Weapons to Wildlife

Restored nuclear weapon sites bring new opportunities

Federal Regulations

Lead Poisoning

Scope of Practice
BIOPHARMACEUTICAL RESEARCHERS HAVE UNEARTHED TREATMENTS THAT ARE ERADICATING HEPATITIS C.

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The groundbreaking research that recently led scientists to interrupt hepatitis C’s replication could help blaze the trail in tackling a host of deadly viruses.

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The groundbreaking research that recently led scientists to interrupt hepatitis C’s replication could help blaze the trail in tackling a host of deadly viruses.

TREATMENTS THAT ARE ERADICATING HEPATITIS C.
**SHORT TAKES ON NCSL NEWS**

**NCSL EXPERTISE**

“Congress will say you can keep those provisions, but you’ve got to pay for them.”

Executive Director William T. Pound on converting Medicaid to a block grant could potentially shift more costs to the states, in Governing.

“That’s been the national trend for the last 20 to 30 years.”

Brian Weberg on the declining number of attorneys serving in state legislatures due to the difficulty of maintaining law practices while in session, in the Lawrence Journal-World.

“There’s an energy within the school choice community.”

Josh Cunningham on how the election results may prompt more school choice legislation in statehouses, in Politico.

“It could mean tens of billions of dollars for the states.”

Max Behlke on why NCSL identified remote sales tax collection authority as its top state-federal priority in 2017, in Bloomberg BNA.

Matthew Weyer on the challenges of obtaining the waivers non-English-speaking students need to attend bilingual classes in states that restrict bilingual education, on voanews.com.

**IDEAS**

**STANDING UP FOR STATES**

Wisconsin Representative John Macco, left, listens as Representative Julie Stokes of Louisiana discusses strategies to oppose any congressional efforts to eliminate or limit the state and local tax deduction (SALT).

The legislators are members of the SALT Task Force, which gathered in conjunction with the NCSL Executive Committee Meeting in Scottsdale, Arizona, in January.

**SUPPORT**

**NCSL FOUNDATION FOR STATE LEGISLATURES**

More than 200 leaders from corporations, associations, nonprofits and unions are sponsors of the NCSL Foundation for State Legislatures. Their common mission is to strengthen America’s legislatures, counteract cynicism and distrust of the legislative process, and help lawmakers confront and solve the critical issues of our time.

The Foundation helps sponsors build relationships with policymakers and peers, and gain access to the nation’s most comprehensive and up-to-date state policy resources.

The Foundation awarded more than $1.5 million to NCSL in 2016 to support the Center for Ethics in Government and the Women’s Legislative Network, as well as numerous special projects, from leaders’ services to online learning for legislators and staff.

From left, NCSL Foundation Vice President Jean Cantrell of Philips, Jeff Woodhouse from PhRMA and Barbara Boner of Novartis Pharmaceuticals discussed priorities for 2017 at the NCSL Foundation Reception during NCSL’s Winter Executive Committee Meeting in Scottsdale, Arizona.

The NCSL Foundation’s Samantha Nuechterlein, left, and Caroline Carlson help sponsors bolster their government affairs efforts. Visit www.ncsl.org/foundation for more information.
KUDOS

AND THE WINNER IS …

NCSL’s Executive Committee Task Force on State and Local Taxation was named Tax Organization of 2016 by State Tax Notes. The premier publication of tax news and analysis honored the bipartisan group of lawmakers and staff for pushing remote sales taxation to the forefront. The Executive Committee created the task force in 1999 to promote better tax policy in the states.

CONNECTIONS

KEEPING DATA SECURE

NCSL’s Cybersecurity Task Force met at Microsoft headquarters in Redmond, Washington, to tour the company’s Digital Crimes Unit, Cyber Defense Operations Center and Envisioning Center. Among other things, the group of 26 legislators and staff from 11 states learned about using big data analytics, protecting data, and detecting and responding to cyber threats. In addition, NCSL hosted a session on new vehicle technologies, privacy guidelines and cars of the future.

LAWMAKER TO LAWMAKER

An NCSL Study Tour delegation to Israel met with academics, ambassadors and members of the Knesset, Israel’s unicameral parliament, and visited some of the nation’s holy sites. NCSL organizes international study tours to promote goodwill among lawmakers around the world.

FACT FINDING FORAY

Legislative leaders from five states traveled to the United Arab Emirates in December on a Nuclear Fact Finding Trip. Sponsored by NCSL, with support from the Nuclear Energy Institute, the group examined how the UAE is meeting its growing energy demand, diversifying energy resources and investing in nuclear power. Left, the group prepares to visit the Barakah Nuclear Plant, the UAE’s first nuclear power facility and the largest nuclear construction site in the world.
Moving Kids to the Mainstream

Lawmakers are paying particular attention to a fast-growing segment of the K-12 school population: students who are learning English as a second language. These students currently comprise 10 percent of the K-12 school population nationwide, but the portion is projected to increase to 30 percent by 2050.

Now called “English learners,” they face a significant challenge. While still mastering their first language, they must also learn material presented in English, with some help in their native language when available. Their achievement, as a whole, is substantially lower than their native-English-speaking classmates. On the 2015 National Assessment of Educational Progress, for example, the percent of fourth grade English learners reading proficiently trailed their white counterparts by 30 percent and in eighth grade by 32 percent.

To help close the gap, the challenge for lawmakers and educators is accurately determining when these students are ready to be reclassified—that is, moved from a classroom where they receive support in their native language into mainstream English classrooms. Reclassifying too early can lead to frustration and lower achievement, but reclassifying too late can result in social and educational stigmas, sometimes creating long-term English learners who never fully integrate into the mainstream.

There is considerable variation in states’ reclassification criteria. The Every Student Succeeds Act requires the reclassification process to be standardized within each state and provides time for inspection and innovation of these policies before state plans are due on Sept. 18, 2017.

Ten states and the District of Columbia use the federal minimum requirement: the composite score from a test of English language proficiency that combines the individual scores in speaking, listening, reading and writing. Nineteen states use these specific language scores, in addition to the composite score, providing a more robust picture of the students’ abilities. Twenty-one states use several measures in addition to the English language proficiency test scores. These can include recommendations from teachers or principals based on student data and observations, English literacy and writing achievements, and parental feedback.

Improving the reclassification process is a higher priority, of course, in states with large numbers of English learners. In California, where English learners make up 22 percent of all K-12 students, the needs differ from those, say, in the Dakotas, where they comprise fewer than 5 percent.

So what’s best for English learners? Research confirms the obvious: using a variety of assessments to gather the most information possible about students’ actual abilities leads to more success. Researchers caution, however, that any change in policy should be based on criteria that are valid and reliable.

—Matt Weyer

Communicating in Code

Should computer coding be considered a foreign language? That’s a question some lawmakers are asking in discussions on whether to allow high schoolers to substitute computer coding classes for foreign language requirements.

This is just one strategy educators and policymakers are considering as part of a growing trend to improve K-12 computer science education in general. Proponents of allowing the substitution argue that computer coding skills are valued communication skills necessary to compete in the 21st century job market.

Yet, according to Code.org, there are more than 500,000 computing jobs open in the United States, due to a lack of qualified applicants.

Foreign language teachers have argued against the idea, saying that coding and foreign language skills are fundamentally different. French, Japanese and Spanish, for example, have vocabularies of approximately 100,000 words, according to the American Council on the Teaching of Foreign Language. The typical computing-language vocabulary is about 100 words.

Thirty-three states allow certain computer science courses to count for high school graduation requirements and some states allow students to replace certain math courses with computer coding courses.

Other efforts to boost computer science education include establishing standards and strengthening the computer science teacher certification process.

—Isaac S. Solano
The battle against human trafficking continues. Every state has passed a law to prosecute traffickers, yet often the public remains unaware that trafficking is occurring close to home or that nearby businesses may be benefiting from criminal sex or labor trafficking activity.

One tool many states are using is the National Human Trafficking Hotline, a telephone and web service survivors can turn to for help and that the public can use to report suspected cases.

