

STATE OF THE STATES

A STATELINE.ORG REPORT

2008

Politics ★ Health Care ★ Gambling
Stem Cell ★ Infrastructure ★ National Guard
Education ★ Immigration



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From the cover:

An unidentified player scratches off a "Kansas Made" lottery ticket. Kansas in 2007 became the first state to own and operate gambling casinos.

Afghanistan-bound 2nd Lt. Michael Morris returns his infant son to his wife Lauren during a deployment ceremony for 1,800 soldiers of the South Carolina National Guard.

California Gov. Arnold Schwarzenegger (R) congratulates Assembly Speaker Fabian Nunez (D) on the Assembly's approval of a health-care reform plan during a news conference Dec. 17, 2007.

Vehicles are scattered along the broken remains of the Interstate 35W bridge in downtown Minneapolis after the span collapsed into the Mississippi River during evening rush hour Aug. 1, 2007.

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OF THE
STATES**

2008 STATE MEETINGS

Name of Organization	Meeting	Date	Location
American Legislative Exchange Council	Annual Meeting	July 3-Aug. 2, 2008	Chicago
Capitolbeat	Annual Meeting	Nov. 13-16, 2008	Raleigh, N.C.
Center for Policy Alternatives	Annual Meeting	TBA in January 2008	TBA
The Council of State Governments	Annual Meeting	Dec. 4-7, 2008	Omaha, Neb.
The Council of State Governments	CSG's Spring Committee and Task Force Meeting	May 29- June 1, 2008	Lexington, Ky.
The Council of State Governments	CSG/Eastern Regional Conference- Annual Meeting	Aug. 10-13, 2008	Atlantic City, N.J.
The Council of State Governments	CSG/West Annual Meeting	July 16-20, 2008	Anchorage, Alaska
The Council of State Governments	CSG/Southern Legislative Conference- Annual Meeting	July 11-15, 2008	Oklahoma City
The Council of State Governments	CSG/Midwestern Legislative Conference - Annual Meeting	July 13-16, 2008	Rapid City, S.D.
Coalition of Northeastern Governors	Annual Meeting	TBA in January 2008	TBA
Midwestern Governors Association	Annual Meeting	TBA	TBA
National Governors Association	Winter Meeting	Feb. 23-25, 2008	Washington, D.C.
National Governors Association	Summer Meeting	July 11-14, 2008	Philadelphia
National Conference of State Legislatures	Annual Meeting	July 20-25, 2008	New Orleans
Southern Governors Association	Annual Meeting	Aug. 9-11, 2008	White Sulphur Springs, W. Va.
Western Governors Association	Annual Meeting	June 28- July 1, 2008	Jackson Hole, Wy.

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From the Editor

The actor-turned-governor of California earned his nickname, “the Governor,” by plunging headlong into some of his state’s most difficult problems: health care, education and global warming. Arnold Schwarzenegger is pushing a program to provide health care to almost every resident, he’s pushing innovative education initiatives and he’s cut a deal with former British Prime Minister Tony Blair on global warming — all of this as politicians and policymakers in Washington, D.C. remain mired in partisan bickering.

What’s most remarkable, however, is that the Republican governor of California is far from unique. He’s one of a number of governors, notably including those in Massachusetts, Vermont and Maine, who are leading their states to find practical solutions to critical problems. And, they’re doing it by forging bipartisan alliances in their state legislatures, even as the federal government seems less and less able to produce results.

As Kansas Gov. Kathleen Sebelius, the outgoing chair of the Democratic Governors Association, put it: “There really aren’t ‘red’ and ‘blue’ states but American states, and people want leaders they can trust, who they share vision and values (with.)”

From where I sit, overseeing the operations of *Stateline.org*, which every weekday reports online and in many leading U.S. newspapers on significant state policy developments and trends, the pragmatic problem-solving going on in many of the 50 state capitols is a refreshing change from the exasperating dysfunction of the federal government.

Yes, there is plenty of partisan bickering and political chicanery at the state level, too: a budget deadlock in Michigan that briefly brought state government to a near standstill, the corruption scandal involving a number of members of the



Alaska Legislature and the endless political skullduggery that seems endemic in states like Illinois, Pennsylvania and Texas are but a few examples that come to mind.

But, on what are arguably the overarching public policy issues of our day — health care, the education of our children, global warming and, perhaps most remarkably, the care of veterans of the Iraq and Afghanistan wars — states are in the vanguard.

Massachusetts, Vermont and Maine already are experimenting with making access to doctors and hospitals more widely available — and more financially sustainable. But experts are riveted on California, which just might reorganize the delivery of health care in a way that could be a model for the nation.

Almost equal with health care as a matter of voter concern is public education. Although you might not know it because of all the media buzz about the federal No Child Left Behind program, it’s the states that are innovating to elevate learning standards with programs as fundamental as expanding pre-kindergarten education and as creative as linking high school attendance to driving privileges.

Polls also show increasing concern about the environment. California, the world’s 12th largest carbon emitter, is in the forefront in dealing with causes of climate change. Indeed,

The pragmatic problem-solving going on in many of the 50 state capitols is a refreshing change from the exasperating dysfunction of the federal government.

— Gene Gibbons

Schwarzenegger's groundbreaking agreement with Blair last August to fight global warming was viewed as part of a broader effort to circumvent federal objections to state regulation of greenhouse-gas emissions. It was also widely interpreted as a slap at the Bush administration's laissez-faire attitude toward what most reputable scientists regard as the leading environmental challenge of the 21st century.

Most unusual from a historic standpoint is the assertive role of states in aiding the nation's returning warriors — unusual but not surprising, given that state-based National Guard units are involved in combat at a level unseen since World War II. Minnesota and Illinois are pioneering programs designed to help demobilized service members make a sometimes-difficult emotional transition to the less lethal vagaries of civilian life, but they are just two of the dozens of states that have stepped up to meet what until this era has been largely a federal responsibility.

In a recent column for *Stateline.org*, Raymond C. Scheppach, longtime executive director of the National Governors Association, said what's been happening in the states is a manifestation of the yin and yang of federalism.

“Throughout our history there has been a federalism cycle, where at times governors and states have provided national policy leadership, and at other times that leadership has come from the president and Congress,” Scheppach wrote. “Underlying this cycle, however, was a clear trend in the 20th century toward increased federal involvement in U.S. domestic policy. As we progress into the 21st century, several factors suggest we may be coming full circle, with leadership on domestic issues swinging back to states.”

I wonder whether the hothouse atmosphere of national politics doesn't also have something to do

with making states the place to look if you want to see government that works. It's probably easier to get things done in an environment where TV shout shows don't dumb down profound discourse to sound bites, and where every Tom, Dick, Jane and Harry isn't running for president.

As I reflect on how states are making much of the difference in our everyday lives, I'm reminded of the many really impressive people laboring with little fanfare in the state political vineyards: people such as Mee Moua, a Hmong native of Laos who serves in the Minnesota state Senate; Dale Ford, who started a new career as a member of the Tennessee House after 27 years as a Major League Baseball umpire; or Tim Bee, a printer by trade who serves as president of the Arizona state Senate. Moua specializes in education and economic development policy. Ford is developing expertise in drug-trafficking law and help for the disabled. Bee advocates for victims of domestic violence.

None of them has a name that's a household word. But they are among the more than 7,000 legislators and hundreds of other state policymakers doing the heavy lifting in American politics. They and people like them are responsible for the policy accomplishments, ideas and goals you're about to read about in this report.

I would be remiss not to add a word of thanks to our funder, The Pew Charitable Trusts, and its CEO Rebecca Rimel. Without the generous support of the Trusts, neither this publication nor *Stateline.org* itself would be possible.

Gene Gibbons

States Share National Spotlight In 2008

By Pamela M. Prah

While much of the media are focused on this year's presidential election, races with equal or even greater power to impact folks' everyday lives will be decided at the state level, with 11 governors' contests headlining the year.

"One heck of a race, quite possibly the best in the nation," is what University of Virginia political expert Larry Sabato calls the 2008 contest in Washington state. It pits Democratic Gov. Christine Gregoire against Republican challenger Dino Rossi in a rematch of their 2004 political slugfest. Gregoire won that contest by just 133 votes after three recounts and a lawsuit.

The race in Missouri, a key presidential swing state, shapes up as a knock-down-dragout fight between Republican Gov. Matt Blunt and Jay Nixon, the state's Democratic attorney general. The two have sparred on several fronts, including Blunt's decision to auction off a sizable part of the state's student loan portfolio, a move Nixon's office went to court to block.

Republicans hope to chip away at Democrats' 28-to-22 advantage in gubernatorial control by picking up two open seats. Democrats Ruth Ann Minner of Delaware and Mike Easley of North Carolina cannot run again because of term limits. But both governors' mansions have been occupied by Democrats since the early 1990s.

Five Republican and four Democratic

governors are seeking re-election, and the power of incumbency gives them the edge. As the 2008 campaign season began, some didn't even have challengers yet.

Here's how the races shaped up at the start of 2008:

- Delaware's lieutenant governor, John C. Carney Jr., is squaring off against Jack Markell, the state treasurer, for the Democratic nomination to succeed Minner. No Republican candidate had emerged yet.
- North Carolina, the other open seat, has seven candidates seeking to follow Easley. The top two Democratic contenders are Lt. Gov. Beverly

Purdue and State Treasurer Richard H. Moore. On the Republican side are Bill Graham, who has campaigned against the gas tax, former state Supreme Court Justice Bob Orr and state Sen. Fred Smith.

- Indiana Gov. Mitch Daniels (R) could have a re-election fight on his hands. Hoosier voters are still smarting over his moves to bring daylight-saving time to the state and to lease the Indiana Toll Road to a foreign company. Daniels' Democratic challenger will come from a field that includes Jill Long Thompson, a former congresswoman, and Jim Schellinger, an architect.



Indiana Gov. Mitch Daniels (R) announces his re-election bid at a county fair outside Butler University's Hinkle Fieldhouse in Indianapolis, on June 16, 2007.

