water utility, so he set up a legislative task force that invited Edwards and others to testify about Lansing’s water, and particularly about the utility’s testing methods. Bernero said the utility’s responses amounted to “patting us on the head and saying, ‘We’re the experts, don’t worry about it’.” But Edwards had a different message, Bernero recalls: “Don’t buy that. You can’t leave this to the so-called experts.”

So Bernero didn’t. When he became mayor of Lansing, the city did what very few others in the country have done: It embarked on a decade-long program to replace all of the lead
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service lines in the city. By next year, all of the lead service lines in Lansing will be gone.

The reason so few cities have done what Lansing is doing, though, is that swapping out lead pipes isn’t easy. Or cheap.

The first major task for many utilities is to find all of the lead service lines in their system. That sounds simpler than it often is. It can require water operators to go back through old documents and make their best guess about what kinds of pipes are in the ground, based on historical records. That’s because, until the last few decades, water utilities often didn’t track what kind of materials their service lines were made of. It’s especially true for the portion of the service lines on private property, which typically are the responsibility of the property owner rather than the utility.

The service lines are usually installed during building construction, explains David LaFrance, the CEO of the American Water Works Association, which represents 4,000 water utilities. “Just as the water utility doesn’t know whether a house has hardwood floors or laminate, they wouldn’t naturally have an inventory of what the material is for the service line,” he says.

Incomplete and inaccurate information has already frustrated Flint’s efforts to replace its lead and galvanized steel pipes. When the crisis started, most of Flint’s records on the kinds of pipe it had were still on index cards. The state helped the city convert those records into a GIS database to track which properties had which types of service lines. More than half of the active service lines were made of copper pipe. But that still left nearly half of the lines as candidates for replacement. Eight percent of the lines were made of lead, 18 percent were made of galvanized steel and the remaining 21 percent were unknown.

And that’s assuming the records were even accurate. A contractor hired by the city to replace the service lines of 30 homes throughout the city, in order to gauge the feasibility of a much larger replacement program, found that the records of sites chosen for the new lines were correct only 64 percent of the time.

A second major hurdle for replacing service lines, of course, is cost. Estimates vary greatly on how expensive it is to switch out the pipes, but the most common estimate is near $5,000 a line. As Lansing replaced its pipes, it developed a method, which the city is considering patenting, that speeds up the process and lowers costs. Lansing crews can replace pipes without digging long trenches. They attach the new pipe to the back of the old pipe, and then pull the old pipe out to the street, leaving the new one in place. Lansing officials say the technique can lower the cost of replacing a service line to between $2,000 and $3,000. But that may not hold true for other cities. When Flint started replacing lines, even with help from Lansing crews, their average cost was $7,500 apiece.

Split ownership remains a financing complication for almost any locality trying to do line replacement. In Madison, Wis., which also removed all of its lead service lines, it was a major hurdle. State regulators blocked Madison from using taxpay- ers’ money to pay for the replacement of private property, so the city had to find other creative revenue sources—such as income from renting out space on its water towers to cellular providers—to help subsidize the water pipe replacement costs for homeowners.

Lansing paid for its program with rate increases, but that’s not an option for many cities. “We can’t just do that,” says Diane VanDe Hei: “I don’t think it’s a secret that some states do not have the resources to do all of the things they’re supposed to do.”
Michael Deane, the executive director of the National Association of Water Companies, because private utilities—and some public utilities, like Madison’s—need to have their rate increases approved by state public utility commissions. “We have to work with our economic regulator on how we pay for it. How do we get the capital to make this? How do we earn a return on that capital investment?”

The list of thorny issues goes on, but it’s clear that an increasing number of communities are interested in getting rid of lead service lines, whether the EPA ends up requiring it or not. There is a growing consensus in the water industry, too. Even the American Water Works Association, which once blocked EPA regulations making it easier to replace the private portion of service lines, now supports the goal of taking out the lead service lines. To share their expertise with localities, major water industry groups have joined with environmental and public health groups to form an organization called the Lead Service Line Replacement Collaborative.

As sensible as it might seem to replace lead service lines, there are also reasons to be cautious. One is that replacing lead service lines doesn’t always solve lead poisoning issues. The Flint water crisis first came to light in part because residents called on Edwards, the Virginia Tech professor, to investigate their situation. Through independent testing, he showed that lead levels in the industrial city were far beyond the federal thresholds. Of the 271 houses Edwards and his team tested, the worst belonged to Elnora Carthan, on the city’s north side. Her water registered readings of 1,000 parts per billion of lead, or 67 times higher than the federal maximum of 15 parts per billion. But when crews in Flint came to replace the service line in Carthan’s home, they found out the line was made of copper, not lead. The lead in her water had to be coming from somewhere else, likely her home’s internal plumbing.

“I’m all for getting the lead pipe out,” Edwards said when the discovery was made. “I want Flint to become the model for replacing lead pipe, but it’s not necessarily going to get rid of the lead problem. We’re still going to have a lead problem if corrosivity is not controlled.”

And ultimately, there is the question of opportunity cost. How wise is it to prioritize lead pipe replacement over other water system needs? Water utilities have many other pressing concerns, such as removing other harmful chemicals from drinking water or just trying to maintain and improve decrepit infrastructure. “If you spend $300 million on lead service lines,” says VanDe Hei of the Association of Metropolitan Water Agencies, “what are you not doing? What are you not doing that has perhaps more risk?”

Troubled Waters
HABITAT III IS THE WORLD’S BIGGEST, MOST IMPORTANT, MOST FAR-REACHING SUMMIT ON THE FUTURE OF CITIES.
So why aren’t you going?

By Carey L. Biron and Neal Peirce
When he was mayor of Baltimore, Kurt Schmoke often looked abroad for ideas he could use at home. Schmoke was active in Baltimore’s sister city initiatives and traveled internationally whenever he could to learn what other cities were doing. On a trip to Israel, he visited two cities that transformed his thinking about public housing. It was part of what led him to initiate a broad program of tearing down high-rise towers and rebuilding them as low-rise neighborhoods.

Schmoke’sutorials were much persuading when Henry Cisneros—then the secretary of the U.S. Department of Housing and Urban Development (HUD)—asked him to fly to Istanbul in 1996 to attend a major United Nations conference on cities. The con-

vention was called Habitat II. Schmoke joined a U.S. delegation that included more than a dozen mayors. He found the experience enriching: “Habitat really reinforced my view that there is value in international exchange of ideas,” says Schmoke, who now is president of the University of Baltimore. “We were in Istanbul listening to local officials talk about problems that could have been from Indianapolis—that was inspiring and gave you some hope that we could maybe unite around common problems.”