Twenty-nine states and the District of Columbia require or encourage state entities to educate the public about the hotline. Eighteen states and the District require information about the free service to be posted during major sporting events and conventions or permanently in certain businesses and facilities, including hotels, adult entertainment venues, hospitals, massage salons, rest areas, truck stops, bars, night clubs and agricultural labor offices.

Calls increase in number every year. In 2012, the hotline received 13,325 calls, resulting in 3,279 reported cases; last year it received 20,424 calls, with 5,748 cases reported.

What is the hotline number? 1 (888) 373-7888. You can also go to the website humantraffickinghotline.org.

—Rich Williams

One of Colorado’s November ballot initiatives made the state the latest to legalize physician aid in dying, which allows a terminally ill patient to receive life-ending medication from a doctor. The state is not the first to consider this controversial and emotional issue, also known as physician-assisted suicide or death with dignity, nor is it anticipated to be the last.

Laws in five states—California, Colorado, Oregon, Vermont and Washington—currently allow physician aid in dying. A court ruling in Montana provides protection from prosecution to physicians who aid dying patients.

Oregon was the first state to allow physician aid in dying in 1997, when voters approved the Death with Dignity Act. Colorado and Washington joined Oregon in approving the practice through a voter-initiative process. Vermont and California legalized the practice through legislation in 2013 and 2015, respectively.

Although not always easy to implement, states with current aid-in-dying laws have developed guidelines for participating patients, including eligibility and reporting requirements. In Oregon, for example, participating patients must be state residents who are at least 18 years old. In addition, they must have been diagnosed as terminally ill with a prognosis of dying within six months, and have the ability to communicate their own health care decisions.

Comparable legislation has been considered but not passed in more than 20 states.

Some opponents fear that physician aid in dying creates the potential for abuse, particularly toward the elderly or people with disabilities, who could be pressured to end their lives. In addition, some religious groups oppose the legislation for moral reasons, and some physicians oppose the act because they feel it directly contradicts their responsibility to help patients. Supporters argue that the bills include safeguards against such abuse and help patients end their suffering in a humane way.

—Samantha Scotti
For the nearly 11.5 million people who cycle in and out of prison and jail every year, employment is key to becoming a productive, taxpaying member of the community. But a criminal record, combined with spotty experience or little training, can make finding and securing a meaningful job difficult.

State lawmakers, corrections agencies and the business community are teaming up to provide in-prison and post-release educational and vocational training so that offenders can learn the skills they need to land jobs. A trio of policies designed to level the playing field for former inmates has been enacted in a growing number of states over the last couple years.

Certificate of employability laws in at least 20 states authorize courts or parole boards to issue certificates that serve as proof of rehabilitation for employment purposes or allow some occupational disqualifications to be lifted.

Some of these laws also carry employer liability protection for hiring ex-offenders who have been granted certificates. In cases where a certified employee causes injury or damages, the policies protect employers from lawsuits for negligent hiring or for a failure to adequately supervise an employee solely because of a previous criminal conviction. At least 12 states have laws that protect employers who hire people with criminal records.

“Ban the box” is a term used to describe policies that prohibit employers from asking about an applicant’s criminal record on an initial employment application. Currently, 20 states and the District of Columbia, along with many localities and some governors, regulate at what point in the hiring process an employer can ask about an applicant’s criminal history. Most of these laws apply only to public employers and licensing boards.

Many private employers are instituting their own fair-chance hiring policies such as banning the box, providing specialized human resources training and hosting targeted job fairs. Some, such as Koch Industries and Google, also have taken the lead on local community and national education campaigns. Google is working with other Silicon Valley tech companies to recruit, train and support those re-entering the community. Koch Industries and the Charles Koch Institute are hosting educational forums with some of the country’s top experts.

—Alison Lawrence

Giving Ex-Offenders a Fair Chance at Employment

States with laws that:
- Offer certificates of employability
- Protect employers from liability
- Offer certificates and liability protection
- Limit when employers can ask about an applicant’s criminal record (ban the box)

Source: NCSL, 2017
Restoring former nuclear weapons production sites offers nearby towns and tribes new opportunities.

BY MINDY BRIDGES

Ask almost anyone and they will have an opinion about the United States’ role in the development and production of nuclear weapons. But no matter how one feels about them, the U.S. government, states and tribes are still, decades after the end of the Cold War, dealing with the environmental aftereffects of their production.

More than 100 sites in 30 states and Puerto Rico have been closed and restored. Only 16 remain, covering less than 300 square miles in 11 states. But many will require some of the most technologically challenging work yet. If current funding trends continue, cleanup activities will carry on until at least 2070 with a price tag of well over $300 billion.

A Cold War Legacy

Following the end of World War II, the federal government expanded nuclear weapons production until, at its peak in the late 1980s, more than 100 sites were involved in developing, producing or testing a total of some 31,000 weapons. At the time, the U.S. focused more on keeping pace with the Soviet Union’s weapons production than on the potential impact the arms race might have on the environment, public safety and government coffers. When the Cold War ended, however, the focus shifted to the extensive environmental cleanup needed.

The U.S. Department of Energy’s Office of Environmental Management is the lead agency responsible for cleaning up the hundreds of contaminated buildings, dozens of square miles of contaminated groundwater, and millions of gallons of radioactive waste at these federal sites, many with national laboratories.

A variety of radioactive, chemical and mixed hazardous waste is stored in hundreds of aging underground tanks. Infrastructure and waste disposal practices during the 1940s left much of the waste concentrated at sites scattered across the nation.

In 1989, 11 states signed the first formal agreements with the federal government to clean up...
sites within their borders. Since then, the Office of Environmental Management has worked with states, territories, tribes and local communities to restore 107 sites, including five large ones—Rocky Flats in Colorado, Fernald and Mound in Ohio, Pinellas in Florida and Weldon Spring in Missouri.

The Federal Facilities Compliance Act of 1992 strengthened the states’ role in ensuring that cleanup standards and milestones were met. And a funding boost in 2008, through the American Recovery and Reinvestment Act, expedited the cleanup efforts at many of these sites. But the work continues.

It’s About Accountability
In recent years, states have taken a strong stance in holding the federal government accountable for its commitments through litigation, fines and other enforcement actions.

The Energy Department, for example, agreed to pay New Mexico $73 million in April 2015 because of two incidents the year before that temporarily halted operations at the Waste Isolation Pilot Plant, known as WIPP, in Carlsbad, New Mexico, the country’s only geologic disposal site for transuranic waste.

The settlement pays for infrastructure and transportation projects that benefit both the Energy Department facilities and the surrounding communities.

WIPP reopened on Jan. 9, not a day too soon for many sites across the country that rely on the giant depository for the safe, secure disposal of their waste.

“A lot of defense-related nuclear waste still remains to be disposed of,” says New Mexico Representative Cathrynn Brown (R). “WIPP will continue serving the nation for many more years to come.”

Milestones Matter
In southeastern Washington, along the Columbia River, the Hanford Site contains a variety of cleanup challenges, including roughly 56 million gallons of high-level nuclear waste in 177 underground storage tanks. The cleanup began in 1989, but since then, some agreed-upon milestones have not been met. Concerns over the delays have led to several lawsuits filed between the U.S. Department of Energy and the state of Washington. Oregon has also joined in litigation over potential damage to the Columbia River.

The most recent round of litigation ended in March 2016 when U.S. District Judge Rosanna Peterson resolved the ongoing lawsuit between the state and the Department of Energy, primarily over...
schedules to retrieve and eventually treat Hanford’s tank waste. The Department of Energy wanted to remove most of the scheduled milestones, but the judge ruled milestones were essential and “should be viewed as enforceable legal duties rather than optimal, idealistic goals.”

That decision was a win for the state of Washington. Completion of the treatment facilities, however, was pushed back by nearly 15 years to 2036—a significant delay for a project that has repeatedly foundered.

Representing the state’s 8th District, where Hanford is located, Senator Sharon Brown (R) says the site is one of her top legislative priorities.

