

**STATE AND LOCAL UPDATE**July 18, 2019

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**Policy and Politics****I. Trending Topics****Issue in Focus**

**STATE REDISTRICTING A TARGET FOR 'DARK MONEY' AFTER SUPREME COURT RULING:** Redistricting for the next [decade](#) will be up to the states after the Supreme Court ruled that federal courts do not have the power to rule on partisan gerrymandering, the practice by which lawmakers draw maps that flagrantly benefit their own party. The decision will make the control of state legislatures a priority for both parties in 2020, as — in the majority of states — the state lawmakers in power draw the maps for congressional districts. The ruling could also increase calls for nonpartisan congressional redistricting commissions, which more than a dozen states have adopted in some form. But support for nonpartisan redistricting processes often falls along partisan lines. And in recent years, state-level ballot initiatives designed to create more independent redistricting processes have been the target of out-of-state cash, often from groups that do not disclose their donors. In 2018, five states — Colorado, Michigan, Missouri, Ohio and Utah — passed ballot initiatives to reduce gerrymandering, which will take effect when the next round of redistricting begins in 2021. In those states, committees affiliated with each party, "dark money" groups from inside the Beltway and a nonprofit run by Texas billionaires were just a few of the players using their money and influence to sway the ballot.

**A. BUDGETS, TAXES, & REVENUE**

**SEVEN STATES BEGAN THE YEAR WITHOUT A FINAL BUDGET: Gov. GINA RAIMONDO'S** unwillingness so far to sign to sign the proposed new \$9.9-billion budget for the year that began on July 1 has landed Rhode Island on Moody's [list](#) of states with "weak governance." The national credit-rating agency -- Moody's Investors Service -- issued a special report on Wednesday titled: "Late budgets reflect governance weaknesses." The seven states that slipped into the new fiscal year on July 1 without a full year budget include: Massachusetts (Aa1 stable), New Hampshire (Aa1 stable), North Carolina (Aaa stable), Ohio (Aa1 stable), Oregon (Aa1 stable), Rhode Island (Aa2 stable) and Wisconsin (Aa1 stable). Moody's notes that some states have "continuing appropriation bills" -- or laws, as Rhode Island does -- that allow spending until a permanent budget is enacted. Those laws "together with state bond laws make it unlikely that the delays will pose any risk of missed debt payments."

**STATE TAX CHANGES:** Although the majority of state tax changes begin at the start of the calendar year, others take effect at the beginning of the fiscal year. Twenty-three states and the District of Columbia had tax changes take effect on July 1, 2019, the beginning of the 2020 fiscal year. The Tax Foundation is out with a [summary](#) of each of those changes.

**CALIFORNIA UTILITIES GET \$21 BILLION BACKSTOP:** For a leader with grand ambitions of tackling big issues from health care to taking on **PRESIDENT DONALD TRUMP**, California **GOVERNOR GAVIN NEWSOM** has [spent](#) much of his first six months in office bogged down in a crisis at home. Two days after his November election, the state's deadliest wildfire decimated an entire town, with PG&E Corp.'s equipment blamed as the likely cause. The January bankruptcy of California's largest utility set off a scramble for Newsom to unite lawmakers, power companies and interest groups in finding a way to cover the billions of dollars in liabilities from devastating blazes. There were moments when the endeavor seemed doomed to failure. In fact, as recently as two weeks ago, things still looked bleak. A July 12 deadline to get a deal approved by the legislature was approaching fast and the votes still were up in the air. But then in the span of a few days, Newsom managed to pull off the biggest legislative victory of his young tenure as governor and, in the process, burnish his

credentials as a national political figure. The state Assembly last week overwhelmingly approved a bill that would create a \$21 billion fund that power companies can tap to cover future fire liabilities, while limiting the financial obligation of ratepayers and requiring more stringent safety standards. Newsom signed the bill into law in Sacramento, saying it was the result of a long and bipartisan process. Meeting the deadline was key, with lawmakers headed for a month-long recess and credit-rating companies warning that other California utilities may be cut to junk status in the absence of state action.

**CALIFORNIA CONSIDERS ADOPTING PART OF TRUMP'S TAX LAW:** California's liberal Legislature [wants](#) to give poor people a lot more money in their state tax refunds each year, including an extra \$1,000 for people who earn less than \$30,000 a year and have at least one child under 6. But to do it, they'll have to agree — at least partially — with Republican **PRESIDENT TRUMP**. Democratic **GOV. GAVIN NEWSOM'S** spending plan would triple how much the state spends on its earned income tax credit to \$1.2 billion, making about 1 million more households eligible to get it. To pay for it, California would have to adopt some of Trump's 2017 tax overhaul that was despised by Democrats, especially in California, because it capped the amount of state and local tax deductions in a move they say disproportionately hit high-income, high-taxed states.

**GAS TAX RISE IN DOZEN STATES, INCLUDING HISTORIC RISE IN ILLINOIS:** On January 1, 1990, the Berlin Wall was standing, Nelson Mandela was still in prison, and Illinois was raising its excise tax on gasoline to 19 cents per gallon. A lot has changed since 1990, but Illinois's gas tax rate hasn't budged. Fast forward almost 30 years, however, and the Land of Lincoln is finally at it again. Illinois's gas tax rate recently rose by 19 cents and its diesel tax rate by 24 cents per gallon to raise money for infrastructure improvements. Both increases are calibrated to almost exactly catch up with inflation over the last three decades. But Illinois isn't the only state where gas taxes will increase. On July 1, 12 states will boost their gasoline taxes and 11 will boost their diesel taxes. The reasons for these increases vary, but they're generally intended to fund maintenance and improvement of our nation's transportation infrastructure—a job at which Congress has not excelled in recent years. Details of these upcoming gas tax changes can be found [here](#).

**VERMONT IMPOSES 92% E-CIGARETTE TAX:** A 92% tax on e-cigarettes [went](#) into effect in Vermont as part of an effort to curb youth vaping in the Green Mountain State. **STATE REP. GEORGE TILL**, who sponsored the tax increase bill, said the measure will help keep tobacco products out of the hands of kids, who are most affected by price hikes. The new tax, which passed in February, will not effect packs of cigarettes, which will still be subject to a \$3.08 tax. E-cigarettes and other tobacco-substitute products, including those "intended for human consumption by smoking, chewing, or in any other manner," were previously subject to the state's standard 6% sales tax. Ninety-two percent is the same rate at which snuff -- a form of smokeless tobacco -- and pipe tobacco are already taxed. "We are trying to keep the tax across all nasty things the same," Till said.