- Montana Gov. Brian Schweitzer, a rising star in the Democratic Party, is enjoying approval ratings of 70 percent in his first term. Republican state Sen. Roy Brown was first to announce as an opponent, but other possible contenders for the GOP nomination are Senate Minority Leader Bob Keenan and Montana House Speaker John Mercer.
- New Hampshire Gov. John Lynch (D) was dubbed “Mr. 70 Percent” to reflect his vote count in winning a second two-year term in 2006, and his approval ratings have stayed in that range. Possible opponents include Kelly Ayotte, the state’s first female attorney general, and state Sen. Joe Kenney, a Marine who served in the Iraq war.
- North Dakota Gov. John Hoeven (R), who in 2006 had the highest approval rating of any governor at 86 percent, is expected to have little problem securing a third term. State Sen. Tim Mathern, a Democrat from Fargo, was considering a run.
- Utah Gov. Jon Huntsman Jr. (R) has approval ratings almost as stratospheric, with one 2006 poll showing 77 percent of his constituents liked the job he was doing. The GOP has held the Utah governorship since 1985, and no Democrat had yet emerged to try to deny the former ambassador a second term.

2008 Gov Races

State	Incumbent governor
Del.	Ruth Ann Minner (D)*
Ind.	Mitch Daniels (R)
Mo.	Matt Blunt Jr. (R)
Mont.	Brian Schweitzer (D)
N.C.	Mike Easley (D)*
N.D.	John Hoeven (R)
N.H.	John Lynch (D)
Utah	Jon Huntsman Jr. (R)
Vt.	Jim Douglas (R)
Wash.	Christine Gregoire (D)
W.Va.	Joe Manchin III (D)

*Minner and Easley both face term limits and cannot run again

Twenty years after losing his first governor’s race and stepping away from state government, former Lt. Gov. Steve Beshear is back in Kentucky’s capital of Frankfort as the state’s top elected official.

The 63-year-old Democrat handily defeated one-term Gov. Ernie Fletcher, Kentucky’s first Republican governor in 30 years, in November 2007.



Gov. Steve Beshear and his wife Jane

NEW FACES

★ KENTUCKY

Gov. Steve Beshear (D)

Term Expires: December 2011

Born: Sept. 21, 1944

Family: Married, two children

Religion: Disciples of Christ

Education: B.A. and J.D., University of Kentucky

Occupation: Former managing partner, Stites & Harbison, PLLC

Political Experience: State representative, 1974-1979; state attorney general, 1979-1983; lieutenant governor, 1983-1987

Military: Specialist 4th class, Army Reserve

Beshear capitalized on a hiring scandal that nagged Fletcher’s administration and tainted his re-election bid, especially because the Republican had won office promising to clean up state government. Even then-Lt. Gov. Steve Pence (R) declined to join Fletcher’s re-election bid after the governor and several key officials were indicted on charges that they illegally rewarded political allies with state jobs. Fletcher pardoned the officials, and misdemeanor charges against him were later dropped in a deal with prosecutors.

Fletcher’s troubles created an opening for Beshear to step back onto the political scene after almost 20 years in private legal practice. He garnered bipartisan backing on a platform that emphasized “honesty and integrity,” promised to increase health-care coverage of the under- and uninsured and called for voters to decide whether to approve casino gambling to boost the state budget. Beshear also successfully tied Fletcher’s woes to voter dissatisfaction with Republicans in Washington, D.C.

A Kentucky native, Beshear won a seat in the state Legislature in 1974. He was elected state attorney general in 1979 and lieutenant governor in 1983, serving with Gov. Martha Layne Collins (D).

In 1987, he finished last in a three-way Democratic primary race for governor and left government for private law practice, working primarily with businesses. In 1996, he launched a failed attempt to unseat U.S. Sen. Mitch McConnell (R).

As a legislator and lieutenant governor, he championed children’s welfare, including leading an overhaul of the state’s foster care system and desegregation of schools.

As attorney general, Beshear advised Kentucky’s public schools to follow a 1980 U.S. Supreme Court ruling and remove the Ten Commandments from classrooms. He also led an investigation into the administration of then-Gov. John Y. Brown (D) that resulted in several fraud convictions, including that of the state labor commissioner.

— Eric Kelderman

With his 2007 gubernatorial victory, Louisiana's political "wunderkind" Bobby Jindal avenged his loss in the same contest four years earlier, added more political milestones to his lengthy résumé and now is promising to root out corruption and incompetence in state government.

The former GOP congressman's October landslide to succeed retiring Gov. Kathleen

Babineaux Blanco (D) makes him the first governor of Indian descent to be elected in the country. Born in Baton Rouge of parents who emigrated from India, he is also the state's first non-white governor since Civil War Reconstruction. At 36, he became the nation's youngest sitting governor.

Winning 54 percent of the primary election ballots, Jindal was just the third Louisiana governor in a half-century to avoid a November runoff. An unusual state law awards the election if a candidate wins a majority of votes in the primary.

Jindal has promised to beef up the state's ethics laws by requiring personal financial disclosures for state legislators and statewide leaders, banning state contracts for businesses with ties to elected officials and requiring lobbyists to disclose their clients. Jindal also has vowed to make Louisiana's state government more "competent" after Blanco's perceived failure at managing the aftermath of Hurricane Katrina in 2005.

His latest victory caps a string of accomplishments for the self-described policy wonk — a Phi Beta Kappa graduate of Brown University and a Rhodes Scholar.

After college, Jindal worked briefly for the elite consulting firm of McKinsey & Company in Washington, D.C. At age 24, he was tapped to turn around his home state's troubled Department of Health and Hospitals, where he erased the agency's \$400 million budget deficit. Three years later, he was appointed to head Congress' bipartisan commission on the future of Medicare. He returned to Louisiana in 1999 to head the Louisiana State University System, but two years later was appointed by President George W. Bush to be an assistant secretary at the U.S. Health and Human Services Department.

After his narrow loss to Blanco, Jindal in 2004 easily won a seat in the U.S. House of Representatives and was re-elected in 2006.

— Eric Kelderman

★ LOUISIANA



Louisiana Gov. Bobby Jindal and his mother, Raj

NEW FACES

Gov. Bobby Jindal (R)

Term Expires: January 2012

Born: June 10, 1971

Family: Married, three children

Religion: Roman Catholic

Education: B.S., Brown University; M.Litt., Oxford University

Occupation: Secretary of the Louisiana Department of Health and Hospitals, 1996-1998; executive director of the National Bipartisan Commission on the Future of Medicare, 1998; president, University of Louisiana System, 1999-2000; U.S. Health and Human Services Department, assistant secretary for planning and evaluation, 2001-2003

Political Experience: U.S. House of Representatives, elected 2004, 2006

Military: None

- Vermont Gov. Jim Douglas is looking for his fourth two-year term as a Republican governor in a "blue" state, where Democrats control the Statehouse and traditionally win the electoral votes in presidential elections. A Democrat had yet to get into the governor's race.
- West Virginia's Joe Manchin III, in line to head the Democratic Governors Association, appears in a strong position to win a second term with 74 percent job approval. Businessman Bob Adams was the only Republican to announce a bid by the close of 2007.

The 11 governors' contests and legislative races in 44 states will compete for attention with the country's longest, costliest presidential race. States will be under intense scrutiny to prove they have done the nuts-and-bolts work to avoid voting machine malfunctions and other glitches that plagued previous elections. (See page 14)

New paper trails from electronic voting machines, for example, were recently adopted in Iowa, Florida, Maryland and Virginia while Colorado, Ohio and California entered 2008 on the cusp of deciding whether to change their voting machines for the November elections.

More is at stake than simply who wins in 2008. Both parties are looking ahead to the 2010 census, seeking to gain political advantages in statehouses that will use the new population numbers to redraw boundaries for congressional and legislative districts.

What could be a record-breaking number of ballot measures also will lure voters to the ballot box in 2008, letting state residents have their say on controversial issues from immigration to affirmative action to the way states elect future presidents.

State party activists know the presidential campaign will overshadow

their races, but they are ramping up efforts to draw attention to state-level elections. “So many laws that affect real people’s lives are passed at the state level,” said Michael Sargeant, executive director of the Democratic Legislative Campaign Committee, formed to win state legislative seats and chambers for Democrats. “We work hard to explain to people that there is a story to be told at the state level.”

Eye on Redistricting

Democrats hope to build on the “blue” wave that swept them to power in Congress and washed over state offices in 2006, giving the party control of 28 governorships and both legislative chambers in 23 states — the most in 12 years. The surge carried over in 2007, when Democrats wrested control of legislative chambers in Virginia and Mississippi.

Most stunning in 2006 were Democratic victories in New Hampshire, where the party captured the governor’s office and both chambers of the Legislature for the first time since after the Civil War, and in Iowa, where it swept the governor’s

All Blue States

In 14 states, Democrats control the governor’s office and both legislative chambers.

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

All Red States

In 10 states, Republicans control the governor’s office and both legislative chambers.

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

mansion and Legislature for the first time in 40 years.

This year the prize for Democrats would be taking control of the New York Senate for the first time in four decades. The split currently is 33 Republicans to 29 Democrats; Democrats already have a huge margin in the Assembly. While Gov. Eliot Spitzer (D) is not up for re-election until 2010, other New Yorkers could be on the presidential ticket — Hillary Clinton for the Democrats and/or Rudolph W. Giuliani for the Republicans — affecting turnout and thus statehouse races.

Spitzer’s retraction of a controversial plan to issue driver’s licenses to illegal immigrants and his highly publicized quarrel with Republican Senate Majority Leader Joseph Bruno may end up hurting Democrats, said Maurice “Mickey” Carroll, director of the Quinnipiac University Polling Institute. “The feud is poisoning everything,” he said.

Other targets for the Democrats are the lower chambers in Montana, Ohio and Wisconsin.

Republicans hope to win back New Hampshire and Iowa and also are eyeing the Oregon House, currently controlled by Democrats 31-29, and the Oklahoma Senate, which is evenly split 24-24.

“We saw a lot of close chambers in 2006 flip either way, and we think we’ll see the same in 2008,” said Carrie Cantrell, a spokeswoman for the Republican State Leadership Committee, which aims to elect more Republicans to state office.

(There are no statehouse races this year in Alabama, Louisiana, Maryland, Mississippi, New Jersey and Virginia. This year’s contests in Minnesota and Michigan are for the state House only, not Senate.)



New York Gov. Eliot Spitzer (D) walks to a news conference at the U.S. Capitol last November after abandoning his plan to issue driver’s licenses to illegal immigrants.

State senate races will carry more clout than usual this year because winners, with at least four-year terms, will be involved in redrawing legislative and congressional districts after the 2010 census. In 44 states, legislators are in charge of drawing new congressional boundaries and can leverage their power to help their political party on Capitol Hill. Other states delegate congressional redistricting to independent commissions.