“It is imperative,” she says, “that all stakeholders work together to move forward with the cleanup of Hanford’s legacy waste.”

Additionally, state and federal governments have worked with at least 26 federally recognized American Indian tribes to better coordinate cleanup efforts. Tribal use of these lands began long before nuclear processing operations were contemplated. At Hanford, for example, Native American technical staff and leaders have worked with the Department of Energy to restore areas of the site with native plants.

Washington Senator John McCoy (D), a member of the Tulalip Tribe and the National Caucus of Native American State Legislators, is sure the tribes will maintain and pass on the history of the area as well.

“The tribes know through traditional stories what was there, what it looked like, what plants and animals were there, and the history,” he says.

“A thousand years from now it will be the tribes that will tell the history.”

Currently, tribal programs monitor natural and cultural resources at sites such as Idaho National Laboratory.

**New Missions**

After contending with the challenges of cleanup, many local communities have benefited from new economic development opportunities offered at these revamped national laboratories. With the secretive barriers down, many former weapons-building sites have been converted into hubs of wide-ranging research, from biomass development to medical break-
**Visit Birthplace of ‘Little Boy’ and ‘Fat Man’**

If visiting every national historical park is on your bucket list, don’t miss the Manhattan Project National Historical Park. It includes the areas of three states where secretive operations, called the Manhattan Project, successfully developed the first atomic weapon in the mid-1940s. Still in the early stages of development, the park will span three locations—Los Alamos, New Mexico, where “Little Boy” and “Fat Man,” nicknames for the bombs dropped on Hiroshima and Nagasaki, respectively, were designed and built; Oak Ridge, Tennessee, where uranium was enriched; and Hanford, Washington, where plutonium was produced.

The National Park Service will develop exhibits, tours and interpretive materials to teach visitors about the history, science and people behind the creation of the bombs.

“It is going to preserve a part of not only state and local history but also our world history. It will bring tourist traffic and prosperity dollars,” says Tennessee Representative John Ragan (R).

For those who can’t wait to visit these and other restored sites, virtual tours of several are available online and via smartphone apps.

Los Alamos, New Mexico, located about 35 miles northwest of Santa Fe, is home to the national laboratory where the first atomic bomb was constructed. The town has been referred to as “the city that never was” because of its secretive and supposedly temporary mission.

“There is a deep pride and ownership from the local community in the work that LANL [Los Alamos National Laboratory] does and has done; a large portion of the town is employed there,” says New Mexico Representative Stephanie Garcia Richard (D).

But, she says, the site and local community have a complex relationship.

“Responding to anti-nuclear sentiment from the surrounding communities, dealing with the ups and downs of federal funding changes, and confronting the intricacies of contracting work to local northern New Mexico businesses are just some of the challenges posed by hosting this DOE facility,” Garcia Richard says.

Cleanup continues in parts of the Los Alamos site, which currently employs more than 10,000 people and serves as a hub for national security and scientific research.

Native Americans from four surrounding pueblos—Cochiti, Jemez, San Ildefonso and Santa Clara—work with the laboratory and the state of New Mexico on stewardship of the land. They monitor environmental conditions, including air and water quality. The Pueblo de San Ildefonso is the only tribe to share a boundary with a federal facility, and the lands belonging to the pueblo can be seen while standing inside the cleanup areas.

In Tennessee, recent cleanup successes have helped Oak Ridge National Laboratory become an economic driver for the cities of Oak Ridge and Knoxville. The cleanup program achieved one of its greatest milestones in August last year with the demolition of building K-27, which, when built in the 1940s, was the largest facility in the world producing enriched uranium. The building in what is now the East Tennessee Technology Park was a U-shaped complex that covered 44 acres under one roof and spanned a mile in length.

With the surrounding area’s successful restoration, the technology park has taken on a new life. More than 1,000 acres and 332,000 square feet of building space have been identified for transfer and leases to the private sector and local government.

Tennessee Representative John Ragan (R) serves the area and is quick to point out the potential at the site and the ways it could benefit its constituents. The demolition of K-27 opens the door for economic development while decreasing the environmental risks and safety concerns at the site.

**Parks, Wildlife and History**

The Fernald Preserve in Ohio and Weldon Spring in Missouri both are home to nature preserves and provide opportunities to learn about the history of the sites.

Fernald, outside of Cincinnati, has a visitor center and green space, including wetlands, 7 miles of public nature trails and wildlife viewing areas. Between 1951 and 1989, the site produced high-purity uranium metal products—the initial step in producing a nuclear weapon.

Fernald opened to the public in 2008 after the cleanup was completed. With
Getting the Job Done

As the transition to a new administration continues, the U.S. Department of Energy is keeping an eye on how best to provide innovative solutions along with long-term stewardship for this Cold War legacy.

Deteriorating buildings and other structures that were once assets over time can easily become liabilities.

“We don’t get younger year to year,” former Office of Environmental Management Assistant Secretary Monica Regalbuto said in an interview at the end of last year on the status of the cleanup sites.

“The state of infrastructure and maintenance programs can have a direct impact on our ability to perform our cleanup mission,” she said, adding that providing predictable and adequate cleanup funds now could reduce current risks and even future costs.

The remaining sites need to be maintained, safeguarded and eventually remediated, all of which are likely to cost less if addressed sooner rather than later.

The federal budget for the environmental cleanup work peaked at $7.3 billion in fiscal year 2007, and annual funding levels have remained flat since, at around $6 billion. The agency is looking to do more with less and take advantage of new technology to make up for budget shortfalls.

The agency reported saving more than $100 million in FY 2016 from various efforts across the sites. Reductions in staff and consolidated contracts have contributed to this success.

The Office of River Protection at Hanford used new wireless technology to decrease work hours needed to manage the tank waste. The Porstmouth and Paducah Project Office, which works across the Kentucky and Ohio state lines, adjusted power usage and completed maintenance processes to reduce costs.

The cost savings can be used to fund additional work that keeps projects ahead of schedule and below budget. Officials at the Savannah River Site in South Carolina, for example, celebrated completing the construction last year of a new waste processing facility that came in $60 million under budget and eight months ahead of schedule due to contractor efficiencies. According to Jack Craig, the site manager, the facility “will allow us to process waste at 10 times the rate we are processing it today, accelerating the cleanup.”

Officials at other sites are watching and learning from each other, strengthening partnerships and building relationships with individual labs to take advantage of what Mark Gilbertson, the new director of laboratory policy in the Office of Environmental Management, calls “the synergies of a larger network” supporting the agency’s program.

This new partnership with the national laboratory system expands technology research and offers exciting opportunities to use robots and other advances to make progress and promote worker safety.

Cleaning up dangerous substances at these sites is a complicated, expensive process. But many sites have eventually taken on new lives, providing opportunities to local and tribal communities. With ongoing technological improvements, involvement from the local communities, and steady and predictable funding from the federal government, the final 16 projects will be completed.

Once cleanup is achieved, the surrounding communities will have a role in determining what comes next. And that’s a win-win by any measure.
With the right equipment, every lawmaker can be effective.

Most legislatures have started their sessions, and freshmen and veteran lawmakers alike are busy deliberating, debating and discussing the dilemmas of the day. For some, stress and frustration may be building, while others may feel they lack the necessary tools to be their very best. NCSL is here to help. With these legislative staples in your bag of tricks, you’ll not only survive, you’ll thrive. You can find most of these items for free on our magazine website. Go to ncsl.org/magazine or email magazine@ncsl.org.

**State Legislatures Magazine**
Get inspired, gain some insight, discover a new idea, read a different perspective. Open the magazine of state policy and politics and you’ll hear from colleagues from all across the country. It’s guaranteed to broaden and deepen your understanding of what it means to be a state legislator.

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The ability to search bills from all across the nation can improve your expertise and inform your decision making in any policy area.

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Want more perspectives? Ideas that work? Training that helps? Tips to bring home? Time with colleagues from other states? Then come to Boston Aug. 6–9 for NCSL’s 44th Legislative Summit.

