



# STATE <sup>OF</sup> THE STATES



A STATELINE.ORG REPORT

## 2007 A Report on State Policy Developments and Trends



Politics ★ Welfare ★ Taxes & Budget

Health Care ★ Homeland Security ★ Education

From the cover:

Massachusetts Gov. Deval Patrick (D) acknowledges the cheers of supporters as he takes the stage at a campaign rally in Worcester, Mass.

Billie Patch poses with her three children-ShonLuke, 3, Kyra, 5, and Montanna, 4, in her backyard in Rochester, N.H.

An unidentified man protests against the Real ID Act, with other immigrants who gathered in Rockville, Md.

At a Boston clinic, then-Gov. Mitt Romney (R) of Massachusetts congratulates Madeline Rhenisch for joining the state-subsidized health plan.

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## 2007 Meeting Schedule

NAME	MEETING	DATES	LOCATION
American Legislative Exchange Council	Annual Meeting	July 25-29, 2007	Philadelphia, Pa.
Capitolbeat	Annual Meeting	Aug. 2-5, 2007	Philadelphia, Pa.
Center for Policy Alternatives	Annual Meeting	Dec. 7-9, 2007	Washington, D.C.
The Council of State Governments	Eastern Regional Conference Annual Meeting	Aug. 11- 15, 2007	Quebec City, Quebec
The Council of State Governments	Midwestern Legislative Conference Annual Meeting	Aug. 26-29, 2007	Traverse City, Mich.
The Council of State Governments	Southern Legislative Conference	July 14-18, 2007	Williamsburg, Va.
The Council of State Governments	CSG-West Annual Meeting	Sept. 16-19, 2007	Moran, Wyo.
The Council of State Governments	Annual Meeting	Nov. 11-14, 2007	Oklahoma City, Okla.
Council of Northeastern Governors	Annual Meeting	TBA	TBA
Midwestern Governors Association	Annual Meeting	TBA	TBA
National Governors Association	Winter Meeting	TBA	TBA
National Governors Association	Annual meeting	TBA	TBA
National Conference of State Legislatures	Annual Meeting	Aug. 5-9, 2007	Boston, Ma.
Southern Governors' Association	Annual Meeting	Aug. 25-27, 2007	Biloxi, Miss.
Western Governors' Association	Annual Meeting	June 10-12, 2007	Deadwood, S.D.

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# ELECTIONS BRING BLUE WAVE AND NEW PLANS TO STATEHOUSES

By Eric Kelderman and Pamela M. Prah

*By the time Colorado Gov.-elect Bill Ritter claimed victory in Denver on election night last November, Democrats across the nation were feeling a mile high.*

*The Democratic Party had won the trifecta of the Colorado governor's office, the state House and state Senate for the first time in nearly 50 years – and when all the results were in, had swept to power in the U.S. Congress, a majority of governor's mansions and more legislative chambers than anytime since 1994.*

**P**resident George W. Bush's record-low approval ratings and frustration with the war in Iraq made the 2006 midterm elections a wellspring of voter anger. While the presidency wasn't on the ballot, the elections held huge stakes for state leadership with 36 governors' offices and 84 percent of legislative seats in 46 states up for grabs.

The election largely reversed gains of the 1994 Republican revolution. Democrats entered 2007 with 28 governors, and Republicans with 22, an exact flip of the pre-election headcount. Democrats are in charge in 23 state legislatures where they control both chambers, four more than before the election. Republicans lost chambers in five states and control both houses in only 15. At the federal level, Democrats took control of Congress: 51-49 in the Senate and 233-202 in the House. (A Florida race was still disputed at press time.)

There were also these political milestones:

- Two incumbent governors – both Republicans – were ousted: Robert Ehrlich Jr. in Maryland's general election and Frank Murkowski in the Alaska primary.
- Massachusetts made history by electing Democrat Deval Patrick as governor, making him only the second African-American to be elected to a state's top office. Virginia's L. Douglas Wilder (D) was the first.



Photo by Steven Wayne Rotsch

Colorado's Bill Ritter (D) is one of 11 new faces among the 36 governors elected in November.

- Alaska elected its first woman governor, Republican Sarah Palin. Nine women now serve as state chief executives, matching the record set in 1994.
- Iowa and New Hampshire, scenes of the earliest presidential primary contests in 2008, both elected Democratic governors and legislatures. Democrats now dominate the statehouse in Iowa for the first time in 40 years and in New Hampshire for the first time since the Civil War.

The outcome gave Democrats a political edge going into next year's scramble for the presidency, and strengthened their ability to influence the remapping of congressional and legislative districts after the 2010 census – if not sooner. But it also left them needing to produce results for an electorate that exit polls showed was clearly fed up with partisan bickering and government gridlock.

Many state leaders are drawing lessons from the success of one Republican, California Gov. Arnold Schwarzenegger, who roared back from a political slump to win re-election by stressing bipartisanship and compromise with a Democratic legislature.

Indeed, practical problem solving is the mantra of leaders of both parties who expect statehouses to remain at the forefront of major national policy innovations.

## Red & Blue States

In **10 states**, Republicans control the governor's office and both chambers of the legislature, down from 12 in 2006:

Alaska	North Dakota
Florida	South Carolina
Georgia	South Dakota
Idaho	Texas
Missouri	Utah

In **15 states**, Democrats control the governor's office and both chambers of the legislature, up from eight in 2006:

Arkansas	New Hampshire
Colorado	New Mexico
Illinois	New Jersey
Iowa	North Carolina
Louisiana	Oregon
Maine	Washington
Maryland	West Virginia
Massachusetts	

Sources: *Stateline.org* reporting

"It's time to put partisanship aside. ... The American people are looking for results," Arizona Gov. Janet Napolitano (D), chair of the National Governors Association (NGA), told a post-election gathering for freshman governors at the Greenbrier resort in West Virginia.

The governors have moved to position themselves as bipartisan brokers with Congress on such federal-state issues as immigration, Medicaid spending and energy. "When governors speak in one voice, it has a significant impact," NGA Vice Chairman Tim Pawlenty, Minnesota's Republican governor, told *Stateline.org*.

But state leaders aren't waiting for Congress to take the lead on problems such as the nation's broken health care system and global warming.

"Voters wanted results. They wanted people who can reach across party lines, who can work in a bipartisan fashion and get things done," said Kansas Gov. Kathleen Sebelius, a Democrat who won re-election with 58 percent of the vote in a state where less than a third of voters are registered Democrats. Her ticket featured a Republican who switched parties to run as her lieutenant governor.

Eleven new faces were among the 20 Democrats and 16 Republicans elected in November. Three are former state

attorneys general. New York Gov. Eliot Spitzer (D) succeeded Republican George Pataki, a potential 2008 presidential contender who voluntarily stepped down after 12 years in office. Florida Gov. Charlie Crist became the first Republican since Reconstruction to succeed another GOP governor in Tallahassee – the popular, term-limited Jeb Bush. And Democrat Mike Beebe took over as Arkansas governor from Republican Mike Huckabee, another possible presidential hopeful.

Three new governors are former congressmen: Democrat Ted Strickland of Ohio and Republicans C.L. "Butch" Otter of Idaho and Jim Gibbons of Nevada. Six others who had served in Congress lost gubernatorial bids in Colorado, Florida, Iowa, Nebraska, Oklahoma and Wisconsin.

In addition to Palin in Alaska, Ritter in Colorado and Patrick in Massachusetts, the other new governors are Democrats Chet Culver in Iowa and Martin O'Malley in Maryland. Ritter previously was a Denver prosecutor, Culver was Iowa secretary of state. Palin was mayor of tiny Wasilla, Alaska, and O'Malley was mayor of Baltimore. Patrick, who served in President Bill Clinton's Justice Department, was an executive with the Coca-Cola Co.

## Post-Election State-Federal Relations

Last year's midterm election was a watershed for states because it cleared the way for a new beginning in state-federal relations. State leaders hope the turnover in Washington, D.C., will stanch what they regard as an unprecedented expansion of federal power under the second President Bush, a former Texas governor.

## Governors

2006 gubernatorial elections **36**

### Party Winners

Democrats **20**

Republicans **16**

### Other Key Figures

Men **30**

Women **6**

Incumbent governors **25**

Newly elected governors **11**

Incumbent lost in general election **1 (Md.)**

Incumbent lost in primary **1 (Alaska)**

Source: *Stateline.org* reporting

## Governors 1980 to 2006

### Offices formerly held by governors

State legislators	149
Lieutenant governors	56
U.S. representatives	28
Attorneys general	24
Mayors	19
Secretaries of state	16
City council members	11
State treasurers	11
County council members	8
State auditors	6
U.S. senators	4

Source: National Lieutenant Governors Association

"It's the Republican Party that always talks about states' rights and the federal government having less to say about it. But on so many important issues, it hasn't been that way," said Pennsylvania Gov. Ed Rendell (D), who handily won reelection over Republican Lynn Swann, a Hall-of-Fame pro football player.

States have a long political wish list requiring congressional action. Among other things, they want more time and money to comply with the federal Real ID Act of 2005, which was passed to keep driver's licenses out of terrorists' hands and make it harder for illegal immigrants to get state-issued identification. Unless federal relief is forthcoming, states foresee nightmarish lines at motor vehicle departments and costs as high as \$11 billion.



Photo by Steven Wayne Ratsch

The National Governors Association hosts a post-election orientation session in West Virginia for these first-time governors: Jim Gibbons (R) of Nevada, Deval Patrick (D) of Massachusetts, Bill Ritter (D) of Colorado, C.L. "Butch" Otter (R) of Idaho, Mike Beebe (D) of Arkansas and Ted Strickland (D) of Ohio.

A longer-standing conflict is over the No Child Left Behind Act, Bush's 2002 education initiative, which is up for revision in 2007. States have challenged the costs of testing required under the law and its method of determining whether schools are making adequate progress.

On the energy front, states are in the forefront of efforts to develop alternative fuels and reduce fossil-fuel emissions blamed for global warming. California's Schwarzenegger signed a pact with Great Britain last fall to combat greenhouse gases and approved the nation's toughest restrictions on smokestack emissions linked to climate change. Other governors are promoting greater use of ethanol and new energy derived from coal. These efforts are likely to intensify now that presumably more environment-friendly Democrats are in charge at the U.S. Capitol. "The message to Congress is that we need each other," Iowa's Culver said.

Health care is yet another area where stepped-up state policy initiatives are expected. Massachusetts, Vermont and Maine already are moving to see that no state resident is uninsured, and California's Schwarzenegger has said that is one of his top priorities in his second term. The states will be looking to the federal government for help on programs such as Medicaid, the health care program for the poor, where federal and state roles intersect. "Like welfare reform in the 1990s, if Congress gives states flexibility, they'll show the pathway to a better future," Minnesota's Pawlenty said.

### Government Innovation

The late U.S. Supreme Court Justice Louis Brandeis once famously described the states as laboratories of democracy, and in the aftermath of last year's balloting, the states are awash in policy ideas. Florida's Crist, a Republican with GOP majorities in both houses of the Legislature, is pushing to lower property insurance rates for Florida homeowners. Cutting property taxes and curbing the state's climbing murder rate are other issues atop Crist's agenda.

Colorado's Ritter intends to focus on making higher education more affordable and health care more accessible, but

## 2007 Governors' Elections

State	Governor	Primary	General
Ky.	Ernie Fletcher (R)	May 22	Nov. 6
La.	Kathleen Blanco (D)	Oct. 20	Nov. 17
Miss.	Haley Barbour (R)	Aug. 7	Nov. 6

Sources: official secretaries of state Web sites

# POLITICS

admits neither goal is likely to be realized in the first legislative session. Ritter told *Stateline.org* he has talked to Massachusetts, Vermont and Maine officials about their health care reforms, in hopes of learning lessons for his state.

Newly re-elected Michigan Gov. Jennifer Granholm (D) will have a Democratic-controlled state House to work with in 2007. Her party won a majority in that chamber for the first time since 1994. In a state struggling with job losses in the slumping U.S. auto industry, she has proposed a \$1 billion plan to cover 500,000 of the more than one million residents without health insurance. She also signaled she will use her new political footing to try to overturn the state's ban on embryonic stem cell research.

Maryland's O'Malley said that government performance may sound "ho-hum" but that a responsive and accountable government is crucial "to making government work." He plans to replicate a government-performance program called "CitiStat" that he piloted as mayor of Baltimore and that in 2004 won an "Innovations in American Government Award" from the John F. Kennedy School of Government at Harvard.

The states are in their best fiscal shape since 2000, providing a window of opportunity for new initiatives. However, the costs of state employee pensions, health care for the



On Election Day, Maryland poll workers issue electronic cards to activate touch-screen voting machines in northeastern Baltimore precinct.

uninsured, demands for more education spending and the need to repair crumbling roads and bridges loom on the horizon.

There is also a worry that federal policy-makers will try to ease their deficit headaches at state expense. Less than a month after the November elections, the National Governors Association sent a letter urging the White House's Office of Management and Budget to "avoid proposals that simply result in savings for the federal government."

Looming over all of the policy decisions is the 2008 presidential race, the first in more than a half-century without an incumbent president or vice president seeking the office.

Historically, the party with more governors has an advantage. When Bill Clinton was first elected president in 1992, for example, Democrats held 27 governorships. George W. Bush captured the White House in 2000, when Republican governors were in charge in 31 states.

Ritter's victory in the Colorado gubernatorial race could have significance for presidential politics if it heralds a reshaping of allegiances in the Rocky Mountain states. Democratic governors now preside in five of eight mountain states - all carried by Bush in 2004 and all but New Mexico in his column in 2000. The Democratic governors of Arizona, Colorado, Montana and New Mexico helped found a new political organization just after the election to exploit Democratic gains in the region.

The current 28-22 split in favor of the Democrats could change later this year, when governors in Kentucky, Louisiana and Mississippi face re-election. As things stand

## Attorneys General

2006 attorney general elections **30**

### Party Winners

Democrats **19**

Republicans **11**

### Other Key Figures

Men **26**

Women **4**

Incumbent attorneys general **17**

Newly elected attorneys general **13**

Incumbent lost in general election **1 (Kan.)**

Incumbent lost in primary **1 (Wis.)**

Source: *Stateline.org* reporting



## Secretaries of State

2006 secretary of state elections	27
<b>Party Winners</b>	
Democrats	13
Republicans	14
<b>Other Key Figures</b>	
Men	18
Women	9
Incumbent secretaries	15
Newly elected secretaries	12
Incumbents lost in general election	3

Source: *Stateline.org* reporting

now, states with Democratic governors command 295 electoral votes, up from 207 before the election and more than the majority of 270 needed to elect a president.

Four of the last five occupants of the nation's highest office used their record as governor as a springboard to the White House. And several present or former state leaders will try to do so in 2008. In addition to Huckabee, Pataki and former Iowa Gov. Tom Vilsack (D), outgoing Gov. Mitt Romney (R) of Massachusetts is exploring a presidential bid as is New Mexico Gov. Bill Richardson (D), who was handily re-elected in last November.

### Ballot Measures

The voters were asked to set state policy by saying yea or nay to 204 proposals on the ballot in 37 states on Nov. 7. The four most newsworthy results came in Arizona, which became the first state to reject a constitutional ban on same-sex marriage (seven other states joined the 20 that already had constitutional bans); in Missouri, which approved protections for embryonic stem cell research; in South Dakota, where voters threw out the nation's most stringent anti-abortion law; and in Michigan, which approved a ban on the racial preferences in college admissions and government hiring known as affirmative action.

Minimum wage increases were approved in all six states where they were on the ballot – Arizona, Colorado, Missouri, Montana, Nevada and Ohio. That brought to 29 the number of states with a minimum wage higher than the \$5.15-an-hour federal rate set by Congress 10 years ago. Anti-tax advocates failed to convince voters in Maine, Nebraska and Oregon to impose caps on state government spending. Eight states restricted government power to seize private property under the doctrine of eminent domain. That action came in reaction to a 2005 U.S. Supreme Court decision that allowed a Connecticut town to raze homes to make way for a shopping center.

Political partisans increasingly have tried to use ballot measures to spur turnout at the polls. But voters may be getting leery of initiatives placed on the ballot by citizens' groups. Only a third of citizen initiatives won approval in 2006, compared with nearly a 50 percent approval rate between 1990 and 2004, according to the National Conference of State Legislatures. Meanwhile, voters approved 86 percent of measures put on ballots by legislatures.



Photo by Steven Weisne Rotsch

Iowa's newly elected Democratic governor, Chet Culver, gets tips from veterans such as re-elected Maine Gov. John Baldacci (D) at a National Governors Association retreat geared to helping 2006 winners make the transition from candidate to state chief executive.

## 2006 WAS YEAR OF SURPLUSES, SOCIAL ISSUES

By Pamela M. Prah

*Statehouses awash in surpluses ventured into new projects in 2006, from first-in-the-nation preschool for all 3-year-olds in Illinois to a space pad in New Mexico. States also made strides on issues that stymied Congress, including health care, immigration, the minimum wage and global warming.*

**M**ost in vogue in the 44 states that held regular legislative sessions were measures to hike the minimum wage, condone use of deadly force in self-defense and restrict local government's power to condemn private property. Legislatures in more than half the states also hustled through a ban on anti-gay picketers stalking U.S. soldiers' funerals.

But some of the headlines from state capitols didn't center on policy-making. In an election year that heightened the usual partisan tensions, ethics issues were raised about governors in Illinois, Kentucky and Wisconsin, and the FBI raided legislative offices in Juneau, Alaska.

All but a few states faced the happy dilemma of how to spend unexpected sums of money as a healthier U.S. economy pumped up revenues to their highest level in six years. Utah, Washington state and Wyoming grappled with projected surpluses of at least \$1 billion.