## **B. HEALTHCARE & INSURANCE**

**HOW SHOULD STATES SPEND OPIOID SETTLEMENT MONEY?** In the first trial [aimed](#) at holding drug companies accountable for the opioid crisis, Oklahoma earlier this year reeled in more than \$350 million in settlement payments from drugmakers Purdue Pharma and Teva. But skirmishes between the attorney general and a group including the governor, lawmakers and local governments over who gets to spend the money threaten to bog down efforts to use it for much-needed prevention, treatment and recovery services. Nationwide, similar struggles loom in opioid cases brought by attorneys general in nearly every state and in a consolidated class action lawsuit involving nearly 2,000 plaintiffs, including local, county and tribal governments, as well as some insurers and medical groups

**CALIFORNIA OKs BENEFITS TO YOUNG, LOW-INCOME ILLEGAL IMMIGRANTS:** California has [become](#) the first state to offer taxpayer-funded health benefits to young adults living in the country illegally. Democratic Gov. Gavin Newsom signed a bill into law that makes low-income adults age 25 and younger eligible for the state's Medicaid program regardless of their immigration status. State officials expect the plan to cover about 90,000 people and cost taxpayers \$98 million. California already covers children ages 18 and younger regardless of immigration status. The law will not give health insurance benefits to everyone 25 and younger, but only those whose income is low enough to qualify.

**TEXAS BOASTS NATION'S STRONGEST LAWS TO SHIELD PATIENTS FROM SURPRISE BILLS:** Sweeping [legislation](#) that will help protect thousands of Texans from the calamity of surprise bills and price-gouging associated with freestanding emergency rooms (FSERs) was a high point of the 86th Texas Legislative session. With the stroke of his pen, **GOV. GREG ABBOTT** signed into law some of the strongest patient protection laws in the nation to shield Texans from the financial pain and misleading practices of FSERs, where patients face a more than 80% risk of being balanced billed. Texas lawmakers should be commended for a bipartisan effort that resulted in the passage of Senate Bill 1264 by **SEN. KELLY HANCOCK**, R-North Richland Hills, and other strong patient protection laws. As enacted, SB 1264 takes the patient out of the middle of disputes between health plans and out-of-network health care providers in cases where patients have no ability to choose a provider or facility — such as emergencies, or when receiving care from an out-of-network physician at an in-network facility. Under this milestone legislation, state-regulated health plans will be required to reimburse out-of-network emergency or facility-based providers at either a “usual-and-customary rate or an agreed rate,” and providers can use baseball-style arbitration to settle disputes.

## C. ECONOMY, TRADE & INFRASTRUCTURE

**STATE SAVINGS POLICIES EVOLVE AMID DECADE OF GROWTH:** When Myron Frans came on the job as Minnesota's revenue commissioner, the state's finances were stretched thin. It was 2011, less than two years after the official end of the Great Recession and the state was facing a \$6 billion budget deficit. Disagreements [between](#) Republican lawmakers and then-Gov. Mark Dayton, a Democrat elected the prior year, over how to contend with that shortfall would contribute to a state government shutdown that lasted about three weeks. An eventual deal that reopened the government relied on maneuvers like delaying state payments to school districts and borrowing against future legal settlement funds from the tobacco industry. With the recession's end now about a decade past and the nation's current economic expansion the longest on record, the state's financial outlook is better these days. When Minnesota lawmakers this year crafted their \$48 billion, two-year budget, they did so with a roughly \$1 billion projected revenue surplus at their disposal. But it's not just the economy and the state's balance sheet that have changed. Minnesota in the years since the recession has also adopted new budget reserve, or “rainy day” fund policies, designed to better prepare the state with savings it will need to weather the next downturn. The state is not alone. Other states have also reworked how they save since the recession ended and the changes are yielding results in terms of the overall dollars they have set aside. Last month, the National Association of State Budget Officers reported that the median rainy day fund balance for states, as a share of general fund spending, reached a new all-time high of 7.5% in fiscal year 2019.

**NEW YORK'S TOP FINANCIAL REGULATOR WANTS TO PROTECT CONSUMERS:** New York's new financial services regulator [said](#) her focus will be on ensuring data privacy and consumer protection as she takes the reins of an eight-year-old agency. Linda Lacewell, 55 years old, said in an interview that the New York State Department of Financial Services would step up to police everything from financial marketing to online lending, especially as the federal Consumer Financial Protection Bureau has moved from oversight to education. Earlier this year, Ms. Lacewell combined her agency's enforcement and consumer bureaus and hired Katie Lemire, a former federal prosecutor, to oversee both. Ms. Lacewell also created a new cybersecurity division in the agency, to oversee compliance with state regulations that require financial

firms to protect consumer data and notify the state if a breach occurs. She said she is seeking broader authority in the area, and in February **GOVERNOR ANDREW CUOMO** pushed DFS to investigate Facebook Inc. after The Wall Street Journal reported that the social network's mobile app was accessing data from other apps on users' mobile devices.

**REPORT SUGGESTS MTA MERGE FORTY GROUPS INTO JUST SIX DEPARTMENTS:** The Metropolitan Transportation Authority of New York should consolidate back-office operations and merge more than 40 groups spread across various agencies into six departments as part of an overhaul to cut costs, [according](#) to a preliminary report released recently. The proposal calls for the agencies that operate subways, buses and commuter rail to focus on their core duties: safety, day-to-day operations and maintenance. Those and other recommended changes to the largest public transit authority in the country came from AlixPartners, a Manhattan-based management consultant firm the MTA hired in April and paid \$3.75 million to come up with two reports, including the reorganization plan.