15 Tips
For those who are losing their focus, forgetting why they ever ran for public office to begin with, this classic little booklet is a good reminder. It’s a quick read—light in weight but heavy in thoughtful advice.

LegisBriefs
Get up to speed on all the hot legislative issues new to you. Each two-page brief will give you the gist of the issue: the problem, the pros and cons of possible solutions, the experiences of other states and the federal involvement. Check your inbox; four will be coming your way each month.

Your Phone
The ultimate multitasker is now essential equipment. Use it to visit the NCSL website to browse research reports and bill databases. Follow the NCSL blog and social media pages, and subscribe to the NCSL Today newsletter to get daily state policy news updates.

Headphones
On the go? Check out Our American States—a new podcast from NCSL. You’ll hear compelling conversations about state legislatures, the people in them and the politics that drive them. Subscribe today through iTunes or your favorite podcast app.
1 Bipartisan Merger
Talk about working across the aisle. California Assemblywoman Lorena Gonzalez (D) was married on Jan. 1 to a former Republican member of the Assembly, Nathan Fletcher, the Los Angeles Times reports. Gonzalez and Fletcher, who each have children from previous marriages, celebrated with close family in a ceremony officiated by former Assembly Speaker John A. Pérez.

2 Hounded Homeowners
Virginia hunters, who have long used dogs to track game, are scenting trouble. A bill in the House of Delegates would let localities fine people whose dogs are “running at large,” that is, roaming on other people’s property, the Richmond Times-Dispatch reports. The fine would be $100 per dog per infraction. Landowners must give no-trespass notice verbally, in writing or by posting signs or markers. They must also pay a fee to make a claim under the law. The bill’s sponsor, House Speaker William J. Howell (R), says he isn’t out to punish people whose dogs occasionally trot onto someone else’s land; rather, it’s to help “the guy who’s got 20 hounds every Saturday. He’s talked to the people in the hunt club and they ignore him. It gives him a remedy.”

3 Partner Perks
Michigan is the latest state to enact legislation countering efforts by the Palestinian-led Boycott, Divest, Sanction movement to punish Israel by pressuring countries to restrict trade with the Jewish state, The Algemeiner newspaper reports. The bipartisan law, which doesn’t name Israel, prohibits state agencies from contracting with businesses that boycott a “strategic partner.” Similar measures are on the books in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, New Jersey, Ohio, Pennsylvania, South Carolina and Tennessee. New York Governor Andrew Cuomo approved an anti-boycott measure by executive order.

4 Free Speech Could Cost You
Some Minnesota lawmakers want to get tough on protesters. One proposed bill would make it a gross misdemeanor, with fines up to $3,000 and a year in jail, to block a highway, including entrance and exit ramps, WCCO-TV reports. Another measure would let police departments sue convicted protesters for costs related to demonstrations. After the shooting deaths of two black men by police—one in November 2015, the other last summer—protesters set up encampments and marched onto local interstate highways, blocking traffic. Police say the encampments cost $1 million in overtime pay and damages. Critics say the bills are meant to scare people from engaging in peaceful protest. Other highway-protest measures are being considered in Indiana, Iowa, North Dakota and Washington.

5 A Dose of Virtual Reality
Washington legislators recently got a virtual glimpse of the future. In what was described as a background lesson, members of the state House Technology and Economic Development Committee put on headsets and learned about virtual reality from industry representatives, GeekWire reports. There are currently no VR-related bills before the Legislature, but the industry is growing fast in the Northwest. Some 450 VR ventures are based in the region, the industry reps who testified before the committee estimated. Nationwide last year, investment in VR start-ups jumped to $1.48 billion from $331 million the year before, according to The New York Times.
There’s No App for That
When cellphone users dial 911, emergency operators usually can route the call quickly to the right dispatch center. But when callers don’t know exactly where they are, it can take precious time to locate them and route the call. Legislation introduced in Connecticut would require 911 calls to be routed to the nearest “public safety answering point,” a 24-hour call center. Representative J.P. Sredzinski (R), the bill’s sponsor, isn’t sure the requirement is possible, given current technology. But, “it’s something that needs to be addressed,” he told The Associated Press. “With a phone app, Domino’s knows exactly where you are,” but a 911 dispatcher does not.

Public Safety vs. Personal Liberties
Police and privacy advocates alike are watching Virginia. A state Supreme Court ruling there on how long police can keep data collected by license plate readers could lead to changes in state laws and police departments across the country, The Washington Post reports. The readers are stationary or vehicle-mounted cameras that quickly scan drivers’ plate numbers along with the time and date of the photo. Police credit them with helping them solve crimes, find missing persons and locate stolen vehicles. Twelve states have laws affecting readers, with at least one (New Hampshire) banning their use, and data retention limits varying from 21 days in Maine to three years in Colorado.

Pre-emption Tension
Some legislatures are using pre-emption laws to prevent cities and counties from passing measures they don’t like, TheHill.com reports. In just the last few months, for example, Michigan and Wisconsin lawmakers prevented local governments from banning plastic grocery bags. Municipalities, the argument runs, overstep their authority when they outlaw the bags—or tax sugary drinks, or raise local minimum wages or regulate fracking. Local officials say pre-emption laws, whether state or federal, are a power grab and disregard the will of their voters. A tug of war—GOP-controlled legislatures vs. Democrat-dominated cities—seems to be heating up.

Less Time, Less Crime
From 2010 to 2015, the U.S. scored a criminal-justice twofer: fewer inmates, less crime. The national incarceration rate fell 8.4 percent, and the combined violent and property crime rate dropped 14.6 percent, Pew reports, citing Justice Department data. In 31 states, the imprisonment and crime rates dropped simultaneously. Violent and property crime rates, which peaked in 1991, returned to levels last seen in the late 1960s.

Incarceration, per 100,000 residents, 2015
Low: Vermont, 132
U.S.: 458
High: Oklahoma, 715

Crime, offenses per 100,000 residents, 2015
Low: Vermont, 1,522
U.S.: 2,860
High: New Mexico, 4,332

Pump It Up
Gas-tax changes that went into effect Jan. 1 brought good news and bad news. Drivers in New York and West Virginia got a slight price break at the pump when those states lowered rates by 0.8 cents per gallon and 1 cent per gallon, respectively, USA Today reports. But motorists in seven states are now paying higher prices. Rates per gallon are up by 7.9 cents in Pennsylvania, 7.3 cents in Michigan and 1.5 cents in Nebraska. Four states—Florida, Georgia, Indiana and North Carolina—added less than a penny to their rates.

Less Time, Less Crime
From 2010 to 2015, the U.S. scored a criminal-justice twofer: fewer inmates, less crime. The national incarceration rate fell 8.4 percent, and the combined violent and property crime rate dropped 14.6 percent, Pew reports, citing Justice Department data. In 31 states, the imprisonment and crime rates dropped simultaneously. Violent and property crime rates, which peaked in 1991, returned to levels last seen in the late 1960s.

Incarceration, per 100,000 residents, 2015
Low: Vermont, 132
U.S.: 458
High: Oklahoma, 715

Crime, offenses per 100,000 residents, 2015
Low: Vermont, 1,522
U.S.: 2,860
High: New Mexico, 4,332

Public Safety vs. Personal Liberties
Police and privacy advocates alike are watching Virginia. A state Supreme Court ruling there on how long police can keep data collected by license plate readers could lead to changes in state laws and police departments across the country, The Washington Post reports. The readers are stationary or vehicle-mounted cameras that quickly scan drivers’ plate numbers along with the time and date of the photo. Police credit them with helping them solve crimes, find missing persons and locate stolen vehicles. Twelve states have laws affecting readers, with at least one (New Hampshire) banning their use, and data retention limits varying from 21 days in Maine to three years in Colorado.
The president and Congress are targeting regulations, but the Supreme Court may have the final word.

BY LISA SORONEN

President Donald Trump wasted no time in demonstrating his desire to rid the nation of what he views as unnecessary federal regulations.