With extra money in their coffers:

- Florida slashed taxes by nearly \$300 million.
- Illinois spent \$135 million to create the nation's first statewide preschool program for both 3- and 4-year-olds.
- Minnesota approved measures to build a \$522 million baseball stadium for the Minnesota Twins and a \$248 million football stadium for the University of Minnesota.
- New Mexico earmarked \$762 million for construction projects, including \$100 million to build a commercial spaceport that one day could offer space tourism.



Photo by ©Steven Wayne Ronsch

Arizona Gov. Janet Napolitano (D), chair of the National Governors Association, calls for bipartisanship at a post-election retreat in West Virginia. The first gathering of sitting governors and newcomers drew freshman Jim Gibbons (R) of Nevada, Joe Manchin (D) of West Virginia, NGA Vice Chairman Tim Pawlenty (R) of Minnesota, and freshman Deval Patrick (D) of Massachusetts.

- New York agreed to nearly \$1 billion in grants and tax breaks for a computer chip manufacturing plant in the northeastern part of the state.
- Wyoming cut \$100 million in taxes by eliminating the sales tax on groceries and approved \$2.1 billion in new education funding – a 24 percent increase that could boost it to first or second in the nation in per-pupil spending.

### Where Congress Gridlocked

While Congress failed to raise the minimum wage above the \$5.15 hourly rate set in 1997, 11 legislatures and voters in six states in 2006 boosted wage floors above the federal minimum. Twenty-nine states now require businesses to pay workers more than \$5.15 an hour. The new Democratic leadership in Congress has pledged to raise the minimum wage in the rest of the country. (See *MINIMUM WAGE*, Page 38)

With the number of Americans without health insurance nearing 47 million, states also took groundbreaking steps to address the nation's broken health care system.

Moving toward universal coverage, Massachusetts became the first state to require residents to buy insurance and threatened companies with fines of \$295 for each worker not

## Uses of Unexpected Revenues

1. K-12 education:	<b>24 states</b>
2. Higher education:	<b>20 states</b>
3. Replenished rainy day funds:	<b>19 states</b>
4. Medicaid:	<b>14 states</b>
5. State employee salaries or benefits:	<b>14 states</b>
6. Other capital projects:	<b>14 states</b>
7. Corrections:	<b>11 states</b>
8. Highway projects:	<b>10 states</b>
9. Unfunded pension liabilities:	<b>8 states</b>
10. State aid to local governments:	<b>6 states</b>

Source: National Conference of State Legislatures

offered coverage. Vermont followed with a plan requiring private insurers to offer health coverage for primary and preventive care under the oversight of a state commission.

California Gov. Arnold Schwarzenegger (R) vetoed what would have been the nation's first publicly financed universal health care system but vowed to make covering the uninsured a major priority in his second term.

In a state-led backlash to illegal immigration, 33 states enacted a record 78 immigration-related laws, according to the National Conference of State Legislatures (NCSL). Arizona, Colorado and Georgia passed the toughest measures while Congress shelved President Bush's proposal to overhaul U.S. immigration policy and instead opted to build a 700-mile fence on the U.S.-Mexico border.

Georgia cut off illegal immigrants' access to public services and will impose strict sanctions on employers who hire illegal aliens in 2008. In a special session on immigration, Colorado legislators voted to require proof of residency for state services and to target employers who hire illegal aliens. Colorado voters approved two additional anti-immigration measures on Election Day.

In Arizona, which sees the largest volume of illegal crossings from Mexico, Gov. Janet Napolitano (D) vetoed a host of anti-immigration bills. But the Republican-controlled Legislature retaliated by placing four measures on the November ballot; all were approved. The most controversial builds on a 2004 voter-approved law cutting off state social services for illegal aliens, additionally barring day-care funding and in-state college tuition.

Nebraska lawmakers, however, went the other direction and, over the objections of Gov. Dave Heineman (R), became the 10th state to allow illegal immigrants to pay in-state college tuition rates. (*See IMMIGRATION, Page 39*)

On the environment, California took the nation's lead in fighting global warming with a plan to force industries to cut greenhouse gas emissions, including carbon dioxide, 25 percent by 2020. Seven Northeastern states also have a pact to curb pollutants blamed for global warming, aiming to cut power-plant emissions 10 percent by 2019. The Bush administration has resisted mandatory reductions of gases blamed for climate change.

## Abortion, Gay Marriage

Abortion and gay marriage attracted controversy in several legislatures, but voters had the final say.

South Dakota lawmakers touched off a national tempest by passing a strict abortion ban aimed at setting up a legal challenge to *Roe v. Wade*, the 1973 U.S. Supreme Court ruling legalizing abortion. South Dakota voters, however, threw out the law, which would have made it a felony to help a woman end her pregnancy, except to save her life.

In California and Oregon, voters rejected abortion measures similar to those on the books in 35 states requiring parents to be involved if a minor seeks an abortion.

For the first time, a state also rejected a ballot initiative to ban same-sex marriage. Arizona voters refused to add a prohibition against gay marriage to their state constitution, even as seven other states— for a total of 27 nationwide — adopted constitutional bans on Election Day.

New Jersey lawmakers in December adopted civil unions as an alternative to same-sex marriage. The action was a quick response to an Oct. 25 state Supreme Court order to provide equal legal rights for gay couples, either through civil unions as in Vermont and Connecticut or through same-sex marriage as in Massachusetts.

In Massachusetts, the only state where same-sex weddings now are permitted, outgoing Gov. Mitt Romney (R) in November asked the state's highest court to intervene to force the Legislature to put a gay marriage ban on the 2008 ballot. Lawmakers had used parliamentary maneuvers to avoid putting the ban to a statewide vote. (*See SAME-SEX MARRIAGE, Page 40*)

## Pro-Gun Laws and Other Trends

A groundswell of 14 states copied a year-old Florida law, advocated by the National Rifle Association, that expands the rights of crime victims to fight back with deadly force

## Minimum Wage Hikes

While the federal minimum wage has not increased since 1997, during 2006 17 states acted to increase minimum wage levels.

States Above Federal Level	Action in 2006	2007 Minimum Wage
Federal		\$5.15
Alaska		\$7.15
Arizona	☆	\$6.75
Arkansas	☆	\$6.25
California	☆	\$7.50
Colorado	☆	\$6.85
Connecticut		\$7.65
Delaware	☆	\$6.65
Florida		\$6.67
Hawaii		\$7.25
Illinois		\$6.50
Maine	☆	\$6.75
Maryland	☆	\$6.15
Massachusetts	☆	\$7.50
Michigan	☆	\$7.15
Minnesota		\$6.15
Missouri	☆	\$6.50
Montana	☆	\$6.15
Nevada	☆	\$6.15
New Jersey		\$7.15
New York		\$7.15
North Carolina	☆	\$6.15
Ohio	☆	\$6.85
Oregon		\$7.80
Pennsylvania	☆	\$6.25
Rhode Island	☆	\$7.40
Vermont		\$7.80
Washington		\$7.92
West Virginia	☆	\$5.85
Wisconsin		\$6.50

Sources: National Conference of State Legislatures and National Restaurant Association

without threat of later prosecution or lawsuits. Ten states enacted another pro-gun law, inspired by the aftermath of Hurricane Katrina, that bars law enforcers from confiscating weapons during declared emergencies or natural disasters. (See *SELF-DEFENSE LAWS*, Page 43)

News of sensitive personal data being lost or stolen led Delaware, Iowa and Maryland to create “identity theft passport programs” to help consumers whose credit cards and

## Gun Control Laws

**14 states** have adopted laws modeled after a 2005 Florida law protecting victims who use deadly force in self defense:

**Alaska, Alabama, Arizona, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Oklahoma, South Carolina and South Dakota**

**10 states** passed laws banning local law officers from confiscating weapons during declared emergencies and natural disasters in response to actions following hurricane Katrina:

**Alaska, Florida, Idaho, Kentucky, Louisiana, Mississippi, New Hampshire, Oklahoma, South Carolina and Virginia**

Source: The National Rifle Association

other information were stolen and used illegally. In addition, at least 15 states enacted laws allowing consumers to put security freezes on their credit reports, bringing to 26 the total of states with laws to prevent credit-reporting companies from releasing information without consumers’ consent, according to NCSL.

In first-of-its-kind legislation, California took steps to protect children in foster care from having their identities purloined by con artists using the youngsters’ names to take out credit and phone cards.

While the housing market may have cooled, the decade’s spike in real estate values added to the sting of property tax bills. Arizona, New York, Pennsylvania and Rhode Island responded by cutting property taxes. A few others swapped lower property taxes for increases in sales or other state taxes.

A “property tax swap” was the solution to a six-day shutdown of New Jersey state government last July. The nation watched the drama as Gov. Jon S. Corzine (D), in his first year after quitting the U.S. Senate, shuttered Atlantic City casinos, closed state parks and furloughed 45,000 state employees as legislators argued over how to balance the budget and cut property taxes, the highest in the country. Corzine secured a 1 percent sales tax increase, with half the new revenue earmarked for property relief. (See *PROPERTY TAX SWAPS*, Page 44)

Heightening tensions in a year in which 36 governors' seats and 6,119 legislative posts were on the ballot, moves to beef up voter identification stirred legal controversy. New laws in Georgia and Missouri requiring voters to show a government-issued photo ID were struck down before Election Day. But the U.S. Supreme Court intervened a week before the election to reinstate Arizona's 2004 voter-approved ID requirements. And Indiana piloted its 2005 law – the toughest in the country – requiring voters to show a government-issued photo ID with their address and signature.

## Precedents and Popular Policy

In other significant 2006 developments:

- Thirty-one states – by legislation or ballot measures – sharply limited government's powers to take private land through eminent domain for economic development, according to NCSL. States were reacting to a 2005 U.S. Supreme Court ruling that let a Connecticut town raze homes to build a shopping center. Ironically, Connecticut created an eminent domain ombudsman, but failed to enact sweeping legislation. (See *PROPERTY RIGHTS*, Page 42)
- Indiana raised \$3.8 billion for new road projects by leasing its 157-mile state-run Indiana Toll Road to a Spanish-Australian consortium. (See Page 14)
- Illinois lawmakers cleared the way for Chicago to lease downtown Midway Airport to private investors.
- Hawaii dumped the nation's only cap on wholesale gasoline prices, eight months after the Legislature's futile attempt to control price spikes spawned by the Gulf Coast hurricanes.
- North Carolina created the country's first judicial panel to investigate credible claims of innocence by convicted felons, with the possibility of overturning convictions.
- Maryland's General Assembly, in a move aimed at Wal-Mart, overrode Republican Gov. Robert Ehrlich's veto to enact the first state law to require large employers to bolster employee health benefits, but a federal court overturned it.
- Alaska re-criminalized marijuana, but the measure faces legal challenge.
- Georgia let public schools offer courses on the Bible, while South Carolina said its schools could offer credit for religious courses taken off campus.
- Maine banned the sale of wireless phone records after Internet brokers in several states violated privacy standards.
- Nebraska divided Omaha's largest public school district into what critics say are three new, racially distinct districts that revive the specter of segregated schools.

## Top Fiscal Issues for 2008

1.	Education	29 states
2.	Health care <i>(16 states specifically mentioned Medicaid)</i>	23 states
3.	Tax policy	16 states
4.	Transportation	10 states

Source: National Conference of State Legislatures, Survey of budget officers

- West Virginia's new underground coal mine safety law, enacted soon after the Sago Mine explosion that killed 12 miners, served as the blueprint for federal legislation that President Bush signed June 15.
- Connecticut will require new cars by 2009 to have labels showing their greenhouse gas "scores" based on federal ratings on environmental friendliness. Motorists will pay an additional \$5 registration fee.
- A free-speech legal case is springing out of laws passed by 27 states, according to NCSL, to ban anti-gay picketers at memorial services for U.S. soldiers killed in Iraq or Afghanistan. The protesters, primarily from a Topeka, Kan., church, say the deaths of U.S. troops are God's wrath for the country's sanctioning of homosexuality.

## Post-Katrina Action

The nation got a break from Mother Nature. No hurricanes struck the United States in 2006, but the Gulf Coast still was recovering from devastating Hurricane Katrina in August 2005.

Louisiana devoted a special session to storm recovery. Gov. Kathleen Blanco (D) pushed through a measure merging southeast Louisiana's hodgepodge network of levee boards into two boards, one for each bank of the Mississippi River, and won permission to streamline the government of New Orleans. In response to the death of thousands of pets after Katrina, the state ordered creation of a unique identification system so pets and owners can be reunited after emergencies.

Louisiana voters weighed in, too, amending the state constitution to devote any increase in federal royalty payments from offshore oil drilling to post-Katrina coastal restoration and levee projects.

The Mississippi Legislature continued Katrina recovery efforts by rebuilding public utilities, offering grants to homeowners and cracking down on home-repair fraud. In a September special session that lasted only two hours, law-

# POLITICS

makers cut the sales tax on modular homes – sometimes called Katrina cottages – from 7 percent to 3 percent to help Katrina victims resettle.

## Election-Year Ethics

Ethical issues heightened the drama in state capitals. In Alaska, the FBI raided the Juneau offices of several legislators, looking for ties to a large oil-field services company.

Kentucky Gov. Ernie Fletcher (R), who faces re-election this year, was indicted last May on state misdemeanor charges over hiring practices. Attorney General Greg Stumbo (D) dismissed the charges three months later, but continued a probe of Fletcher's administration.

Illinois Gov. Rod Blagojevich (D) won his re-election bid in 2006 despite being dogged by federal and state corruption probes of his administration. Wisconsin Gov. Jim Doyle (D) likewise won, after a state ethics board cleared him and a former deputy of allegations they helped a major campaign donor get state work.

In Tennessee, Gov. Phil Bredesen (D) called a special session last January on ethics reform, a response to the "Tennessee Waltz" sting operation that resulted in the conviction of two former legislators for taking bribes from government agents posing as lobbyists. Three more current and former lawmakers were awaiting trial. The special session yielded a new law that limits cash contributions, prohibits lobbyists from giving to campaigns, and strengthens requirements for lobbyist disclosures.

Pennsylvania in November finally shed its distinction as the only state not to require lobbyists to report how much they spend wooing state lawmakers.

North Carolina lawmakers enacted the biggest changes to ethics and lobbying rules in 30 years by denying themselves unlimited access to campaign contributions, gifts and other perks from lobbyists. In particular, the University of North Carolina, home of the Tar Heels, was barred from giving athletic tickets to legislators or officials working for the governor.

## Notable Inaction

The year also will be remembered for some things states didn't do.

In California, Schwarzenegger sought to overhaul the state's overcrowded prison system during a special session, but came away empty-handed.

Alaska Gov. Frank Murkowski (R), defeated in the Republican primary, failed to push through a deal he negotiated with major oil companies to build a \$25 billion gas pipeline through Canada. The Alaska Supreme Court ruled in late November that Murkowski could not sign the contract without approval from the Legislature.

*Staff writers Eric Kelderman, Kavan Peterson, Christine Vestal, Daniel C. Vock and Pauline Vu contributed to this report. Reporting assistance also was contributed by John Gramlich and Elizabeth Wilkerson.*



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## WANNA BUY THE BROOKLYN BRIDGE? SOME STATES AREN'T JOKING

By Pamela M. Prah

*Want to buy the Brooklyn Bridge? It's not for sale yet, but the Indiana Toll Road and the Pocahontas Parkway outside Richmond, Va., recently were leased to the highest bidders. And if Texas Gov. Rick Perry (R) prevails, private firms will pay the Lone Star State \$1.2 billion for the right to build a \$6 billion toll road from San Antonio to Dallas.*

It's the latest twist in creative ways of generating revenues without raising taxes. States have taken to selling off, leasing out and cashing in on some of their most valuable assets, primarily toll roads.

Several big deals were consummated in 2006, even as a resurgent economy and the return of surpluses gave most states a respite from penny-pinching. Another form of easy money – tax revenues from legalized gambling – also is helping to keep state coffers brimming. And states, like credit card-crazed shoppers, are borrowing more money than ever through the bond markets.

The prize of cash upfront is what's driving the new phenomenon of states marketing public assets to private corporations.

"Policy-makers are asking themselves, 'What assets can we lease?'" said Arturo Pérez, a fiscal expert at the National Conference of State Legislatures. "A lot of creative minds are out there working on that."

Govs. Rod Blagojevich (D) of Illinois and Matt Blunt (R) of Missouri are looking into auctioning off student loan portfolios. The governors of Illinois and Indiana also are both pushing to lease their state lotteries for billions of dollars, promising the money will be spent on schools.

Indiana's \$3.8 billion deal for a 75-year lease on its toll road made other states take notice. The arrangement with a private Australian-Spanish consortium gives the state a way to pay for \$3 billion in transportation upgrades across Indiana over the next 10 years. The companies also agreed to make



Christopher Connell

Workers cross the Brooklyn Bridge to Manhattan on a winter morning.

\$400 million in repairs to the 157-mile toll road, which runs across northern Indiana from Illinois to Ohio. Plus, the state will net \$700 million to \$900 million in interest on the \$3.8 billion lump-sum payment.

Indiana Gov. Mitch Daniels (R) figures the deal will trigger the biggest infrastructure building program in state history, create 130,000 new jobs and ultimately benefit the state to the tune of \$4.5 billion. That's a far cry from the losses the 50-year-old toll road chalked up for the state in five of the last seven years, Daniels said.

But Daniels' deal didn't sit well with some Hoosiers. He had to twist arms to narrowly win the Legislature's approval, even though both houses then were under GOP control, and the controversy helped Democrats take over the Indiana House in last year's elections.

Despite the hard sell and political fallout, Daniels announced he also will seek a private partner to build a \$1 billion, 75-mile toll bypass around Indianapolis.