**STATE LIQUOR AUTHORITY THREATENS DELIVERY SERVICES OVER FEES:** Grubhub might [have](#) to swallow hard when it reads this new set of rules. The New York State Liquor Authority — a powerful agency that regulates restaurants serving alcohol statewide — is developing new rules that will significantly curb the stiff fees that can be charged by food-ordering companies like Grubhub, Uber Eats, DoorDash and Postmates. The SLA's new rules could slash the fee income of Grubhub, which also owns the Seamless food-ordering site, to 10 percent of a takeout order from its current 15 percent to 30 percent, according to sources close to the situation. Alternatively, the liquor agency could force Grubhub and others to be listed on thousands of liquor licenses, creating a potential trove of legal liabilities and bureaucratic hassles for the companies, according to sources familiar with the situation.

**PRITZKER SIGNS HISTORIC BIPARTISAN \$45 BILLION REBUILD ILLINOIS CAPITAL PLAN:** Surrounded by lawmakers of both parties and representatives from the business community and labor movement, **GOVERNOR JB PRITZKER** [recently](#) signed Rebuild Illinois into law, the most robust capital plan in Illinois history and the first in nearly a decade. The historic plan was passed with vast bipartisan supermajorities and will make \$45 billion worth of investments in roads, bridges, railways, universities, early childhood centers and state facilities like the crime lab and veterans' homes over the next six years, creating and supporting an estimated 540,000 jobs over the life of the plan and revitalizing local economies across the state.

## D. EDUCATION & THE ENVIRONMENT

**33 STATES EXPAND ACCESS TO K-12 COMP. SCI. EDUCATION:** Interest in computer science education is [increasing](#) at a record pace. Since January 2019, 33 states have passed legislation and funded \$40.1 million to expand access to and diversity in K-12 computer science. Teachers, parents, community leaders and policymakers from across the country are recognizing the importance of ensuring that every student has the opportunity to learn computer science.

### What We Are Reading

**OKLAHOMA NAMED JUDICIAL HELLHOLE MID-YEAR:** In an atypical summer addition to the [annual](#) Judicial Hellholes list, Oklahoma takes a place among perennial problematic lawsuit havens like California, Florida, Missouri and New York. Motivating the move is a slew of concerning and expansive decisions from the Oklahoma Supreme Court as well as unprecedented expansionary litigation brought by the Oklahoma Attorney General against pharmaceutical manufacturers. Long a leader in legislative reform to rein in high-dollar and abusive lawsuits, Oklahoma faces a State Supreme Court that continues to overturn these thoughtful reform packages based on peculiar reads of the state constitution. Earlier this year, the court overturned a legislative package limiting the noneconomic damages that can

be awarded using legal logic that seemed more to be in search of a specific result than based on an impartial read of the law. Noneconomic damages compensate for inexact, subjective harm like “pain and suffering” or “emotional harm,” rather than defined damages like medical expenses, lost income or property damage. The Supreme Court also expanded damages to apply clearly outside the bounds of a statute and undermined state workers’ compensation reform with an unconventional legal procedural about-face.

**HOW TRUMP BECAME COUNTIES’ BEST FRIEND, BIGGEST ALLY:** The White House has [invited](#) every county commissioner in the country to attend a series of 35 summits held at the Old Executive Office Building. All told, more than 2,000 have come. Each of the summits featured at least one cabinet secretary; half included Vice President Mike Pence. Trump himself spoke at the last one. These weren’t grip-and-grin occasions where county commissioners took selfies or grabbed napkins embossed with the White House seal. At each event, the White House Office of Intergovernmental Affairs promised to guide them through the federal government as a whole, handing out names and contact information of individual officials who could help them out with problems or concerns, whether at EPA, HUD, the Army Corps of Engineers, or elsewhere. To many of these visiting politicians, it felt like concierge service. Handing out business cards may be no big deal, but county officials around the country say they consistently get quick responses -- and quite often results -- whenever they reach out to the administration. “It’s refreshing for us at a county level to see this level of responsiveness,” says Chris Villines, executive director of the Association of Arkansas Counties. The Trump White House is doing more than acting as a liaison between counties and federal departments. It has created a new competitive grant program that will provide \$225 million for rural counties to repair and replace bridges. It’s proposed \$340 million to clean up sewage that runs from Mexico into 25 border counties from San Diego to Brownsville, Texas. The administration has invited county commissioners to participate formally in the rulemaking process for rewriting regulations, including federal oversight of waterways that some county officials complain burdens them with excessive red tape.

**BULLOCK BECOMES 25<sup>TH</sup> GOVERNOR TO JOIN U.S. CLIMATE ALLIANCE:** Montana **GOVERNOR STEVE BULLOCK** [issued](#) an executive order on July 1 to join the U.S. Climate Alliance. In his announcement, he stated, “Climate change is already impacting our way of life and our economy. How we choose to respond to the changes around us offers a pivotal opportunity to both safeguard our traditional strengths and diversify and grow new opportunities for our future. Like all difficult issues we tackle here in Montana, I know we can find a path forward by getting together, rolling up our sleeves, and focusing on the values we share in common.” His announcement comes on the heels of the two-year anniversary of the U.S. Climate Alliance, formed on June 1, 2017 in response to President Trump’s announced intent to withdraw the U.S. from the Paris Agreement. With Montana as its newest member, the Alliance represents 55 percent of the U.S. population, an \$11.7 trillion economy, and 40 percent of U.S. greenhouse gas emissions. The climate and clean energy policies of Alliance states have created over 1.7 million renewable energy and energy efficiency jobs, equivalent to over 60 percent of all clean energy jobs in the United States.

**HOW BLOOMBERG PAYS TO PROSECUTE THE TRUMP EPA:** The State Energy and Environmental Impact Center, a group created by **FORMER NEW YORK CITY MAYOR MICHAEL BLOOMBERG** in 2017, is [hiring](#) and placing lawyers in the offices of state attorneys general. The mission of the group, which is led by a former Interior Department official and housed at New York University’s law school, is to provide “direct legal assistance to interested attorneys general on specific administrative, judicial or legislative matters involving clean energy, climate change and environmental interests of regional and national significance.” At least one of the two Bloomberg “special assistant attorneys general” placed in the office of New York **ATTORNEY GENERAL LETITIA JAMES** is involved with the prosecution of Exxon Mobil for its supposed

offense of “climate denial.” Emails obtained under a public-records law show that the center submits detailed biweekly reports to Bloomberg Philanthropies. State legal officers taking money from private funders to pursue policy outcomes desired by those funders is inherently suspect. It also raises questions about the laws governing gifts, campaign contributions and bribes. To the extent these Bloomberg-funded lawyers are involved in prosecutions, it raises serious due-process concerns as well.