“Once we are in the majority ... and draw those lines, we can capture those five (congressional) seats we lost in Texas,” said New York Senate Minority Leader Malcolm A. Smith (D), plotting payback for the seats Republicans picked up in Congress in 2004 under a Texas redistricting plan. That plan was engineered by former U.S. House Majority Leader Tom DeLay (R-Texas) and pushed through the Texas Legislature after the GOP gained control there in 2002.

Ballot Measures to Tackle Immigration, Elections

Both parties once again will use bal-



Missouri Attorney General and Democratic gubernatorial candidate Jay Nixon talks to Teamsters members last November after winning the union's endorsement.

Governors Turned Presidents

Seventeen governors went on to serve as U.S. president. Four of the last five presidents had been governors.

	President	State governed
3rd	Thomas Jefferson	Virginia
5th	James Monroe	Virginia
8th	Martin Van Buren	New York
10th	John Tyler Jr.	Virginia
11th	James K. Polk	Tennessee
17th	Andrew Johnson	Tennessee
19th	Rutherford B. Hayes	Ohio
22nd, 24th	Grover Cleveland	New York
25th	William McKinley Jr.	Ohio
26th	Theodore Roosevelt	New York
27th	Woodrow Wilson	New Jersey
30th	Calvin Coolidge	Massachusetts
32nd	Franklin Delano Roosevelt	New York
39th	Jimmy Carter Jr.	Georgia
40th	Ronald Reagan	California
42nd	Bill Clinton	Arkansas
43rd	George W. Bush	Texas

Sources: National Governors Association, *Stateline.org* reporting

lot measures to draw party faithful to the polls in 2008. Conservative groups are likely to turn to abortion or immigration, while progressives may focus on health care and pocket-book issues, said Kristina Wilfore, executive director of the liberal Ballot Initiative Strategy Center in Washington, D.C.

Liberal groups used minimum-wage hikes as a way to energize their voters in 2006, in the same way conservatives used bans on gay marriage in 2004 and 2006. Jennifer Drage Bowser, an

elections expert at the National Conference of State Legislatures, said the jury is still out on whether ballot measures boost voter turnout. "It's questionable, but it doesn't stop people from trying," she said.

An initiative to change how California awards its key 55 electoral votes for president could end up on the 2008 ballot, despite supporters' problems raising money to gather signatures. Instead of winner take all, electoral votes would be divvied up to whichever candidate won in each congressional district. The change would favor Republicans in a state that has voted to put a Democrat in the White House in the last four elections. It would not apply in the 2008 presidential election if it passed.

California isn't the only state looking to dump the current electoral process. Maryland in 2007 became the first state to approve a "national popular vote" compact that would allocate electoral votes to the winner of the popular vote nationwide. The compact would go into effect if enough states jump on board. The New Jersey Legislature also approved the compact, and Gov. Jon Corzine (D) was expected to sign it into law in January. Such a change would have benefited Democrat Al Gore in the 2000 presidential election.

Another electoral change could be presented to voters in California and Arkansas: proposals to soften term limits to let state lawmakers serve longer.

Maine voters in 2007 defeated a similar measure to extend legislators' terms. Other high-profile ballot measures also went down to defeat in the off-year election:

- New Jersey voters refused to spend \$450 million on stem-cell research, spurning pleas by Democratic Gov. Jon Corzine, who put \$150,000 of his own money into the campaign.

- Utahns overwhelmingly overturned what would have been the nation's broadest statewide program of tax-funded vouchers to pay for private schools.
- Oregon voters rejected by a 3-to-2 margin a cigarette-tax hike to pay for children's health insurance that had been backed by Gov. Ted Kulongoski (D).

In other 2007 balloting:

- Oregon voters watered down their landmark land-use law that had required compensation for landowners whose property values were lowered by government regulation.
- Washington state adopted a proposal by political activist Tim Eyman that will make it harder to raise taxes by requiring two-thirds approval from the Legislature or direct voter approval.
- Texans agreed to invest more than \$3 billion in cancer prevention — a

Chambers in Play

Democrats and Republicans will spar for control of 20 narrowly divided state legislatures in 2008. The hottest races will be in **Montana**, **Tennessee** and **Wisconsin**, where both legislative chambers are up for grabs.

Close Senate Races:

Alaska
Maine
Montana
Nevada
New York
Oklahoma
Tennessee
Wisconsin

Close House Races:

Arizona
Delaware
Indiana
Iowa
Michigan
Montana
Ohio
Oregon
Pennsylvania
Tennessee
Texas
Wisconsin

priority for Gov. Rick Perry (R) that was widely promoted by cycling legend and cancer survivor Lance Armstrong — and OK'd \$6 billion in bonds for highway and construction projects.

Strategy: Will Democrats Squander Gains?

Even many Democrats credit their party's triumph in 2006 to voter frustration with President Bush and the war in Iraq and to Republican scandals, rather than to an endorsement of the Democratic agenda.

"The prospects of building a new and enduring Democratic political and governing majority are the best they have been in more than three decades," Kansas Gov. Kathleen Sebelius wrote in a letter to presidential candidates when she chaired the Democratic Governors Association. "But that majority cannot be built by default. It must be earned by what we offer the American people in the 2008 campaign."

But now that congressional Democrats' approval ratings hover as low as President Bush's, the tables could be turned.

Democrats have one crucial advantage going into the run for the White House. Presidents are elected state by state, not by a nationwide vote, with the winner needing at least 270 electoral votes. Historically, the party that controls a state's governorship can rally its troops to the polls for the presidential contest.

When Bill Clinton was elected president in 1992, for example, Democrats held most of the governors' seats (27). When George W. Bush took the White House in 2000, Republicans were in charge (31).

Besides a 28-22 numerical advantage in governorships, Democrats also con-

trol the governors' offices in the key states of Colorado, Iowa, Michigan, Ohio and Pennsylvania. But Republicans are in state executive suites in the battleground states of Florida, Missouri, Minnesota and Nevada.

"The governor is credited with leading the political machine in the states," said Rhodes Cook, founder of The Rhodes Cook Letter, a monthly newsletter that tracks state and congressional races. "Having a governor in your corner is considered good to begin with; having a governor in your corner and on the ballot trumps even that."

Issues: Will Iraq Dominate?

The Iraq war again will figure prominently in national races, less so for state candidates. But the war is expected to be a drag on GOP candidates up and down the ticket.

The economy could be the big wildcard. "If the economy slows, that will dictate a fair amount what happens at the state level," said National Governors Association Executive Director Raymond Scheppach. If job losses mount and the economy nose-dives, governors in particular would have to defend their spending of recent robust surpluses and might have to make unpopular budget cuts.

If the economy is doing well, health care and education will dominate followed by energy and the environment, predicted Scheppach, who has led the NGA since 1983.

Efforts to quell illegal immigration are expected to be an issue in federal, state and local races. (See page 56)

"As long as Congress continues not to act, immigration will be a major issue for states," said Cantrell of the Republican State Leadership Committee.

2008 Races for Attorney General and Secretary of State

Voters will elect 10 attorneys general and eight secretaries of state in 2008. At least two new AGs will be elected because Missouri AG Jay Nixon is running for governor and Oregon AG Hardy Myers is term-limited. Two secretaries-of-states' seats also are open. Oregon's Bill Bradbury is term-limited and West Virginia's Betty Ireland is retiring.

State

Indiana
Missouri
Montana
North Carolina
Oregon
Pennsylvania
Utah
Vermont
Washington
West Virginia

Current AG

Steve Carter (R)
Jay Nixon (D)
Mike McGrath (D)
Roy Cooper (D)
Hardy Myers (D)
Tom Corbett (R)
Mark Shurtleff (R)
Bill Sorrell (D)
Rob McKenna (R)
Darrell McGraw (D)

State

Missouri
Montana
New Hampshire
North Carolina
Oregon
Vermont
Washington
West Virginia

Current SOS

Robin Carnahan (D)
Brad Johnson (R)
William M. Gardner (D)
Elaine F. Marshall (D)
Bill Bradbury (D)
Deborah Markowitz (D)
Sam Reed (R)
Betty Ireland (R)

former chairman of the Republican National Committee, had won praise for his handling of the aftermath of Hurricane Katrina in 2005.

In legislative races, Democrats flipped control of the Senate chambers in Virginia and Mississippi. Republicans made gains to pull to almost even in the Louisiana House, and they gained two seats in the New Jersey Assembly, but Democrats still control both houses there.

"Voters are in a very change-oriented mood," concluded Terry Madonna, a professor and director of the Keystone Poll at Franklin & Marshall College in Lancaster, Pa. He said 2007 results gave some hints that Democratic voters may be more motivated, a stance that could modestly increase the party's turnout in 2008.

Both parties are desperate to show they heard voters' complaints about partisan bickering and government gridlock and are ready to produce results.

Nick Ayers, executive director of the Republican Governors Association, pointed to Jindal's win in Louisiana as a sign that "a positive, solutions-oriented campaign can bring voters back to the Republican Party." ■

Property taxes and tax hikes "will be front and center" in state elections, predicted anti-tax advocate Grover Norquist. Democratic governors in Illinois, Michigan, Pennsylvania and Wisconsin who proposed major tax hikes in 2007 are not up for re-election. Still, anti-tax activists are expected to target legislators who supported their governors' proposed tax increases.

Lessons from 2007

Last year's meager number of statewide races may hold a few clues to the mood of voters heading into 2008 elections.

In governors' races in 2007, Democrats regained the Kentucky governorship, replacing scandal-tainted incumbent Gov. Ernie Fletcher (R) with Democrat Steve Beshear, a former lieutenant governor. But in Louisiana, former U.S. Rep. Bobby Jindal reclaimed the governor's office for Republicans, succeeding Democratic Gov. Kathleen Babineaux Blanco, who bowed out of the race after criticism for her handling of Hurricane Katrina devastation in New Orleans.