On Inauguration Day, his chief of staff, Reince Priebus, sent a memo to all executive agency and department heads. It required them, as previous administrations have done, to postpone all regulations that had not yet gone into effect for at least 60 days until the president’s appointees could review them. It also told them to withdraw any new regulations not yet in the Federal Register.

Then, 10 days into his term, Trump issued an executive order saying that for every new regulation issued, at least two existing regulations must be identified for elimination. That, however, may be easier said than done.

The Administrative Procedures Act requires that elimination of rules not be arbitrary and makes repealing federal regulations as challenging as adopting them. The whole process could take more than a year—and much longer for the most complicated or controversial regulations.

Two regulations on the chopping block are of particular interest to state governments.

The first is the Clean Power Plan, President Obama’s signature climate change measure created under the Clean Air Act and requiring power plants to reduce carbon dioxide emissions. The other involves the “waters of the United States” definition in the Clean Water Act clarifying the federal government’s authority to regulate certain bodies of water.

The Menu of Options

The Trump administration has several ways to reverse these and other regulations. The most effective options, however, are also the most difficult to achieve.

Perhaps the cleanest way to undo final regulations is for Congress to rewrite or eliminate the statutory language being interpreted in them. The final rule regarding the jurisdiction of the Clean Water Act, for example, defines eight categories of water over which the federal government has authority. Congress could simply redefine those categories if Senate Democrats go along with the changes. That’s a big if, of course, and it’s unlikely to happen if they view the effort as

Lisa Soronen is executive director of the State and Local Legal Center, in Washington, D.C.
weakening environmental protections in the final rule.

Another option for the administration is to have the federal agencies rewrite the final regulations. But that would require the agencies to propose new regulations, which could take a long time. The Clean Power Plan regulations, for example, fill more than 300 pages. Any rules to replace them would be subject to a public comment period of either 60 or 120 days. The agency would then have to consider thousands of comments before issuing any new final rules, which most certainly would then be challenged in court by supporters of the current rules.

A third option the president has is to not enforce certain rules. He can achieve this by cutting funding to the agencies responsible for enforcing the rules or by instructing them to make particular regulations a low priority.

Agencies also have the option of issuing different interpretations of regulations than were originally intended. Any new interpretation could face legal challenges for being arbitrary, however, and could be overturned with the stroke of a pen by the next administration.

The Trump administration can also

Congressional Review Act in Action

Congress is also considering voiding some recently finalized regulations under the authority it has through the Congressional Review Act. In early February, Congress sent a resolution to the president that abolishes the Department of Interior’s Steam Protection Rule. The rule established new requirements for companies to follow to minimize the harm certain mining practices can have on local waterways.

The Review Act allows Congress and a new president to abolish any federal regulations finalized in the last six months of the previous president’s service. By passing a ‘joint resolution of disapproval,’ with a simple majority vote in both chambers and the signature of the new president, the rule and future actions are abolished.

The law prohibits a federal agency from reissuing the same regulation in the future, or promulgating one that is very similar unless the new regulation is “specifically authorized by a law enacted after the date of the original rule.” Congress has passed only one other joint resolution of disapproval since the law’s enactment in 1996. In 2000, Congress and President George W. Bush eliminated a rule issued in 2000 by the Department of Labor relating to ergonomics.

The Congressional Research Service has compiled a list of more than 50 new rules that fall under the time frame of the Review Act. They include a range of rulings affecting Medicaid and Medicare, immigrant workers and waste prevention.

Amid the uncertainties, NCSL continues to voice states’ concerns. In early February, NCSL sent a letter in support of a resolution of disapproval introduced by U.S. Representative Brett Guthrie (R) of Kentucky. The resolution would block a rule finalized in October by the U.S. Department of Education on teacher preparation institutions. The concern is that the rule goes beyond the statutory requirements of the Higher Education Act and fails to recognize the authority of states and localities to govern education.

—NCSL D.C. Staff
refuse to defend these laws, but the lawsuits are unlikely to simply go away. Others will step in to defend them.

**Supreme Court Holds the Future**

If regulations are eliminated, it will not likely be the result of the new president’s efforts alone. Even before Trump was elected, many rules were being challenged on a variety of legal grounds. It looks like that will continue to be the case, with many of these regulations, or the repeal of them, ending up in court. And for some, that means being reviewed by the U.S. Supreme Court, which ultimately holds the most power in deciding the future of various federal rules and regulations.

One can speculate on how the justices will rule on cases based on their general legal philosophies and conservative or liberal leanings. That can be overly simplistic but is, nevertheless, often accurate.

Generally, conservative justices tend to view federal rules with more trepidation than liberal justices—as an overreach by a federal agency.

President Trump’s nominee to fill Justice Antonin Scalia’s seat, federal appellate Judge Neil Gorsuch, holds conservative views similar to Scalia’s. Scalia was known as the originalist, the textualist and, most important, the conservative. Gorsuch could comfortably fill those roles.

Now that we know who the nominee is, two questions remain: Will Senate Democrats filibuster Gorsuch, as they have promised to do? And if they do, will Senate Republicans exercise the “nuclear option,” that is, change the rules to require only a simple majority of senators, rather than the 60 now required, to confirm Gorsuch’s nomination?

If Gorsuch is confirmed, the court’s political balance remains essentially what it was before Scalia died a little more than a year ago: 5-4 in the conservatives’ favor.

If the court rules on the legality of the Clean Power Plan and the waters of the U.S. definition, Gorsuch’s views against agency deference could be very important. Six months ago, Gorsuch called for an end to “Chevron deference,” which comes from a 1984 Supreme Court ruling that requires courts to defer to reasonable interpretations of statutes made by the government agencies charged with enforcing them, even if a court believes another interpretation is better. States and local governments have generally balked at this ruling, which they view as a threat to their authority.

This all underscores the powerful role Justice Anthony Kennedy will likely maintain as the court’s swing vote. Kennedy voted consistently conservative early on, but has shown a more independent streak in recent years, especially when individual rights and freedoms were at stake. So, no matter who fills the court’s vacant seat, as long as he or she is conservative, the fate of several rules and regulations may lie in the hands of a justice as puzzling, powerful and unpredictable as Trump himself: Anthony Kennedy.
NCSL works to enhance the role of states and state legislatures in the federal system. We guard against unfunded federal mandates. We fight to protect state authority from unwarranted federal preemption. And we urge Congress to follow the example of state legislators in reaching across the aisle to address many of the important issues that have stalled with congressional inaction.

NCSL’s Executive Committee adopted the following priorities to guide NCSL’s advocacy efforts on Capitol Hill and before the administration in 2017.

1. REMOTE SALES TAXES
NCSL leads the effort to enact federal legislation to overturn the U.S. Supreme Court ruling in *Quill v. North Dakota* that businesses don’t have to collect sales taxes where they have no physical presence, like brick-and-mortar stores. If Congress fails to give states remote sales tax collection authority, NCSL will work with states to bring appropriate action to overturn the ruling.

2. CYBERSECURITY
NCSL will work to ensure that federal cybersecurity legislation includes states as critical partners in addressing cybersecurity concerns. The diversity of state structures and the complexity of the risks involved, require states to find individualized solutions that address their unique threats. The federal government should consider state laws and executive rules before taking any action.

3. FEDERAL TAX CODE CHANGES
NCSL will work to preserve in any federal tax reform: the fiscal viability and sovereignty of state governments; the ability of state and local government to adopt fair and effective tax systems; and, states’ discretion to tax certain revenue sources. Tax reform should not be applied retroactively but should give states adequate transition time, at least three years, to implement.

4. MEDICAID
NCSL will work to preserve the state-federal partnership in funding and administering the Medicaid program; position state legislators to collaborate with Congress and federal agencies in making changes; and, ensure support for state innovation and flexibility through waivers. NCSL supports establishing an emergency funding mechanism within the Medicaid statute to assist states during times of economic downturns.

