The road ahead is packed with big issues, and here are 10 of the biggest.

BY JULIE LAYS

The chaos in Washington, D.C., has preoccupied the nation. Except for the distraction of far too many horrific man-made and natural disasters, all eyes have been fixed on the federal government for the past year. Meanwhile, state legislators have been tackling tough problems and making difficult decisions—with no certainty of what’s coming from our nation’s capital.

All 50 state legislatures held regular sessions in 2017 and, despite waiting for action and answers from Washington on key issues, managed to pass more than 21,000 new laws, some on the hottest topics of the year. This year looks to be similar.

All legislatures, but the four biennial ones, will be in session in 2018, addressing an abundance of issues, many unique to their states. Issues that have a wide impact and presence in almost every state made it onto our annual Top 10 list this year. All have questions about federalism at their core—What role will states play? How much flexibility will legislatures have? Will state laws be pre-empted? If states are given more responsibility, will funding accompany it?

Amidst the questions and uncertainties swirling around D.C., state lawmakers will find ways to address these important issues, as they always have.

1

OPIOID EPIDEMIC

How do we stop opioid addiction and overdoses?

President Trump declared the opioid epidemic a public health emergency in October, but state legislatures have been fighting the crisis for years. Every state has enacted some type of measure addressing opioids in the past two years.

The number of victims is staggering. Opioids—which include prescription painkillers (oxycodone, hydrocodone, methadone), heroin and fentanyl—killed more than 33,000 people in 2015, more than any year on record. Nearly half of those deaths involved a prescription opioid. In fact, more people were killed by opioid overdoses than by motor vehicle crashes in 2015.

The extent of the epidemic is astounding. Opioid addiction affects people of both sexes, all racial and socioeconomic groups, from rural areas to big cities and everywhere in between. State resources are strained by overwhelmed emergency rooms and first responders, crowded morgues, jam-packed jail cells and mounting foster care caseloads, which are now at their highest level since 2009. Babies under age 1, sometimes addicted at birth, comprise around 17 percent of children entering foster care.

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As the secondary effects of this crisis grow, officials in health, criminal justice, human services and other policy areas are working together to fight the epidemic on all fronts while also ensuring that those who need effective pain management drugs can continue to get them.

Hundreds of bills were introduced in 2017 and you can expect to see more in 2018. Legislation will address:
• Guidelines for, or limits on, opioid prescriptions
• Access to naloxone, the overdose reversal drug
• Immunity for those who call 911 to seek medical assistance
• Sentencing for drug users and traffickers
• Training and education for providers
• Access to community-based treatment
• Treatment for those in or involved with the criminal justice system
• Registration and licensing of pain clinics
• Programs to collect unused pills
• Funding for immigrant services like English language and citizenship classes
• Use of the E-Verify database to confirm work authorization
• Immigrants’ eligibility for higher education financial aid, health insurance or professional licenses

Ultimately, however, immigration is a national responsibility that state lawmakers say requires a national solution.

2 IMMIGRATION OVERHAUL
Will states continue to take on a greater role in immigration policy?

Immigration policy, in general, has evolved into a shared responsibility among the local, state and federal governments. The federal government decides who’s allowed in, while states provide services for them once they are here. The Trump administration has cut the number of refugees to its lowest level, and has asked Congress to decide the future of the Deferred Action for Childhood Arrivals program for unauthorized immigrants. But state lawmakers continue to press for a total overhaul of what many consider to be antiquated immigration laws, mostly unchanged since Ronald Reagan signed the Immigration Reform and Control Act in 1986. That law tightened security measures at the Mexican border, set penalties for hiring unauthorized workers and allowed immigrants who’d entered the country before 1982 to apply for amnesty.

With limited federal action, states have been tackling local immigration concerns. Legislatures in all but three states enacted 90 percent more bills dealing with immigration in the first half of 2017 than they did in 2016. And that trend will likely continue into 2018. Legislation will address:
• In-state tuition and driver’s licenses for unauthorized immigrants
• Sanctuary laws that limit cooperation with federal immigration authorities
• State law enforcement efforts to control unauthorized immigration
• Funding for immigrant services like English language and citizenship classes

The administration has focused on environmental regulations but several other rules targeted for rollback include the Endangered Species Act, the Clean Water Act, the Methane Reporting Requirement, the ban on off-shore drilling in the Atlantic and Arctic, and fracking regulations on public lands. Other rules targeted were meant to protect wetlands and tributaries, grizzly bears, whales and sea turtles, and our national parks.