# TAX AND BUDGET

While state finances are the healthiest they've been in six years, many state transportation budgets are lagging far behind the demand for repairs and improvements. Colorado, Georgia, Massachusetts, Missouri, Nevada and Pennsylvania face roadwork to-do lists of more than a billion dollars over several years.

It didn't help when gasoline prices skyrocketed in midyear. Motorists curbed their driving, cutting into the per-gallon gas taxes that finance most road improvements. Taxpayers groaning at \$50 fill-ups were in no mood for gas tax increases. "Leasing assets is a politically more palatable option," says Sujit CanagaRetna, a Council of State Governments fiscal analyst.

Virginia agreed to lease the Pocahontas Parkway, outside Richmond, for 99 years to a private Australian firm called Transurban after a nonprofit agency running the nine-mile road went belly up. Transurban paid \$522 million, plus agreed to build a 1.6-mile connector to the Richmond airport. The deal generated little controversy because Virginia laws already sanction public-private partnerships.

Traffic tie-ups are a big issue in booming northern Virginia, but lawmakers in Richmond have resisted raising taxes to alleviate the congestion. A special session called by freshman Gov. Tim Kaine (D) last year failed to untie the knot. Kaine predicts public-private partnerships could address up to 20 percent of the state's long-term highway needs. One proposal is to lease a state-operated toll road linking suburbs around Dulles International Airport to highways into Washington, D.C., for upwards of \$6 billion.

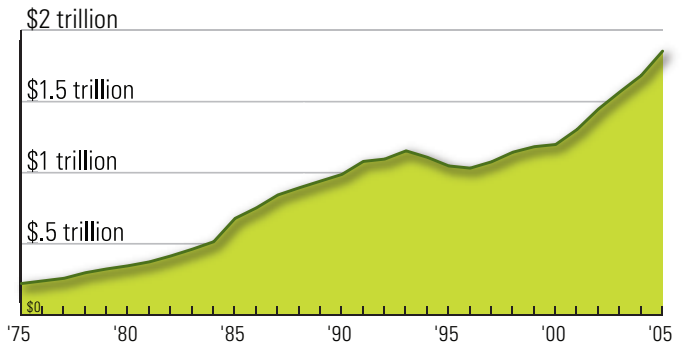
In the Southwest, all eyes are on Texas as newly re-elected Gov. Perry pushes his "Trans-Texas Corridor," a swath of toll roads, railways and pipelines that would cost \$183 billion to build over half a century. Three of Perry's gubernatorial opponents lambasted the first phase of the plan, in which a consortium of foreign firms has agreed to pay the state \$1.2 billion and spend \$6 billion constructing a 300-mile toll



Slot machines sparkled inside the Mohegan Sun at Pocono Downs in Plains Township, Pa., on the eve of opening day in November.

## State and Local Government Debt Since 1975

State and local governments have accumulated \$1.85 trillion in combined debt, up 852 percent from the \$194.8 billion combined debt they had in 1975.



Source: The Federal Reserve Board

road between Dallas and San Antonio. (The deal is pending until environmental studies are complete.)

Pennsylvania Gov. Ed Rendell (D) in December asked private companies to make their best offers to buy or lease the Pennsylvania Turnpike, which links Philadelphia to Pittsburgh and was dubbed "America's first superhighway" when it opened in 1940. New Jersey also is considering leasing parts of its turnpike.

Pennsylvania also is weighing whether to turn to private firms to expand heavily traveled Route 322, the road to State College, while New Jersey is mulling a sale or lease of the 173-mile Garden State Parkway and its 11 toll plazas, as well as the 47-mile Atlantic City Expressway from the Philadelphia suburbs.

Critics argue that private firms are apt to jack up tolls and fees because they have to keep investors, not voters, happy. Others worry that states will fritter away the upfront money. "I'm mistrustful of something-for-nothing schemes, and, conceptually, these plans have a whiff of that," said Nick Johnson, a state budget expert for the Center for Budget and Policy Priorities, a liberal think tank in Washington, D.C.

President Bush persuaded Congress in 2005 as part of the transportation bill to make it easier for states to issue tax-exempt bonds for public-private road and bridge projects.

Many states still are trying to recover from a borrowing binge earlier this decade. State and local governments owed nearly \$1.9 trillion in 2005 from bond issues, up sharply from \$1 trillion in debt outstanding in 2000. Lower debt means better ratings and terms from Wall Street and bondholders.

An easier way for states to bring in cash is to let folks lose it on lottery tickets or at the roulette table – and take a fat cut.

# TAX AND BUDGET

All but Hawaii and Utah have legalized some form of gambling, and experts foresee no letup in governments' thirst for gaming dollars. Commercial gambling, excluding American Indian casinos, brought in nearly \$5 billion in gaming taxes to state and local governments in 2005. That was in addition to \$16 billion in profits from state lotteries, and more than \$1 billion in fees garnered from casinos on Indian reservations.

Arkansas voters just legalized bingo. And the first slot machines recently were installed at racetracks in Pennsylvania and Florida, which join nine other states with "racinos."

Pennsylvania is on the verge of becoming the nation's biggest slots state behind Nevada (not counting American Indian casinos). The first slots parlor in the Quaker State opened at a horse track in the state's northeast corner. Eventually Pennsylvania plans to have 61,000 one-armed bandits at 14 venues, raising concerns from nearby Delaware, New Jersey, New York and West Virginia that also rely on gaming dollars.

In Mississippi, casinos along the Gulf Coast still may look like riverboats, but they now sit on dry land. Recovery legislation after Hurricane Katrina in 2005 allowed casinos to rebuild 800 feet from the water's edge. Nine of the dozen casinos destroyed around Gulfport were back in business by last fall.

Indian gaming grew more than three times as fast as the commercial gaming industry in 2005, and "more states are trying to get a cut," says Alan Meister, an economist who follows the industry for the Analysis Group, a financial strategy and consulting business.

While states cannot tax profits from Indian gaming, they accrue serious money from compacts negotiated with tribes. In the 30 states with tribal casinos, state and local governments got more than \$1 billion from fees and revenue-sharing agreements in 2005, according to Meister's most recent figures. That's a 20 percent increase from the previous year.

California Gov. Arnold Schwarzenegger (R) has signed 20 deals with American Indian tribes since he took office in 2003, but only 10 have won approval from the Legislature. Still pending is a deal Schwarzenegger negotiated with the Agua Caliente Band of Cahuilla Indians that could yield the state \$1.8 billion through 2030, including nearly \$60 million a year from 3,000 new slot machines.

Three other Southern California tribes want agreements modeled on that deal to install 11,000 more slot machines. Democrats, who control the Legislature, objected, arguing these tribal-state agreements leave unionized hotel and casino workers out in the cold.

## Highest Gaming Revenues

In 2005, Indian gaming, commercial casinos and racinos generated \$55.5 billion in combined revenue, with over a fifth of those revenues produced in Nevada.

	<i>gaming revenue</i>
Nevada	<b>\$11.6 billion</b>
California	<b>\$7.2 billion</b>
New Jersey	<b>\$5.0 billion</b>
Louisiana	<b>\$2.6 billion</b>
Mississippi	<b>\$2.5 billion</b>

Source: *Casino City's Indian Gaming Industry Report 2006-2007*

A move by the U.S. Congress to ban Internet gambling may wind up boosting state lottery profits. The new federal law bans Internet gambling through offshore sites but allows states to operate lotteries online, noted Keith Whyte, executive director of the National Council on Problem Gambling. He expects state lotteries to aggressively use the latest technology to tap into the estimated \$12 billion gamblers spend online.

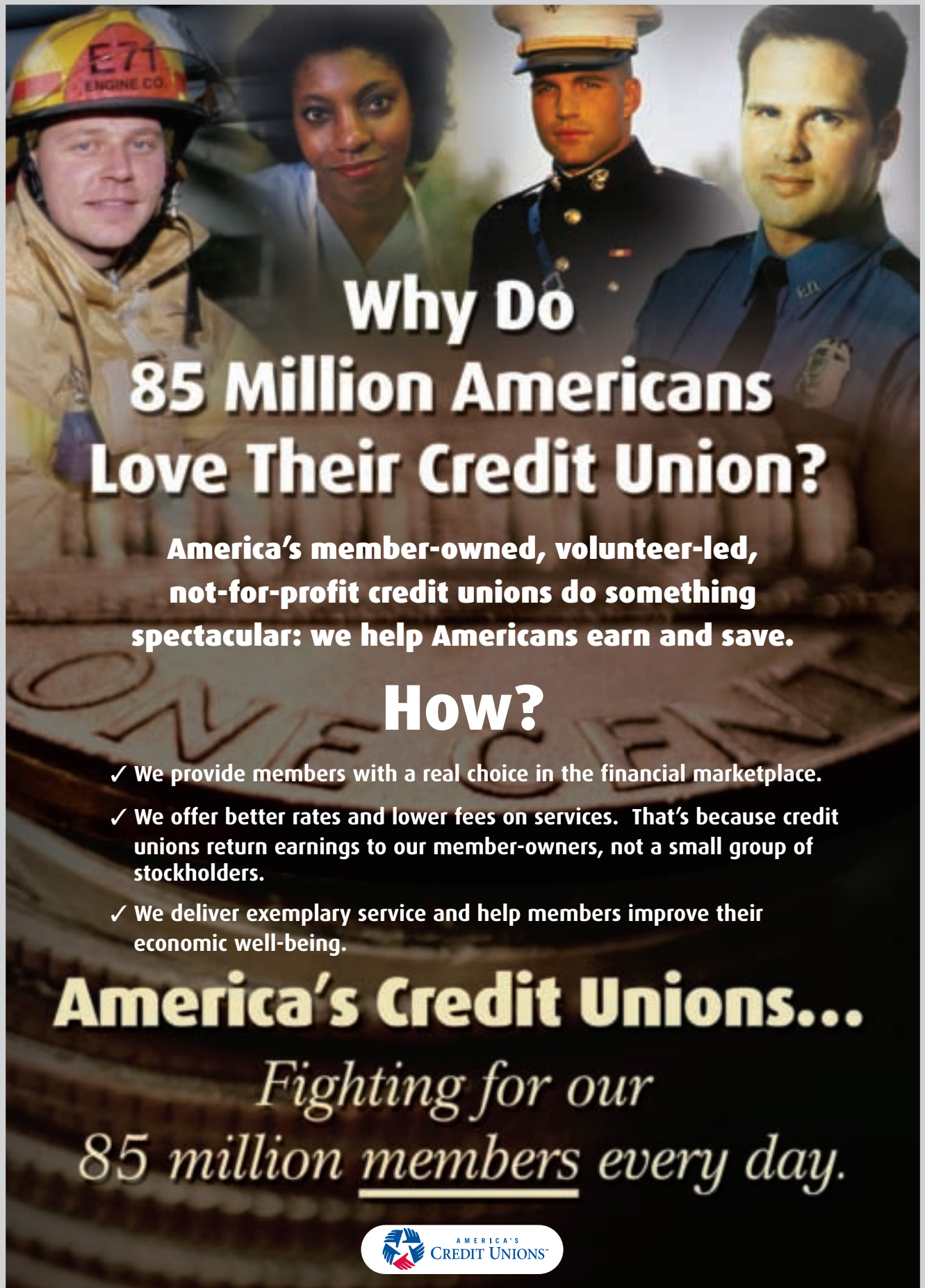
Still, the appetite for more gaming is not uniform. In last year's election, Ohio and Nebraska voters rejected ballot measures to expand video keno and slot machines, and Rhode Island voters rejected the Narragansett Indian Tribe's bid to open a \$1 billion casino in West Warwick. On the other hand, Arkansas voted to let charities hold bingo games, and in South Dakota, residents chose to keep the state's video lottery legal.

States were awash in money in 2006, but many are "apprehensive about the surge of expenditures down the road," says CanagaRetna of the Council of State Governments.

As many as 20 states project deficits for fiscal 2008, which begins in July for all but four states. State treasuries got a break when Medicaid health care costs rose just 2.8 percent in 2006, the smallest increase in a decade. But no one believes the era of rampant health inflation is over.

On top of higher medical bills for the poor, states are under pressure to spend more on schools. That is particularly true for the nearly two dozen states battling lawsuits alleging that their school budgets are inadequate.

Also problematic are future health and pension benefits for retiring state employees that experts estimate could cost \$1 trillion. States also are worried about the \$11 billion they say it will cost to revamp the issuance of driver's licenses to comply with new federal anti-terrorism rules.



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## STATES THINK BIG ON HEALTH REFORM

By Daniel C. Vock

*Massachusetts has accomplished the improbable: It got Democrats and Republicans to agree on how to provide nearly every resident with health insurance. And it did so without boosting taxes or pushing aside private health plans.*

**S**pearheaded by outgoing Gov. Mitt Romney (R), the compromise marks a marriage of competing visions for health care reform shaping state policies around the nation. Democrats stress the need to move toward health coverage for all. Republicans promote putting consumers in control. What Massachusetts did was to fuse these philosophies.

While Massachusetts is hailed as a trailblazer, even states with less ambitious goals are setting out to repair the country's broken health care system. The changes go beyond taxpayer-funded Medicaid programs for the poor and disabled. States are expanding medical coverage for the working uninsured, rewarding patients who develop healthy habits and prodding private industry to offer greater health benefits.

States feel the brunt of spiraling medical costs in their bottom line. Plus, there's powerful political pressure for states to address the problem of the uninsured. The Census Bureau found that nearly 47 million Americans – one in six – went without health insurance in 2005. When it began keeping track in 1987, 31 million Americans – fewer than one in eight – lacked coverage.

Massachusetts' new policy aims to cover 460,000 uninsured residents by July. Some 106,000 are already eligible for Medicaid care but weren't enrolled. Another 150,000 will get help buying a private health insurance policy, subsidized by a portion of the \$1 billion the state now uses to reimburse hospitals for charity care.



At a Boston clinic, then-Gov. Mitt Romney (R) of Massachusetts congratulates Madeline Rhenisch for joining the state-subsidized health plan.

The remaining 204,000 must buy private insurance through their employers or through a new state agency. That group includes many uninsured workers who consider private coverage too expensive or who are young, healthy and willing to risk going without. They will face tax penalties if they don't buy a policy: loss of their personal exemption, and by 2008, a penalty equal to half of what health insurance premiums would have cost. Employers who don't provide health insurance will face annual penalties, too – \$295 per worker.

A new state agency – the Commonwealth Care Health Insurance Connector – will create a market for private insurers to compete for the new customers and offer benefits otherwise tough to find. For example, a seasonal worker could keep the same plan all year, even if he's working for two different employers, building houses in summer and plowing roads in winter.

Workers using the Connector can pay for coverage with pre-tax dollars, giving them the same tax benefits as workers with employer-provided insurance.

"I think one of the things that came out of Massachusetts, which is in the air in many state capitols and hopefully here in Washington (D.C.), is the incredible sense of compromise that they were able to pull off," said Alice Burton, director of the Robert Wood Johnson Foundation's State Coverage Initiatives.

# HEALTH CARE

At a signing ceremony in Boston's historic Faneuil Hall last April, Romney called the result a once-in-a-generation feat achieved "without a government takeover and without raising taxes." The former businessman, who is mulling a White House bid in 2008, hopes the Bay State's health care plan will be a signature issue.

Of course, it could fall apart when Massachusetts residents who are voluntarily uninsured are forced to buy coverage or face tax penalties. It would not be the first health-care reform attempt to backfire. In 1988, Michael Dukakis, then governor of Massachusetts and a Democratic candidate for president, signed a "play or pay" law that required companies with six or more workers to offer health insurance or pay a \$1,680 tax for every worker. But after he lost, lawmakers in Boston repealed the mandate before it took effect.

The task of covering the uninsured is easier in Massachusetts than in most other states. Its 10.7 percent uninsured rate already is one of the lowest in the country.

But other states are trying to close the gap, too. Soon after Massachusetts adopted its plan, Vermont's Republican Gov. Jim Douglas and the Democratic majority in the Legislature took similar action.

The Vermont approach shares many elements with Massachusetts' reforms: premium assistance for the working uninsured, enhanced Medicaid benefits and an opportunity for all residents to buy insurance through the state, at premiums ranging from \$60 to \$135 a month. It also penalizes businesses that don't offer health insurance.

Vermont hopes to cut costs by encouraging diabetics and heart patients to keep up with treatment. And it wants to allow HMOs to give discounts to policyholders who quit smoking or take steps to address chronic conditions.



Illinois Rod Blagojevich (D) promotes his All Kids health insurance program during a stop in Carbondale.

## PERCENT UNINSURED BY STATE

Census data from 2003 to 2005 show Texas had the highest rate of uninsured and Minnesota the lowest.

Highest		Lowest	
1. Texas	24.6%	1. Minnesota	8.7%
2. New Mexico	21.1%	2. Hawaii	9.5%
3. Florida	19.6%	3. Iowa	9.8%
4. Oklahoma	19.5%	4. Wisconsin	10.3%
5. California	18.8%	5. Maine and New Hampshire	10.4%

Source: U.S. Census Bureau

Maine's Democratic Gov. John Baldacci is rethinking how to pay for a year-old program designed to move his state toward universal coverage. When the Dirigo Health initiative was launched in 2005, Baldacci argued that savings from driving down health costs could be used to insure more residents. But health insurers say he overestimated the savings. They sued when the state tried to collect \$44 million it claims to have wrung out of the health care system. The court challenge failed, but newly re-elected Baldacci has agreed to take another look at how to fund the program.