5. CRIMINAL JUSTICE REFORM
NCSL adheres to the fundamental principles of federalism in all areas of criminal justice and believes that any reform must recognize that states and local governments have the predominant responsibility to ensure public safety and the administration of justice.

6. ACCESS TO BROADBAND
NCSL will urge Congress to work with states in developing a universal broadband strategy that provides affordable access to every American, regardless of geography or economic status. NCSL supports the creation of a national advisory board that includes state, federal and local policymakers, as well as consumer and industry representatives, to develop principles to facilitate deployment of advanced broadband communications services.

7. INFRASTRUCTURE FUNDING AND FINANCING
NCSL supports a long-term and sustainable vision for the funding and financing of our nation’s infrastructure that will enhance the nation’s prosperity and the quality of life of all Americans.

8. STATE BUDGET CERTAINTY
NCSL will promote a timelier approval of the federal budget. State legislators are responsible for budgeting and revenue decisions that are hampered by the uncertainty short-term extensions, conflicting messages and lack of definitive action produce.

9. CHOICE IN EDUCATION
NCSL will promote a federal role that is supportive rather than top down when it comes to determining the educational needs of each state’s students in all federal education programs. State efforts that encourage educational innovation, including charter schools, vouchers and other choice options should not be restricted by federal mandates.

10. BALANCED BUDGET
NCSL believes a comprehensive and bold plan is needed to address our nation’s fiscal challenges and strengthen our economy. This means examining all possible avenues for deficit reduction, including discretionary spending, entitlement reform, tax expenditures, federal tax reform and a balanced federal budget.

11. FEDERAL REGULATIONS
NCSL will work to ensure that the concerns of state legislatures are heard throughout the federal regulatory process and that any changes to current regulations or promulgation of new ones, provide state flexibility.

—NCSL D.C. Staff
Their duties vary by state and chamber, but chiefs are jacks-of-all-legislative-trades.

BY STACY HOUSEHOLDER

Chiefs know how to find answers but not how to read minds.

Tom Krause, chief of staff for the Georgia senate majority leader, says the role he plays in the legislative process is information gatherer. “An effective chief of staff needs to be well-versed on a wide range of policy issues—and know where to find information quickly,” he says. Given the myriad topics that legislatures cover each session, chiefs are lifelong learners, constantly discovering something new.

“Whenever a new issue presents itself, I set out to learn everything I can,” Krause says. “That includes ... partisan issues, budgetary issues, constitutional issues, etc. My research typically includes a lot of reading, seeking out experts, and looking into what other states may or may not have done. This job allows me to be in the room where decisions are made, to learn something new every day. I often feel like I am witnessing history unfold.”

Robbin Lewis-Coaxum, chief of staff to the former California Assembly majority leader, deals with a constant stream of information. “On most days I learn something new,” she says, be it a new public policy, a new word, a different social media application. “By the end of the day, I usually can say, ‘I didn’t know that before!’”

But reading up on a new policy is a lot easier than reading minds, and the biggest frustration for Lesley Crane, chief of staff to the Indiana speaker, is trying to figure out what people want when they can’t articulate it themselves, what she calls “navigating unknowns.” If she doesn’t know what people want, what their ultimate goal is, she says, “I definitely cannot be as productive or helpful as I’d like to be.”
Chiefs must handle all kinds of people and situations with patience.

Flexibility, strategic thinking and organizational skills are critical characteristics of successful chiefs. But patience is more important than all of them, chiefs say.

A good chief is a people person who loves interacting with others. But it takes patience to engage with legislators from both sides of the aisle, partisan and nonpartisan staff, lobbyists and constituents. But for many, it’s the best part of the job.

Successful chiefs “learn patience and how diverse people in the chamber really are,” says Tim Mapes, chief of staff to the Illinois speaker.

Chiefs must remind themselves that “each member was elected in their own way and time, and each one brings to the job their own strengths and challenges,” he says.

There’s no doubt that patience helps in resolving conflicts and solving problems, which chiefs say are a large part of the job.

“I really enjoy people and get a lot of satisfaction from solving their problems,” Crane says. Her No. 1 priority as chief is “keeping as many people as happy as possible. Sometimes it’s possible and sometimes it isn’t, but it’s always my goal.”

“Chiefs are time gymnasts, with little downtime.

Practicing patience in managing personalities and personnel takes up time, however, even for a people person.

Lewis-Coaxum says it’s by far the most time consuming part of the job. “I spend a great deal of time resolving conflicts and dealing with human resources issues,” she says. There are never enough hours in the day for a chief.

“There are just too many things to do,” Krause says, “and not enough time to get them all done.”

Chiefs are pulled in so many directions at the drop of a hat, they need to be expert time managers. “This is a 24/7 job,” Lewis-Coaxum says.

Yet, along with managing offices, being policy wonks, knowing how to navigate lobbyists and prioritizing the leader’s schedule, chiefs of staff often find time to mentor interns and young staff.

The most rewarding aspect of the job, Mapes says, is watching “young staff develop, engage and learn the leadership skills necessary for their careers.”

As time gymnasts, chiefs of staff learn how to stretch out time, keep priorities in balance, manage surprise requests with flexibility and not flip over personnel conflicts, all this while keeping the office running smoothly.

Maybe they can teach us all how to make more hours in the day—that is, when they have the time.
“I’m hopeful that we’re not going to wait for a bad event and see some terrible sickness in our state.”

Hawaii Senator Josh Green (D), an emergency room doctor, on efforts to ban the pesticide glyphosate and other chemicals, in The Associated Press.

“Don’t hold it in your hand. Don’t poke at it.”

Washington Representative Jessyn Farrell (D) on her proposal to ban motorists from using handheld devices, in The Seattle Times.

“I’m a single, educated Latina with no children ... and I think that’s the face of the new Latina.”

Nevada Assemblywoman Sandra Jauregui (D) on being the first Latina from her district elected to the Assembly, on NBC News.

“I believe taxpayers deserve complete transparency from their government. So I resumed a practice abandoned by my predecessor to post the salaries of legislators and staff in the House. “Anyone who draws a paycheck from Michigan’s taxpayers should answer to them first,” he said. Senate salaries are not posted.

President Donald Trump has tapped two Washington lawmakers to assist his administration. Senator Brian Dansel (R) resigned his seat to become special assistant to the U.S. secretary of agriculture. His departure temporarily threw the Senate into a 24-24 tie. Senator Doug Ericksen (R) is on leave to head up communications for the Environmental Protection Agency transition team. He plans to commute back to Washington during session, and will resign if he is offered a permanent post.

Idaho Senate President Brent Hill (R) became acting governor for a day and a half when the Trump inauguration and a Las Vegas shooting and hunting trade show took the governor and lieutenant governor out of state. The Legislature was in session, so Hill appointed Senator Todd Lakey (R) to preside over the upper chamber, while Hill fielded calls from half a dozen people, “mostly mothers wanting me to pardon their innocent son,” he said. No executive pardons were granted that day.

Louisiana Senate President John Alario Jr. (R), Senator Ronnie Johns (R) and Governor John Bel Edwards were among a small group that traveled to Rome to meet with Pope Francis about human trafficking. Louisiana, Edwards says, is “a hotbed of human trafficking in the world.” The pope blessed a plaque that will be installed at Metanoia, a Baton Rouge shelter for young victims of trafficking. Johns is the sponsor of anti-trafficking legislation.
LOUISIANA SENATE PRESIDENT JOHN ALARIO JR. (R), SENATOR RONNIE JOHNS (R) AND GOVERNOR JOHN BEL EDWARDS WERE AMONG A SMALL GROUP THAT TRAVELED TO ROME to meet with Pope Francis about human trafficking. Louisiana, Edwards says, is “a hotbed of human trafficking in the world.” The pope blessed a plaque that will be installed at Metanoia, a Baton Rouge shelter for young victims of trafficking. Johns is the sponsor of anti-trafficking legislation.

BART GOODSON HAS BEEN PROMOTED TO CHIEF OF STAFF to North Carolina Speaker Tim Moore (R). Goodson will continue in his role as general counsel.