**GOVERNORS CALL ON TRUMP TO HALT ROLLBACK ON CLEAN CAR RULES:** Two dozen governors [signed](#) a pledge to defend Obama-era clean car standards, which **PRESIDENT DONALD TRUMP** plans to weaken. The pledge, spearheaded by California Gov. Gavin Newsom, defends **FORMER PRESIDENT BARACK OBAMA'S** standards that would double the fuel economy requirement of new vehicles by 2025. If Trump gets his way, the nation's vehicles would emit as much as an extra 321 million to 931 million metric tons of carbon dioxide by 2035, The New York Times reported. The Trump administration argues that stricter clean vehicle standards will increase car prices, causing people to keep their older, less-safe vehicles on the road for a longer period of time. Leaders from the following states signed the pledge: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin (and Puerto Rico).

**NYC DECLARES CLIMATE EMERGENCY:** New York City officials [declared](#) a climate emergency in an effort to mobilize local and national responses to stall global warming. It's the largest city in the US, with over 8.62 million inhabitants. The New York City Council passed the legislation in late June, calling for an immediate response to the global climate crises. The bill referenced several reports on the state of global warming and its impact, imparting that extreme weather events brought about by rising temperatures demonstrates that the planet is "too hot to be a safe environment."

**WEATHER TESTS TEXAS' ENERGY MARKET:** In the early afternoon on July 2, energy [prices](#) in Texas briefly spiked 25-fold, reaching north of \$920 a megawatt-hour before dropping to \$30 or \$40, Bloomberg reported. The spike – it appears to have been caused by a combination of hot weather (which causes air-conditioning use to rise) and less wind spinning the state's many wind turbines than anticipated – didn't last long enough to cause much turbulence in the market. But it did underscore the unique conditions big energy consumers, such as data center operators, work under in Texas's deregulated energy market, where bitcoin-like fluctuations in energy prices are common. The price spikes also fuel concerns that, as climate change causes more and more unpredictable weather events, and as more and more weather-dependent renewable generation comes online, grid operators will find it increasingly difficult to forecast energy demand and match it with adequate supply on their systems. That means higher risk of outages and more exposure to price volatility for customers in deregulated markets. On the other hand, the flexibility of deregulated energy markets gives big energy consumers exponentially more options for sourcing renewable energy. Many regulated markets, which are often single-utility monopolies, either don't offer any renewable options or offer options at uncompetitive rates. On several occasions, companies like Alphabet or the data center provider Switch have spent years lobbying – and in Switch's case suing – utilities and regulators in such markets just to be able to buy renewable energy for their facilities at rates that make business sense.

## E. TECHNOLOGY & PROCUREMENT

**MAYORS PASS RESOLUTION AGAINST PAYING RANSOMWARE RANSOMS:** **BALTIMORE MAYOR JACK YOUNG** [announced](#) that the U.S. Conference of Mayors has passed a resolution calling on cities not to pay ransom to hackers who have taken over government computer systems through cyberattacks. Young, whose city of Baltimore had its computer systems disabled by the 'RobbinHood' strain of ransomware in May, sponsored the resolution at the

conference's annual meeting in Hawaii. There have been more than 170 recorded ransomware attacks against state and local government bodies since the malware first cropped up in 2013. The new resolution matches the recommendation of federal authorities, such as the FBI and the Department of Homeland Security, which advise local agencies not to pay, citing both an undesirable precedent and the possibility that payment may not even lead to a restoration of services and data.

**CIOs ENDORSE SENATE BILL TO GROW STATE, FED CYBERSECURITY COLLABORATION:** A bill pending in the U.S. Senate would [deliver](#) state and local governments new and needed resources for cybersecurity, state chief information officers say. The National Association of State Chief Information Officers recently endorsed the State and Local Government Cybersecurity Act of 2019, which would amend the Homeland Security Act of 2002 to boost collaboration between federal, state, and local governments on cybersecurity. The bill was introduced last month by **SENS. GARY PETERS**, D-Mich., and **ROB PORTMAN**, R-Ohio.

**LAMONT CELEBRATES 5G TECH BILL:** Gov. NED LAMONT [held](#) a ceremony to celebrate a new law that will accelerate the deployment of high-speed wireless technology in Connecticut. The legislation, proposed by the governor and approved by the General Assembly in early June, establishes council on 5G technology to determine which parcels of state-owned land are suitable for locating wireless facilities. Lamont and industry officials say establishment of the council will help speed up the adoption of 5G networks, which are up to 100 times faster than the current technology. There is already a process in place for the placement of 5G infrastructure on utility poles and wires, but in many urban environments, such infrastructure is located underground. The legislation sets up a process to build 5G infrastructure on state property, and also establishes a process for municipalities that are interested in taking advantage of the technology in cases where utility or light poles are not available.

**STATES ARE ON THEIR OWN TO REGULATE ELECTION EQUIPMENT:** Behind nearly every voter registration database, voting machine and county website that posts results on Election Day, there's an election technology company that has developed those systems and equipment. By [targeting](#) one of those private vendors, Russia, China or some other U.S. adversary could tamper with voter registration rolls, the ballot count or the publicly released results, potentially casting doubt on the legitimacy of the final tally. Nevertheless, there are no federal rules requiring vendors to meet security standards, test equipment for vulnerabilities or publicly disclose hacking attempts. With the 2020 presidential election approaching, security experts, lawmakers and even election vendors themselves are calling for more rigorous testing of election equipment and stricter security standards for the private companies that provide election-related services.