Expanding health care coverage is a big issue in many state capitols:

- After narrowly winning re-election, Minnesota Gov. Tim Pawlenty (R) challenged the Democratic Legislature to extend health benefits to more than 70,000 uninsured children. He also signaled he was open to a Massachusetts-style mandate that all residents be insured.
- California Gov. Arnold Schwarzenegger (R) promised to make access to health care a major focus of his second term after vetoing a move by the Democratic-controlled Legislature last year to jettison private health insurance and switch to a government-run health system for all. "Socialized medicine is not the solution to our state's health care problems," Schwarzenegger wrote in his veto message. Labor unions that supported the state takeover, including the Service Employees International Union and the California Nurses Association, have vowed to bring the issue before voters in a 2008 ballot initiative if Schwarzenegger fails to act.

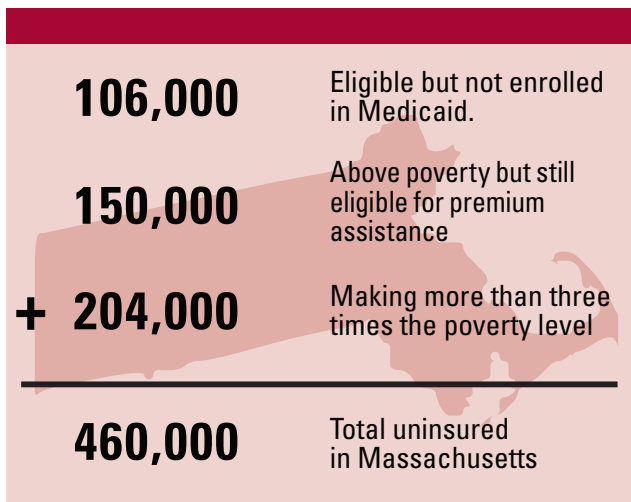
# HEALTH CARE

- Illinois Gov. Rod Blagojevich (D) rolled out his AllKids initiative, which lets parents buy coverage from the state for their children, even for illegal immigrant children who are ineligible for Medicaid. The price depends on the parents' income. Blagojevich has stressed that AllKids allows parents of all incomes whose children have chronic diseases to buy coverage that might be unaffordable in the private market.
- Pennsylvania Gov. Edward Rendell (D) convinced his Legislature to adopt a comparable Cover All Kids initiative, and Wisconsin Gov. Jim Doyle (D) is backing a similar plan. Democratic Govs. Bill Richardson of New Mexico, Kathleen Sebelius of Kansas and Christine Gregoire of Washington state also called for universal coverage of children.
- Michigan Gov. Jennifer Granholm (D) is seeking federal approval for her \$1 billion plan to use Medicaid funds to help Michigan's uninsured buy private health coverage.

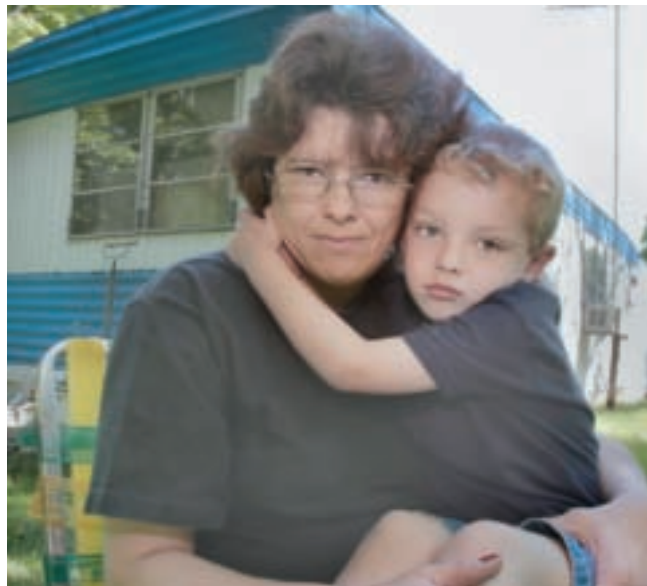
Despite these efforts, the number of uninsured children grew in 2006 for the first time since Congress launched the State Children's Health Insurance Program (S-CHIP) in 1997. The program helps states cover uninsured children living in families who earn too much to qualify for traditional Medicaid. In 2005, more than 8 million children and teens under 18 were uninsured.

But aggressive expansions of health care can have pitfalls. Tennessee built up its Medicaid coverage greatly in 1994. But by 2005, Gov. Phil Bredesen (D) had to cut 170,000 enrollees from the TennCare program because of perennial budget overruns. Bredesen assailed the program as "too expensive, too rigid, too hard to control."

## The Uninsured in Massachusetts



Source: Massachusetts Division of Health Care Finance



With no health insurance, Theresa Higginbotham, 38, went three weeks before seeking help for a painful ear infection. She is shown with son Jacob, 4, outside their home.

TennCare had been a model for S-CHIP. It began as an experiment to help working families who could not afford private insurance. The idea was that, by aggressively managing their care, TennCare could cover far more people for the same dollars spent on Medicaid. But the program covered the sickest people, making them more expensive to insure. The program encountered large overruns from the start and grew to consume a third of Tennessee's budget.

After pushing through cuts in TennCare, Bredesen, a former health insurance executive, championed his own Cover Tennessee initiative, designed to give working families access to basic medical services. The voluntary program emphasizes personal responsibility – people get a break on premiums if they stop smoking or lose weight.

The federal government gave a boost to healthy living initiatives in the Deficit Reduction Act of 2005. It allows states to increase benefits for Medicaid clients with healthy lifestyles, an emphasis meant to improve both patient's health and states' bottom lines. As a result:

- West Virginia now makes people in a Medicaid pilot program agree to follow such simple rules as showing up for doctor's appointments and getting their children immunized. If they comply, they qualify for extra benefits, such as mental health services and greater prescription drug coverage.

# HEALTH CARE

- Kentucky plans to offer expanded benefits for patients who faithfully follow disease-management programs. For example, someone who keeps up with treatment for asthma or obesity could earn credits toward dental and vision care.
- Idaho offers Medicaid recipients a medical savings account. Healthy behavior can earn them money to cover smoking-cessation or weight-loss classes, among other things.
- In a pilot project in two Florida counties, Medicaid beneficiaries with healthy habits can earn up to \$125 a year toward over-the-counter medicines and other medical supplies.

Florida, in addition, is at the forefront of a drive to make Medicaid programs work more like private health insurance. It requires Medicaid patients in a two-county pilot program to pick an insurance package from among competing private plans. The state pays the premiums and eventually plans to pay private insurers more for costly patients, such as the elderly and disabled, than for healthier ones.

Three out of five Americans receive health insurance through their employer, but that number is slipping. States are trying both carrots and sticks to slow the trend.

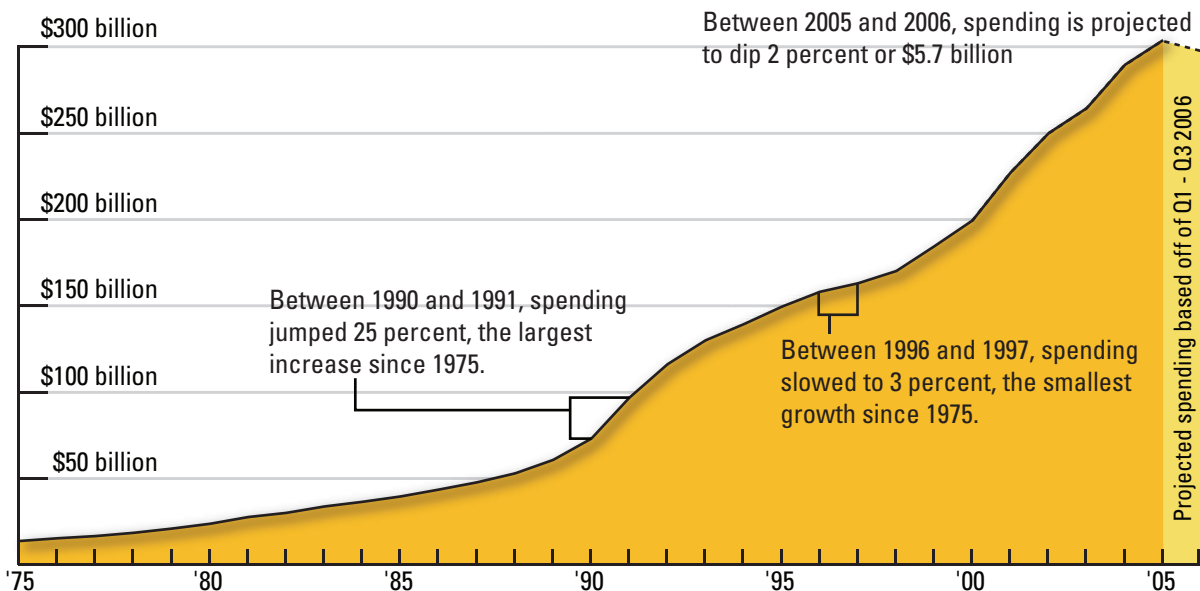
Arizona, Kansas, Montana and West Virginia recently began offering tax credits to small businesses that offer insurance to their employees. Arkansas, New Mexico and Oklahoma offer small businesses and the uninsured the chance to buy discounted coverage through the state.

On the other hand, in a move aimed at Wal-Mart, the Maryland General Assembly passed legislation last year to require large employers to contribute certain amounts toward employee health benefits. The Democratic-controlled Legislature overrode Republican Gov. Robert Ehrlich Jr.'s veto, but a federal judge invalidated the so-called "fair share" measure, which had been pushed by organized labor.

Hawaii, the only state with an employer mandate, has required most businesses to offer health benefits since 1974. Still, 9 percent of its residents are uninsured. In the past, Massachusetts, Oregon and Washington state passed employer mandates only to rescind them before they took effect.

## Total Medicaid Spending 1975 to 2006

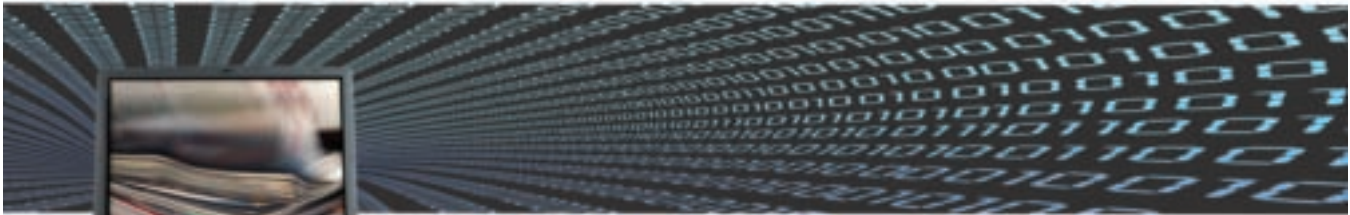
Medicaid, the federal-state partnership that provides health insurance for the poor, has become a major strain on state and federal budgets. In 2006 an improving economy, cost controls instituted by states and a new prescription drug benefit for Medicare, the federal health insurance program for seniors, all kept costs down. Still, states owe the federal government more than \$6 billion to help pay for the new drug benefit.



Source: US Department of Commerce Bureau of Economic Analysis



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Long line at the driver's license window at the Morgan County Courthouse in Decatur, Ala.

## ARE YOU A CITIZEN? PROVE IT

By Kavan Peterson

*When Colorado state Sen. Andy McElhany (R) championed adoption of the strictest identification requirements in the country, his aim was to keep illegal immigrants off state welfare rolls. He didn't anticipate making it harder for his 15-year-old daughter to get a learner's permit.*

**B**ut that's what happened when his wife and daughter showed up at the Division of Motor Vehicles office in Colorado Springs in September. They brought the teen's passport, only to discover DMV had changed the rules and a passport was no longer a sufficient form of identification.

"There's no reason to believe a 15-year-old girl is going to be running around with a fake passport just to get a driver's permit," a chagrined McElhany said.

Going to the DMV never has been a walk in the park, but it's likely to get even more difficult as states across the country begin to comply with stringent federal identification rules required by the 2005 Real ID Act.

Americans by the tens of millions will have to dig out documents such as Social Security cards and birth certificates, or go to the expense of getting new ones, to renew their driver's licenses. Fears of terrorism and the uproar over illegal immigration are behind the new rules. The Real ID Act is a

response to the fact that four of the 19 foreign hijackers on Sept. 11 had obtained valid U.S. driver's licenses.

Worries about voter fraud and the chance that illegal immigrants are taking advantage of taxpayer-funded public services also have prompted a surge in stiffer identification requirements – from voting booths to Medicaid applications. To weed out the few, all Americans growingly need official papers to qualify for some of the perks of citizenship.

Colorado ran into legal trouble within months of enacting the nation's toughest ID standards. New rules requiring proof of both identity and legal U.S. residency left some unable to get a driver's license or state ID card. Without ID, they also were left without access to everything from welfare to winter heating assistance to fishing licenses.

A state judge in December temporarily froze the new rules, moving the ID dispute into the courts. Colorado's new law denying benefits to those without proper ID – a bipartisan

# HOMELAND SECURITY

measure heavily pushed by outgoing Gov. Bill Owens (R) – it was the most far-reaching of a record 78 immigration-related laws enacted in 33 states in 2006. They ranged from crackdowns on employers and human traffickers to restrictions on social services and in-state college tuition.

About 100,000 of Colorado’s 4.3 million residents draw state aid. Some 3,000 immigrants were flagged as possible illegal aliens in the first three months under the state’s new ID requirements, and DMV offices detected 150 fake birth certificates, Colorado Revenue Director M. Michael Cooke told *Stateline.org*.

Only 200 people sought temporary waivers from the requirement on grounds of illness or disability or because they lacked the required documents, Cooke said. That shows the new identification requirements "haven't been overly burdensome," she said.

But advocates for the poor said caseworkers were overwhelmed with families requesting social services who need help tracking down certified birth certificates. The Denver Department of Human Services, which helps poor people order and pay for duplicates of their birth certificates, had about twice as many folks seeking help a month after the law took effect and expects that number to double again by 2007, according to spokeswoman Sue Cobb.

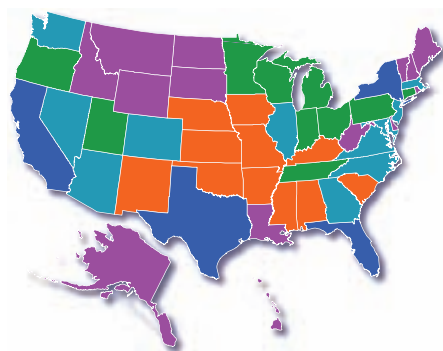
Three people turned away at Colorado’s DMV filed a class-action lawsuit and won a temporary suspension of the ID rules in December. The judge found the document requirements for a driver’s license imposed a hardship and may have been adopted without proper public comment. The DMV, enforcing a new state law, required applicants to provide two from a list of 19 acceptable documents.

One of the plaintiffs, 70-year-old Leon Hill, became homeless after he was robbed of his identification and money shortly after moving to Denver in 2006. He was denied a new ID when he could produce only his original California birth certificate and a photocopy of his driving record. Diana Galliano, 42, was denied a driver’s license when she presented her valid New York driver’s license and U.S. passport. Michael Sullivan, 49, had a birth certificate and photocopies of his stolen New Mexico driver’s license and stolen Social Security card.

“In Colorado they’ve made it so hard to get an ID, it’s truly a Catch-22 where citizens can’t get an identity card unless they’ve already got one,” said Denver attorney Tim MacDonald, whose law firm is working pro bono on the case with the Colorado Coalition for the Homeless.

## Undocumented Immigrants in the United States

Based on the U.S. Census Bureau’s 2005 Current Population Survey, there were approximately 11.1 million undocumented immigrants in the United States. States are listed by amount of undocumented population



### More than 500,000

- California
- Texas
- Florida
- New York

### 150,000 to 500,000

- Arizona
- Illinois
- Georgia
- New Jersey
- North Carolina
- Virginia
- Maryland
- Colorado
- Washington
- Massachusetts
- Nevada

### 75,000 to 150,000

- Pennsylvania
- Oregon
- Tennessee
- Michigan
- Ohio
- Wisconsin
- Minnesota
- Utah
- Connecticut
- Indiana

### 45,000 to 75,000

- Iowa
- Oklahoma
- New Mexico
- Kansas
- South Carolina
- Missouri
- Nebraska
- Kentucky
- Mississippi
- Arkansas
- Alabama

### Less than 45,000

- Louisiana
- Idaho
- Rhode Island
- Hawaii
- Delaware
- New Hampshire
- Alaska
- Wyoming
- South Dakota
- Maine
- Vermont
- North Dakota
- Montana
- West Virginia

Source: Pew Hispanic Center

# HOMELAND SECURITY

Despite his daughter's run-in at the DMV, McElhany, the state senator, said he still strongly supports new statutes to crack down on illegal aliens. A national uproar over illegal immigration came to a head last year in Colorado, a non-border state whose immigrant population has nearly quadrupled since 1990 to about 370,000, with half of those undocumented, according to an estimate by the nonprofit Pew Hispanic Center. Fed up with the federal government's inability to stop illegal border crossings, the Democratic-controlled Legislature passed a dozen immigration bills in a heated special session in July.

Still, even lawmakers who voted for restricting services to illegal immigrants said the tough identity requirements for driver's licenses may have gone too far. "We need to sit down and make sure that we're not blocking services to those entitled to them and that we're protecting our freedom to live under an efficient and effective government," Colorado state Rep. Bernie Buescher (D) told *Stateline.org*.

Most of the 245 million driver's license holders in the United States aren't aware yet that the Real ID Act's document dragnet for terrorists, illegal aliens and imposters is about to entangle them, too. But state officials are aware and are set to bang on the doors of the new Congress demanding more time and money to comply.