Republican Gov. Haley Barbour of Mississippi easily won a second term over Democrat John Eaves, an attorney and evangelical Christian. Barbour, a

Democratic primaries are listed in blue.
 Republican primaries are listed in red.
 Multiparty primaries are listed in black.
 As of December 2007

State-by-state Presidential Primaries

2008

2004

January	
3: Iowa caucuses ¹ 5: Wyoming caucus 8: New Hampshire ¹ 15: Michigan 19: Nevada caucuses, South Carolina 26: South Carolina 29: Florida	19: Iowa caucuses 27: New Hampshire
February	
2: Maine caucus 5: Alabama, Alaska caucuses, Arizona, Arkansas, California, Colorado caucuses, Connecticut, Delaware, Georgia, Idaho caucus, Illinois, Kansas caucus ² , Massachusetts, Minnesota caucuses, Missouri, New Jersey, New Mexico caucus, New York, North Dakota caucuses, Oklahoma, Tennessee, Utah, West Virginia caucus 9: Kansas caucus ² , Louisiana, Nebraska caucus, Washington caucuses 10: Maine caucus 12: Maryland, Virginia 19: Hawaii caucus, Washington, Wisconsin	3: Arizona, Delaware, Missouri, New Mexico caucus, North Dakota, Oklahoma, South Carolina 7: Michigan caucus, Washington caucus 8: Maine caucus 10: Tennessee, Virginia 14: Nevada caucus 17: Wisconsin 24: Hawaii caucus, Idaho caucus, Utah caucus
March	
4: Ohio, Rhode Island, Texas, Vermont 8: Wyoming caucus 11: Mississippi	2: California, Connecticut, Georgia, Ohio, Maryland, Massachusetts, Minnesota caucus, New York, Rhode Island, Vermont 9: Florida, Louisiana, Mississippi, Texas, Washington caucus 13: Kansas caucus 16: Illinois 20: Alaska caucus, Wyoming caucus 27: South Carolina caucus
April	
22: Pennsylvania	17: North Carolina caucus 13: Colorado 24: Kansas caucus 27: Pennsylvania 29: Nevada caucus
May	
6: Indiana, North Carolina 13: Nebraska, West Virginia 20: Kentucky, Oregon 27: Idaho May: Hawaii caucus ³	4: Indiana, North Carolina 8: Arizona caucus, Utah caucus, Wyoming caucus 11: Nebraska, West Virginia 14: Delaware caucus 15: Maine caucus 18: Arkansas, Kentucky, Oregon 21: Alaska caucus, Michigan caucus, North Carolina caucus 25: Idaho
June	
3: Montana, New Mexico, South Dakota	1: Alabama, New Mexico, South Dakota 4: Hawaii caucus 5: Virginia caucus 8: Montana, New Jersey
Democratic National Convention	
Aug. 25 - 28: Denver, Colo.	July 26 - 29: Boston, Mass.
Republican National Convention	
Sept. 1 - 4: Minneapolis-St. Paul, Minn.	Aug. 30 - Sept. 2: New York, N.Y.

¹New Hampshire and Iowa laws dictate their elections will be held before all other similar contests.

²Kansas Legislature voted not to fund or hold a presidential primary in 2008.

³Hawaii Republican Party will select convention delegates during its May state convention.



Indiana Secretary Of State Todd Rokita

ARE STATES THE 2008



States will be ready when voters cast their ballot for our next U.S. president. This will be no small feat given the uncertain landscape they are facing. With presidential primaries beginning in early January, major changes to our electoral system could still happen before November 2008.

For starters, Congress is reconsidering a 2002 law that encouraged states to update their outdated equipment by switching to electronic voting machines (a switch, it should be noted, that many states and counties have not yet fully paid for). The latest proposal would require all states to add cash-register-style paper receipts to these machines in 2008, so that voters can verify their selections before casting a ballot.

As the debate continues on Capitol Hill, New Jersey will join the list of more than half of all states that already require some type of voter-verifiable paper trail. Florida is doing away with its paperless electronic voting machines altogether for 2008, while secretaries of state in California, Colorado and Ohio have carried out security reviews of their electronic voting machines and taken steps to decertify or overhaul their equipment.

Meanwhile, the U.S. Supreme Court will consider the constitutionality of voter identification laws during its current term. The high court's verdict on the issue will affect states such as Indiana, Georgia, Michigan and Missouri, which have adopted laws that require voters to show government-issued photo IDs at the polls. It will also affect states where photo ID legislation is pending or under consideration.

Other major voting changes already are under way in some states. For example, Iowa will begin offering same-day voter registration this year. North Carolina will offer citizens the chance to register and vote early during the same time frame. Washington state will allow voters to register via the Internet. And Indiana voters will be able to cast their ballots at vote centers, which conveniently allow

voting at one of several district locations instead of a single local polling place.

All of these changes require election officials to update their voter education efforts and their training programs, including those for poll workers. New laws and services must be addressed along with routine election preparations, such as ballot design and printing, equipment testing, poll-worker recruitment and staffing assignments and the mailing of absentee ballots. Add in possible Election Day mishaps such as technical glitches, equipment breakdowns, no-show poll workers, weather problems and complaints, and it's easy to see why it's so challenging to prepare for high-turnout presidential primary and general elections.

State and local election officials will focus intently on preventing long lines and large crowds at polling sites through proper planning and sound administration practices that properly anticipate turnout figures and equipment needs. They also will help to keep voters from showing up at the wrong polling place or forgetting to bring proper identification through vigorous and comprehensive public education efforts.

Will there be isolated incidents and reports of problems in 2008? Undoubtedly. The greater the uncertainty that hangs over the process between now and November, the greater the chance for mishaps to occur. You can expect to hear some dire predictions. But given the overall success of the elections in 2004 and 2006 — a year when sweeping changes to equipment, procedures and preparations went into effect as part of federal law — the majority of states proved their ability to deliver fair and honest elections with accurate results. This year will be no exception to their record of achievement.

— Todd Rokita also is president of the National Association of Secretaries of State.

READY FOR ELECTION?

NO 



Dr. Robert A. Pastor
Director of the Center for Democracy and Election Management at American University, Washington, DC.

While there has been some progress in the five years since passage of the Help America Vote Act (HAVA) in 2002, most states have not fully implemented, let alone embraced, the reforms needed to restore full confidence in the electoral system. So a number of problems are still likely to occur in this year's primary and general elections.

Voter registration lists remain the biggest problem. Despite a Jan. 1, 2006, deadline, a few states have not yet complied with HAVA's requirement that they submit integrated, interactive lists. Moreover, the U.S. Election Assistance Commission has not undertaken a systematic evaluation of the quality of the lists. And about one third of the states have bottom-up databases that rely on counties and municipalities to retain their own registration lists and submit information to the state rather than the other way around. In contrast, top-down lists typically deliver information in real time. A few states have exchanged information with other states, but there is no systematic national interoperable database that would reduce duplication across the states, as the Carter-Baker Commission on Federal Election Reform recommended.

HAVA funding has permitted states to replace outdated punch-card and lever voting machines. During the November 2006 general elections, just 12.7 percent of registered voters nationwide used the outdated equipment, compared with 45 percent in 2000. But new problems have been introduced with the computerized systems: technical breakdowns and the need for a paper trail that permits recounts. However, there has been no federal action to provide voter-verified paper-audit trails (VVPAT), and a bill introduced by U.S. Rep. Rush Holt (D-N.J.) that requires all voting machines to have VVPAT is stalled because of concerns that states would be hard-pressed to meet the bill's deadline. Because of this, a few states, such as Colorado and Ohio, are even considering abandoning their electronic voting systems in favor of something paper-based, perhaps before November 2008.

Poll workers are overworked and underpaid. They put in a 14- to 16-hour workday, face complex job requirements after little training and generally receive scant compensation. (Delaware pays as little as \$15 per day and \$25 for attending training; the highest

pay rates are reported in New York, where they can range up to \$325 per day.)

Provisional ballots are another potential problem. In 2004, the last year for which data is available, 1.9 million such ballots were cast nationally and just 1.2 million or 64.5 percent were counted. At the state level, the percentage counted ranged from 100 percent in Maine to 0 percent in Idaho.

Independent, nonpartisan election management is the international standard, yet elections in the United States are mostly administered by partisan state chief elections officers. A few states, notably Colorado and Georgia, have adopted conflict-of-interest regulations that prohibit elections officials from engaging in partisan behavior, but partisanship remains the norm.

Voter identification remains one of the most controversial areas of election reform, and here, little progress has been made bridging the partisan divide. While all states have met HAVA's minimum identification requirements, some, notably Indiana, Missouri, Georgia and Arizona, have adopted more stringent photo ID laws that have led to court challenges, including an appeal to the U.S. Supreme Court in the Indiana case that could impact the 2008 election. There is currently little data available on the impact of photo ID laws, but preliminary results from a survey commissioned by the Center for Democracy and Election Management at American University show that the laws do not pose a major problem for registered voters and could provide a means for additional outreach and voter education.

In summary, voters are likely to face hassles with registration lists and voting machines. Poll workers will remain under-trained and overworked. Election management remains under the thumb of partisan officials, and voter identification is likely to remain problematic. 2008 is unlikely to be an improvement over 2006.

Alison Prevost, project manager, Carter-Baker Commission on Federal Election Reform, and Vassia Gueorguieva, junior fellow at the Center for Democracy and Election Management at American University, contributed to this article.

LEGISLATIVE WRAP

2007 Marked By Activism

By Pamela M. Prah

States are in rebellion over Washington's actions — and inaction — on some of the nation's most pressing problems.

Disgusted with federal gridlock, states are carving out their own global-warming and immigration laws and warning they simply may ignore Uncle Sam's costly plan for tough national standards for driver's licenses.

And while proposals to expand health care to the uninsured are going nowhere in Congress any time soon, 15 states acted last year to cover more uninsured children. They did so even though they were in a crossfire between Congress and the Bush administration over whether to boost federal funding for health care for low-income children.

Not all the headlines from state capitols in 2007 dealt with policy. Also grabbing attention were New Jersey Gov. Jon S. Corzine's (D) near-fatal traffic accident; a corruption sting in Alaska's Statehouse; and budget impasses in Pennsylvania and Michigan that resulted in short-lived government shutdowns.

2007 may be best-remembered, however, as the year many states upended the presidential primary calendar to give voters a greater say in choosing candidates. Twenty-three states were to express their presidential preferences on Feb. 5, turning it into "Super-duper" Tuesday.

Apart from the elections, states began this year with growing unease over the economy, worried that big plans

to expand health care or fix crumbling bridges may have to wait. A slumping housing market and skimpier sales-tax collections created a \$14 billion hole in California's budget, while New York was eyeing \$4.3 billion in red ink and Florida \$2.5 billion in projected deficits.