Twenty years later, the next major U.N. conference on cities is approaching: Habitat III is to be held next month in Quito, Ecuador. For more than a year, global networks of mayors and local governments have been gearing up for what amounts to the Olympics of urbanism. Habitat III is arguably the world’s most important conversation about the future of cities. And it’s taking place at a time when rapid urban growth on all continents, especially in Africa and Asia, makes that discussion more crucial than ever.

Ofﬁcially known as the U.N. Conference on Housing and Sustainable Urban Development, Habitat III is a rare event in global policy circles—the one time every 20 years when heads of state and national ministers gather to discuss and debate urban policy. (The first Habitat conference took place in Vancouver in 1976.)

The gathering in Quito is expected to produce a sweeping but nonbinding global strategy on sustainable urbanization. Known as the “New Urban Agenda,” this strategy will include recommendations for fighting urban poverty, devolving authority to local governments and bolstering streams of municipal finance, among other issues. Diplomats are still negotiating the details, but once finalized in Quito, the document will join last December’s Paris climate agreement and other recent accords to create a global framework for sustainability.

As yet, however, U.S. mayors are nowhere to be found in the Habitat preparations. Indeed, it’s difficult to ﬁnd an American mayor who knows that the conference is taking place at all, let alone the policy process leading up to it. The void became clear in May, during a unique series of hearings at the United Nations. Mayors and other local ofﬁcials from around the world had come to share their views on what the city of the future should look like.

In a procedural coup, city leaders were given the ﬂoor at the U.N. to speak on equal terms with national governments—the ﬁrst time that the U.N. has offered such a position to local ofﬁcials. Julián Castro, the current U.S. HUD secretary, addressed the crowd in New York. And while Castro used to be mayor of San Antonio, it appears that not one sitting U.S. mayor showed up.

In the U.S., the State Department is taking the lead when it comes to Habitat III negotiations, while HUD is spearheading the domestic conversation. HUD has produced a national report, citing urban trends and major policy initiatives undertaken since Habitat II, and is also working on a forward-looking report for release ahead of Habitat III.

During the ﬁrst half of this year, HUD held ﬁve forums in Washington, D.C., focused on reaching out to the policy crowd. Five more regional sessions were held in Chicago, Denver, El Paso, Miami and Philadelphia. “These were meant to draw in a broad spectrum of urbanists—including city oﬃcials, professionals, academics, nonprofits and activists—to connect their experiences and priorities with the Habitat III talks. The ﬁve regional events were the most concerted outreach eﬀort to bring mayors into the discussion. While two, the mayors of Racine, Wis., and Gary, Ind., participated in the ﬁrst event, no others accepted HUD’s invitations.

Racine Mayor John Dickert says he went because the day-to-

day grind of being an elected oﬃcial can limit the search for solutions to big, complex urban problems. “As mayors, we spend far too much time in this country worrying about the next election or issue of the day, instead of worrying about how to solve the problems our constituents are facing—infrastructure, housing, poverty,” he says. “So whenever I get a chance to start showing people that there are answers in cities, we try to get people to start thinking outside of the box.”

Salin Geevarghese, deputy assistant secretary for international and philanthropic innovation at HUD, says the regional meetings yielded substantive exchanges despite the overall lack of mayoral engagement. “Certain light bulbs started going oﬀ,” Geevarghese says, adding that he repeatedly heard about “the power of mayors in the global context, in terms of networks of mayors working across these same ideas.”

HUD is planning to include mayors in the U.S. delegation to Quito, but it’s not yet clear who those individuals will be. Without their participation, U.S. mayors risk missing out on the sort of city-to-city learning that Schmoke ﬁnds so valuable. They’re also missing out on a chance to inﬂuence the policy recommendations that 193 countries—including the United States—are expected to adopt in Quito.

Emilia Saiz says the lack of participation on the part of U.S. mayors “is a source of great concern.” Saiz is a top oﬃcial with United Cities and Local Governments, a global association that has been a key player in negotiations at the U.N. “U.S. local governments are missing a once-in-a-generation opportunity to shape the international agenda of cities.”

Pamela O’Connor is planning to go to Quito. O’Connor is a councilmember in Santa Monica, Calif., as well as its former mayor. Santa Monica, which is just outside Los Angeles, has long been known for its efforts around sustainability, particularly its work to document and improve the well-being of its residents. O’Connor deals with sustainability issues interna-

tionally as chair of the regional executive committee for ICLCI,
HABITAT III

Quito, Ecuador, will host Habitat III, which is expected to produce a global strategy on sustainable urbanization known as the “New Urban Agenda.”

a global network of cities engaged on environmental issues, particularly climate change.

While O’Connor sees the value in Habitat III, she says she also understands why many U.S. local officials do not. First, there’s longstanding skepticism of multilateral processes. “In the U.S., there’s a streak that is anti-United Nations,” she says. Indeed, a U.N. development framework agreed to in 1992 known as Agenda 21 continues to spur right-wing conspiracy theories about a “world government” taking away Americans’ property rights. The recently adopted 2016 platform of the Republican Party calls Agenda 21 “erosive of U.S. sovereignty.”

Diplomats at the U.N. don’t do any favors with their opaque processes and the bureaucratic language they use either, says O’Connor. In fact, core Habitat III issues such as affordable housing and equity are discussed constantly at the local level in the U.S., but using different terms and reference points. One draft of the New Urban Agenda rather confusingly called for a commitment “to support territorial systems that integrate urban and rural functions into the national and subnational spatial frameworks.”

“The closer to the U.N. in New York you get, they have their own culture of how they speak and explain things,” O’Connor says. “We don’t talk that way. We are operating off of the same concepts and same goals, but we don’t frame it in that U.N.-speak.”

Tim Campbell thinks Habitat III has a branding problem. Campbell is a former World Bank official and author of Beyond Smart Cities: How Cities Network, Learn and Innovate. For a crucial conference on cities, Campbell says, the name Habitat III “doesn’t capture anything.”

Campbell says the conference is occurring at a point when many Americans seem to be turning inward, symbolized by growing resistance to immigration and foreign trade—although some of that insularity may be a function of the country’s sheer size. Campbell notes that U.S. mayors have hundreds of American cities to learn from, including many on the forefront of innovation and new ideas. By contrast, mayors from smaller countries who want to find breakthrough ideas may have no choice but to look abroad.