### BGR In The News

**A WORD FROM BGR FOUNDING PARTNER ED ROGERS:** Writing in the Washington Post, BGR Founding Partner Ed Rogers [writes](#): "For years, billionaire activist Tom Steyer's clumsy quest for political power has remained tiresome and uninspiring. So naturally, he is [running for president](#). Undoubtedly, most of the political consultants and handlers hired by Steyer are enthused by his candidacy. Steyer's [bid for the presidency](#) will keep the vanity project going for some time. I mean, Steyer's run could be the biggest thing in presidential politics since former Starbucks chief executive Howard Schultz's [dalliance](#) with running in 2020."

## F. FEDERAL/STATE RELATIONS

**STATES FILE LAWSUIT AGAINST IRS FOR BLOCKING CHARITABLE TAX DEDUCTION WORKAROUND:** New York, New Jersey, and Connecticut are [challenging](#) the Trump administration's decision to block a plan that would have allowed taxpayers to write off state and local taxes as charitable contributions. **Gov. ANDREW CUOMO** announced a lawsuit Wednesday filed by New York, New Jersey and Connecticut against the Internal Revenue Service, which enacted rules recently that block states from passing laws to circumvent the cap on deductions for state and local taxes. The governor, who has repeatedly railed against the cap on so-called SALT deductions as a weapon wielded against Democratic states, said the IRS rule "flies in the face of a century of federal tax law that says state choices to provide tax incentives for charitable donations do not affect the federal deductibility of those gifts.

**SLATERY TELLS FEDS TO BUTT OUT OF STATE CONSTITUTIONAL ISSUES:** Tennessee's attorney general is [asking](#) the U.S. Supreme Court to deliver a simple message to federal courts: Butt out of state constitutional issues. **ATTORNEY GENERAL HERBERT S. SLATERY III** recently filed a petition with the U.S. Supreme Court in his ongoing bid to defend — and rescue — a package of Tennessee legislation that places caps on damages awarded by juries in civil lawsuits. In December, the U.S. Court of Appeals for the Sixth Circuit struck down the state's cap on punitive damages, calling it a violation of the Tennessee Constitution. The federal court ruled the state legislature has no right under the state's constitution to usurp the authority of juries to award punitive damages. Slatery's office cried foul, saying the federal court should instead have asked the Tennessee Supreme Court to first decide the matter. Slatery sought another hearing, but in a divided opinion, the 6th Circuit rejected the request in March.

### Update from BGR's Austin Office

**INSIGHT FROM BGR VICE PRESIDENT, TEXAS DIRECTOR JERRY STRICKLAND:** Save for the steady flow of tourists seeking to escape Texas' summer heat, all is relatively quiet these days under the dome of the Texas Capitol. With the frenetic pace of the Texas Legislative session in the rearview mirror, state agencies, local jurisdictions and law enforcement are now tasked with implementing the 1,429 bills that made it through the gauntlet and were ultimately signed by Governor Greg Abbott.

The six-month race to the finish by the Texas Legislature – by most estimations – successfully navigated school finance reform, property tax relief, disaster recovery, and a slew of other measures aimed at continuing Texas's economic strength. That economic strength means there is more money to help fix priority issues. In the end, Governor Abbott signed the state's roughly \$250 billion budget without issuing a single line-item veto. The budget, which state lawmakers approved in the waning days of the session in May, includes a significant increase in spending made possible by positive economic forecasts and revised estimates from oil and natural gas production taxes.

The extra money is being used to fund the \$11.6 billion school finance package that included \$6.5 billion in new spending for schools and more than \$5 billion to provide property tax relief for Texas homeowners and businesses. In total, education funding – public school and university – made up 10% of the state's budget.

While the major changes in school finance and property tax, along funds pumped to disaster recovery got major headlines during the session, it is now up to state agencies across the board to begin implementing many of the measures passed. They will spend the next few months implementing laws in preparation for September 1, 2019, the date most of the passed legislation takes effect. Among other changes to state law:

- Smoking age raised from 18 to 21, except for military personnel
- Red-light cameras outlawed

- Surprise billing relief for patients
- Hemp and hemp-derived products legalized

*Before joining BGR Group, Jerry Strickland served as Governor Greg Abbott's appointee to lead the Texas Office of State-Federal Relations, where he was the Governor's lead advisor on federal affairs. In this role, he provided advocacy, counsel and direction to the Governor, members of the Texas Congressional delegation, relevant Congressional committees and the White House. He can be reached directly at [jstrickland@bgrdc.com](mailto:jstrickland@bgrdc.com). For more information on BGR's Austin office, click [here](#).*

## II. Politics

### A. GOVERNORS & STATEWIDE OFFICES

**GOVERNORS TANK IN ELECTION FOCUSED ON TRUMP:** STEVE BULLOCK, JOHN HICKENLOOPER and JAY INSLEE are [respected](#) two-term Democratic governors, with proven records of accomplishment. In this presidential primary season, that counts for next to nothing. Bullock, the Montana governor, got shut out of the first debate. Inslee, the Washington governor, hasn't cracked 2 percent in a national poll. Colorado's Hickenlooper has hit even harder times — his senior staffers urged him to drop out of the race last month. The three governors in the 23-candidate field are mired at the bottom of national polls for any number of reasons, though one reason appears to stand out more distinctly than the rest: Donald Trump. While the steady stream of scandal and controversy surrounding the president is proving to be a boon to members of Congress running for the White House — giving some of them almost limitless opportunities for media exposure — it's turning out to be a problem for the statehouse-based candidates. Lacking a nexus to the nation's capital and the Trump administration story of the day, the governors are left standing on the outside looking in, news cycle after news cycle.

**RANKING THE GOVERNORS:** The 15 most popular governors in the country are Republicans, and 8 of the 10 most unpopular are Democrats. On average, Republican governors have a net approval that is 17 points higher than Democrats. More from Morning Consult on ranking the nation's governors can be found [here](#).

### B. STATE LEGISLATURES & MAYORS

**EMILY'S LIST TO SPEND BIG ON LEGISLATIVE RACES IN 2020:** EMILY's List, one of the largest pro-choice political action committees in the country, [announced](#) its intentions to spend \$20 million supporting and training female state legislative candidates in the 2020 election cycle in hopes of improving Democrats' control of the redistricting process. The group, which spent nearly \$40 million in the 2018 midterm cycle in favor of pro-choice candidates, said its Focus 2020 initiative "will focus on more than 20 states where reproductive freedom is under attack and state legislatures control redistricting." The eight-figure investment will be directed toward a variety of measures to assist candidates running in lower-tiered races including research, training, and direct contributions to candidates.