Among the notable "firsts" of 2007:

- **The death penalty was repealed** in New Jersey, the first state to do so since the U.S. Supreme Court reinstated capital punishment in 1976.
- **Semi-automatic pistols in California**, under a first-of-its-kind law, must now have a "micro-stamp" that gives each cartridge fired a unique imprint indicating the gun's make, model and serial number.
- **Virginia drivers can be slapped** with fines of up to \$3,000 for repeat traffic violations.
- **Maryland became the only state to mandate a "living wage,"** requiring state contractors to pay employees from \$8.50 to \$11.30 an hour.
- **Kansas led a "Google Government" movement** by becoming the first state to approve an online, searchable database of state government spending. Eight other states adopted similar initiatives.
- **Maine's "big box" law** requires retailers such as Wal-Mart to study their impact on local business before they can open stores.
- **Baby products must be free** of the

chemical phthalate, which scientists have linked to developmental problems, under a California ban that could trigger action in other states.

- **All preschoolers must get flu shots** under a first-of-its-kind law in New Jersey.
- **Southern states condemned their former support of slavery** with Virginia, home of the former Confederate capitol, leading the way. Alabama, Maryland and North Carolina followed suit.

Global Warming Takes Front and Center

Far more than the federal government, states last year injected urgency into combating global climate change.

Minnesota signed up with five other Midwestern states in 2007 to seek joint ways to cut greenhouse-gas emissions, joining similar efforts in New England and Western states. The regions will develop a market-based "cap-and-trade" system that will allow companies to buy and sell greenhouse-gas pollution credits.

With enough states creating their own regional systems, "it becomes a de facto national policy," said Republican Gov. Tim Pawlenty of Minnesota, who cited global warming and other energy issues as priorities in his year as chairman of the National Governors Association.

The Republican White House and Democratic-controlled Congress made

some headway in December by enacting a new energy policy that raises vehicle fuel-economy standards for the first time since 1975. New cars will have to average 35 miles per gallon by 2020, up from 27.5 mpg now, saving energy and also trimming carbon-dioxide emissions blamed for climate change.

But California is leading a drive to demand even greater fuel efficiency from vehicles as part of a precedent-setting global-warming initiative. California, followed by at least 14 other states, is seeking to impose new tailpipe standards would requiring the automobile industry to design cars with lower emissions of heat-trapping gases. The U.S. Environmental Protection Agency in December blocked California's policy, sending the issue to the courts. (See page 69)

Meanwhile, Illinois, Minnesota, Maine, Oregon and New Hampshire acted to require that 25 percent of their electricity comes from wind, solar or other renewable sources by 2025, bringing to 26 the number of states that require a percentage of their electricity to come from sources that do not burn fossil fuels, such as coal or natural gas.

Not Waiting For (Or Listening To) Washington

Defying the U.S. Department of Homeland Security, six states refused to go along with a federal overhaul of driver's licenses inspired by the Sept. 11, 2001, terrorist attacks. The federal initiative is perceived by some as the slippery slope to a national ID card.

Montana was the first state to revolt against the Real ID Act. Maine, New Hampshire, Oklahoma, South Carolina and Washington also have balked at Real ID, which states figure will cost them \$11 billion and will force motor vehicle departments to verify the identities of all 245 million drivers when their licenses need renewal.

"(Real ID is) unrealistic. It's science fiction," Maine Secretary of State Matthew Dunlap told The Associated Press. "I can't say enough bad things about it."

In the meantime, the federal government eased Real ID time lines, allowing states to apply by February for more time to begin revamping their licensing procedures. If lawmakers on Capitol Hill don't like the long-awaited final driver's license regulations issued by the Homeland Security Department, Congress may step in once again.

Congress' failure to overhaul immigration policies led several states to take a "get-tough" attitude against businesses that hire undocumented workers. (See page 56) In a state-led backlash, 46 states enacted 194 immigration-related measures in 2007, according to the National Conference of State Legislatures.

Arizona employers who knowingly hire illegal immigrants can lose their business licenses under a new law there. Oklahoma in 2007 joined Colorado and Georgia in blocking state benefits to illegal immigrants and allowing police to arrest and hold them for their illegal status. Oklahoma's new law also makes it a crime to harbor illegal immigrants and requires companies with state contracts to verify that employees are U.S. citizens.

However, states still face the challenge of enforcing some of these laws. In a widely publicized case, a federal judge in 2007 threw out penalties enacted in Hazleton, Pa., for hiring or renting to illegal immigrants.

States Battle Feds Over Health Care

With the number of Americans without health insurance nearing 47 million, states waded deeper into the health-care debate in 2007 with mixed results. (See page 21) In

California, both Gov. Arnold Schwarzenegger (R) and Democratic lawmakers promoted universal coverage plans, but they couldn't strike a deal by the end of 2007. Any agreement they might make in 2008 likely would need to be ratified by voters in November.

States were left in limbo throughout much of the year as President Bush and Congress fought over whether to create a bigger, more generous State Children's Health Insurance Program (SCHIP). States and the federal government jointly fund the program, which provides discounted health insurance to 6.1 million low-income Americans.

The bickering over federal funding didn't stop Washington state, Hawaii, Oklahoma, Ohio, Indiana and others from expanding their own SCHIP programs. But the Bush administration rejected New York's plan to offer government-subsidized insurance for 400,000 kids in families that earn up to four times the federal poverty level (\$82,600 for a family of four). This would have been the most generous SCHIP plan in the country.

The administration made clear it didn't want other states to follow New York's example. It issued a new SCHIP edict that had the effect of barring states from covering children with family incomes over 250 percent of the federal poverty level (\$51,625 a year for a family of four). New York, New Jersey, Washington, Illinois and Massachusetts were among states that sued to block the move.

"Washington should be a partner to states that are trying to cover more children, not an opponent," New Jersey's Corzine said.

Gay Rights, Abortion Measures Pass

While proposals to ban same-sex marriage generated wide media attention in recent years, a handful of

states in 2007 quietly expanded rights for gays, including protections in the workplace.

New Hampshire approved a historic civil union bill offering same-sex couples the same state-level rights and responsibilities provided by traditional marriage. In doing so, it joined Vermont, Connecticut and New Jersey in offering civil unions, a legal relationship that didn't exist before 2000.

Washington state and Oregon enacted domestic-partnership laws giving same-sex couples the same inheritance, hospital visitation and other legal rights afforded married couples. California, Maine and Hawaii have similar laws. Maine extended its Family Medical Leave Act to include domestic partners, and Colorado made it easier for a gay partner to adopt his or her partner's biological or adopted child.

Colorado, Iowa, Oregon and Vermont all banned workplace discrimination based on sexual orientation and gender identity, bringing to 12 the number of states with such anti-discrimination laws on the books.

Nathan Newman, policy director of the Progressive States Network, said it was surprising how quietly some of these measures were enacted. "Nearly half of the country's population is living in states that ban discrimination based on sexual orientation and gender identity," he said.

In Massachusetts, the only state to issue marriage licenses to same-sex couples, lawmakers refused to put on the 2008 ballot an initiative reversing the Massachusetts Supreme Judicial Court's landmark 2003 ruling allowing gay marriage.

On the abortion front, New Hampshire repealed its strictest-in-the-nation law requiring parents to be notified before teenage girls could undergo the procedure. (See page 72)

On the other side of the debate, Georgia, Idaho, Louisiana and Mississippi passed laws requiring abortion providers to offer a sonogram to women seeking abortions. And Louisiana became the first state to enshrine in state law a new federal prohibition against a certain type of late-term abortion that was upheld by the U.S. Supreme Court last April.

Louisiana's law allows local district attorneys and law enforcement officials to enforce the ban. Louisiana and 30 other states previously passed so-called partial-birth abortion bans in the 1990s that were struck down by the Supreme Court in 2000.

Also on the social front, support for "abstinence-only" sex education waned. Nine states — led by Ohio — last year turned down federal money for teaching only abstinence in public school sex-ed classes, bringing to 15 the number of states to reject the grants. Additionally, three states — Colorado, Iowa and Washington — enacted laws requiring "comprehensive" sex education that covers contraception as well as abstinence.

Virginia Tech Tragedy Prods Action

In the wake of the deadliest mass shooting in U.S. history at Virginia Tech last April, states and colleges across the country took a hard look at how to prevent future tragedies. (See page 67)

Hundreds of colleges and universities added text-message alerts to their emergency notification systems so students are signaled about campus emergencies more quickly.

The shootings prodded at least nine more states, for a total of 32, to submit mental-health information to an FBI database program designed to keep the mentally ill from buying firearms. To further improve the program, Congress in December passed a law that more clearly defines

what mental-health records must be reported and offers financial incentives to states that participate and penalties for those that don't comply.

Pocketbook Issues Get Attention

States also acted to help struggling homeowners, particularly those who took out risky "subprime" adjustable-rate loans that required little or no down payment and initially offered low-interest rates that soon became much steeper.

California's Schwarzenegger beat the federal government to the punch in trying to minimize damage from the mortgage meltdown by launching a groundbreaking agreement with major lenders to temporarily freeze sub-prime interest rates that were set to rise. At least 18 states set up task forces to study the issue, and nine created "foreclosure prevention fund" programs to help homeowners refinance their loans. At least six states set up foreclosure hotlines. (See page 68)

Also on the consumer front, "payday lenders" drew scrutiny from Nevada, New Mexico and Oregon, each of which acted to protect consumers from the short-term, high-interest loan industry. Gift card protections were enacted in eight states, bringing to 30 the states that impose limits on gift cards' expiration dates or service fees.

"The federal government has done absolutely nothing" regarding gift cards, said Bernie Horne, policy director of the Center for Policy Alternatives. "States have completely taken over the field."

He said the same holds true of "fire-safe cigarettes," which are manufactured with extra bands of paper to snuff the flame if a lighted smoke is left unattended. Sixteen states last year voted to require self-extinguishing cigarettes, bringing to 22 the

number of states adopting the measure to combat house fires. “States have pretty much turned it into a national policy,” Horne said.

Statehouse Scandals and Intrigue

Some state politicians found themselves in trouble last year with the press or the courts. Massachusetts Gov. Deval Patrick (D) got in hot water for buying \$12,000 drapes for his Statehouse office, while Illinois Gov. Rod Blagojevich (D) was embarrassed when word leaked that taxpayers paid a professional makeup artist \$600 to prepare him for his televised budget address.