All of this helps explain the tepid response from the primary networks of American mayors. The U.S. Conference of Mayors doesn’t appear to have a stance on Habitat III (multiple requests for comment for this story were unsuccessful by deadline). The National League of Cities has been more involved, via a national committee formed by HUD. But Jim Brooks, the league’s director of City Solutions and the point person on the issue, says members haven’t expressed interest in the Habitat III process. “I’m really not seeing any,” Brooks says, “and we haven’t tried to manufacture enthusiasm.”

Brooks notes that this lack of engagement stands in contrast to the energy more than a dozen U.S. mayors brought to the Paris climate talks, also known as COP 21. There, American mayors joined forces with hundreds of colleagues from around the world to ratchet up pressure on negotiators to strike a climate deal. They also wanted to demonstrate the important role cities already are playing on combating climate change, and to highlight their own initiatives fostering renewable power, energy efficiency and clean transportation options. “The nice thing about COP 21 was that we catalyzed some of the positive energy around the sustainability agenda,” Brooks says. “None of that is the case with Habitat III.”

The lack of engagement by U.S. mayors is detrimental for a few reasons. One thing lost is the perspective and ideas that American cities can offer their counterparts, both in the developed and developing worlds. For example, U.S. cities are leaders in the use of smart technologies to manage traffic, leverage public-private partnerships, collect data on government performance, and manage services such as waste management and public health. They have deep experience in the pros and cons of the devolution of...
power from central government to “subnational” authorities, a governance structure of the sort more countries are moving toward. As cities around the world look to sell their first municipal bonds, they could benefit from more than a century’s worth of experience that U.S. local governments have with the tool.

Lack of engagement also means that the full spectrum of mayors’ priorities is not being transmitted to the U.S. negotiating team working on the New Urban Agenda. In other words, the U.S. diplomatic position on global urbanization is being shaped more by State Department and HUD officials than by the people who actually run cities.

What’s more, U.S. mayors risk missing out on a burgeoning global constituency concerned with urban issues and the centrality of cities’ roles in dealing with the big, complex problems facing the world today. In this regard, the strong response by local authorities, including U.S. mayors, at the Paris climate talks is heartening for many because it signifies that the urban issues at the center of Habitat III are gaining prominence globally. “In 1989, climate change was nowhere,” says Eugénie Birch, a University of Pennsylvania professor and head of the Habitat III General Assembly of Partners, a key umbrella group of stakeholders. “Then, the Intergovernmental Panel on Climate Change was created, and all of a sudden mayors are on the bandwagon.”

It’s not impossible to get U.S. mayors interested in the rest of the world. But they usually want something tangible in return. Mayors rarely hesitate at the chance to join their Chamber of Commerce on trade missions if there’s a chance it could create jobs locally. The benefits can be political: The U.S. mayors who went to Paris could do so with the confidence that showing global leadership on climate change would resonate with their left-leaning urban constituencies back home.

There’s reason to hope that some U.S. local officials see learning as a benefit, too. Relationships brokered through the group Sister Cities International have long been a popular avenue for this. Global networks such as the C40 Cities Climate Leadership Group, which a dozen U.S. cities are part of, also have learning networks that facilitate idea exchange on niche issues such as municipal building efficiency and bus rapid transit.

The International City/County Management Association (ICMA), with 10,000 members mostly in the U.S., also has begun facilitating city-to-city exchanges through its CityLinks program. It’s one of the group’s most popular initiatives, says Joshua Franzel, the group’s director of policy research. “There’s definitely a trend of increased interest in looking at lessons learned and parallels with international contexts,” Franzel says, citing work around transportation, water and sanitation.

ICMA is participating in Habitat III, mostly focusing its efforts on the issue of urban health and, more broadly, how to create healthy communities. Franzel says ICMA’s membership is particularly interested in how to tackle this question through local government management. He believes Habitat III is an opportunity for cities both to show off their own work and to see what others are doing in this complex area. “It’s going to be a two-way street,” Franzel says.

Schmoke says he hopes more U.S. mayors will get involved in time to have a meaningful presence in Quito, using the event to get out of their daily modes of thinking in ways that can help them deal with “universal problems” once they return home. “I hope that having municipal officials gather can help us more broadly with achieving peaceful goals for the world,” he says. “I think mayors will find that they have more in common than divides them.”

Canadian Prime Minister Pierre Trudeau, right, at Habitat I in Vancouver in 1976.
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Remote

By Mattie Quinn
Possibilities

Rural counties are finally getting some help with an overlooked and underserved population—the mentally ill. But it will take entirely new approaches.
In 1963 when President John F. Kennedy signed the Community Mental Health Act, the effect of the law was to shift mental health care away from large, state-run mental institutions and place it in communities where the focus would be on prevention as well as treatment. But Congress never adequately funded the mental health services that were needed to support the law.

Today, in what is part of Manderscheid's chapter two, money for programming is beginning to flow into mental health programs. The Obama administration has steadily been increasing the Substance Abuse and Mental Health Services Administration's budget over the past couple of years. That agency provides much of the funding for mental health programs across the country, particularly for the opioid epidemic that has made significant incursions in rural areas.

In addition, the Affordable Care Act has been expanding the number of insured people, which improves access to care in places where services are available. At the same time, however, the mental health workforce has been shrinking and is distributed unevenly across the country. To meet that challenge, President Obama has pledged to increase the number of workers in the National Health Service Corps to 15,000 by 2020 from 9,200 in 2014. The corps sends health professionals to underserved areas for five years in exchange for repayment of education loans.

Even with more health workers in rural areas, Manderscheid fears there still won't be enough to meet demand. Some rural areas are tackling the issue by upgrading resources already available to them. Most often that means training providers in primary care and becoming more of a specialized service. Psychiatrists and psychologists tended to set up their practices where they trained, limiting access to therapeutic services to areas with universities. While access to mental health services was limited for a lot of the country, it was even more circumscribed in rural America.

That isn't to say that there haven't been rural-focused mental health community programs, especially in the past two decades. From 1999 to 2010, a behavioral health program called Sowing the Seeds of Hope served uninsured or underinsured farmers in the Midwest. From 2002 to 2004, the Iowa Rural Mental Health Initiative provided families with one-on-one mental health care that was culturally competent—that is, the personnel providing the care were sensitive to rural needs.