The administration has focused on environmental regulations but several other areas, like labor and education, have seen cuts as well. Companies seeking federal contracts are no longer required to report labor standards violations, and employers do not have to maintain accurate records of serious illnesses and job-related injuries for five years.

In education, schools are no longer required to weight student achievement more heavily on test scores and graduation rates than other factors. They also no longer must prepare a detailed annual report on student achievement for parents and the public. And that’s just a few of the many that have been overturned.

3 DEREGULATION OF FEDERAL RULES
How far will the administration go in overturning rules and regulations?

During the campaign, Trump promised to roll back 80 percent of all federal rules, regulations and agreements that he said were stunting economic growth and hindering job expansion. He appears well on his way to fulfilling that pledge. In his first 100 days in office, he overturned 23 Obama-era environmental policies. Many of the administration’s targets deal with climate change, the big ones being the Clean Power Plan and the Paris climate agreement.

Other regulations targeted apply to the coal, oil and gas industries, including a methane reporting requirement, the ban on offshore drilling in the Atlantic and Arctic, and fracking regulations on public lands. Other rules targeted were meant to protect wetlands and tributaries, grizzly bears, whales and sea turtles, and our national parks.

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4 CYBERSECURITY THREATS
How can we prevent hacking and cyber-breaches?

From the breach of millions of people’s personal data at Equifax to Russian hackers trying to influence our presidential election, cyberattacks, in their many guises, continue to concern policymakers.

Hackers are breaking into systems full of personal, sensitive information to steal individuals’ identities and financial information. They are disrupting campaigns by spreading “fake news” to discredit and embarrass candidates, or holding public entities hostage with threats of going public with the sensitive data they’ve stolen.

As attacks increase in frequency and sophistication, so does their threat to government security, economic prosperity and public safety. State legislators will be considering ways to beef up their security practices, and still make government open and accessible to the public. Legislation states are likely to debate would:
• Exempt a wider array of cybersecurity-related information from public records laws
• Expand laws that require businesses and governments to notify potential victims of a breach
• Offer economic incentives to companies to invest more money in cybersecurity
Medicaid will also be high on legislative agendas, as further changes come from D.C. The Trump administration promised additional flexibility through Section 1115 waivers, which allow states to sidestep certain requirements to reform their Medicaid programs to better suit their unique needs. For example, waiver requests may be crafted to: expand or restrict eligibility criteria; improve how services are delivered; integrate behavioral health with primary care; charge copayments; use managed-care plans for long-term care; establish work requirements for certain enrollees; tie provider payments to the quality and results of the care given; and coordinate services for patients with complex needs.

State legislators can’t fight this battle alone. They will be recruiting all levels of government and industry to work together in this battle against a growing army of cybercriminals.

HEALTH CARE REFORM
Where are we with health care reform?
Talk about uncertainty. No issue faced as dubious a future last year as the Affordable Care Act. Although three attempts failed to repeal and replace it, the Trump administration has shortened the enrollment period for the federally run exchanges, substantially cut enrollment assistance and advertising, discontinued payments to insurance companies to cover their losses for enrollees who qualify for cost-sharing subsidies, and issued rules to roll back a federal requirement that employers include birth control coverage in health insurance plans.

States, as the primary regulators of insurance, will continue to adjust to federal cost-sharing changes and work to balance affordability of the plans with the benefits they offer, while maintaining access to necessary services. Lawmakers will also:
• Evaluate how to respond to potential federal pre-emption of state regulations that protect insurance consumers
• Use Section 1332 innovation waivers to modify provisions in the current federal law
• Explore the potential for lowering the cost of prescription drugs through purchasing agreements and rebates
• Shift care toward prevention and wellness services
• Expand the scope of practice of some midlevel providers
• Increase the use of telehealth

FEDERAL ROLE IN MARIJUANA
Will the federal government interfere in states with legalized marijuana?
Marijuana makes yet another appearance on our hot topics list. Eight states and the District of Columbia have legalized small amounts of marijuana for adult recreational use, and 29 states, D.C., Guam and Puerto Rico have legalized medical marijuana. Throw in medical access to low-THC cannabis products, and you get 46 states that allow some level of legal use of marijuana.

States with recent legalization initiatives have been looking to experienced states like Colorado and Washington to see what lessons can be learned and hurdles avoided. But the growing focus is on the federal role in marijuana policy. Several bills in Congress would improve tax policy for states that have legal marijuana businesses. Others would change the federal scheduling of marijuana, legalize adult use of marijuana and end federal prohibition. But, for now, federal law still classifies the plant as a Schedule I drug, defined as dangerous, with no accepted medical use and a high potential for abuse.