The long arm of the law ensnared four former Republican state lawmakers in Alaska. Three were convicted of taking bribes from energy company bigwigs and a fourth faced trial. By the end of the year, one legislator had been sentenced to five years in a federal prison and another to six years. Connecticut’s Senate minority leader, Louis C. DeLuca, resigned from the leadership and then his office after admitting he threatened a man he suspected of abusing his adult granddaughter.

Statehouses had their share of sex scandals even as the national media were fixated on the plight of U.S. Sen. Larry Craig (R-Idaho), who pleaded guilty to a disorderly conduct charge relating to allegations he solicited sex in a Minneapolis airport bathroom.

In Florida, state Rep. Bob Allen (R) resigned after being convicted of agreeing to pay \$20 to perform oral sex on an undercover police officer in the men’s room of a Titusville park. And Washington state Rep. Richard Curtis (R) stepped down amid reports that he had sex with a man he met at a pornographic video store.

Staff writers John Gramlich, Eric Kelderman, Christine Vestal, Daniel C. Vock and Pauline Vu contributed to this report.

Popular 2007 Policies

- **Smokers lost** big this year. Alaska, Connecticut, Delaware, Indiana, Iowa, Maryland, New Hampshire and Tennessee all hiked their cigarette taxes, while smoking bans were enacted in Illinois, Maryland, Minnesota, New Hampshire, New Mexico and Oregon.
- **War in Iraq** was denounced by lawmakers in 17 states that approved nonbinding resolutions in one or both chambers or sent letters to Congress denouncing this year’s surge of U.S. troops in Iraq, with some also calling to bring U.S. troops home.
- **Making electricity more environmentally friendly** passed in Illinois, Minnesota, Maine, Oregon and New Hampshire. That brings to 26 the states that require a percentage of their electricity to come from sources that do not burn fossil fuels, such as coal or natural gas.
- **“Payday lenders”** drew scrutiny from Nevada, New Mexico and Oregon in a bid to protect consumers from the short-term, high-interest lending industry.
- **Mortgage-lending safeguards** in California and Minnesota aim to keep homeowners from mortgages they can’t afford, while nine states created “foreclosure prevention fund” programs to help homeowners refinance loans.
- **Property-tax relief** was hot despite a cooling housing market with action in Florida, Indiana, Montana, Nebraska, New York, North Dakota, Ohio and Vermont.
- **Curbing anti-gay bias in the workplace** is the focus of new laws in Colorado, Iowa, Oregon and Vermont that ban workplace discrimination based on sexual orientation and gender identity, bringing to 12 states with such laws.
- **Federal money for “abstinence-only” sex education** was turned down in nine states, bringing to 15 the number of states that reject the money.
- **Six states that still tax groceries** acted to ease the burden, either by scrapping it altogether (South Carolina and Wyoming), reducing it (Arkansas, Tennessee and Utah) or offering larger tax credits (Hawaii).
- **Copper and scrap metal theft** is so rampant that 20 states passed laws to try to squelch shady sales.
- **Paper trails** from electronic voting machines were approved in Iowa, Florida, Maryland and Virginia to give voters a record that their votes were cast, joining 23 other states, while Iowa OK’d voter registration on Election Day.
- **Sudan’s bloody crackdown in Darfur** spurred 16 states to divest their state pension funds from companies that do business with that African country’s government, bringing the total number to 22.
- **Voting rights for ex-felons** were restored in Florida and Maryland.
- **Gift card protections** were enacted in eight states, bringing to 30 the states that impose limits on gift cards’ expiration dates or service fees.
- **Self-extinguishing cigarettes** will be sold in 16 more states, boosting to 22 the states requiring a special wrapping paper on cigarettes to combat house fires.
- **High school athletes** in Florida and Texas will be subject to random tests for steroid use, joining New Jersey.
- **Text messaging while driving** is specifically banned in New Jersey and Washington state, joining three others that outlaw hand-held cell phone use by drivers — a de facto ban on text messaging at the wheel.



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A Tale Of Two States: How Their Universal Health Efforts Have Fared

By Daniel C. Vock

What goes right and wrong this year with health reform efforts, especially those in Massachusetts and California, will be closely watched by whoever wins the presidency, state politicians, the health care industry and, of course, voters.

Massachusetts is center stage because its health coverage program is the most ambitious up-and-running initiative in the nation; it requires nearly all residents to get health insurance. California's sheer size — one in eight Americans live in the Golden State — means its health reform efforts will have an outsized impact on every American.

For both states, 2008 is a crucial year. The real teeth of implementing legislation adopted in Massachusetts in 2005 — penalties for laggard companies and workers — bite for the first time in April. The fate of California's

proposals will likely come down to whether a ballot measure succeeds there in November.

Of course, the presidential election will intensify the scrutiny. In fact, two leading candidates helped elevate the issue on the national agenda. As Massachusetts governor, Republican presidential candidate Mitt Romney struck a deal with an overwhelmingly Democratic Legislature to make the Massachusetts program a reality. On the campaign trail, Romney has backed away from many central tenets of the initiative, but Democrats have borrowed heavily from the model he helped create.

Among the would-be copiers is U.S. Sen. Hillary Clinton (D-N.Y.). As first lady, Clinton led an ill-fated attempt in 1993-1994 to deliver universal coverage nationally. As a presidential contender, Clinton is resurrecting her effort. In doing so, she's taken a page

from her husband's playbook for the 1992 election: The third major theme of Bill Clinton's initial bid — right behind the more famous "The economy, stupid" — was "Don't forget health care."

Ironically, California Gov. Arnold Schwarzenegger (R) has defended his ideas for a health care overhaul by stressing how similar it is to Hillary Clinton's proposal.

The Massachusetts model is getting a close look because it is bipartisan, comprehensive and relatively cheap. The program includes:

- A requirement for all residents to obtain coverage as long as it's "affordable."
- The creation of a new state agency, called the Commonwealth Connector, which lets residents use pre-tax income to buy their choice of private insurance.
- Expanded insurance subsidies for residents making less than three times the federal poverty level (roughly \$63,000 for a family of four).
- New penalties to punish employers that don't offer insurance.
- Overhauled insurance rules that now apply the same regulations to health insurance bought by individuals and coverage purchased by employers.

Massachusetts resident Paul Bruns would benefit from the new state health-care reform plan. The 26-year-old was without health insurance for 10 months before the plan took effect.



The state avoided a broad-based tax increase by using federal Medicaid money in a new way. Instead of heavily subsidizing hospitals serving poor patients — a practice the Bush administration questioned and threatened to curb — Massachusetts officials decided to use \$375 million per year of that money to help low-income residents buy private insurance.

By December, at least 290,000 Massachusetts residents had signed up for new health coverage. That's between half and two-thirds of the estimated number of uninsured in the state, and far more than enrolled under the reform efforts in the smaller states of Maine and Vermont.

“One of the key lessons from Massachusetts is that it is possible for a state to think big and to attempt to address the entire issue of the uninsured. Massachusetts has set an excel-

lent example,” said Vernon K. Smith, a principal for the consulting firm Health Management Associates.

Schwarzenegger has borrowed several ideas from Massachusetts, including the requirement that all residents get insurance. But the task of covering the uninsured will be far more difficult than in Massachusetts.

California, the nation's most-populous state, has the seventh-highest uninsured rate in the nation — nearly twice as high as in Massachusetts. In fact, the 6.8 million people without health insurance in California outnumber Massachusetts' entire population of 6.3 million.

Moreover, fewer than half of California's residents get insurance through their employers. And there's only one doctor for every 323 Californians, compared to one physi-

cian for every 193 Massachusetts residents.

“The California proposal is the boldest one yet. It is very significant because the scale of the problem is greater in California than almost anywhere,” said Smith, a former Michigan Medicaid director.

As a Republican governor trying to win support from a Democratic Legislature, Schwarzenegger faces a similar situation to the one Romney faced in Massachusetts.

Major sticking points in the California negotiations included:

- Whether to impose a requirement on residents to buy insurance and, if so, what to do about people who can't afford coverage.
- Whether it's better to give lower-middle-class workers tax breaks or

Insurance Snapshot of Massachusetts and California

Population

	Massachusetts	California	U.S.
Total	6,328,346	35,973,138	296,056,836
Uninsured	620,128 (10%)	6,774,009 (19%)	46,994,627 (16%)

Health insurance coverage

	Massachusetts	California	U.S.
Employer	60%	49%	54%
Individual	4%	7%	5%
Medicaid	13%	16%	13%
Medicare	12%	9%	12%
Other public ¹	0%	1%	1%

Citizenship status

	Massachusetts	California	U.S.
Citizen	92%	83%	93%

Income²

	Massachusetts	California	U.S.
Median household income	\$56,236	\$53,770	\$46,071
State tax per capita	\$2,815	\$2,724	\$2,190
Federal tax per capita	\$11,003	\$8,326	\$8,508

Household employment status

	Massachusetts	California	U.S.
At least one full-time worker	71%	74%	74%
Only part-time workers	10%	7%	7%
No workers	19%	19%	19%

¹Other public insurance coverage includes those covered under the military or Veterans Administration as well as some non-elderly Medicare enrollees.