But those programs came to an end, not because they weren't effective, but for a reason that's all too common. "Too often innovative and frontier model programs are lost after a grant expires or a reimbursement stream ends," noted a 2006 report from the National Association of Rural Mental Health.

In 2008, the Mental Health Parity Act promised that behavioral health services would now largely be covered by insurers. Even though state enforcement has had a checkered history, Manderscheid sees a bright side: "Mental health was able to get to the table in a way that had never been the case before." Today, in what is part of Manderscheid's chapter two, money for programming is beginning to flow into mental health programs. The Obama administration has steadily been increasing the Substance Abuse and Mental Health Services Administration's budget over the past couple of years. That agency provides much of the funding for mental health programs across the country, particularly for the opioid epidemic that has made significant incursions in rural areas.

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Even with more health workers in rural areas, Manderscheid fears there still won't be enough to meet demand. Some rural areas are tackling the issue by upgrading resources already available to them. Most often that means training providers in primary care and community health clinics in the area. The emphasis on primary care is an overarching goal of the Affordable Care Act anyway, and many experts believe it to be the most efficient method of providing health services in rural areas. "The truth is, along the way, mental health has become over-medicalized," says John Gale, a researcher at the Cutler Institute for Health and Social Policy at the University of Southern Maine. He notes that most of the general population will have to deal with behavioral
health problems at some point in their lives. Progress in address-
ing their issues can be made by arming providers in the primary
care setting with more and better mental health training.

This is an approach that Montana, which has the highest sui-
cide rate in the country, is taking. The Billings Clinic, the larg-
est health-care organization in the state, has been working with
nurse practitioners to arm them with additional mental health
training for the primary care setting. “As long as community
health workers have more training, I think that’s a great substi-
tute,” says Eric Arzubi, chair of the department of psychiatry at
the Billings Clinic. “For mild to moderate anxiety or depression,
that may be all you need. Then you can keep psychiatrists in the
bigger towns for the more complex cases.”

The Billings Clinic has also teamed up with the Eastern Mont-
tana Telemedicine Network to expand care to the most remote
reaches of the state. Telemedicine has proven to be a helpful tool.
“In remote clinics, you might not even diagnose someone with a
American Telemedicine Association gave Montana a “B” for its
clinical psychologist telemedicine practice.

Telemedicine has been around for about two decades, but in
the past few years it has become more accepted as an effective
alternative for those who don’t have in-person access to provid-
ers. Health-care experts are cautious not to label it as a total
fix for rural health woes. Internet access in rural areas can be
sparse, and some states have very stringent telehealth restric-
tions. “Telemedicine also assumes that there is a surplus of
providers in urban areas with time on their hands,” Gale says.
“That’s simply not the case.”

Back in Codington County, the jail population has eased down
a bit in recent months, thanks in part to a program the county is
using. Known as Stepping Up, it is an initiative that the National
Association of Counties introduced in 2015.

Under Stepping Up, county officials are tasked with creating
an action plan that spans departments and organizations. Coding-
ton County contracts with a community
mental health center to go into the jail and
identify people who might have a mental
illness. From there, troubled inmates are
placed in a case management program. It
has been a breakthrough in Codington,
where the only time an inmate could get
mental help in the jail was when there
was a crisis situation, according to Sarah
Petersen, the county’s welfare director.

The program depends on cooperation
between the welfare department and the
justice and corrections systems. This care
coordination requires officials from the
affected departments to meet regularly
in order to tackle best practices with low-
risk jail populations. The idea is to prevent
the ill inmates from reoffending and to
find a way to allocate resources to serve
those with more severe mental illnesses.

For counties that haven’t signed onto
Stepping Up, Manderscheid says that it’s
because there’s sometimes a lack of infor-
mation sharing between county depart-
ments. “Many county behavioral health
workers didn’t even know if their county
jail was doing any sort of mental health
screening,” he says.

Petersen, who signed the county up for
the program, sees progress in the Coding-
ton County community since Stepping Up
went into effect. “We have the exact same
problems that any urban county has. We
just have far fewer resources,” she says. “When you have your
county sheriff and judge on board and working with you, it’s
exciting. In a rural community, you have the benefits of just that:
being a community.”

Email rmqaros@governing.com
THINKING OUT OF THE BOX

Big-box retailers are deploying a ‘dark-store’ strategy that’s hurting city revenues. **BY LIZ FARMER**
On Michigan’s sparsely populated Upper Peninsula, big-box stores are a modern necessity. Where towns are spaced far apart and winters are long, one-stop shopping to load up on supplies adds a crucial convenience to what can be—at least for many—a rugged existence.

Landing one large retailer is a coup. Having more than one can make a city or town a regional shopping destination. Marquette Township, a small community adjacent to the larger city of Marquette, is in the unique position of having a handful of big-box chain stores. Taking advantage of the fact that the city of Marquette was mostly built out, the township began encouraging large-scale commercial development on its western edge early in the 2000s.

The town now boasts the only Lowe’s on the Upper Peninsula, and the only PetSmart, Target and Best Buy. A Menards home improvement store and a Walmart Superstore are there as well. The flurry of new building and retail was so great that the township’s tax revenue never took a hit during the Great Recession, even at a time when most small towns on the peninsula and elsewhere in Michigan were struggling.

But recently, the township suffered a dramatic drop in its property tax revenue. It had to cut back on spending, trim employee benefits and reduce library hours. The impact has reached up to surrounding Marquette County, which earlier this year closed a youth home to save money. The reason for the lost revenue isn’t declining consumer demand. It’s a series of rulings by the Michigan Tax Tribunal that have allowed large retailers to reduce their property tax assessments, in many cases by as much as half.