**WEST VIRGINIA TO RECONVENE SPECIAL SESSION:** The West Virginia Senate [said](#) it will reconvene its special session Tuesday, July 23. An email from Jacquie Bland, director of communications for the Senate, said the Senate will consider additional bills to be introduced by West Virginia Gov. Jim Justice. No specifics about the bills were immediately available. Bland said the Senate will have to authorize the sale of road bonds for the Roads to Prosperity program. The special session by the Senate will coincide with July interim committee meetings. Meanwhile, the West Virginia House of

Delegates has been called to reconvene Monday, July 22, for the special session. The session is a continuation of the special session last month, with a few supplemental spending bills that fund some items passed in House Bill 206, the omnibus education bill, House spokesperson Jared Hunt said in an email.

**VIRGINIA LAWMAKERS ABRUPTLY ADJOURN SPECIAL SESSION ON GUN LAWS:** Less than two hours after beginning a special session [called](#) in response to a mass shooting, Virginia lawmakers abruptly adjourned Tuesday and postponed any movement on gun laws until after the November election. The Republican-led Virginia Senate voted first to end the special session and adjourn until after November elections with a 20-18 vote following a contentious back-and-forth between lawmakers. Shortly afterward, the House, which has 1-vote Republican majority, voted 50-46 to do the same. Democratic **Gov. RALPH NORTHAM** summoned the Republican-led Legislature to the Capitol to address gun violence in the wake of the May 31 attack that killed a dozen people in Virginia Beach. He put forward a package of eight gun-control measures and called for "votes and laws, not thoughts and prayers" in reaction to the massacre. But not a single vote was cast on the legislation. Republican leaders said the session was premature and politically motivated. They assigned the state's bipartisan crime commission to study the Virginia Beach shooting and the governor's proposed legislation.

**BUDGET BILL CLEARS OHIO LEGISLATURE:** Ohio would [cut](#) personal income taxes by 4%, raise the age for buying tobacco products to 21 and direct \$550 million for educational wraparound services such as mental health counseling under the state budget that lawmakers belatedly sent to **Gov. MIKE DEWINE** on Wednesday, hours before their extended deadline. The Republican governor can veto provisions of the two-year, \$69 billion spending plan that he doesn't approve. The measure, approved by votes of 29-1 in the Senate and 75-17 in the House, eliminates the income tax for people earning less than \$21,750 and retains a business tax break but exempts lawyers and lobbyists from that. It also pushes back the 2020 primary election by a week to St. Patrick's Day despite objections from Democratic lawmakers.

## C. BALLOT INITIATIVES & POLITICS

**RECALL PETITIONS APPROVED FOR TWO COLORADO STATE SENES.:** Petitions to [recall](#) two Democratic state senators were approved by election officials, kicking months of threats by Colorado Republicans to oust Democratic lawmakers from office into high gear. The Colorado Secretary of State's Office said opponents of **STATE SENES. PETE LEE**, of Colorado Springs, and **BRITTANY PETERSEN**, of Lakewood, can begin gathering signatures to try and force a recall election to remove the pair from office. If both recalls are successful, Democrats would lose their two-vote majority in the Colorado Senate. Opponents have until Sept. 10 to gather 11,304 signatures from Lee's district and 18,376 signatures from Petersen's to force elections to try to recall the lawmakers.

**GOP HOLDS VOTER-REGISTRATION ADVANTAGE IN RACES FOR GOVERNOR, PRESIDENT:** Republicans have reasons for [optimism](#) heading into this fall's elections for governor. All three of this year's races -- in Kentucky, Louisiana and Mississippi -- are being held in the South, a region where the party is already dominant. There's at least one other factor playing in the GOP's favor: party registration. Democrats may still have the lead in total voter registration in Kentucky and Louisiana, but Republicans are clearly gaining strength. (Mississippi doesn't register voters by party.) Republicans are also gaining relative strength in some of the states expected to be competitive in the 2020 presidential election. Republicans have been doing better than Democrats, for example, in the sizable swing states of Florida and Pennsylvania.

**NY STATE SENATE MAJORITY LEADER ELECTED DLCC CHAIRWOMAN:** Painting Albany blue wasn't enough for **ANDREA STEWART-COUSINS**. The New York Senate majority leader was [elected](#) Wednesday as chairwoman of the Democratic Legislative Campaign Committee, the official Democratic organization dedicated to electing state legislators.

Stewart-Cousins (D-Yonkers) became the first woman to helm the state's upper chamber in January after Democrats wrested control of the state Senate from Republicans by ousting the majority of a splinter group of Democratic senators who allied with the GOP. Now, she's being tasked with aiding Democrats in other states in repeating her success.

## Campaign News

**NOTE:** Only three states will hold gubernatorial elections in 2019: Kentucky, Louisiana, and Mississippi. BGR's 2019 *Campaign News* section will primarily include stories from those states. Please let us know if there are specific states or races you are interested in monitoring as well.

**KEY ELECTIONS FROM ACROSS THE COUNTRY:** The left-leaning *Daily Kos* is out with a [calendar](#) of this year's top races. A version of this calendar with more details about specific election procedures for each race as well as the population for each jurisdiction, can be found [here](#).

**KEEPING TRACK:**

*Days until the Mississippi gubernatorial primary election: 20*

*Days until the Louisiana gubernatorial primary election: 87*

*Days until the Kentucky, Mississippi, New Jersey and Virginia general elections: 111*

### MISSISSIPPI

**REEVES ANNOUNCES \$100 MILLION 'MODERN MISSISSIPPI WORKFORCE' PLAN:** Monday at Taylor Power Systems in Clinton MS, **LT. GOVERNOR TATE REEVES**, [announced](#) a new workforce development plan to increase the number of skilled workers coming out of Community Colleges as well as Institutes of Higher Learning and ready for skilled labor jobs. He was introduced by Lex Taylor, Chair of the Taylor Group of Companies. Reeves said his ability to make this proposal was due to the last eight years of conservative leadership in the state. He said the proposals today are about building on the foundation laid by the administration of the last eight years.