States are throwing up their hands at the requirement that each driver come in person to motor vehicle offices to renew driver's licenses starting in May 2008. Everyone will have to bring a set of documents proving his identity and residency, although the exact documents haven't been spelled out yet. The papers will have to be verified by government databases that do not yet exist. States also have to create new IDs with anti-counterfeiting security features.

## Immigrants' driver's licenses

### States where immigrants do not have to prove lawful presence to obtain a driver's license

Hawaii	North Carolina
Maine <sup>1</sup>	Oregon
Maryland	Utah <sup>2</sup>
Michigan	Washington
New Mexico	

<sup>1</sup>The Maine DMV requires proof of lawful presence only if applicant does not have a Social Security number.

<sup>2</sup>Utah issues driver's certificates to those without proof of legal presence but the document does not serve as valid ID for other purposes.

Source: National Immigration Law Center

## Voter ID Laws

### States requiring all voters to present ID<sup>1</sup>

Alabama	Montana
Alaska	New Mexico
Arizona	North Dakota
Arkansas	Ohio
Colorado	South Carolina
Connecticut	Tennessee
Delaware	Texas
Georgia	Virginia
Kentucky	Washington
Missouri	

### States requiring all voters to present photo ID<sup>2</sup>

Florida	Louisiana
Hawaii	South Dakota
Indiana	

### States requiring first time voters to present ID<sup>1</sup>

Kansas	Pennsylvania
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<sup>1</sup> Any government-issued ID, utility bills, paychecks or bank statements with home addresses are usually accepted.

<sup>2</sup> Photo IDs issued by the state or federal government, employers or schools are generally accepted.

Sources: NCSL and *electionline.org*

By curbing renewals by mail and online, Real ID will force DMVs to handle 686 million customer transactions face-to-face over five years, instead of the 295 million they would handle anyway, a study by the National Governors Association, the National Conference of State Legislatures and the American Association of Motor Vehicle Administrators concluded. DMV staffs would have to be doubled at a cost of more than \$11 billion to take on the extra duties, state officials estimate.

"When lines at the DMV are snaking around the block and the cost of a driver's license has doubled or tripled, the politicians holding the bag won't stay in office very long," predicts Lee Tien, an attorney for the Electronic Frontier Foundation, a San Francisco consumer advocacy group that opposes national ID standards. It worries that large government databases of personal information are a threat to privacy and could expose consumers to identify theft and fraud.

Exercising the basic right of citizenship — the right to vote — also is becoming more of a hassle.

# HOMELAND SECURITY

South Carolina Gov. Mark Sanford (R) initially was turned away from a polling place on Election Day 2006 when he could not produce his voter registration card and his driver's license showed his old Columbia address instead of the governor's mansion. An election official stood her ground while television crews recorded the scene. Sanford voted later with a newly issued replacement card.

South Carolina is one of 26 states that now require voters to present some form of identification when they show up at the polls. Georgia and Missouri passed laws last year to require government-issued photo IDs at the polls, but courts struck them down. The Missouri Supreme Court ruled that the state's new voter ID requirements "impermissibly infringe on core voting rights guaranteed by the Missouri Constitution." Georgia's law, which required residents without a state photo ID to purchase a \$20 digital identification card to vote, was struck down in federal court. The judge likened the law to an illegal Jim Crow-era poll tax.

A legal challenge is pending against Indiana's voter ID law, considered to be the toughest. It requires a government-issued photo ID with the voter's address and signature. Those without proper identification can cast provisional ballots that are counted only if the voter provides proof of identity within 48 hours.

In Arizona, stringent ID requirements approved at the ballot box in 2004 were initially struck down by a federal court. But they were reinstated by the U.S. Supreme Court one week before the 2006 election. Arizona voters needed either a government-issued photo ID or two documents showing name and address, such as a utility bill or tax return.

The federal government also is starting to require proof of citizenship for benefits. For the first time, all 53 million poor, elderly and disabled people in state-run Medicaid health insurance programs must produce documents proving they were born in the United States or are here legally. Four states – Georgia, Montana, New Hampshire and New York – already required Medicaid applicants to prove their citizenship.

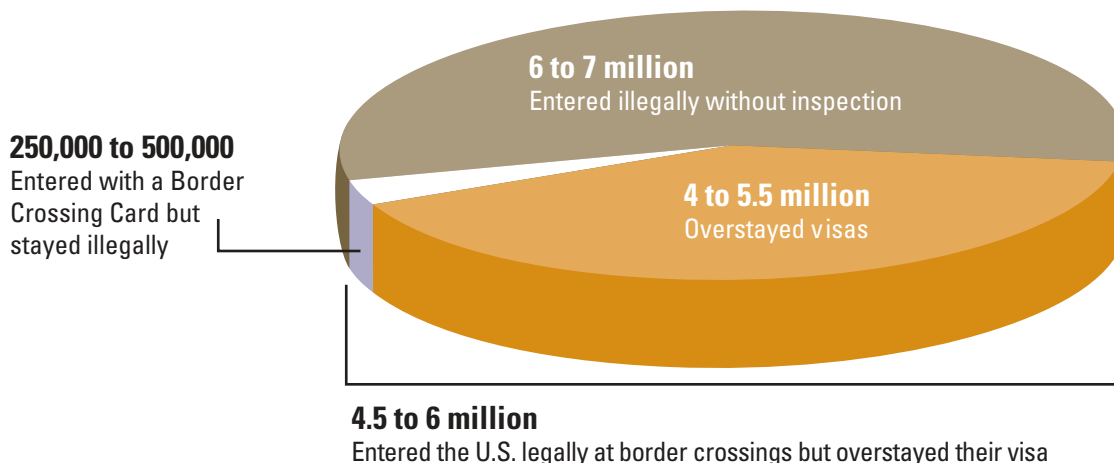
The ID rules, which went into effect last July, are targeted at illegal immigrants, who are ineligible for Medicaid. The Congressional Budget Office estimated the change will save at least \$735 million in taxpayer dollars over a decade.

But the new law creates problems for Americans without birth certificates or those who can't find them easily. Even parents with a child's birth certificate in hand – including those whose babies were born in U.S. hospitals, making them automatic citizens – must provide separate documentation proving legal state residency, such as school or health records. Advocates and state Medicaid administrators worry the nuisance and cost of securing the right documents could discourage parents from getting their child vaccinated or treated.

The elderly and mentally ill in nursing homes or state institutions are especially liable to slip through the cracks, advocates warn. It's common for senior citizens to let driver's licenses lapse or for Alzheimer's patients to lose track of personal identification, noted Elizabeth Priaulx of the National Disability Rights Network.

## How Illegal Immigrants Get Into the United States

Almost half the illegal immigrants in the United States entered the country at a border crossing with a legal visa or a Border Crossing Card but overstayed their time allotted.



Source: Pew Hispanic Center



Nichole Henderson with son Jamear (left) and daughter Janaya (right).

Photo courtesy of Nichole Henderson

## TIGHTER WORK RULES USHER IN SECOND DECADE OF WELFARE REFORM

By Christine Vestal

*Single mom Nichole Henderson of Harrisburg, Pa., hopes to complete her community college degree in social services and land a full-time job within a year. Meanwhile, she relies on welfare checks and subsidized child care to help raise her 7-year-old daughter and a 3-year-old son who has serious emotional disabilities.*

**H**enderson is in a small category of college-going welfare recipients who studies have shown are most likely to be boosted out of poverty permanently. But new federal welfare rules that took effect in October scale back support states can offer poor parents like Henderson.

Now, the 24-year-old must work at least 20 hours a week in addition to attending classes and must do her homework on campus under the watchful of eye of a state supervisor to stay eligible for federal welfare dollars.

The new limits on students are part of stricter new rules called for by Congress last year to nudge even more welfare recipients into jobs and off the public dime.

A decade after then-President Bill Clinton and newly empowered congressional Republicans made good on prom-

ises “to end welfare as we know it,” the nation’s bedrock support program for the needy is being retooled. The new changes to welfare – while not as radical as the 1996 reforms – will require most states to revamp their welfare policies or sacrifice federal dollars, starting in 2011.

The welfare-to-work reform of 1996 still is hailed as a shining success story. The number of families on welfare dropped from 4.41 million in 1996 to 1.89 million last year, the lowest since 1969.

But in reauthorizing the program for another 10 years, Congress directed the Department of Health and Human Services (HHS) to tighten the reins, in part because of concerns that states had become lax in administering the welfare block grants known as Temporary Assistance to Needy Families (TANF).

# WELFARE

A federal watchdog report found some states counted bed rest, smoking-cessation classes and even massages as ways to fulfill the law's requirement that at least half of all parents on welfare work or attend job preparation programs.

The goal of welfare reform was to wean poor families from dependence by putting a five-year time limit on cash assistance. States were charged with helping parents, often single mothers, pull their lives together and start making ends meet on their own.

To ensure states did enough to help welfare recipients find jobs, the federal government imposed a rule that at least 50 percent of single parents and 90 percent of married parents be in jobs or work preparation programs.

With the aid of a strong economy, states quickly changed the profile of welfare in America.

"In many ways, TANF is a victim of its own success," said HHS Assistant Secretary Wade Horn, who oversees the program. Within the first two years, states helped so many people find jobs, the rolls plummeted and the pressure to meet work participation rates eased. As a result, some states became "overly generous" in their work programs, he said.

Horn contends the new rules simply reinforce the deal struck between Washington, D.C., and the states 10 years ago. "States failed to hold up their end of the bargain," he said. Only 32 percent of families who received cash assistance in 2004 fully participated in work preparation programs, according to HHS.

## TANF Recipients By State

1.85 million people are enrolled in TANF. California has the highest participation rate, 1.33% or double the national rate of 0.66%.

### Highest TANF rates

1. Calif.	<b>1.33%</b>
2. Tenn.	<b>1.22%</b>
3. N.M.	<b>.96%</b>
4. Wash.	<b>.95%</b>
5. R.I.	<b>.95%</b>

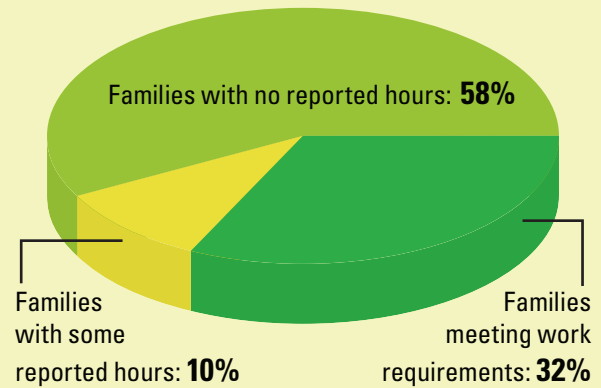
### Lowest TANF rates

1. Wyo.	<b>.06%</b>
2. Va.	<b>.13%</b>
3. Idaho	<b>.14%</b>
4. La.	<b>.27%</b>
5. Nev.	<b>.27%</b>

Source: U.S. Department of Health and Human Services

## Work Participation Rates

TANF requires recipients to work 30 hours each week or face possible sanctions.



Source: U.S. Department of Health and Human Services

Congress has stiffened enforcement of its requirement that at least 50 percent of welfare parents participate in work programs and called on HHS to define explicitly which activities – such as community service, job training and job search programs – qualify, taking away much of states' flexibility to devise their own programs. That flexibility was a hallmark of the 1996 law.

Most affected are programs that help students such as Henderson get college degrees so they can land jobs that pay enough to raise their families. In addition to requiring students to work at least 20 hours a week, the rules limit students to one year of cash assistance. If it takes longer to get a degree, states wanting to help will have to tap their own resources.

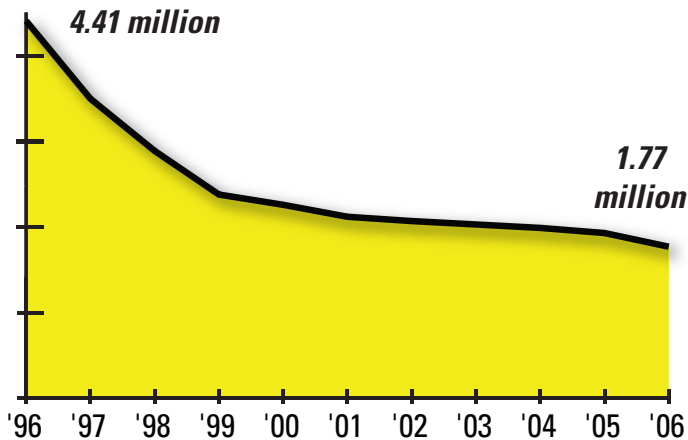
Also endangered are federal funds for parents trying to overcome chronic problems like drug or alcohol addiction, mental illness or domestic violence that prevent them from working.

The new rules require all parents to attend at least 30 hours a week of work or training programs. Only six weeks of counseling or rehab a year now will qualify as work participation. Welfare advocates argue that six weeks is not enough to help parents turn around their lives and find stable jobs.

The new, more exacting rules will be easier for some states to adjust to than others.

## Number of Families on TANF

Between fiscal years 1996 and 1999 the number of families on TANF dropped by 2.03 million. Since then, enrollment has dropped another 610,000 families.



Source: U.S. Department of Health and Human Services

Florida already pays for services such as drug rehabilitation and mental health counseling outside of TANF, so most of its welfare-to-work programs will pass muster under the new rules. California last year appropriated \$90 million to increase participation in state work programs and set aside additional money to help parents with disabilities and substance abuse problems outside of the TANF program.

Estelle Richman, Pennsylvania's secretary of public welfare, said for now she'll use state dollars to ensure TANF mothers such as Henderson can keep attending college. But she's unsure the state can afford the successful project year after year without federal support.

But as simple a change as better record keeping already has helped Pennsylvania boost its work rate from 7 percent, the lowest rate in the nation in 2004, to 47 percent last year.

Georgia – held up by HHS as a model for new welfare reform – already has lifted its work-participation rate by making work rules clear to welfare applicants from the beginning and quickly cutting them off if they fail to attend assigned programs.

In the last two years, the percentage of Georgia's welfare recipients engaged in work programs rose from 24 percent to 64 percent, in part because people who failed to meet the requirements were dropped from the rolls.

Instead of moving more people off welfare, Arkansas plans to meet the standards by allowing parents to stay on the rolls even after they land jobs. Statewide research shows that without continued aid, most welfare recipients lose their jobs and end up back on public assistance within a year.

By counting working parents who stay in the program, Arkansas expects to hike its work rate from 28 percent in 2004 to nearly 45 percent in 2006.

New Hampshire combined the approaches of Georgia and Arkansas, passing a law that includes stricter sanctions for those who fail to comply with state work rules and a program that allows working parents to stay on welfare until they reach a certain income level.

Gov. John Lynch (D) signed the law under protest, saying it did not go far enough to help poor people become self-sufficient. To supplement the law, he issued an executive order committing additional funds for child care, transportation and education “to ensure that TANF clients can truly move from welfare to work permanently,” he said.

But not all states have the option of caring for their neediest families without federal support. Some will be hard-pressed to meet the new work-participation rates, predicted Jack Tweedie, welfare expert with the National Conference of State Legislatures.

Vermont state Rep. Mark Larson (D) said one consequence of the new rules is that states will have to come up with more money for child care, as more moms work or attend job preparation classes.

Larson said the new rules effectively will shift more of the cost of caring for the neediest families to state budgets – or else parents with chronic life problems who are unlikely to attend work programs will go without help. The federal government may be able to claim success because TANF rolls will shrink, “but it won't tell the whole story,” Larson said.

# We Call on Researchers to Report All the Facts:

## Acknowledge the Role of Required Master's Degree in Teacher Trainees' Performance

In a study published in *Education Next*, a journal of the Hoover Institution at Stanford University, Tom Kane, Doug Staiger, and Jonah Rockoff found that while alternatively certified teachers fare worse as rookie teachers than certified teachers, they catch up by the end of year three. On the basis of this, they conclude, incorrectly, that teacher preparation does not matter. They ignore the fact that teacher preparation develops the knowledge and skill that gives certified teachers their initial advantage and subsequently helps the alternately certified New York Teaching Fellows (the majority of those alternatively certified teachers studied) to catch up.

1. By the end of Year 3 the New York City Teaching Fellows, if they remain in teaching, actually **have been trained in “how to teach”** and **have earned a subsidized master's degree from schools of education**. The study did not take this learning into account.
2. Most of the *Teach for America* teachers who are not required to attain a master's degree had left by Year 3, after proving less effective with their students for the two years they taught.

### THE TRUTH IS,

**High quality teacher preparation makes  
a difference in P-12 student achievement.  
Study after study indicates this finding.**

The much higher attrition of teachers in the study coming from alternative routes that do not require teachers to obtain the requisite knowledge and skill leaves most students with a revolving door of new and untrained recruits, and magnifies gross inequities in our nation's schools.

**The National Council for Accreditation of Teacher Education**  
Washington, D.C.

**The Center for Teaching Quality**  
Hillsborough, N.C.



# LAKE WOBEGON, U.S.A.

## Where All the Children Are Above Average

By Pauline Vu

*When her son came home from middle school with a report card showing he'd passed North Carolina's year-end algebra test, Margaret Carnes believed he had a solid foundation for high school.*

*Then she met with his teacher, who cautioned her not to be too confident. By the state's yardstick, students could answer fewer than half the questions correctly and still pass. In some grades, they could flub two-thirds of the questions and still be marked "proficient."*

It can be a harsh wake-up call for children and parents alike. Students are told they are where they're supposed to be academically, but a rude awakening awaits them in high school. "It compels one to ask the question, Have they been prepared?" said Carnes, now managing director for Charlotte Advocates for Education, a nonprofit group pushing for higher state standards.

It's a problem of long standing in U.S. public education. While international assessments confirm that American students lag behind numerous other countries in science and math, many school districts and states keep telling parents that their children, like those in Lake Wobegon, Garrison Keillor's hometown of fable, are all above average.