Big-box retailers argue that the market value of their commercial property should be the sale price of similarly sized but vacant retail buildings. They point out that these buildings are extremely hard to sell as-is once the retailer moves out. They tend to sit
has spread across otherwise thriving areas in Michigan to the
were dealing with depressed property values. But since then, it
est action, passing two laws last year that essentially banned the
nations and methodology that, to the average outsider, can seem
always aware of similar controversies outside their jurisdiction.
in valuing the property.
big-box retail stores aren't the first to complain that
their property's uniqueness should afford them spe-
cial consideration when it comes to their taxable value.
thirdly, the market value of the property. Assessors say this
competitor doesn't move in and fare better, the deed bars the
The retailers consider it insignificant.
into the problem has also been tricky. The world of property tax assessments is loaded with defi-
the current cost to build minus depreciation and
property's uniqueness should afford them spe-
owners of the New York Stock Exchange tried to get the building's appraisal value lowered by arguing that the building's unusual—and expensive—design
of the competing valuation methods is a topic of seething debate
in-use”) instead of the value the property would have on the
in effect when they think they can count on for delivery, says Michael Stosuy, a
therefore, appraisers prefer giving more
imposing fees for demolition costs. While the court rejected that argument in
point where it is difficult to find a county that hasn't been chal-
local governments will lose.
the problem. Getting policymakers clued in to the problem has also been
to file challenge. County assessors forced to respond to it aren't
versus the new owner from operating a similar business. Assessors say this
value-in-exchange”. It's easy to be confused by the presence
in the appraisal world. Retail representatives fall decidedly on
and local governments have realized the geographical magnitude
many are concerned that the longer
est with how the Tax Tribunal hears assessment challenges. In
these places and elsewhere, many are concerned that the longer
its current value, the county's future tax revenues will be reduced.
the ultimate value of the property. They are afraid that without
the issue. The assessment community has even given it a name, dubbing it the “dark-store” strategy.
local governments, needless to say, aren't buying this. “When
the foreclosed one because that's not an equitable property. It's the same case here.”
and Indiana are seeing widespread challenges that make use of the

All told, Marquette Township's total property tax collections have fallen nearly 22 percent in just a few years.

Still, while these cases have been proceeding for the better part of a decade, it's only been recently that county organizations and public officials have realized the geographical magnitude of the challenge. County assessors forced to respond to it aren't always aware of similar controversies outside their jurisdiction.

This is particularly true in places that are geographically isolated and where assessors are part-time employees. Getting policymakers clued in to the problem has also been tricky. The world of property tax assessments is loaded with definitions and methodology that, to the outsider, can seem overwhelming. Property appraisal laws vary by state, and arguments that hold water in one state might not in the next. So it's not always clear to lawmakers what—if anything—they can do legislatively to help counties respond to the threat.

Even in places where counties have pieced together a coordinated effort to fend off challenges, response on the state level has varied. The Indiana General Assembly took arguably the strongest action, passing two laws last year that essentially banned the dark-store tactic. But those laws were repealed and replaced with a weaker law this year. Alabama passed a law that amounted to an administrative change giving counties more legal resources. The Indiana General Assembly has considered but not approved bills dealing

ing with how the Tax Tribunal hears assessment challenges. In these places and elsewhere, many are concerned that the longer it takes for a concerted state response, the more money counties and local governments will lose.

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Big-box retailers say the market value of a property should be the sale price of similarly sized but vacant retail buildings.
a dark-store case. “The reality is there are very few tenants that will move into the custom building when you’re dealing with these big-box situations,” he says. But, he adds, officials are leery of retail attorneys’ motives because they can profit greatly from the challenges by taking a cut of the tax refund if they win. “You have to wonder,” Booth says, “are these people just being obnoxious or are the properties really overvalued and it’s just that now someone’s looking at it?”

Tax courts in Michigan have generally agreed with retailers that properties were being overvalued. In Marquette Township, Lowe’s used the same argument in a 2012 challenge to its property assessment and succeeded in reducing its taxable value from $1.2 million to less than $2 million, even though the store alone cost $10 million to build. The township spent several hundred thousand dollars in legal costs but failed to win in the appeals process. As a result, the ruling applied to other pending challenges. All told, the township’s total property tax collections have fallen nearly 22 percent in just a few years.

Statewide, the results have been similar. According to the International Association of Assessing Officers, the valuation on large retailers across the country is anywhere from $45 to $75 per square foot, depending on the market. After five years of litigation in Michigan, says tax attorney Jack Van Coevering, the average per-square-foot value in the state is $20.

The big-box retailer Meijer brought a case at one of its most successful Indiana locations, in Marion County, after winning reduced assessments in Michigan. The attorney for Meijer went so far as to tell the Indianapolis Business Journal that the appeal in Marion County was a test case because “whatever the value is there would be the upper limit of the value across the state.” The retailer won in late 2014 and got its assessment slashed from $83 per square foot to $30 per square foot. The decision applied retroactively, requiring Marion County to refund Meijer $2.4 million for nine years of back taxes. Indiana county officials estimated that if the decision were to be extended to the marketplace, “whatever the value is there would be the upper limit of the value across the state.” The retailer won in late 2014 and got its assessment slashed from $83 per square foot to $30 per square foot. The decision applied retroactively, requiring Marion County to refund Meijer $2.4 million for nine years of back taxes. Indiana county officials estimated that if the decision were to be extended to the marketplace, “whatever the value is there would be the upper limit of the value across the state.”

In Michigan, a recent Court of Appeals ruling may prove to be a turning point. In May, the court overturned a 2015 decision by the Michigan Tax Tribunal that had favored the retailer Menard against the city of Escanaba in a property tax dispute. The court found that Escanaba’s cost-based approach was more reasonable than the retailer’s comparable sales method, which included using dark stores. The case was remanded back to the tribunal with directions to consider all the assessment methods. It may end up setting a precedent for cases in Michigan that are currently open.

Still, for counties and townships that have already lost or settled cases, the damage has been done. And because of limits on how much localities can increase the property tax each year, the previous losses in tax revenue will never be made up. In Marquette Township, that means officials will have to figure out how to replenish the reserves that were drained to pay back Lowe’s, at the same time adjusting permanently to a shrunken tax base.

“The long and short of it,” says Marquette Township Manager Randy Girard, “is that we will not recover.”

In short, the legislative authority of lawmakers to intervene is murky. “It’s always appropriate for the legislature to try to clarify and remedy a situation when appropriate,” says Joan Youngman, a property tax expert with the Lincoln Institute of Land Policy. “But you want to be sure this is a problem with the existing law.”

In the end, the best way to beat back the challenges is to win in court. But that’s a tough task for counties that don’t have a lot of resources. In Tampa, Fla., Hillsborough County’s director of valuation, Tim Wilmath, says counties in his state have caught on early to the dark-store challenge and have for the most part been able to mount successful defenses. Wilmath co-authored an article in an industry magazine last year advising county assessors on how to challenge the tactic, which has made him a de facto adviser to smaller counties across the country: “They’re looking for advice on how best to go at it,” he says of the calls from outside Florida. “But even when they know all the right things to do, they still settle because they just don’t have the money.”