State legislation in 2018 addressing the federal role will likely reflect state actions from 2017. California and Washington each have legislation pending that would prohibit state or local agencies (or public resources) from assisting the federal government in any investigation that would interfere with the states’ lawful regulation of marijuana businesses and products. This includes taxation, banking and other areas.

Other bills or resolutions pending in six states call on Congress to reschedule the drug or otherwise allow state authority over marijuana policy.
AUTONOMOUS VEHICLES

Will states retain authority over autonomous vehicles and other new technologies?

Artificial intelligence is changing our world in profound ways, with self-driving cars being one of the most visible and intriguing applications of the new technology. State legislators are working hard to stay ahead of developments and will continue to look for ways to reap the benefits AI offers while fending off the dangers it presents.

Since 2012, at least 41 states and D.C. have considered various policies on autonomous vehicles. In five states, governors have issued executive orders regarding the vehicles, and in 21 states, lawmakers have passed bills. The legislation covers issues regarding testing and operating the vehicles, as well as insurance, privacy and cybersecurity concerns.

The federal government has shown support for the vehicles’ development but some state officials worry how far Congress may go (i.e., pre-emption of state laws) in support of making regulations uniform across the country. The federal government has issued a couple of voluntary guidances on self-driving cars, and last fall Congress began debate on legislation that could have on state energy policies.

The federal government has issued a couple of voluntary guidances on self-driving cars, and last fall Congress began debate on legislation that would support and encourage the industry. The federal legislation would allow manufacturers to receive exemptions from certain safety rules and would give Congress and federal regulators the authority to set performance standards. But it would leave states with authority over issues such as licensing, liability, insurance and law enforcement—unless those rules are considered “an unreasonable restriction” on the vehicles’ performance.

If Congress passes legislation on autonomous vehicles, that will only heat up the already very hot issue for state lawmakers.

THE CHANGING ENERGY INDUSTRY

What is the states’ role in building, maintaining and paying for safe, reliable energy?

State legislatures are facing many decisions regarding the nation’s energy supply. Traditional coal and nuclear power plants are fighting to stay competitive as natural gas drives down power prices and renewables become more cost-competitive. At the same time, the demand for electricity has slowed and the country’s energy infrastructure has aged, with transmission lines and pipelines wracked by hurricanes, wildfires and other events.

New technologies and distributed energy resources are also changing the way energy is produced and used, allowing people to control their home thermostats from their phones, install new chargers for their electric vehicles or add solar panels to their roofs. While considering policies and regulations to support or deter these new technologies, lawmakers will also be discussing the possible cyberthreats these new technologies present. Policies high on legislatures’ energy agendas include:

• Ensuring a modern, reliable grid
• Protecting the grid from cyberattacks and extreme weather
• Studying the impact of emerging technologies, like solar energy, on the electric grid
• Considering supports for struggling resources, such as nuclear plants
• Offering incentives to buy electric vehicles and install charging stations
• Promoting smart-grid technologies that deliver electricity efficiently

State legislators are also monitoring federal deregulatory action and what impact that could have on state energy policies. It’s unclear at this point what actions will actually go into effect, but that won’t deter state legislators from continuing to consider how best to address the rapidly changing energy sector.

FEDERAL TAX REFORM

What will federal tax reform do to state policies and budgets?

Republicans in the U.S. House and Senate introduced two different bills to reform taxes in November. At press time, neither of the bills had reached the floor of either chamber, but both proposed eliminating deductions that would affect state budgets—and perhaps make states rewrite some of their own tax laws.

The most notable change would be the elimination of the deduction for state and local taxes that has existed in the federal tax code since its inception. Eliminating it could lead to higher taxes for tens of millions of middle-class taxpayers and could create administrative challenges for state governments, as many couple their income tax systems with the federal government’s. State legislatures would likely need to change their own tax laws if these changes survive in the final reform package.

Also potentially on the chopping block are private activity bonds, which allow tax-exempt municipal bonds to be issued on behalf of a government for a project built and paid for by a private developer. This type of debt typically is used to finance public-interest projects, such as low-income housing, hospitals or airports.

Other deductions suggested for elimination include:

• The sale of municipal bonds for professional sports stadiums and privately run infrastructure projects
• Federal subsidies for states’ use in attracting businesses to locate within their borders
• The federal Work Opportunity Tax Credit, available to employers who hire and retain veterans and other people who experience barriers to finding work

State lawmakers will be active in areas beyond these Top 10, of course. Many will be responding to current events and looking at restrictions on public protests, mitigation and response to natural disasters (wildfires, hurricanes and floods), limits on automatic weapons and bump stocks, and protections against sexual harassment and violence.

That’s plenty for one session.