More testing under the 2002 No Child Left Behind Act was supposed to help measure whether elementary school children are learning what they need to know. But scores on state-generated tests often contradict results on a national test. North Carolina is one of several states with glaring differences between how well it says its students are doing and the harsher verdict of independent comparisons.

The North Carolina Board of Education finally is getting the message. It has switched to a tougher math exam, and recently raised the passing scores in math for grades 3 to 8. So far it's one of only a handful of states raising their standards.



Claire Talbott, 7, of San Francisco, reads during a news conference addressing California Standardized Testing.

Welcome to the era of high-stakes testing, where persistently low scores mean principals can get fired and states can take over failing schools. No Child Left Behind requires U.S. schools to make steady progress, so that by 2014 every student is proficient in math and reading. But to ensure cooperation, Congress left it up to each state to measure how well its pupils were doing.

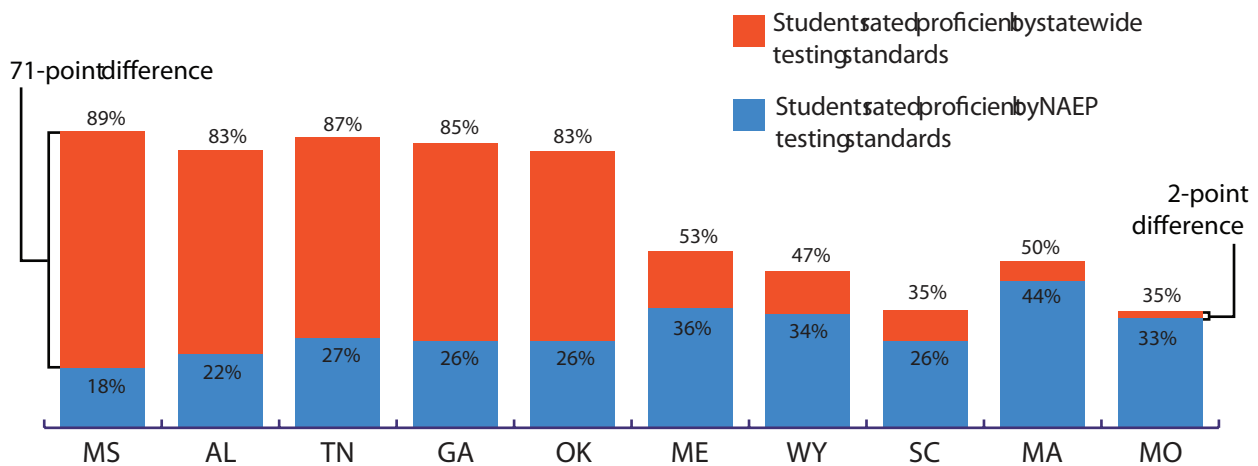
Although the goal was transparency the results have been murky. While states report growing percentages of students are proficient, the verdict is considerably worse on the National Assessment of Educational Progress (NAEP), an exam dubbed "the nation's report card" that is given to cross sections of students in all 50 states.

The discrepancies in some states are alarming. In Alabama, Colorado, Georgia, Mississippi, Nebraska, North Carolina, Oklahoma, Tennessee and West Virginia, students scored 50 percentage points higher on the homegrown tests in 2005 than on the NAEP exam.

When Tennessee's education department reported a dramatic jump in state test scores in 2004-05, the *Knoxville News-Sentinel* headlined the results, "Schools meet Bush's challenge." But parents belatedly learned there was little cause for celebration. On the federally sponsored exam, only 21 percent of Tennessee eighth-graders were up to par in math and 26 percent in reading, not the 87 percent rated proficient on the state tests.

## Discrepancies on who's proficient

NAEP and statewide tests use different standards to measure student progress. On the 2005 fourth-grade reading assessments, Mississippi had the largest gap at 71 points, while Missouri had only a two-point difference between NAEP and state results.



Sources: Education Sector, Education Trust, and National Center for Education Statistics

Graphic by Danny Dougherty - Stateline.org



Retired teacher Margaret Harbron tutors students at Indian Creek Elementary School in Indianapolis.

graders as proficient at math, fifth lowest in the country. But Massachusetts students were the country's highest scorers on NAEP, with 49 percent rated proficient. Students are considered proficient on NAEP if they show competency over challenging subject matter, including how to apply it to real-world situations.

The National Center for Education Statistics, which administers NAEP, plans to release a study in the spring that compares states' definitions of proficiency with that of the federal test.

If some states inflate scores, it comes at a price. Schools that mask how little their kids are learning behind inflated test scores aren't pushed to provide transfer and tutoring options – the first sanctions under No Child Left Behind. Students also advance through school thinking they have the knowledge needed to go to college and get a decent job, only to find out too late they were never prepared.

In California, the university system reported last year that 75 percent of high school juniors were not ready for college-level English classes. Nationwide, one-third of students entering college need remedial classes. More than a quarter who enter four-year colleges and almost half of those entering community colleges drop out before their second year.

"There's no doubt that too many kids don't know what they need to know to succeed in life," said Bethany Little, vice president for policy and federal advocacy at the Alliance for Excellent Education, a Washington, D.C.-based research and advocacy group. The Alliance estimates the nation spends \$1.4 billion a year on remediation for unprepared students.

As No Child Left Behind comes up for debate and renewal in Congress this year, much of the discussion will focus on the test gaps, and some prominent conservatives are suggest-

ing it's time to embrace national standards or even a national test for all students that would supplant state tests. Every other major industrialized nation employs a standardized curriculum and national tests in its schools.

William J. Bennett and Rod Paige, education secretaries under Presidents Ronald Reagan and George W. Bush, respectively, exhorted fellow Republicans in a commentary in *The Washington Post* to support national standards. The organization most actively pushing for national standards is the Thomas B. Fordham Foundation, a Washington, D.C.-based conservative think tank.

Tommy Thompson, the Republican former governor of Wisconsin and co-chairman of the No Child Left Behind Commission tasked with proposing changes to the law, said Congress needs to find a way to stiffen states' spines on testing.

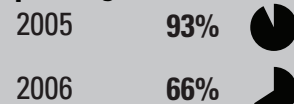
"I don't think states have been quite as honest as they should be in regard to their testing and standards," he told reporters outside the commission's September meeting, according to news accounts.

Some states have considered softening standards. Democratic lawmakers in California pushed through a bill last year that would have lowered the state's standards, which they called unrealistically high. But Gov. Arnold

## N.C. Education Snapshot

In 2006, North Carolina sharply raised the passing scores for grades 3-8 math tests and set a higher standard for students to earn passing scores.

### Fourth graders passing math test:



### Schools qualified for teacher bonuses:



### Schools rated low-performing:



Source: North Carolina Department of Education

# EDUCATION

Schwarzenegger (R) vetoed the measure. “Redefining the level of academic achievement necessary to designate students as ‘proficient’ does not make the students proficient,” he wrote in his veto message.

But the Missouri Board of Education in 2006 lowered the cutoff scores on its grade-level tests to ensure that more students passed.

North Carolina was not alone in moving in the other direction. Georgia raised its passing scores at the same time that it adopted more rigorous standards and new, tougher tests.

In November, Minnesota released results from tougher math and reading tests that debuted in 2006. Statewide, 58 percent of students were scored proficient on the math test – down from 76 percent the previous year.

In West Virginia, Superintendent of Schools Steve Paine was only a week into the job in November 2005 when he got the news that only 26 percent of fourth-graders were proficient on NAEP math and reading tests, and that eighth-graders fared even worse. Paine said he couldn’t sleep worrying about the results. On West Virginia’s own tests, 70 percent or more of students scored at grade level.

Paine called for an outside audit of the state’s standards and tests, and both were found to be lacking. The result: substantially tougher standards and new tests starting in 2008.

“I dare say that our standards in little, old West Virginia will probably be as rigorous and relevant as you’ll find anywhere in the country,” Paine told *Stateline.org*. “If we’re going to do this, we’re going to do this the right way, set our standards high and make no concessions.”

The change in North Carolina’s end-of-grade tests is the first such adjustment since the tests began in 1993. “The board felt that it was time to increase standards in its efforts to better prepare students for the rigors of the 21st-century competitiveness,” said Lou Fabrizio, the state’s director of accountability.

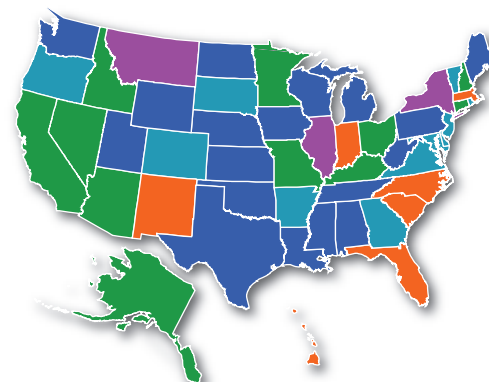
The state board ordered tougher passing grades applied retroactively to tests administered in 2006. Only 66 percent of fourth-graders passed this time, compared with 92 percent the year before.

That may alarm and frustrate some students and parents, but others, such as Margaret Carnes, say it’s ultimately for the best.

It’s better to know the truth now, she said, “than to find out ... that they graduated from high school without the skills they need to succeed.”

## 2005-2006 NCLB progress

The federal government looks at student performance on state-designed tests to determine if schools have made Adequate Yearly Progress (AYP) under the No Child Left Behind Act.



### 80% or more made AYP

Alabama	88%	Oklahoma	89%
Iowa	83%	Pennsylvania	82%
Kansas	86%	Tennessee	81%
Louisiana	91%	Texas	91%
Maine	92%	Utah	82%
Michigan	85%	Washington	83%
Mississippi	83%	West Virginia	86%
Nebraska	82%	Wisconsin	86%
North Dakota	92%	Wyoming	85%

### 70% to 79%

Arkansas	71%	Oregon	70%
Colorado	75%	Rhode Island*	71%
Delaware	76%	South Dakota	78%
Georgia	79%	Vermont*	79%
Maryland*	78%	Virginia	78%
New Jersey	71%		

### 60% to 69%

Alaska	61%	Minnesota	69%
Arizona	67%	Missouri	63%
California	65%	Nevada	64%
Connecticut	66%	New Hampshire	60%
Idaho	66%	Ohio	61%
Kentucky	66%		

### Less than 60%

Florida	29%	New Mexico	46%
Hawaii	35%	North Carolina	45%
Indiana	49%	South Carolina	38%
Massachusetts	57%		

### Data unavailable

Illinois	New York
Montana	

\* Data includes elementary and middle schools only

Sources: Education Week and state departments of education

## LETHAL INJECTION ON TRIAL

By Kavan Peterson

*Since capital punishment was reinstated three decades ago, nearly 900 of more than 1,055 U.S. executions have been carried out by lethal injection. But what was seen as a more humane alternative to the gas chamber, electric chair, firing squad or gallows now faces serious challenges.*

**T**he execution in Ohio last May of double-murderer Joseph Clark is a stark example of why America is taking a harder look at lethal injection.

Although Ohio had carried out 20 lethal injections without incident, prison officials encountered serious problems in executing Clark, a long-time intravenous drug user convicted of killing a service station attendant and a convenience store clerk. Reporters who witnessed the execution said Clark, 57, raised his head off the gurney and said repeatedly, "It don't work. It don't work." Prison officials closed the viewing curtain as they struggled to find a vein to inject the deadly chemicals. The procedure took almost 90 minutes.

Sparring over lethal injection will resume in courts and legislatures this year as authorities grapple with tough questions about how much pain the condemned feel as they die and what role, if any, medical professionals should play in executions.

The battle over lethal injection is the latest strand in a long-running debate over the ultimate punishment. The United States is among a handful of industrialized countries that sanction capital punishment. China, a totalitarian state, remains the leader, executing thousands of prisoners annually.

Of the more than 3,300 prisoners on death row in the United States, 53 were executed in 2006, the fewest number since 1996, when 45 prisoners were put to death. Texas leads the nation with nearly 380 executions since 1976 and 24 executions in 2006.

Recent court rulings have narrowed the grounds for capital punishment, and public support generally has slipped. The U.S. public still favors the death penalty by a 65 percent-to-30



Counter-protester Robyn Keating and her daughters Emily Wendel and Morgan Seezs urge the governor not to block South Dakota's first execution in almost six decades.

percent margin, according to *USA Today*/Gallup polls over the last three years, but that is down from 80 percent that supported capital punishment in 1994.

In the most recent test of public sentiment, Wisconsin voters in November election approved a non-binding ballot measure calling for restoration of the death penalty in cases where DNA evidence proves multiple counts of first-degree murder. The result shattered Wisconsin tradition. The Badger State, currently one of a dozen states without the death penalty, last executed criminals in the 1850s. But any attempt by the Legislature to reinstate the death penalty likely would be vetoed by Gov. Jim Doyle (D).

The death penalty effectively was put on hold in 12 states last year – nine because of questions over lethal injection.

Just two weeks before leaving office on Jan. 2, Florida Gov. Jeb Bush (R) suspended all executions until at least March 1 while a state commission reviews the state's lethal injection process. Bush formed the commission after the Dec. 13 execution of Angel Diaz, 55, took 34 minutes – twice the normal time – and required a second dose of lethal drugs because the first needle was improperly inserted. In South Dakota, Gov. Mike Rounds (R) last August gave a temporary reprieve to Elijah Page, 24, so the state could update its lethal injection procedure to include the "most modern and efficient" methods. When rescheduled, Paige's execution would be the state's first in 59 years.

Maryland's highest court suspended executions in December, ruling the state's lethal injection procedures were improperly adopted without public comment. Arkansas, California, Delaware, Kentucky, Louisiana and Missouri also temporarily suspended executions to deal with challenges to lethal injection, the primary or exclusive form of execution in 37 of

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the 38 states with capital punishment. (Nebraska uses the electric chair.) State Supreme Courts in Florida and Kentucky last fall rejected arguments that lethal injections were cruel and unusual punishment and allowed executions to resume.

The three-drug lethal injection process works like this: First, a sedative is administered through an IV, rendering the inmate unconscious, then a paralyzing agent stops the breathing muscles and finally a shot of potassium chloride stops the heart.

Those challenging the procedure say that if the first chemical is not properly administered, an inmate may remain conscious and die an excruciating death from the other two chemicals. Critics contend mistakes are likely, because correctional officers, not medical practitioners, administer the fatal dose in most states.

California's lethal injection process was ruled unconstitutionally cruel and unusual in December. U. S. District Judge Jeremy Fogel suspended executions until the state overhauls its lethal injection procedures. The ruling came in an appeal by Michael Morales, sentenced to die for the 1981 rape and murder of a 17-year-old girl. Postponing Morales' execution in February 2006, the judge cited a British medical journal report that 21 inmates executed in Texas and Virginia had such low levels of anesthetic thiopental in their blood that they probably were awake but unable to move or scream when the fatal potassium chloride was injected. After four days of hearings and a visit to the execution chamber in San Quentin, Fogel concluded it was impossible to determine whether inmates executed in California were unconscious before the fatal shot.

More than a dozen states saw similar lawsuits. A Missouri doctor who mixed the three-drug cocktail used in that state's executions admitted in court he was dyslexic and had difficulty reading numbers.

Richard Dieter, executive director of the Death Penalty Information Center, a nonprofit group that opposes capital punishment, said nearly every state uses "the same protocol that's raising so many questions, so it's a very important issue affecting virtually everyone on death row."

The U.S. Supreme Court hasn't taken any cases that test whether lethal injection is cruel and unusual punishment outlawed by the U.S. Constitution. But it has narrowed use of the death penalty in recent years, banning executions of the severely retarded in 2002 and in 2005 prohibiting the execution of those under age 18 when they committed their crimes.

New York's capital punishment system was struck down by the state Supreme Court in 2004 on procedural grounds. It could be reinstated if the state Assembly rewrites sentencing rules, but lawmakers failed to do so in 2005 and 2006.

Death penalty moratoriums also were in effect in Illinois, where a probe of police corruption and racial bias led to the freeing of a dozen men from death row, and in New Jersey, where a one-year hiatus imposed by Gov. Jon Corzine (D) ended in December.

David Elliot, communications director for the National Coalition to Abolish the Death Penalty, predicted that debate over capital punishment will see a resurgence in state capitols this year. Lawmakers in Minnesota, New York, North Dakota

## Executions 1976-2006

	2006	Total
Texas	24	
Ohio	5	
Virginia	4	
Oklahoma	4	83
North Carolina	4	43
Florida	4	63
South Carolina	1	36
Alabama	1	35
Indiana	1	17
California	1	13
Nevada	1	12
Mississippi	1	8
Montana	1	3
Tennessee	1	1
Missouri	0	66
Georgia	0	39
Arkansas	0	27
Louisiana	0	27
Arizona	0	22
Delaware	0	14
Illinois	0	12
Utah	0	6
Maryland	0	5
Washington	0	4
Nebraska	0	3
Pennsylvania	0	3
Kentucky	0	2
New Mexico	0	2
Oregon	0	2
Colorado	0	1
Connecticut	0	1
Idaho	0	1
Wyoming	0	1
Federal	0	3
<b>Total</b>	<b>53</b>	<b>1056</b>
<b>Women executed</b>		<b>11</b>
5 states allow the death penalty but have had no executions: Kansas, New Hampshire, New Jersey, New York and South Dakota.		

Source: Death Penalty Information Center

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and Wisconsin served notice of plans to seek restoration of capital punishment.

Meanwhile, legislatures in California, Maryland and Missouri are expected to consider death penalty moratoriums or studies examining death sentences in 2007. New Jersey, which has spent \$250 million to prosecute capital cases but has executed no one since restoring the death penalty in 1982, will study recommendations of a legislative-appointed commission that looked at the death penalty's cost and fairness.