²Income data based on U.S. Census Bureau's State Government Tax Collections: 2005

Source: Kaiser Family Foundation's Statehealthfacts.org based on U.S. Census Bureau's March 2006 and March 2007 Current Population studies

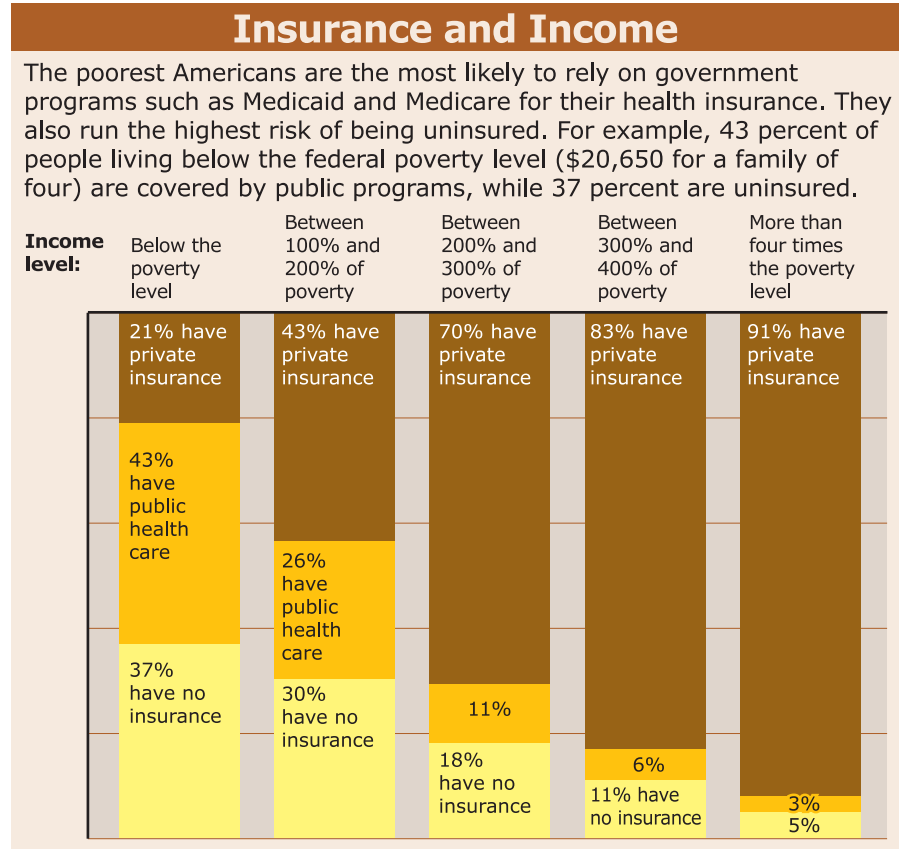
subsidies to make insurance more affordable.

- How much to fine companies that refuse to offer insurance to their employees.
- Whether and how much to tax doctors and hospitals to raise money for subsidies.
- Whether to require insurance companies to issue coverage to individuals, regardless of their age or pre-existing medical conditions (a requirement Massachusetts had even before enacting the 2005 law).
- How to pay for the reforms, especially with the state facing a looming budget shortfall of up to \$14 billion. Schwarzenegger backed off his proposal to lease the state lottery to raise the money. House Democrats proposed a tobacco tax hike instead, among other revenue raisers.

Health care reform — especially covering the uninsured — is a hot topic in state capitols throughout the country. In fact, two-thirds of governors unveiled plans to cut the number of uninsured in 2007, Smith said.

States are in a unique position to tackle the issue. They regulate health insurance for small businesses and individuals. They administer public programs, such as Medicaid and the State Children’s Health Insurance Program (SCHIP) that together cover 63 million poor Americans. And their small size, compared to the federal government, often makes it easier for them to experiment.

Showing how divisive the issue remains in Washington, D.C., one of the biggest battles between President Bush and Congress (including many Republicans) last year involved SCHIP. Bush twice vetoed legislation that would have allowed states to cover an additional 4 million people under the program, arguing that it would discourage people from buying private insurance. In December, Bush agreed to continue the program in its current form through March 2009.



Source: Kaiser Family Foundation, “Key Facts About Americans Without Health Insurance,” October 2007

The dispute was, in large part, fueled by states’ aggressive efforts to reach out to more families.

Illinois and Pennsylvania now offer insurance for all kids; the amount their parents pay depends on their income. New Mexico covers kids 5 and under, and Connecticut offers insurance for all kids who are legal residents.

The issue of the uninsured continues to come up because 47 million Americans are now not covered, a number that keeps growing. Americans are losing coverage as premiums get more expensive and more employers, especially small businesses, stop offering health insurance.

Health care costs keep rising far faster than the rate of inflation, and have for decades. That means medical expenses gobble up more and more of the nation’s economy, accounting for 16

percent of the country’s gross domestic product, compared to 7.2 percent in 1970.

Many factors contribute to the skyrocketing costs. One of the chief contributors is the continual introduction of new, high-priced technology, which consumers demand even though they don’t directly pay for the treatment, said Ted Frech, an economics professor at the University of California, Santa Barbara.

Another possible reason for the climbing costs — and one whose existence is a matter of dispute among researchers — is a practice called “defensive medicine,” in which doctors order extra tests and treatment to avoid lawsuits.

Of course, higher medical bills mean higher insurance rates.

A 2006 PriceWaterhouseCoopers

study for the insurance industry attributed 43 percent of the cost of premium hikes to increased services. General inflation accounted for 27 percent of the increases, and price hikes for health services that outstripped inflation caused the remaining 30 percent, according to the report.

Another problem complicating efforts to reduce the number of uninsured Americans is that adults are more likely to be without coverage than kids, and adults are more expensive to insure. Nearly a third of adults younger than 30 don't have coverage, and 29 percent of childless adults between ages 30 and 39 go without — compared to 16 percent of the population as a whole.

But most state efforts to establish universal health care, such as those in California, Illinois, Pennsylvania and Wisconsin, ran aground in 2007. The whopping price tag of some propos-

als, measured in the billions of dollars, scared many lawmakers. Others feared government intrusion into private markets. Still others wanted better information and more time.

Meanwhile, the three states with plans in place — Maine, Vermont and, most famously, Massachusetts — have each run into snags as they try to translate high-minded rhetoric into everyday reality. But officials in those states remain confident their programs are working well.

In Massachusetts, the state took several steps to encourage the 10 percent of residents who are uninsured to comply with the mandatory insurance requirement that took effect in July 2007. It launched a media campaign to inform residents about the new requirement, with a special emphasis on those most likely to be uninsured: men in their mid-30s.

By December, more than 290,000 Massachusetts residents signed up for new coverage. Roughly 160,000 took advantage of the subsidized products, 70,000 enrolled in Medicaid and 60,000 bought private insurance specially designed to meet the new law, state officials said.

Those who still didn't get coverage by Dec. 31 will face financial penalties when they file their 2007 tax returns. Initially, they'll lose a personal exemption worth \$219. Later, the penalties will get steeper, up to half as much as it would cost to buy insurance.

The state won't penalize people who it determines can't afford the insurance they're offered, some 60,000

people in the program's first year.

Not every state can do exactly what Massachusetts did, but the path to universal coverage in any state would have some of the same components, said Enrique Martinez-Vidal, director of State Coverage Initiatives, a project to help states make health insurance available to more people.

To cover the poorest residents, states would have to beef up their public programs, such as Medicaid and SCHIP. That could be a costly proposition, especially for states that aren't starting with the same generous level of benefits Massachusetts offered even before it passed the reform law.

Working-class residents are likely to need some financial help to buy decent coverage, Martinez-Vidal said. But the politics of deciding who deserves subsidies and how generous their coverage should be is tricky, he said.

Another dicey political decision is what to do with the uninsured who can afford health insurance but choose not to buy it, he said.

Massachusetts decided to require residents to get coverage, just as it requires drivers to get auto insurance. But mandatory auto insurance laws don't guarantee universal coverage. The Heartland Institute points out that 15 states with such auto laws actually had a greater share of motorists driving without insurance in 2004 than residents going without health coverage.

Ed Haislmaier, a health care expert for the conservative Heritage Foundation and the chief proponent of the Massachusetts "connector," said the reason Bay State lawmakers were able to strike a deal is that they went beyond expanding public programs.

"If you're a governor who wants to do this — I don't care if you're



California woman listens as aide to Gov. Arnold Schwarzenegger outlines proposed health care plan at legislative hearing in Sacramento.

Republican or Democrat — the first person you should start with is your insurance director, not your Medicaid director,” he said.

Even people who don't have health insurance still get health care, primarily at hospitals, he said, so the first question to answer is who pays for their care now. In Massachusetts, a handful of hospitals received major federal support to cover the cost of treating the uninsured, so lawmakers redirected that money.

But in most states, Haislmaier cautioned, the answer is more complicated. Hospitals compensate for care they provide for free by raising their prices for everybody else. Insurance companies that pay the hospital bills pass on the extra cost to the businesses and individuals who buy their coverage.

Haislmaier said the sheer size of California makes the negotiating process far more difficult than in a smaller state like Massachusetts.

“California will probably be the last people to do transformative health reform,” he said. “There's too many stakeholders, too many people, too much money, everything. In some of the smaller states, if you get the right 20 people in the room, you could do it if you really want it.”

The absence of a deal in California is not for lack of trying. State lawmakers have approved sweeping health care reform for four consecutive years, but none of the proposals made it into law, thanks to gubernatorial vetoes or the defeat of ballot initiatives.

Schwarzenegger promised progress during his January 2007 State of the State address to lawmakers.

“In the past, health care reform was always dead on arrival. But this year I can feel something different in the air. I can feel the energy, the momentum, the desire for action,” he said then.



California Gov. Arnold Schwarzenegger photographs himself and an admirer after a Sacramento rally at which he called for a universal health care plan.

“Ladies and gentlemen, we will get this done.”

But by year's end, a deal still was not in hand. In a major step, the governor and his Democratic allies in the state Assembly agreed in mid-December on a measure to require most Californians to have insurance starting in 2010. But they put off resolving how to fund their health reforms, and the state Senate was dragging its feet on taking up the package — much less embracing it.

Any compromise couldn't take effect unless approved by voters anyway. The governor's plan stalled because of Republican opposition to his proposed tax hikes to help cover the cost. He needed GOP support because tax increases in California must be approved by a two-thirds majority in both the Assembly and the Senate. Negotiations continue, but any final compromise will likely need to be approved by voters in November.

The fact that Schwarzenegger hadn't secured a deal a year after vowing to

get all Californians health care highlights how difficult such major overhauls can be politically. That doesn't mean the interested parties are giving up hope.

Dietmar Grellmann, a senior vice-president for the California Hospital Association, an early supporter of Schwarzenegger's efforts, said the governor's interest makes a breakthrough possible.

Schwarzenegger, a former movie star and body builder, used his considerable influence with the public to keep attention on the health insurance reform efforts, Grellman said. He also credited Schwarzenegger's governing style of focusing on making big changes on big issues, because it kept pressure on lawmakers and interest groups to keep working on the ambitious proposal.

“If it had been any other governor or any other administration,” Grellman said, “we wouldn't have made it this far.” ■



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GAMBLING

Proliferation Of Gambling Sets Off An 'Arms Race' Among States

By Pamela M. Prah

You can find 76-year-old Julia Simmons playing the slots in Atlantic City, Philadelphia or Charlestown, W.Va., nearly every month. But the retired nurse from Catonsville, Md., would prefer to feed one-armed bandits closer to home. "Why should we have to go into another state to gamble?" she asks.