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Problem Solver

Tracking the Ferguson Effect

Have police really become more reluctant to intervene in dangerous situations? There’s no easy answer.

When crime rates began to climb in St. Louis in late 2014, Police Chief Sam Dotson offered an intriguing explanation. A “Ferguson effect,” following the widely condemned killing of a black teenager by police in a nearby suburb, had led to trepidation on the part of some officers in enforcement situations, and to a feeling of empowerment among offenders.

The theory provoked significant interest among law enforcement officials and academics who have since debated its merits in academic studies and in the press. FBI Director James Comey has given it further credence, suggesting police have become more cautious due to a fear of being caught on camera. But nearly two years after Dotson’s initial remarks, there is little agreement about what form the Ferguson effect is taking, or even if it exists at all. Nor is there consensus about whether a national crime wave is actually occurring.

The latest research on the issue, conducted by University of Missouri-St. Louis professor Richard Rosenfeld for the Justice Department, found a spike in homicides between 2014 and 2015. The number of murders in 56 large cities rose an average of nearly 17 percent in that one year—the steepest annual increase since at least the 1980s—and 12 cities recorded spikes exceeding 50 percent. Most striking was the revelation that the 10 cities with the biggest increases were characterized by large African-American populations. “The increase is real and worrisome,” Rosenfeld says. He agrees that the Ferguson effect theory is plausible.

The findings come with several caveats. It’s not yet known just how widespread the increase in crime is; the one-year jump in the murder rate follows decades of decline, and recent national trends for other types of crime aren’t yet available. Overall crime rates in a different sample of 30 large cities reviewed by the Brennan Center for Justice were essentially unchanged last year.

The aspect of the Ferguson effect that’s received the most attention is the notion that officers are pulling back on enforcement and proactive policing, fueling a crime increase. In Chicago, shootings and arrests dropped last year, but gun violence climbed in the months following the release of a video showing the police shooting of 17-year-old Laquan McDonald. “We have allowed our police department to get weak, and it is having a direct consequence,” Mayor Rahm Emanuel said at a meeting in 2015.

So far, however, there is insufficient evidence to support the idea that “de-policing” has led to a nationwide crime wave. In New York, for example, no relationship has been found between crime rates and a reduction in aggressive stop-and-frisk police tactics. The city, which started to curtail the practice drastically early in 2014, has seen overall major felony crimes continue to drop near historic lows. Ronal Serpas, who co-chairs the group Law Enforcement Leaders to Reduce Crime and Incarceration, recalls warnings about de-policing when police dashboard cameras proliferated in the early 2000s. De-policing didn’t happen then, and it’s not happening now, he says. “It’s dangerous when well-informed people keep saying this even though they don’t have any proof of it.”

One prominent official with a different view is Malik Aziz, who heads the National Black Police Association. Following the recent shootings, Aziz has seen and heard of officers not injecting themselves into situations that could provoke controversy. “It was only after the murder of Freddie Gray in Baltimore that police were being charged with crimes, and it set a new narrative,” he says. “They fear a type of engagement that may have some backlash to it.”

Meanwhile, a second version of the Ferguson theory, one that hasn’t received as much publicity, is gaining traction. It contends that heightened racial tensions and a distrust in police are contributing to higher crime rates. L.A. Police Chief Charlie Beck cited the lack of public trust in police as the “real Ferguson effect” in an op-ed in the Los Angeles Times earlier this year. Weaker links between law enforcement and the community make police less effective, he wrote.

Under this scenario, criminals might feel more empowered to carry weapons and take matters into their own hands. Residents might be less apt to assist in investigations. While the two versions of the Ferguson effect aren’t mutually exclusive, Rosenfeld thinks concerns...
around police legitimacy are more plausible. “If there is some kind of a Ferguson effect at work,” he says, “it has got to extend beyond de-policing.”

Testing this emerging hypothesis, however, is difficult. Research by Yale University professor Tom Tyler suggests that procedural fairness influences the perception of police legitimacy, which in turn acts as a strong determinant of public compliance with laws and a willingness to cooperate with investigations. A July Gallup poll found 67 percent of blacks felt they were treated less fairly than whites by police, a rate that’s remained fairly constant over time. Similarly, a recent Pew Research Center poll reported 18 percent of blacks said they’d been stopped unfairly in the previous 12 months, compared to just 3 percent for whites surveyed. While law enforcement agencies have worked to strengthen local ties via community policing efforts, Aziz says, they’ve often failed to engage groups of African-Americans with negative perceptions of police.

Serpas, a former New Orleans police chief, doesn’t think the “declining trust” version of the Ferguson effect is any more valid than the de-policing argument. He points out that gaps in trust have remained consistent over time. “Over 30 years, we’ve made a lot of changes and haven’t really moved the needle much,” he says. Homicide spikes in some cities, Serpas believes, are more likely a result of more children being born into disadvantaged groups and repeat gun offenders not being locked up. The Justice Department report also considered the effects of falling imprisonment rates and expanding heroin markets, but these trends predate the recent rise in homicides.

Any effects of recent high-profile shootings involving police are likely playing out differently across cities. It’s worth noting that just 10 of the 56 cities reviewed in the Justice Department study accounted for two-thirds of the surge in homicides. “Any increase in crime is driven more by local factors,” says Ames Gravert, an attorney with the Brennan Center for Justice.

Further clarity on the Ferguson effect should come later this fall, when the FBI releases complete 2015 crime data compiled from all participating law enforcement agencies nationwide. Rosenfeld and others argue the FBI should release preliminary numbers more regularly, similar to economic reports, instead of waiting roughly 10 months after the end of each year. The FBI says it’s redeveloping its systems and anticipates more frequent publications. While local departments track their own stats, it’s difficult to know whether any uptick in crime mirrors what’s happening in other jurisdictions. “The data can’t be used to address crime problems as they’re emerging,” says Rosenfeld. “Imagine if unemployment was increasing and the Labor Department was utterly silent.”

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Risky Business
Long in need of reform, parole boards look to data to guide decisions.

Most folks make the assumption that parole boards are no longer on the scene,” says Edward Rhine, director of the parole release and revocation project at the University of Minnesota. Though this is true in the federal corrections system, almost all states still have parole boards. And most of those boards still wield a great deal of control over who stays in prison, who’s let out and who gets sent back for violating the terms of his release.