More than 15,000 people have been executed in the United States since colonial days. In 1972, the Supreme Court invalidated all state death penalty statutes as arbitrary and capricious, but four years later it opened the door for states to put their death chambers back into use. Even before recent moves to bar executions of juveniles and the severely retarded, the high court in 1986 ruled out the death penalty for the insane, and in 1977 it held that rape alone was not a crime punishable by death.

The current court's stance on whether someone can be executed for a crime short of murder could be tested by recent laws in several states, including Florida, Louisiana, Montana, Oklahoma and South Carolina, authorizing the execution of repeat child rapists and molesters. No one yet has been executed under those laws, but one Louisiana man — Patrick O. Kennedy — was sentenced to die in 2003 for raping an 8-year-old girl. His case is being appealed in Louisiana courts. Legislators in Alabama, Georgia, Mississippi, Texas, and even



Barbara Christian Winchell holds a photo of her daughter Terri who was raped and murdered in 1981. Michael Morales was convicted of the crime.

## Exonerations 1973-2006

	2006	Total
Florida	1	22
Illinois	0	18
Arizona	0	8
Louisiana	0	8
Texas	0	8
Oklahoma	0	7
Pennsylvania	0	6
Alabama	0	5
Georgia	0	5
North Carolina	0	5
Ohio	0	5
New Mexico	0	4
California	0	3
Massachusetts	0	3
Missouri	0	3
Indiana	0	2
Mississippi	0	2
South Carolina	0	2
Idaho	0	1
Kentucky	0	1
Maryland	0	1
Nebraska	0	1
Nevada	0	1
Virginia	0	1
Washington	0	1
<b>Total</b>	<b>1</b>	<b>123</b>

Source: Death Penalty Information Center

Minnesota, which doesn't have the death penalty, have said they will push this year for similar laws.

According to the Death Penalty Information Center, 123 men and women in 25 states have been released from death row since 1973. The latest was Florida inmate John Ballard in 2006. Ballard was convicted of bludgeoning two neighbors to death, but the Florida Supreme Court said the case against him had not been proven, beyond a reasonable doubt.

Death penalty critics were pleased when former Virginia Gov. Mark Warner (D), in one of his final acts in 2005, ordered a posthumous review of DNA evidence in the case of Roger K. Coleman, whose controversial execution in May 1992 made headlines around the world. Coleman maintained to the end he had not raped and murdered his teenage sister-in-law. But the DNA tests showed Coleman was guilty as charged.

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## MINIMUM WAGE

Now that more than half the states have raised their minimum wages above the \$5.15-an-hour federal rate, pressure is shifting to the new Democratic majority in Congress to give a raise to hourly wage earners in the rest of the country for the first time in 10 years.

Congressional leaders say a federal wage increase tops their 2007 agenda. But state lawmakers in Iowa, New Mexico and South Carolina have pledged not to wait for Congress and will push to join the 29 states that by year's end had hiked their hourly wages above \$5.15.

Raising the minimum wage was one of the most popular policies among states last year. A record 11 legislatures approved pay boosts: Arkansas, California, Delaware, Maine, Maryland, Massachusetts, Michigan, North Carolina, Pennsylvania, Rhode Island and West Virginia. In addition, voters in six states – Arizona, Colorado, Missouri, Montana, Nevada and Ohio – overwhelmingly approved constitution-

al amendments that lift wages and index future increases to inflation.

Traditionally, Democrats have backed minimum wage hikes to support low-income workers, while Republicans have opposed them because they say government-mandated pay hikes hurt the local economy and jeopardize jobs. But national polls show a large majority of Americans, across both political parties, favor raising workers' pay.

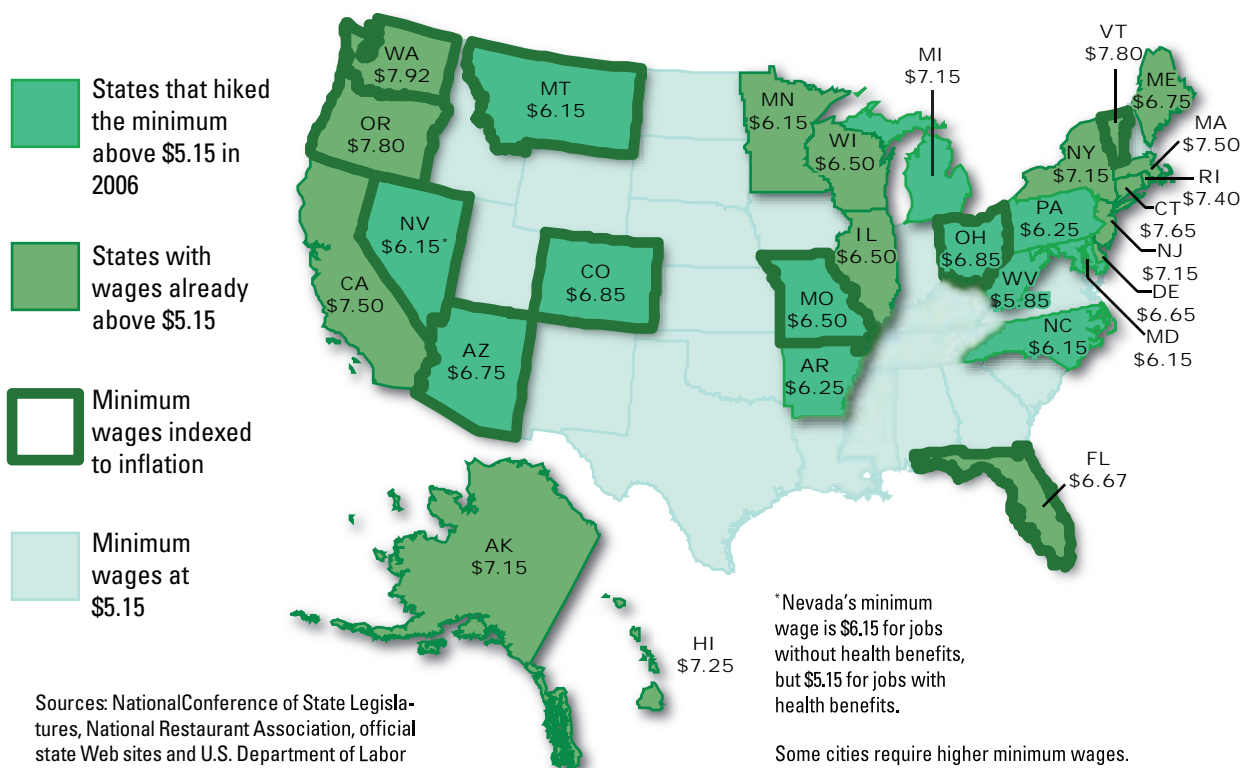
Two Republican governors – Arnold Schwarzenegger of California and Mike Huckabee of Arkansas – approved wage increases last year, and Republican legislators in several states joined Democrats in raising workers' pay.

In the past two years, more states raised their minimum wages than in the 68-year history of the federal wage law. As of Jan. 1, Vermont and Oregon had the highest statewide hourly rates in the nation at \$7.80, followed by Connecticut at \$7.65, Washington state at \$7.63, California and Massachusetts at \$7.50, Rhode Island at \$7.40, and New York and New Jersey at \$7.15.

—Christine Vestal

### Minimum Wage on Jan. 1, 2007

Twenty-nine states now have minimum wages above \$5.15 an hour. During 2006, legislatures in six states and voters in six more increased their state minimum wages above the federal rate.





## Minimum Wage Levels

	2006	2007	2008
Alabama	\$5.15	—	—
Alaska	<b>\$7.15</b>	—	—
Arizona	\$5.15	<b>\$6.75</b>	—
Arkansas	<b>\$6.25</b>	—	—
California	<b>\$6.75</b>	<b>\$7.50</b>	<b>\$8.00</b>
Colorado	\$5.15	<b>\$6.85</b>	—
Connecticut	<b>\$7.40</b>	<b>\$7.65</b>	—
Delaware	<b>\$6.15</b>	<b>\$6.65</b>	<b>\$7.15</b>
Florida	\$6.40	wage increases based on inflation	—
Georgia	\$5.15	—	—
Hawaii	<b>\$6.75</b>	<b>\$7.25</b>	—
Idaho	\$5.15	—	—
Illinois	<b>\$6.50</b>	—	—
Indiana	\$5.15	—	—
Iowa	\$5.15	—	—
Kansas	\$5.15	—	—
Kentucky	\$5.15	—	—
Louisiana	\$5.15	—	—
Maine	<b>\$6.50</b>	<b>\$6.75</b>	<b>\$7.00</b>
Maryland	<b>\$6.15</b>	—	—
Massachusetts	<b>\$6.75</b>	<b>\$7.50</b>	<b>\$8.00</b>
Michigan	<b>\$6.95</b>	<b>\$7.15</b>	<b>\$7.40</b>
Minnesota	<b>\$6.15</b>	—	—
Mississippi	\$5.15	—	—
Missouri	\$5.15	<b>\$6.50</b>	—
Montana	\$5.15	<b>\$6.15</b>	—
Nebraska	\$5.15	—	—
Nevada	\$5.15	<b>\$6.15</b>	—
New Hampshire	\$5.15	—	—
New Jersey	<b>\$7.15</b>	—	—
New Mexico	\$5.15	—	—
New York	<b>\$6.75</b>	<b>\$7.15</b>	—
North Carolina	\$5.15	<b>\$6.15</b>	—
North Dakota	\$5.15	—	—
Ohio	\$5.15	<b>\$6.85</b>	—
Oklahoma	\$5.15	—	—
Oregon	<b>\$7.50</b>	wage increases based on inflation	—
Pennsylvania	\$5.15	<b>\$6.25</b>	—
Rhode Island	<b>\$7.10</b>	<b>\$7.40</b>	—
South Carolina	\$5.15	—	—
South Dakota	\$5.15	—	—
Tennessee	\$5.15	—	—
Texas	\$5.15	—	—
Utah	\$5.15	—	—
Vermont	<b>\$7.25</b>	<b>\$7.80</b>	increases tied to inflation
Virginia	\$5.15	—	—
Washington	<b>\$7.63</b>	wage increases based on inflation*	—
West Virginia	\$5.15	<b>\$5.85</b>	<b>\$6.55</b>
Wisconsin	<b>\$6.50</b>	—	—
Wyoming	\$5.15	—	—

Wages in green represent proposed rates on the Nov. 7 ballot in six states; in all but Nevada future increases would be tied to inflation.

Sources: National Conference of State Legislatures, National Restaurant Association, state Web sites and US Department of Labor

## IMMIGRATION

State leaders are pressing President Bush and the newly elected Democratic Congress to pass comprehensive federal immigration reform. But they've also signaled they will not wait for the federal government to take action on illegal immigration.

A record 78 immigration-control laws were enacted in 33 states last year out of 550 immigration bills filed, according to the National Conference of State Legislatures. In addition, the backlash against the influx of illegal workers landed the issue on two state ballots and in numerous state campaigns in November. Signs point to more action at the state level against illegal immigration this year.

In Texas, whose Legislature didn't meet last year, lawmakers prepared dozens of immigration-related bills for the 2007 session that would restrict illegal aliens' access to education, health care and employment. Some of the bills go further than other states' proposals and raise legal issues by targeting the U.S.-born children of undocumented immigrants, including seeking to make them ineligible for state employment when they become adults. Texas has the second-largest immigrant population in the nation, behind California.

In Missouri, where several immigration-control measures failed last year, lawmakers are expected to consider new proposals to establish English as the state's official language, bar children of illegal immigrants from getting in-state college tuition, and alter state tax codes to go after off-the-books workers who don't pay income taxes.

After adopting some of the most far-reaching anti-immigration measures last year, including cuts in state services for illegal aliens and penalties for employers who hire them, Georgia lawmakers pre-filed bills last fall again targeting illegal immigrants. One measure would make property owned by an illegal immigrant ineligible for any state tax exemption.

Georgia, Colorado and Arizona passed the most stringent measures against illegal immigrants last year. Colorado was first to enact strict identity requirements that demand proof of legal residency for all state services.

Arizona lawmakers put on the ballot and voters approved a series of measures declaring English the state's official language and barring illegal immigrants from receiving state aid, collecting punitive damages in civil suits or making bail if arrested for serious crimes. Colorado voters also passed ballot measures prohibiting employers from deducting

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wages of illegal immigrants as an expense on state tax forms and directing the state attorney general to sue the federal government to enforce existing immigration laws.

Immigration also is roiling local governments. Dozens of cities and towns are debating whether to follow the example of Hazleton, Pa., which in July 2006 adopted an English-only ordinance and harsh penalties for those who employ or rent to illegal aliens. Courts have blocked Hazleton and several other towns from enforcing such ordinances pending rulings on their constitutionality.

By contrast, Nebraska became the 10th state to grant in-state tuition at public colleges to illegal immigrants, if they graduated from state high schools.

—Kavan Peterson

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## SAME-SEX MARRIAGE

New Jersey took center stage in the battle over same-sex marriage at the end of 2006 when state lawmakers quickly legalized civil unions to comply with a state Supreme Court order to give gay and lesbian couples equal access to the rights and privileges of marriage.

The Garden State's highest court in October ordered lawmakers to either legalize same-sex marriage or provide for equal treatment of same-sex couples in the statute books. State lawmakers opted in December to follow the example of Vermont and Connecticut and create civil unions, an alternative to marriage. Vermont adopted civil unions in 2000 after a legal decision similar to New Jersey's court ruling. Connecticut's Legislature voluntarily adopted civil unions in 2005.

The ruling came just two weeks before the Nov. 7 elections, when seven states adopted constitutional same-sex marriage bans and voters in one state – Arizona – made history by becoming the first to reject such an amendment.

Although largely symbolic, the Arizona vote was hailed by gay rights advocates as a major victory. Voters in 27 states have agreed in recent years to add language to their constitutions defining marriage as the union of one man and one woman. Arizona, like 45 other states, already has a statute on the books banning same-sex marriage. Constitutional bans are seen as better than statutes at keeping courts from legalizing gay marriage.

Strategists pro and con predict few state legislatures will consider constitutional gay marriage bans in 2007 because of Democratic gains in the 2006 elections. Of the 23 states

without amendments to prohibit same-sex weddings, only Indiana and Pennsylvania are likely to see legislative votes on such measures this year, advocates said. A citizen-led initiative is under way in Florida to put a same-sex marriage ban on the ballot in 2008.

In the only state that legally sanctions gay nuptials – Massachusetts – Democratic legislative leaders used parliamentary tactics to keep a same-sex marriage ban off the 2008 ballot. A constitutional ban would overturn the 2003 state high court ruling that legalized gay marriage.

High courts in at least three states – California, Connecticut and Maryland – are expected to rule on same-sex marriage in 2007. Justices in those states heard arguments in December 2006. Similar lawsuits are pending in lower courts in Iowa and Oklahoma.

—Kavan Peterson

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## STEM CELLS

With a presidential veto standing in the way of more federal support for embryonic stem cell research, states will stay on the front lines of the battle over the controversial science.

Texas lawmakers are laying the groundwork to join six states – Arkansas, Indiana, Iowa, Michigan, North Dakota and South Dakota – with laws prohibiting embryonic stem cell research and all forms of human cloning. Legislators in other states, including Missouri and Wisconsin, have proposed similar bans.

Michigan Gov. Jennifer Granholm (D) is waging a campaign to remove her state from that list and overturn the state's ban.

In November, Missouri voters approved a constitutional amendment creating a so-called "safe haven" for the science by ensuring the legality of the research and patients' rights to receive resulting treatments. Missouri's success is expected to spawn similar measures across the country.

Stem cell advocates in Florida, Georgia and Kentucky already are campaigning to get the issue on the ballot in 2008.

Five states – California, Connecticut, Illinois, Maryland and New Jersey – have committed state money to embryonic stem cell research, filling a void created when President George W. Bush placed a moratorium on federal funding in 2001.

Attempts to appropriate state funding could come up this year in Massachusetts, which last year created a safe haven

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## STATE POLICIES ON SAME-SEX MARRIAGE

STATES	PERMITS GAY MARRIAGE	PERMITS CIVIL UNIONS	STATE OFFERS REGISTRY OF DOMESTIC PARTNERSHIPS	STATE LAW PROHIBITS SAME-SEX MARRIAGE	STATE CONSTITUTIONAL AMENDMENT PROHIBITS SAME-SEX MARRIAGE	NO STATE LAW OR POLICY
Alabama				★	★	
Alaska				★	★	
Arizona				★		
Arkansas				★	★★	
California				★		
Colorado				★	★	
Connecticut		★		★		
Delaware				★		
Florida				★		
Georgia				★	★★	
Hawaii				★	★ <sup>1</sup>	
Idaho				★	★	
Illinois				★		
Indiana				★		
Iowa				★		
Kansas				★	★★	
Kentucky				★	★★	
Louisiana				★	★★	
Maine				★		
Maryland				★ <sup>2</sup>		
Massachusetts	★					★
Michigan				★	★★	
Minnesota				★		
Mississippi				★	★	
Missouri				★	★	
Montana				★	★	
Nebraska					★★	
Nevada					★	
New Hampshire				★		
New Jersey		★ <sup>3</sup>				★ <sup>4</sup>
New Mexico						★
New York						★ <sup>5</sup>
North Carolina				★		
North Dakota				★	★★	
Ohio				★★	★★	
Oklahoma				★	★★ <sup>6</sup>	
Oregon					★	
Pennsylvania				★		
Rhode Island						★
South Carolina				★	★★	
South Dakota				★	★★	
Tennessee				★	★	
Texas				★	★★	
Utah				★	★★	
Vermont		★		★		
Virginia				★★	★★	
Washington				★ <sup>7</sup>		
West Virginia				★		
Wisconsin				★ <sup>8</sup>	★★	
Wyoming				★ <sup>9</sup>		
Totals:	1	3	0	42	27	5

★★ Signifies law also prohibit civil unions or other domestic partnership status for same-sex couples.