**REEVES LEADS FUNDRAISING FOR GOVERNOR:** **LT. GOV. TATE REEVES** [raised](#) about \$650,000 in June in his bid for the governor's mansion, a haul that outpaces his rivals and beats his own fundraising total from a month earlier. Reeves now has \$5.8 million in his campaign coffers about a month ahead of the Republican primary. His campaign spent about \$1.2 million last month, much of it on a barrage of television ads, according to reports filed with the state. Reeves' Democratic rival, **ATTORNEY GENERAL JIM HOOD**, reported raising half what Reeves did, about \$330,000, and spending \$105,000 in June. He has about \$1.4 million in his war chest, though faces a less-competitive August primary. The Reeves campaign continues to say he's focused on Hood and the November general election, and rarely brings up his Republican primary opponents, **STATE REP. ROBERT FOSTER** and **FORMER STATE SUPREME COURT CHIEF JUSTICE BILL WALLER JR.**

**REEVES HEAVILY FAVORED TO KEEP GOVERNORSHIP:** A recently-completed Impact Management Poll [showed](#) Mississippi's stalwart conservative **LIEUTENANT GOVERNOR TATE REEVES** in a commanding position to win both the

Republican primary and general election for governor of the Magnolia State this year. In one of the three states electing governors in 2019, Reeves, a former state treasurer, was thought to be facing a stiff challenge for nomination from **CHIEF JUSTICE WILLIAM WALLER, JR.** Moreover, both Reeves and Waller were considered vulnerable to the man half-jokingly referred to as “the only white Democrat office-holder left in the Deep South”— four-term **STATE ATTORNEY GENERAL JIM HOOD**, prosecutor of white supremacists as well as major corporations, and the only Democratic statewide office holder in Mississippi. But Impact Management Poll, a product of “Y’All Politics,” showed Reeves clobbering Waller, namesake son of former Democratic Gov. (1971-75) William Waller by 50 percent to 19.48 percent.

**HOW A LOSS FOR HOOD COULD POSITION MISSISSIPPI’S GOP:** If there were odds given on this election, and perhaps there are since Mississippi has legalized sports book betting, **ATTORNEY GENERAL JIM HOOD** [would](#) have far better odds of winning than would his Democratic colleagues in other statewide races. If he loses, it could be several elections before a Mississippi Democrat of Hood’s perceived political strength is in position to win a statewide office. For the next couple of election cycles, Northern District Public Service Commissioner Brandon Presley might be the Democrats’ best hope if Hood is unsuccessful this year. A shutout of statewide Democratic candidates in November could place Mississippi politics – at least for the statewide offices – in a position similar to where it was for much of its history where one party was so dominant that the general election meant little. For much of the 20th Century in Mississippi, the Democratic primary – not the November general election – was the pivotal election. The winner of the Democratic primary faced token, if any, Republican opposition in November. That began to change in 1987 when Tupelo businessman Jack Reed ran a credible and competitive campaign against Democrat Ray Mabus for the office of governor and paved the way for Vicksburg contractor Kirk Fordice to defeat Mabus in 1991.

**DESPITE CONTROVERSY, MOST CANDIDATES FOR AG WOULD CONTINUE USING OUTSIDE LAWYERS:** The [state](#) is expected to receive about \$117 million from tobacco companies for the upcoming budget year (starting July 1 ) as a result of the lawsuit settlement the state reached in 1998 with the cigarette makers. During a 25 year period the state is scheduled to receive more than \$4 billion from the tobacco companies as a result of the settlement to help pay the cost of treating smoking-related illnesses. But in reality, the settlement does not end in 25 years. The state, based on a formula, is supposed to receive payments – around \$100 million annually – as long at the companies make money. Most of the money goes into the state’s Medicaid program, but a portion also goes into smoking cessation efforts. The lawsuit, filed by **THEN-ATTORNEY GENERAL MIKE MOORE**, is perhaps the most high profile example of what is now a common practice of states, through their attorneys general, hiring private lawyers to pursue lawsuits – usually against large corporations. While the lawsuit resulted in a national settlement, it was Moore who filed the first lawsuit against the cigarette companies on behalf of Mississippi. **JIM HOOD**, who succeeded Moore as attorney general, has continued the practice of hiring outside counsel. He currently has dozens of lawsuits pending filed with the help of outside legal counsel. Hood is running for governor this year and four candidates are vying to replace him – three Republicans and one Democrat. A key issue in that race is whether the new attorney general will continue to contract with private attorneys to pursue large lawsuits. The issue of hiring outside counsel has long been controversial with many in the business community criticizing the practice. At least three of the four candidates running for AG – **STATE TREASURER LYNN FITCH** and Madison attorney **ANDY TAGGART** on the Republican side and ACLU/Mississippi Executive Director **JENNIFER RILEY-COLLINS** on the Democratic side – do not rule out the possibility of continuing the practice. The fourth candidate – Republican **STATE REP. MARK BAKER** of Brandon – has been an outspoken critic of the practice and has unsuccessfully tried to pass legislation in past sessions to establish a special panel of the governor, lieutenant governor and secretary of state to approve any use of outside counsel to file lawsuits.

**HOOD ON MEDICAID, HEALTH CARE:** Democratic gubernatorial candidate **JIM HOOD** [said](#) he supports expanding Medicaid in Mississippi, both for health and economic reasons. “You put a billion dollars in the economy, it has a huge

impact," the attorney general said in a recent interview with the Clarion Ledger. "There's no reason not to (expand) other than partisan politics." Hood, 57, said he is receptive to a recent expansion plan pitched by Mississippi hospitals, which would charge patients a fee to help cover the state's portion of the costs. That plan, called Mississippi Cares, could extend government insurance coverage to about 300,000 low-income Mississippians. It would tap roughly \$1 billion annually in federal funds. And the state would pay its share with fees levied on patients, and contributions from hospitals, not state taxpayers.