ADAM KLEINHEIDER, A FORMER JOURNALIST WHO BECAME COMMUNICATIONS DIRECTOR FOR FORMER TENNESSEE LT. GOVERNOR RON RAMSEY (R) in 2011, will manage the communications and social media strategy for new Lieutenant Governor Randy McNally (R).

GOVERNOR NIKKI HALEY’S APPOINTMENT AS U.N. AMBASSADOR SET IN MOTION A GAME OF LEGISLATIVE MUSICAL CHAIRS IN SOUTH CAROLINA. Lieutenant Governor Henry McMaster (R) assumed the governorship when Haley resigned, and next in line of succession was the Senate president pro tem. But Senate President Hugh Leatherman (R) had no interest in the largely ceremonial lieutenant governor post, so he resigned as pro tem shortly before McMaster was sworn in. The chamber elected Senator Kevin Bryant (R) pro tem for a moment, and he then rose to lieutenant governor. Leatherman was re-elected to the post he never wanted to leave.

“Illinois Representative Michael Madigan (D) is in his 17th term as speaker and, if he serves out his current term, will wrest the record as the nation’s longest-serving speaker from Soloman Blatt (D) of South Carolina. Blatt served 33 years as speaker. In the Senate, members unanimously voted to limit leaders’ tenure to five terms. Senate President John Cullerton (D), who is in his fifth term as leader, and Senate Republican Leader Christine Radogno agreed to the limits in hopes of appeasing the governor and breaking the long-running budget impasse. Radogno hopes to take it to the voters as a constitutional amendment affecting both chambers.

“Everybody will just go ahead and enjoy the benefits, because time is money.”

Michigan Representative Peter Lucido (R) on his bill to opt the state out of daylight savings time, on mlive.com.

“Social media is not going away, I hate to break it to you.”

Maine Representative Matt Pouliot (R), 30, on his unsuccessful proposal to allow members to take photos or record videos for social media on the House floor, in the Portland Press Herald.

“Everybody will just go ahead and enjoy the benefits, because time is money.”

Michigan Representative Peter Lucido (R) on his bill to opt the state out of daylight savings time, on mlive.com.
Getting the Lead Out

The metal that fueled the Industrial Revolution remains a danger to millions.

BY DOUG FARQUHAR

lead can be found everywhere. For decades, it was used in house paints to make them stronger. It was added to gasoline to prevent engine knocking. It was used in solder to seal cans of food, and it was used in the pipes that carried water into homes across the country.

Now all that lead is still finding its way into the bloodstreams of young children. There is no safe level of lead in a child’s blood, according to the Centers for Disease Control and Prevention. Even small amounts can lower their IQs, their ability to pay attention and their academic achievement. And the effects of lead exposure are irreversible.

More than 4 million children live in homes with some kind of lead hazard. The CDC estimates that 535,000 children between the ages of 1 and 5 years have elevated lead levels in their blood. That’s far fewer than in the past, but still too many.

In 1978, nearly 14 million children had elevated blood lead levels, according to the CDC. The federal government’s ban on lead in gasoline, pipes and food cans, along with aggressive state efforts to control lead in paint, decreased kids’ exposure risks. But inattention to the threat lead poses can put whole communities of children in danger.

Just ask parents in Flint, Michigan.

The Flint Crisis

A Rust Belt city of 100,000, where a third of the population lives below the federal poverty line, Flint was hit hard by the loss of auto industry jobs. Its fiscal health deteriorated to the point that it was declared to be in a state of financial emergency in 2011. The governor, Rick Snyder (R), appointed an emergency financial manager who recommended that, instead of paying Detroit to provide it with drinking water, as Flint had done for many years, the city could save money by providing that service for itself. Detroit then canceled its water-services contract with Flint, leaving the city in a bind.

With no water flowing from the Motor City, Flint’s emergency manager and the city council decided to use a backup treatment system that drew water from the Flint River. Residents immediately complained that their water tasted bad, smelled horrible and looked unfit to drink.

But it took 18 months—and a report from local pediatrician Dr. Mona Hanna-Attisha that blood lead levels were rising in her young patients who were drinking Flint River water—for the Genesee County Health Department to issue an emergency health declaration regard-

“The Flint water crisis is a story of government failure, intransigence, unpreparedness, delay, inaction and environmental injustice.”

Report to the Governor, Flint Water Advisory Task Force, March 2016

Doug Farquhar directs the Environmental Health Program at NCSL.
ing the water.

“We were assured by the Michigan Department of Environmental Quality that the water was safe to drink, but we couldn’t ignore the facts,” says Mark Valacak, the county’s health officer. “We went out on a limb by issuing a public health emergency about lead in the drinking water from the Flint River.”

The lead was leaching into the water from aging pipelines, both public and private. The city had failed to add an anti-corrosive agent to the water that would have kept lead levels down. As the lead levels in the water rose, so did the lead levels in the blood of young children.

The county advised residents to filter their tap water or use bottled water for drinking. The health department provided water filters to all residents. The city received federal funding to replace lead pipes and galvanized steel water service lines. And a new regional pipeline will draw water from Lake Huron instead of the Flint River.

That’s all good. But it’s too late for the children of Flint.

Federal Perspective

Under the federal Safe Drinking Water Act, the Environmental Protection Agency sets the standard for lead in drinking water. It also defines the conditions under which a municipal water system must test for lead. The current standard is 15 parts per billion, which is the lowest achievable level for most water systems if they use the anti-corrosive agent. The goal for each water sys-

**Who’s at Risk?**

Children at higher risk for lead exposure are:
- Members of racial-ethnic minority groups.
- Recent immigrants.
- Living in older, poorly maintained rental properties, or
- Living with parents who are exposed to lead at work.

Membership in one of these groups does not predict risk in every community.

Source: *Centers for Disease Control and Prevention*

**Where Does Lead Hide?**

Tainted drinking water is just one source of lead. Most kids get lead poisoning from older paint in their homes. When old paint cracks and peels, it makes lead dust, which cannot be seen and can easily get on children’s hands and toys. Lead can also be found in:
- Some imported pottery, including some traditional glazed terra cotta (clay) dishware from Mexico, and some highly decorated traditional dishes from China.
- Imported vinyl (plastic) miniblinds made before 1996.
- Certain imported consumer products, such as some candies from Mexico containing chili powder and tamarind; eye cosmetics containing powders such as kohl, kajal, al-kahal, surma, tiro, tozali and kwalli; and some toys made with lead paint.
- Some folk remedies such as greta and azarcon (also known as alarcon, coral, luiga, maria luisa or rueda), which are traditional medicinal powders used in some Hispanic communities for upset stomach, constipation, diarrhea and vomiting; and for teething babies.

Source: *Centers for Disease Control and Prevention*
The EPA recently unveiled several plans to help states address drinking water safety. In November last year, for example, the agency released the National Drinking Water Action Plan, calling for collaboration among all levels of government, utilities, community organizations and other stakeholders to increase the safety and reliability of drinking water. The plan has six priority areas, one of which is revising the federal rule on lead to include best practices on lead service line replacement and updated guidance on testing for lead in drinking water at schools.

The federal Water Infrastructure Finance and Innovation Act offers low-interest-rate financing for qualified water and wastewater infrastructure projects. Eligible projects include drinking water treatment and distribution and wastewater conveyance and treatment, among others.

**State Solutions**

Despite Flint’s special circumstances, the city is hardly alone. More than 2,000 water systems nationwide have lead levels in excess of EPA recommendations; 600 have lead levels as high as Flint’s during the height of its crisis.

Legislatures often struggle with the role they should play in drinking-water oversight. With the Flint crisis playing out as a worst-case scenario, the Michigan Legislature formed a committee to evaluate the issue and propose actions to help prevent a future crisis.

In January, Michigan lawmakers passed the first piece of legislation stemming from the crisis. The new law requires cities to warn residents of dangerous lead levels in drinking water within three days of being notified of the contamination.