As you’ve likely read in the newspaper or heard on your nightly news station, these boards don’t always make the best decisions. Unfortunately, although efforts have been made to improve them, there is still a long way to go. In more than half of the states, one obstacle is the lack of adequate qualifications for the men and women who are selected—generally by governors—for these positions. You might think that would be a high bar for people who hold the keys to prison cells in their hands. In fact, out of 45 states that responded to a survey run by the University of Minnesota, 19 indicated that they had no mandated qualifications at all. In other words, a high school dropout could conceivably be appointed. Of the 26 states that had mandated qualifications, 10 required a college degree but no pertinent experience. Only 14 required some years of experience in criminal justice or aligned fields of endeavor.

On the more positive side, risk assessment tools are making their way into parole systems, incorporating data to analyze the likelihood of recidivism. The data “gives the parole board more support to estimate the potential [of an individual] to commit a crime,” says Jeff Anderson, manager of the Office of Research and Planning at the Michigan Department of Corrections. Among the factors used in various states’ risk assessments are whether the inmate was convicted of a violent crime; the age of first offense; the number of violent and nonviolent crimes committed in the past; educational levels; history of criminal acts in the potential parolee’s family; and employment history.

In studying the data pulled together by the initiative, Michigan discovered other important findings. For example, the corrections department learned that it was unwise to release inmates right before the weekend: Weekends tend to be party times, with little opportunity to seek employment and more opportunities to get into trouble.

Pennsylvania has been a national leader in the use of risk assessment information to guide parole decisions. Bret Buckland, director of planning research and statistics for the Pennsylvania Department of Corrections, notes that he has a staff of 10 researchers to work with the data and that the parole department has seven. “Most states,” he says, “are lucky if they have one or two.”

Another way in which Pennsylvania is a standout is its growing use of non-prison facilities for parolees. These are somewhat less expensive resources for men and women who don’t need prison-quality security, but aren’t ready for life on the streets. Every contract for one

Parole boards have more data at their fingertips, but they don’t always use it.

In a standoff is its growing use of non-prison facilities for parolees. These are somewhat less expensive resources for men and women who don’t need prison-quality security, but aren’t ready for life on the streets. Every contract for one
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of these facilities is based on the performance of those placed in its charge. According to Buckland, a facility is evaluated based on recidivism rates. If the rate falls below 15 percent, the facility earns a bonus. If the rate climbs above 20 percent, it is put on a warning status. The second time, the state cancels the contract. Contracts are reviewed every six months.

While Pennsylvania and other states are relying ever more on sophisticated risk assessments, the mere existence of these tools doesn’t mean that a parole board necessarily has to follow their guidance. The lure to seem tough on crime can be very potent. According to a New York Times article this past June, the New York State Parole Board “routinely ignores state laws and regulations that require it to consider an inmate’s rehabilitation, and to use a sophisticated risk assessment tool. Because the board members have broad discretion it has been difficult to hold them accountable.”

Even when states do rely heavily on algorithms to help select good candidates for parole, that information isn’t always passed on to prisoners. In Utah, for example, so-called rationale sheets were used to tell inmates whether the data led to a recommendation to release them or not, but nothing more. “It was minimal in information,” says Kade Minchey, audit manager at the Office of the Legislative Auditor General in Utah.

The opacity of this information prevented the prisoners who were turned down for parole from understanding behavioral patterns that might have led to this outcome. It didn’t help them to recognize the ways in which better behavior might help them achieve parole—and succeed in life. Utah is currently working on providing more information to its potential parolees. The idea behind those management trends is not to make it easier for prisoners to win parole but to help parole officials be more precise and informed about the decisions they make.  

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Just Catch the Killers
Clearing homicide cases is the best way to reduce them.

Like many mayors, New Orleans’ Mitch Landrieu is trying to stop people from killing each other in his city. In an article in Governing’s May issue, J.B. Wogan describes Landrieu’s staff as seeing homicide as “a problem driven by forces largely outside the mayor’s control—poverty, unemployment, substandard education, inadequate housing and regional migration trends.”

Actually, for mayors who struggle with how to respond to homicide, the answer is right in front of them. Focus on arresting those who commit murders. These different ways of looking at violence in our communities bring me to this conclusion.

First, there is Jill Leovy’s Ghettoside: A True Story of Murder in America, which grew out of her reporting on homicide for the Los Angeles Times. Leovy writes that her book is “about a very simple idea: where the criminal justice system fails to respond vigorously to violent injury and death, homicide becomes endemic.”

She raises provocative ideas and destroys several myths. She argues persuasively, for example, that gang violence is the result of the failure of police to enforce laws against violent offenses “Fundamentally gangs are a consequence of lawlessness, not a cause,” she writes.

Then there is the Murder Accountability Project, which has built a massive online database of homicides and case clearances searchable by lots of variables, including jurisdiction and victims’ age, race and gender. Thomas Hargrove, the organization’s chairman, says that the “failure to solve murders is primarily a political decision” to devote inadequate resources to the problem. Hargrove’s data show a strong relationship between case clearances and homicide rates.

Finally, there is Philadelphia under former Mayor Michael Nutter. By 2006, the city’s homicide case clearance rate had fallen to 56 percent. Nutter and his police commissioner, Charles Ramsey, made case clearance a priority, devoting more resources to it. In 2008, Nutter’s first year as mayor, the clearance rate rose to 75 percent. The clearance rate, Nutter says, is an indicator of community trust. “Citizens want to have us lock up bad people.”

Nutter says that improving the clearance rate also gave officers on the streets more confidence, which fits with one of Leovy’s observations. One of the L.A. homicide supervisors had become convinced, she writes, “that catching killers built law—that successful homicide investigations were the most direct means at the cops’ disposal of countering the informal self-policing and street justice that was the scourge of urban black populations.”

Lots of attention has been focused lately on abuses by the police, but it’s not enough to just stop doing the wrong kind of policing. It’s vital that we do much more of the right kind. Spending the time and resources needed to arrest and convict those who commit violent crimes not only will reduce the rate at which those crimes occur but will also go a long way toward restoring trust between the police and the people they protect and serve.  

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Beating Mr. Robot

Agencies are expanding tried-and-true tactics to keep hackers out.

S
o far it’s been a quiet year for data breaches. No major state and local cyberattacks have yet been reported in 2016. Of course, that doesn’t mean attackers are taking a break. Evidence suggests they’re merely spending less time developing new approaches and instead refining some old but proven ways to hack, according to Verizon’s recent Data Breach Investigations Report.