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### **KENTUCKY**

**BEVIN, BESHEAR GO FACE TO FACE IN GOVERNOR'S RACE:** Democratic challenger **ANDY BESHEAR** [said](#) Republican **Gov. MATT BEVIN** has a reputation of being a bully who doesn't work well with others on Tuesday as both spoke at a forum held by Kentucky's farming community. Beshear, the state's attorney general, told members of the Kentucky Farm Bureau, which hosted the event in Louisville, that the choice for voters this November is as much about character as public policy. "When a governor comes to your community is he going to be a person you can take your kids to see," he asked, "because agree or disagree with him, you're not worried about what's coming out of his mouth, and you know he's going to say decent things we can all ultimately agree on?" But Bevin dismissed Beshear's attacks during much of the hourlong discussion, which touched on state agriculture issues but also dabbled into the state budget, pension crisis and tax reform.

**BEVIN TOUTS \$20 BILLION IN ECONOMIC INVESTMENT SINCE DEC. 2015:** **Gov. MATT BEVIN** [announced](#) that the state has eclipsed \$20 billion in announced corporate investment since December 2015 - a record for any four-year administration - and has created nearly 54,000 full-time jobs for Kentuckians. According to the Governor's office, the \$20 billion comes from 1,180 individual projects, where companies plan to either expand their existing operations or establish new facilities in Kentucky; which also create construction, service and supplier jobs. He credits legislation and initiatives such as right-to-work, Red Tape Reduction and transformative workforce development training for making this accomplishment a reality. Looking at the numbers, 2016 saw \$3.1 billion in growth, a record \$8.7 billion in 2017, nearly \$5.3 billion in 2018 and over \$2.4 billion through the first six months of this year.

**BEVIN SETS DATE FOR SPECIAL SESSION ON PENSION RELIEF FOR QUASI-GOVERNMENTAL AGENCIES:** The special legislative session to give relief to local health departments, regional state universities and other quasi-governmental agencies relief from soaring pension costs will [begin](#) at 8 a.m. Friday, **Gov. MATT BEVIN** announced on Monday. The announcement confirms comments of key state legislators last week, first reported by the Courier Journal, that July 19 would be the likely starting date to assure a sufficient number of supporters of Bevin's proposal will be present to pass the legislation. Starting July 1, local health departments, regional universities, mental health centers, domestic violence shelters, rape crisis centers and some other agencies were hit with a nearly 70% increase in the already-high contributions they must pay to Kentucky Retirement Systems. They say this hike in rates is forcing cuts in services and potentially could force some health departments to shut their doors.

**BESHEAR SNUBS KENTUCKY CHAMBER OF COMMERCE FORUM:** Democratic gubernatorial candidate **ANDY BESHEAR** is [turned](#) down a chance to contrast his vision with Republican incumbent **MATT BEVIN** in front of a gathering of Kentucky's business leaders. Instead, the campaign is casting the sitting attorney general as a friend of labor, while rebuffing a strategy used by other Democrats who have courted the Kentucky Chamber of Commerce.

**KENTUCKY TO REMOVE UP TO 250,000 INACTIVE VOTERS:** Kentucky is [expected](#) to remove up to 250,000 inactive voters from its registration rolls in response to a lawsuit filed by the conservative watchdog group Judicial Watch. The

group alleged that the state has more registered voters than citizens over the age of 18 and that its failure to remove ineligible voters violates the National Voter Registration Act. The Supreme Court highlighted states' responsibility to keep their voter rolls clean in a ruling last year regarding Ohio's voter maintenance laws, according to Real Clear Politics.

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### LOUISIANA

**CANDIDATES FOR GOVERNOR SIT ON MILLIONS:** After months of quiet, Louisiana's gubernatorial campaign [lurched](#) into action recently with two candidates making addresses, media campaigns gearing up and the candidates releasing their fundraising figures early. The war chests are substantial. And with a little more than 13 weeks left before the Oct. 12 primary balloting the heretofore quiet campaign likely will swamp Louisiana airwaves. The three major candidates are reporting enough money to buy a substantive schedule of television and radio commercials. This will go along with digital ads, social media posts and mailed fliers. Incumbent **Gov. JOHN BEL EDWARDS**, a Democrat from Amite, reports sitting on \$9.62 million – more than Republican incumbent Bobby Jindal had at this point. He began television advertising earlier this month. Republican challenger **EDDIE RISPONE**, a Baton Rouge businessman, reports having a little more: \$9.8 million cash on hand. Rispone, who co-founded an industrial construction firm and who was a major GOP donor over the years, loaned his campaign more than \$10 million from his personal bank account, giving him an edge over Edwards in funding. Edwards was legally forbidden from raising campaign dollars during the three months the Louisiana Legislature was in session. U.S. **REP. RALPH ABRAHAM**, the Alto Republican who also is challenging Edwards' reelection, has trailed the other two candidates, reporting just over \$1 million as of the end of the first quarter. But Abraham recently recruited two of Louisiana's biggest fundraisers for conservative causes and candidates: retired shipbuilder Donald "Boysie" Bollinger and developer Joseph Canizaro.

**BEL EDWARDS RELEASES FIRST STATEWIDE TV AD:** The advertising [blitz](#) in the Louisiana governor's race began Monday, as Democratic incumbent **Gov. JOHN BEL EDWARDS** released his first statewide TV ad, touting his financial stewardship of the state. Gov. Edwards' campaign described a sizable "seven-figure ad buy" that will have the 30-second spot in heavy rotation on television and websites. The campaign told The Associated Press that it intends to stay on TV through Election Day with the launch of the ad, which also draws a contrast with the deficit-riddled years of Edwards' Republican predecessor. Louisiana's statewide election is Oct. 12. A runoff, if needed, will be held Nov. 16.

**BEL EDWARDS PLAYED TO STRENGTH DURING HURRICAN BARRY, BOOSTING RE-ELECTION CAMPAIGN:** **Gov. JOHN BEL EDWARDS** [likely](#) won a short-term boost for his reelection campaign by how he handled preparations for Hurricane Barry, analysts said. Edwards looked steady as he dominated news coverage in south Louisiana for nearly a week, about three months before the Oct. 12 primary, in his role as the state's commander in chief. The governor, who has a sizable lead in polls at this point, briefed the press daily at the state's Emergency Operations Center in Baton Rouge and was featured repeatedly in local news coverage during visits with officials in coastal parishes both before and after the storm made landfall on Saturday.