**Did You Know?**

- The EPA estimates there are about 240,000 water-main breaks annually, causing a loss of between 14 percent and 18 percent of treated water.
- In Philadelphia, half the water mains were installed before 1930. Some pipes still in use today were installed before the Civil War.
- The American Water Works Association estimates the repair and replacement of old water pipes could cost more than $1 trillion over the next 20 years.
- The EPA estimates the cost to maintain and upgrade water systems is $91 billion annually; states currently spend $33 billion, collectively.

Sources: NCSL; Circle of Blue

Could Crisis Strike Again?

“Flint could happen anywhere they fail to maintain the drinking water infrastructure,” says former Michigan Representative Chris Kolb (D), who helped write the governor’s report on the crisis.

Failures in water infrastructure, whether related to aging pipes or contaminated sources—or both in Flint’s case—are costly and can have long-term public health effects. But, with a renewed emphasis on infrastructure at the federal level, and new funding through such federal programs as the Water Infrastructure Finance and Innovation Act, states can take steps not only to prevent water crises, but also to plan for potential shifts in future supplies and demands.
Scoping Out Health Care Worker Shortages

In areas where there are not enough doctors and nurses to keep up with the demand for their services—such as rural and underserved urban areas—state legislators are broadening the roles of some licensed health professionals through “scope of practice” laws. Supporters say that expanding the authority of nurse practitioners, physician assistants, dental hygienists and other oral health providers to perform additional procedures, treatments and actions would help alleviate health workforce shortages.

Legislators have considered dozens of bills over the past several years. New Jersey lawmakers, for example, voted last year to allow greater flexibility in the way physician assistants provide care. The law removed the requirement that a physician must always be present and allowed the physician assistant to work with a physician to define his or her personal scope of practice. Maryland and Nebraska passed legislation in 2015 to allow nurse practitioners to practice without physician oversight.

Scope of practice bills often bring out passionate advocates with different points of view. Proponents of these laws say licensed professionals can be trained more quickly and less expensively than physicians without compromising quality. Some physician groups disagree and argue that physicians’ longer, more intensive training equips them to diagnose more accurately and treat patients more safely.

For those interested in more information, there’s a new website created by NCSL and the Association of State and Territorial Health Officials that focuses on scope of practice policies for nurse practitioners, physician assistants, dental hygienists and dental therapists in all 50 states, D.C. and the territories. Find it at www.scopeofpracticepolicy.org.

—Sydne Enlund

Where the Needs Are Greatest

Primary Care Health Professional Shortage Area Scores by County

Scores range from 1 to 25: the higher the score, the darker the color, the greater the shortage. Scores are based on the population-to-health provider ratio, the percentage of low-income population, the travel time required to reach a source of health care, as well as infant mortality and low-birth rates.

Source: Health Resources and Services Administration Data Warehouse

Legislation Expanding the Roles of Health Professionals

Bills Introduced and Enacted between 2015 and 2016

Bills Introduced | Bills Enacted
--- | ---
Oral Health Providers | 39 | 36
Nurse Practitioners | 7 | 10
Physicians Assistants | 68 | 9

Source: Scope of Practice Policy at www.scopeofpracticepolicy.org.

The Rural-Urban Divide

(Per 100,000)

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<th>Health Professional</th>
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<th>Urban</th>
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Sources: Health Resources and Services Administration and Rural Health Information Hub, the Rural Health Research Center at the University of Washington, 2016.
Health care services can be mislabeled too.

Advertising apples as oranges? Such type of misleading advertising occurs with health care services, too. In some states the term “physical therapy” is misrepresented or inappropriately advertised to the public by individuals who are not licensed as physical therapists. This characterization is misleading to the public, illegal in some states, and an issue of public protection for patients who think they are under the care of a licensed physical therapist, but in reality are not.

“Physical therapy” is not a generic term—it describes the care provided by or under the direction of licensed physical therapists. When people seek “physical therapy” they deserve to know their care is in the hands of a licensed physical therapist. Other health care providers might share some of the same treatment techniques or rehabilitative procedures used by physical therapists, but the care should only be described or advertised as “physical therapy” or “physiotherapy” when provided by or under the direction of a licensed physical therapist.

While two health care professions may share common elements, labeling them the same thing is not right—it’s like comparing apples to oranges.
Jeff Hoover is the first Republican speaker of the Kentucky House since 1921. Hoover was raised in Jamestown, Kentucky, where his parents owned and operated an FM radio station. After completing a degree in government, he returned home to manage the station before earning his law degree from the Cumberland School of Law at Samford University in Birmingham, Alabama. He launched his own law practice in 1988 and was elected to the House in 1997. He served as minority leader from 2001 until January.

What has been being in the minority for 20 years taught you about how you will treat the new minority? I reached out to eight former members of the General Assembly, four Democrats and four Republicans, and asked them to make recommendations on how we can do things better in the House. I told people I sat there for 16 years as the minority leader and complained about the process and complained when there weren’t enough minority members on certain committees. And I believe I would be the biggest hypocrite in Kentucky if, after complaining about those things for 16 years, I now allowed them to continue.

To what do you attribute Republicans’ historic success? In Kentucky several things happened that culminated on Nov. 8 last year. We had an outstanding group of candidates. We had 91 Republicans on the ballot out of 100 seats. We raised more money than ever before. We had a strong organization in place. And then, quite honestly, the effect that Donald Trump had in Kentucky was enormous. Voters were looking for someone who was going to do things differently. Not only were people frustrated and angry about the demise of the coal industry and the war on coal from Barack Obama, and then the same thing being echoed by Hillary Clinton, they were looking at the state level, where the same party had controlled the House for 96 years.

What’s the most important thing you can teach the new legislators? To be patient. These guys are part of the largest freshman class ever in Kentucky’s history—23 Republicans and five Democrats. I tell new members that the most important thing is to get re-elected. Take this first term to learn the process and develop relationships with other legislators, colleagues and staff. Then be in a position to get re-elected and come back and begin working on some of the things that you really want to get done.

What are your priorities this session? Never in the history of Kentucky has a bill passed the first week of session. We came in and passed not one, but seven different pieces of legislation—significant pieces of legislation—such as right to work, repealing the prevailing wage, two pro-life bills and a transparency bill.

You played college basketball. Has playing sports influenced your approach to public service? Without question. One, I’m a team player. Secondly, those who participate in team sports understand defeat, they understand getting knocked down. They also understand getting back up and still competing. I have seen it time and time again. Legislators who get defeated on a bill or an amendment or an idea, those who have a background in competitive team sports are more likely to get up and fight back and try to find a way to accomplish what they want than legislators who do not have that experience.

What would surprise people most to learn about you? I’m 6-foot-4, 310 pounds, and people see ‘the big ’ol rough country lawyer,’ but really at the core I’m pretty soft. I’m very emotional. My family and my faith are the most important things in my life. I have a wife of 25 years and three beautiful daughters, so I’m very blessed.

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Did your parents’ public service persuade you to run for office? My parents began the first FM radio station in my hometown 51 years ago, and they were always involved in the community. My dad had a lifelong ambition to serve in the Kentucky House of Representatives. He ran in 1971 against a 14-year incumbent and lost by 29 votes. That just devastated our family. Then in 1986 he ran in a newly drawn legislative district and won. Three weeks away from being sworn in, he died unexpectedly at the age of 50 of a massive heart attack. There was a special election to fill his term and my mother was nominated and won. I have the distinction of being the only legislator whose parents were both elected to the Kentucky House. I’d always wanted to get into politics, and 10 years later, I ran and defeated an incumbent, and I’ve been here ever since. So yes, my parents were very instrumental in my decision to get into politics and public service.

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What final words would you like to share? If you have a dream of doing something big, don’t ever give up. I have wanted to see the Kentucky House of Representatives in a Republican majority for 20 years. I never gave up. I knew it could happen. Don’t ever give up on that dream. And then once you get there, remember how it was before you got there. I do not ever want to lose sight of how it was in the minority, and to treat people the way I wanted to be treated.
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