The break in action is giving state and local governments some much-needed time to regroup, though. It’s true governments have always faced an uphill battle against cyberattacks. Shrinking budgets and a lack of specialized talent have been major sources of breaches and intrusions. To counter this problem, government, states and localities have developed what’s known as security awareness training. The idea is to make government employees more conscious of security overall and to reduce the kind of mistakes that can launch an intrusion, trigger an attack or inadvertently allow certain types of fraud.

The awareness training can range from rudimentary classes to sophisticated online programs that keep careful track of employee progress. While awareness training isn’t cheap, especially for a state government that may have tens or hundreds of thousands of employees, the payoff in better protection is invaluable, according to Michael Roling, Missouri’s chief information security officer.

With 40,000 state employees taking regular courses on a monthly basis on everything from avoiding phishing attacks—emails disguised to look like official business, but that can trigger an intrusion—once opened—to what constitutes a secure password, Roling says continuous training has resulted in fewer cybersecurity problems. “Awareness training is one of the most important components of our security posture,” he says.

Insurance. When all else fails, states and localities have the fallback option of purchasing cyberinsurance. Available for years in the private sector, the coverage is just beginning to catch on in state and local government. In 2014, hackers broke into the Montana Department of Public Health and Human Services’ server. Fortunately for Montana, the state had insurance, which helped it cover the cost of investigating the attack, notifying individuals impacted by the breach and recovering the theft of government funds.

Not surprisingly, insurance isn’t cheap, costing as much as $20,000 for every $1 million in coverage. On the plus side, though, getting insurance has the added benefit of shoring up your defenses. After all, you wouldn’t be able to get it unless you were doing something right. 

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By Tod Newcombe

Problem Solver | TECH TALK

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Home Economics
Airbnb and its home-sharing ilk are taking a toll on affordable housing.

Home-sharing services like Airbnb are creating an awkward dilemma for cities and counties, especially in areas where housing costs are high. Municipalities are struggling to balance the economic boost from the growth of home-sharing services with the pressing need for affordable housing.

Before we go any further, let’s put the considerable growth of such services into perspective. One study found that 400,000 Airbnb guests who visited New York City in 2012 and 2013 spent $632 million, supporting 4,580 jobs. As compared to tourists staying in hotels, Airbnb guests tended to stay two days longer and spent nearly $200 more at local businesses during their visit.

But in New York as in other cities and counties, this new revenue comes with a hitch. Home-sharing services take apartments off the long-term rental market and are a factor in driving up rents to unaffordable levels. Airbnb alone has 1.5 million listings in 34,000 cities.

The problem is particularly acute in New York City, despite a state law that prohibits residential properties with three or more units from being rented for less than 30 days unless the permanent resident is present. According to a report released in June by a consortium of housing activists, 55 percent of the 81,000 Airbnb listings in New York City violate that law. (This June the New York Legislature passed a law barring the listing of such units on a home-sharing site; violators could be fined up to $7,500.)

The report contends that the number of vacant and available apartments in New York City would increase by 10 percent if “commercial profiteer” listings—listings that are booked several times per month and listed for at least three months per year by someone who advertises multiple apartments on Airbnb—were returned to the rental market. Presumably, rents would drop by an offsetting amount, making for significantly more affordable shelter for low- and moderate-income families.

The study showed that rents had risen fastest in the New York City neighborhoods where Airbnb is the most popular—including gentrifying, predominantly minority neighborhoods like Bedford-Stuyvesant. It’s only fair to note that the report was commissioned by affordable housing advocates who have long been critics of Airbnb.

New York is not alone in trying to deal with its home-sharing dilemma. Municipal leaders around the globe are increasingly torn between how to balance the goals of affordable housing and still reap the vitality and revenue from the so-called sharing economy.

In Chicago, city aldermen passed an ordinance in June, backed by Mayor Rahm Emanuel, that imposes a 4 percent surcharge on short-term rentals—that is, in addition to Chicago’s 7.74 percent hotel tax. The surtax will be used to help fund services for the homeless.

San Francisco, where rents are famously high, requires short-term rental sites to take down any rental listing not registered with the city or be subject to fines for each one. Airbnb is attempting to block the ordinance by suing the city in federal court. It claims the city is violating the Communications Decency Act, which prevents governments from holding Internet platforms liable for content created by their users.

Meanwhile, several cities are tapping into home-sharing as a revenue stream—ignoring, for now, the issue of affordable housing. In a recent deal worth about $5 million a year to Los Angeles, Airbnb will collect lodging taxes from rental hosts who are supposed to, but often do not, pay the same kind of lodging taxes as hotels. L.A. tax officials have struggled to track down hosts and make sure they pay. Now they’ll get some help from Airbnb itself.

“There is going to be a lot of debate about how this industry is regulated,” Miguel Santana, L.A.’s top budget official, told the Los Angeles Times. “We just want to make sure that while that conversation is taking place, the city is not missing out on millions of dollars in revenues.”

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By Frank Shafroth

Supporters of home-sharing services recently gathered outside San Francisco City Hall.
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Which is the best Chicago baseball team: Cubs or Sox? Which do you prefer: Chicago dog or deep dish pizza? Toilet paper roll direction: under or over? These are just a few of the questions smokers along Chicago’s beaches are being asked this summer. In an attempt to keep its sidewalks and beaches clean, the city has partnered with the Alliance for the Great Lakes to pilot voting-style cigarette butt bins. The receptacles feature two deposit slots, each with a question. Smokers vote by putting their cigarette butts into one of the two compartments. The receptacles each hold approximately 400 to 600 cigarette butts, which are eventually recycled. Despite a 2007 smoking ban at Chicago beaches, cigarette butt litter remains a problem. In fact, even though smoking is on the decline nationwide, cigarette butts are still the most littered item in the U.S. The playful anti-littering campaign isn’t the first: The idea actually originated in London, and Boston adopted it this spring. —Elizabeth Daigneau
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CAN YOUR LOCAL GOVERNMENT’S NETWORK KEEP UP WITH ITS CITIZENS?

To be effective, local governments need to communicate with their citizens. In today’s world, that means going online. 94% of local officials agree that e-government requires a ubiquitous network, but that requires bandwidth. Remain on a weak network and your citizens may end up dealing with slower response times and limited access to critical services. Fortunately, Comcast Business offers the high-performance Ethernet network that local governments need and citizens demand. Plus, its extra redundancy maximizes availability at a lower cost that meets government budgets and standards of security.

Visit business.comcast.com/government or call 866-429-2241 to learn more.