<sup>1</sup> Amendment does not ban same-sex marriage, but stipulates that only the legislature, not the courts, can define marriage.

<sup>2</sup> The first state law defining marriage as a union between a man and woman was adopted by Maryland in 1973.

<sup>3</sup> Civil unions created in December 2006 to comply with state high court ruling to offer same-sex couples equal access to the rights of marriage.

<sup>4</sup> 1/25/06 state high court ruling orders state lawmakers to extend same-sex couples equal access to the benefits of marriage, but stopped short of legalizing same-sex marriage.

<sup>5</sup> 7/6/06 state high court ruling rejects argument that same-sex couples have a constitutional right to marry.

<sup>6</sup> A provision makes it a misdemeanor crime to knowingly issue a marriage license to same-sex couples.

<sup>7</sup> 7/26/06 state high court ruling rejects argument that same-sex couples have a constitutional right to marry.

<sup>8</sup> 1971 state supreme court ruling held that only heterosexual marriages are legal.

<sup>9</sup> State law predating the federal Defense of Marriage Act prohibits same-sex marriage.

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Michigan Gov. Jennifer Granholm (D) speaks at an election night rally in Detroit. Granholm was re-elected to a second term after defeating GOP challenger Dick DeVos.

for the research, and in New York, which came close to approving stem cell funding last year.

In total, 26 states place some restrictions on the research.

Recent national polls show a majority of Americans support embryonic stem cell research. But the Bush administration and others, primarily in the anti-abortion movement, oppose it because it involves the destruction of human embryos. Others, including high-profile Republicans such as Nancy Reagan, support the research because of its potential to find cures for diseases such as Parkinson's, Alzheimer's and juvenile diabetes.

—Christine Vestal

## ALTERNATIVE ENERGY

Although gasoline prices fell nearly a dollar a gallon from their 2006 highs and winter heating prices were projected to be stable, state lawmakers are putting conservation and energy alternatives on their agenda for 2007.

West Virginia Gov. Joe Manchin (D) has proposed eliminating his state's use of imported oil by 2030 and tasked the Public Energy Authority to come up with a plan. Besides conservation, new uses for the state's coal reserves are part of Manchin's energy solution, including turning coal into synthetic diesel fuel.

While Midwestern states are pushing corn-based ethanol, an alcohol fuel that can be mixed with gasoline, newly elected Florida Gov. Charlie Crist (R) supports tax credits and research funds to use waste from Florida's sugar cane and citrus crops to make ethanol.

Alternative energy is viewed both as a tool for boosting economic development, especially in rural areas, and for

fighting global warming, which is linked to the burning of fossil fuels such as oil.

Colorado Gov. Bill Ritter (D) campaigned on a seven-point energy plan that includes working with New Mexico Gov. Bill Richardson and Montana Gov. Brian Schweitzer, both Democrats, on a regional plan to generate clean energy and reduce carbon dioxide and other gases blamed for climate change.

Schweitzer has traveled the country promoting his detailed energy plan, which focuses on conservation plus alternative fuels and new technologies, including projects that would convert coal to liquid fuel and boost the economy of small towns in his state.

—Eric Kelderman

## PROPERTY RIGHTS

Less than two years after the U.S. Supreme Court allowed a Connecticut town to raze houses to make way for a shopping center, 34 (31 in 2006 alone) states have expanded protections for property owners and curbed government's powers to condemn private land for economic development.

Going even further to protect property rights, Arizona became the second state to decree that property owners should be compensated when government regulations diminish the value of their land. Oregon is the only other state to allow payments for so-called "regulatory takings."

The movement to roll back government's eminent domain powers is a backlash against the high court's June 2005 decision in *Kelo vs. New London, Conn.* Since the *Kelo* ruling, legislatures in 27 states have enacted laws that either prohibit or make it harder for local governments to use eminent domain to take land for private development, according to Larry Morandi, a land-use expert at the National Conference of State Legislatures. In addition, voters in 10 states adopted ballot measures last year that restrict eminent domain, duplicating legislative efforts in three states.

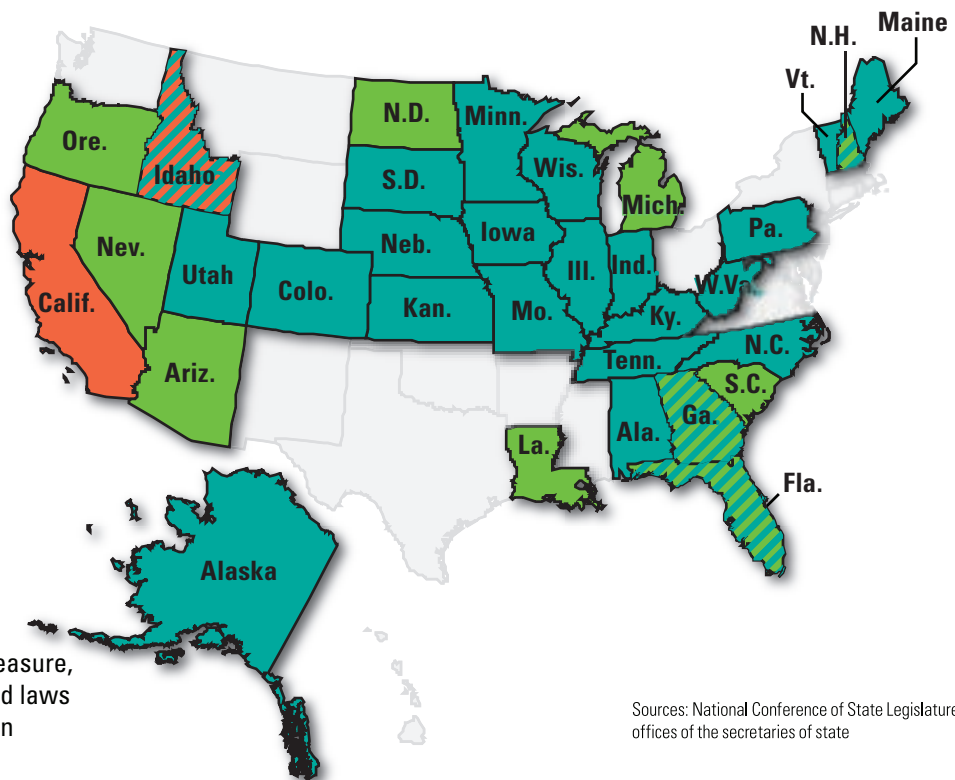
Of the 16 states that have not passed any significant eminent domain legislation since *Kelo*, Morandi said, the ones likely to raise the issue this year are those that tried, but failed, to get a bill passed in 2006. Mississippi and Virginia both had sweeping bills that failed to make it out of conference committee by the session's end. Connecticut, the state that touched off the eminent domain fury, created an eminent domain ombudsman but has yet to pass strong legislation.

—Pauline Vu

## Restricting Government Use of Eminent Domain

31 states adopted laws in 2006 that limit the ability of local government to use eminent domain to take control of land for economic development. This comes in response to the Supreme Court's 2005 *Kelo v. New London* ruling, which allowed a Connecticut town to raze homes for the construction of a shopping center.

- 20** States that only approved legislative action
- 7** States that only approved ballot measures
- 3** States that approved both ballot measures and legislation
- 1** California rejected a ballot measure and did not adopt restrictions on eminent domain
- 1** Idaho rejected a ballot measure, but the legislature adopted laws restricting eminent domain



Sources: National Conference of State Legislatures, offices of the secretaries of state

## SELF-DEFENSE LAWS

Fourteen states went along with National Rifle Association (NRA) lobbying last year and copied a year-old Florida law expanding the rights of crime victims to use deadly force against attackers.

The NRA expects so-called "stand-your-ground" legislation to be popular in 2007, too. Detractors say the "shoot-first" laws make it more likely that confrontations will turn deadly and more difficult to prosecute people who commit acts of violence.

While it already is legal in most states to use deadly force against an attacker who enters your home, the new self-defense laws allow victims to use deadly force against an

attacker in other circumstances if they believe their life is threatened. The laws grant immunity from criminal prosecution or civil lawsuits for actions taken in self-defense.

Besides those 14 states (Alaska, Alabama, Arizona, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Oklahoma, South Carolina and South Dakota), 10 states adopted another brand of pro-gun legislation last year.

Inspired by the aftermath of Hurricane Katrina, when New Orleans police went door to door ordering citizens to surrender their guns, the new laws ban local law enforcers from confiscating weapons during declared emergencies or natural disasters. Adopting those laws were Alaska, Florida, Idaho, Kentucky, Louisiana, Mississippi, New Hampshire, Oklahoma, South Carolina and Virginia.

—Kavan Peterson

# HOT TOPICS

## SEX OFFENDERS

States progressively are heaping penalties on sex offenders even after they've served their time – from posting their addresses on Internet registries to requiring some to wear electronic tracking devices. But retrenchment could be in store for tough new zoning laws that put whole towns off limits to sex offenders.

Laws in California, Georgia and Iowa that bar sex offenders from living near schools and parks are being challenged in court by ex-convicts. But such laws also raise alarms among law enforcers, who worry that sexual predators will be harder to track because they have no place to live.

A federal judge was to hear a challenge in February to California's law, adopted by voters in November, which prohibits registered sex offenders from living within 2,000 feet of schools or parks. Approved by 70 percent of voters, "Jessica's law" would make it impossible for sex offenders to live in most of Los Angeles, San Francisco and other cities.

Eighteen other states have similar statewide zoning measures or allow cities to adopt even stricter residency rules to keep sex offenders from living near schools, day-care centers, parks, churches and bus stops. The rules make it nearly impossible for sex offenders to find urban housing in states such as Iowa and Georgia, advocates said.

Iowa's law, considered one of the toughest in the nation, was upheld by the 8th U.S. Circuit Court of Appeals but is being challenged in state courts. Georgia's law faces a class action lawsuit. The plaintiffs in Georgia claim they pose little further threat to society, including an elderly man with Alzheimer's disease, another living in a hospice who cannot walk and a woman convicted of having consensual oral sex with a 15-year-old boy when she was 17.

Prosecutors, law enforcers and civil rights groups say the laws have backfired, resulting in more sex offenders dropping off the radar or being pushed to rural areas far from rehabilitation services and supervision. They also question how effective the laws are at protecting children, because strangers are responsible for only about 10 percent of sexual attack on minors.

Lawmakers in at least one state, Kansas, decided against adopting strict residency restrictions after concluding that Iowa's zoning law had doubled the number of sex offenders unaccounted for since the law took effect.

—Kavan Peterson

## PROPERTY TAX SWAPS

Idaho, New Jersey, South Carolina and Texas cut property taxes in 2006 in exchange for increases in sales or other taxes, an innovative "swap" sure to be on the agenda of other states this year.

Homeowners hate the property tax, typically one of the largest government debits they pay. Although it's largely a local tax, state law provides the power to impose it. Property taxes pay for a range of local services, including fire and police protection, but especially schools.

New Jersey put the property-tax swap idea in the national spotlight when state politicians last July agreed to end a six-day government shutdown by increasing the Garden State sales tax by 1 cent, with half designated for property relief this year and possibly the full amount in future years. Voters approved the plan in a Nov. 7 ballot measure.

Also on Election Day, Idaho voters approved a property-tax relief plan adopted by the Legislature in August 2006 that reduces property taxes by about \$260 million by raising the sales tax 1 cent.

South Carolina Gov. Mark Sanford (R) last summer signed a measure that promises to cut average property taxes by 60 percent and makes up the revenue by bumping up the state's sales tax 1 cent.

Texas took a different tact. As part of a special session to revamp school funding, the state lowered property taxes \$15.7 billion and hiked taxes on cigarettes and some business activity to offset the revenue loss.

Swaps are not without controversy, particularly when they affect school funding. In addition, critics say tax swaps are regressive because they impose a greater burden on the poor, typically hit hardest by sales taxes.

—Pamela M. Prah

## S-CHIP RENEWAL

States will be watching anxiously as Congress this year retools the popular State Children's Health Insurance Program, which covers 4 million youngsters.

S-CHIP, created in 1997, is a supplemental taxpayer-funded program that gives states extra money to insure children in families who earn too much to qualify for traditional Medicaid coverage. It cost \$6 billion in 2004.

Like Medicaid, S-CHIP is paid for by both state and federal governments. But the feds pick up a bigger share of the children's program. States have more leeway in S-CHIP to decide what benefits to offer and how much to charge enrollees for premiums or co-payments.

But S-CHIP has become a victim of its own success. The premise for the program is that states get flexibility, and, in return, the federal government limits the amount of money it would spend. The program has grown so fast in recent years that Congress has had to find more money to cover all the states' expenses.

Congress will have to decide whether to overhaul the current system, which is supposed to cap each state's allotment of money. Those caps haven't had much practical effect, however, because Congress regularly redistributed money from states with unspent funds to states that spent too much. As S-CHIP programs have grown, there has been less money to reallocate.

Congress must decide whether to spend even more money on the program or to restrict states instead. Neither choice is attractive, because capped federal spending and flexibility for states are two hallmarks of the program.

Some advocates want to expand S-CHIP to cover parents nationwide. Six states already do cover parents. Research shows kids are more likely to be signed up if their parents can get insurance, too. But others question whether the federal government should be using S-CHIP funds to cover parents before all children are insured.

—Daniel C. Vock

# NEW GOVERNORS

## ★ ALASKA



### Sarah Palin (R)

**Term Expires:** 2010  
**Born:** Feb. 11, 1964  
**Family:** Married, four children  
**Religion:** Protestant  
**Education:** B.S., University of Idaho  
**Prior Experience:** Wasilla city councilwoman; Mayor of Wasilla

## ★ FLORIDA



### Charlie Crist (R)

**Term Expires:** 2011  
**Born:** July 24, 1956  
**Family:** Divorced  
**Religion:** Methodist  
**Education:** B.A., Florida State University; J.D., Cumberland Law School, Samford University  
**Prior Experience:** State senator; Florida attorney general

## ★ ARKANSAS



### Mike Beebe (D)

**Term Expires:** 2011  
**Born:** Dec. 28, 1946  
**Family:** Married, three children  
**Religion:** Episcopalian  
**Education:** B.A., Arkansas State University; J.D., University of Arkansas at Fayetteville  
**Prior Experience:** State senator; Arkansas attorney general

## ★ IDAHO



### C.L. "Butch" Otter (R)

**Term Expires:** 2011  
**Born:** May 3, 1942  
**Family:** Married, four children  
**Religion:** Roman Catholic  
**Education:** B.A., College of Idaho  
**Prior Experience:** U.S. congressman; Lieutenant governor

## ★ COLORADO



### Bill Ritter (D)

**Term Expires:** 2011  
**Born:** Sept. 6, 1956  
**Family:** Married, four children  
**Religion:** Roman Catholic  
**Education:** B.S., Colorado State University; J.D., University of Colorado Law School  
**Prior Experience:** Assistant U.S. attorney for Colorado; Denver district attorney

## ★ IOWA



### Chet Culver (D)

**Term Expires:** 2011  
**Born:** Jan. 25, 1966  
**Family:** Married, two children.  
**Religion:** Presbyterian  
**Education:** B.A., Virginia Polytechnic Institute and State University; M.A., Drake University  
**Prior Experience:** Teacher; Iowa secretary of state



★ MARYLAND



**Martin O'Malley (D)**

**Term Expires:** 2011  
**Born:** Jan. 18, 1963  
**Family:** Married, four children  
**Religion:** Roman Catholic  
**Education:** B.A., Catholic University of America; J.D., University of Maryland  
**Prior Experience:** Baltimore city councilman; Mayor of Baltimore

★ NEW YORK



**Eliot Spitzer (D)**

**Term Expires:** 2011  
**Born:** June 10, 1959  
**Family:** Married, three children  
**Religion:** Jewish  
**Education:** B.A., Princeton University; J.D., Harvard University  
**Prior Experience:** Assistant New York City district attorney; New York state attorney general

★ MASSACHUSETTS



**Deval Patrick (D)**

**Term Expires:** 2011  
**Born:** July 31, 1956  
**Family:** Married, two children  
**Religion:** Presbyterian  
**Education:** B.A., J.D., Harvard University  
**Prior Experience:** U.S. assistant attorney general for civil rights; Executive vice president and general counsel, The Coca-Cola Company

★ OHIO



**Ted Strickland (D)**

**Term Expires:** 2011  
**Born:** Aug 4, 1941  
**Family:** Married  
**Religion:** Methodist  
**Education:** B.A., Asbury College; M.Div., Asbury Theological Seminary; M.A., Ph.D., University of Kentucky.  
**Prior Experience:** Minister; U.S. congressman

★ NEVADA



**Jim Gibbons (R)**

**Term Expires:** 2011  
**Born:** Dec. 16, 1944  
**Family:** Married, three children  
**Religion:** Mormon  
**Education:** B.S., University of Nevada at Reno; M.S., University of Nevada; JD, Southwestern University School of Law  
**Prior Experience:** GOP whip in the state Assembly; U.S. congressman

**FAST FACTS**

Party: **7 Democrats, 4 Republicans**  
Gender: **10 Male, 1 Female**  
Average Age: **52**  
Religion: **6 Protestant, 3 Catholic, 1 Mormon, 1 Jewish**  
Prior Occupations: **Lawyer (7), member of Congress (3), mayor (2), teacher (1), minister (1)**

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