Maryland Gov. Martin O'Malley (D) and other state politicians are asking the same question. Tired of watching gamblers like Simmons cross state lines, lawmakers have pushed onto the 2008 ballot a measure to legalize up to 15,000 slot machines in Maryland — and in the process net a big take for the state treasury.

"They say poor people can't afford it. Well, I've worked all my life. I get my pension. I get my Social Security. My home is paid for. And how I spend my money is my own business," said Simmons, who confides she never spends more than \$1,000 during her outings.

Maryland's foray into the slots business is just one front in a nationwide gambling "arms race" under way as states escalate their ploys to attract homegrown gamblers — and to siphon off those in neighboring states.

Once outlawed as a vice, gambling is a bona fide business now in all but two states for a simple reason: It's a

Billion-dollar Jackpot
Wanting to pull in even more cash from their gambling ventures, California, Florida, Illinois, Indiana, Michigan and Texas are considering selling their lotteries to private operators for billions in upfront cash. The 42 states with lotteries collectively take in \$17 billion a year in profits, but states could get more by privatizing their lotteries. While no state acted in 2007, the idea is expected to resurface this year.

Six Lottery Picks:
California Florida Illinois
Indiana Michigan Texas



Gambling enthusiasts play the slot machines at a Pennsylvania Racino near Philadelphia. More and more states are opening racinos to increase gambling revenue.

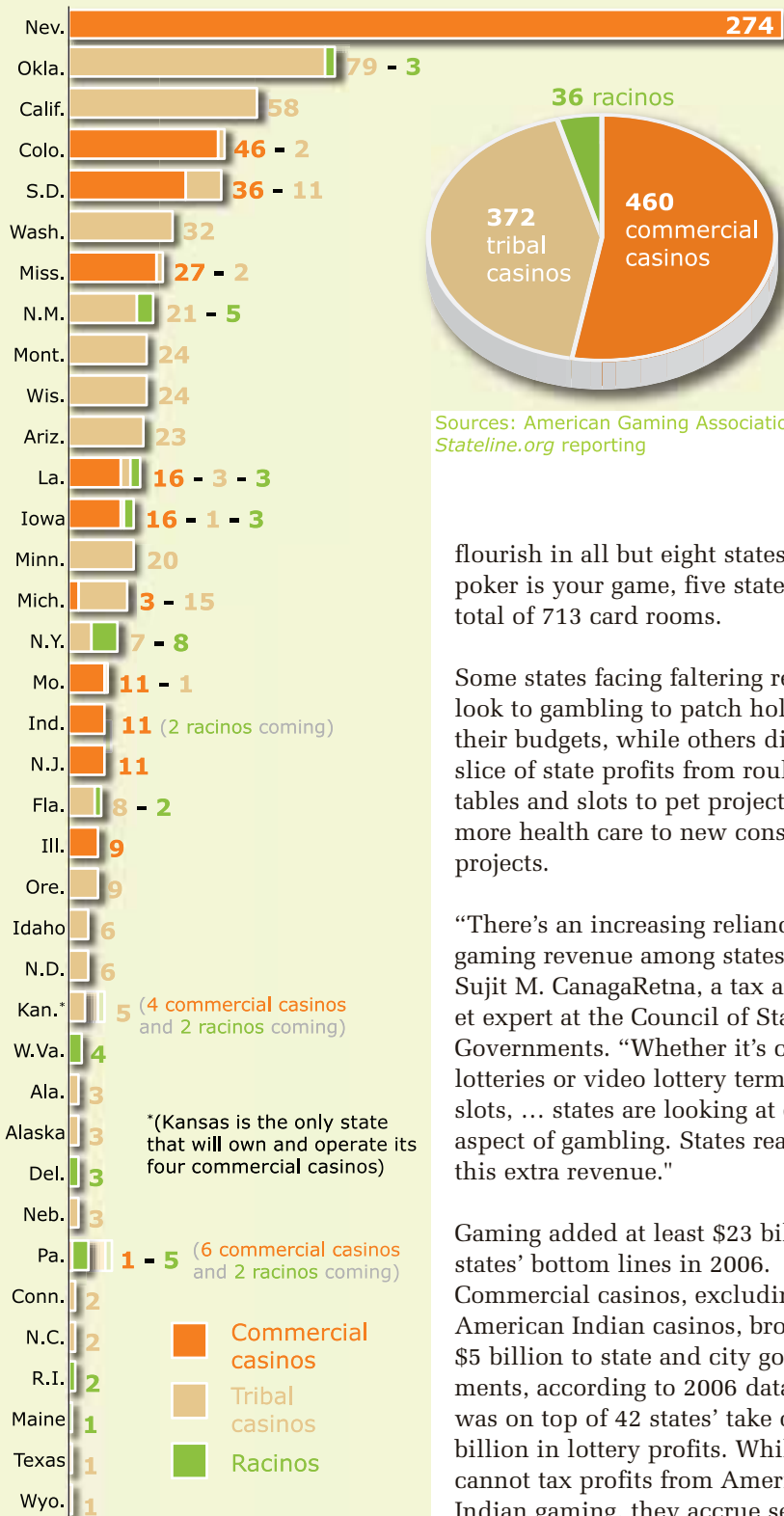
way to get dollars flowing into state coffers without raising taxes. Thirty years ago, gamblers had to go to either Las Vegas or Atlantic City to bet legally. Today, every state except Hawaii and Utah has some form of gambling, and it's hard to find a state not looking to expand.

Americans spent \$32 billion in the country's 460 commercial casinos in 11 states in 2006 — more than they spent going to the movies, shopping in bookstores and downing lattes and other specialty coffees, combined. Since 2006, Pennsylvania and Kansas added casinos. Beyond the commercial casinos, bettors could try their luck at more than 370 American Indian casinos in 28 states. Lotteries

Casinos By State

States allow three types of casinos. Commercial casinos run by businesses are regulated and taxed by the states. American Indian gaming operations often negotiate compacts with states, although states cannot tax Indian gambling profits. Racetrack casinos, called "racinos," combine betting with casino games, usually slot machines.

Breakdown of gambling facilities 2007



Sources: American Gaming Association, Stateline.org reporting



An unidentified player scratches off a "Kansas Made" lottery ticket. Kansas in 2007 became the first state to own and operate gambling casinos.

flourish in all but eight states. And if poker is your game, five states offer a total of 713 card rooms.

Some states facing faltering revenues look to gambling to patch holes in their budgets, while others direct a slice of state profits from roulette tables and slots to pet projects, from more health care to new construction projects.

"There's an increasing reliance on gaming revenue among states," said Sujit M. CanagaRetna, a tax and budget expert at the Council of State Governments. "Whether it's casinos or lotteries or video lottery terminals or slots, ... states are looking at every aspect of gambling. States really need this extra revenue."

Gaming added at least \$23 billion to states' bottom lines in 2006. Commercial casinos, excluding American Indian casinos, brought in \$5 billion to state and city governments, according to 2006 data. That was on top of 42 states' take of \$17 billion in lottery profits. While states cannot tax profits from American Indian gaming, they accrue serious

money from compacts negotiated with tribes. In the 30 states with tribal casinos, state and local governments took in more than \$1 billion last year from fees and revenue-sharing agreements.

The competition for gambling dollars is particularly fierce in the Mid-Atlantic region.

Maryland is feeling pressure to jump on the slots bandwagon because some figures show Marylanders spent up to \$650 million gambling in nearby Delaware, West Virginia, Pennsylvania and other states.

Maryland voters in November will get to settle a long-running feud in Annapolis over whether to legalize slots to bolster the state's horse-racing industry and patch a projected \$1.7 billion deficit.

In neighboring West Virginia, lawmakers in 2007 legalized table games, such as poker and blackjack, at three casino racetracks to compete with adjacent Pennsylvania, which currently offers slots at five horse tracks and has one stand-alone casino in the Poconos.



A trainer exercises a race horse at an Erie, Pa., track that is the first in the country to use a surface made of rubber and other materials.

boat casinos burst onto the scene during the 1990s recession. Creating casinos at racetracks, known as “racinos,” spiked early this decade when states were in the throes of their worst economic downturn since the Great Depression.

In a budget crunch, slapping a higher tax on a casino is much more politically acceptable than raising sales or income tax on the average Joe. Illinois, for example, hiked the top tax rate of its sliding scale to 70 percent on major riverboats casinos early this decade, but has since lowered it to 50 percent.

Today, Thomsen said, “States look to gaming as alternative, mainstream entertainment that brings in tax revenue.”

State-by-state profits vary, depending on tax rates imposed on gambling operations. McGowan estimated that at least 17 states generated more than 5 percent of their revenue from race-track casinos, commercial casinos and lotteries in 2004-2005 (excluding fees from American Indian casinos).

Still the top dog of gambling, Nevada took in \$1 billion in state and local gaming taxes in 2006, about 8 percent of casinos’ \$12 billion in total revenue. State and local governments in Mississippi collected \$300 million last year, about 12 percent of \$2.6 billion in gross gambling revenue.

States also are jockeying to outdo each other in negotiating more lucrative terms with Indian tribes that operate casinos. Because tribal governments are federally recognized as sovereign nations, their gaming businesses are free from federal and state income taxes and local property taxes. Tribal casinos have been sprouting on Indian reservations from Connecticut to California ever since Congress passed the Indian Gaming Regulatory Act in 1988.

While federal law doesn’t require tribes to give any money to states, most tribes do. In exchange for turning over a cut of revenue, tribes often get promises that their casinos or card rooms will be the only games in town.

In California, where there are no privately run commercial casinos, Gov. Arnold Schwarzenegger (R) last year signed legislation ratifying multi-billion-dollar gambling pacts with five American Indian tribes to allow 22,000 more slot machines at the tribes’ venues. The governor estimated one of the pacts will yield the state \$1.8 billion through 2030. However, organized labor is seeking to overturn four of the five pacts in a Feb. 5 ballot measure.

Florida, also without commercial casinos, may be on its way to hosting Las Vegas-style casinos, blackjack, baccarat and other card games at seven sites on tribal land, including the Seminole Hard Rock Hotel & Casino in Tampa. Republican Gov. Charlie Crist in November 2007 signed a deal with the Seminole tribe that would earn the state at least \$100 million a year. But the pact is expected to end up in court.

And 20 miles from the Pennsylvania border, New York Gov. Eliot Spitzer (D) agreed to let the Mohawk Indian tribe build a \$600 million casino in the Catskill Mountains. The plan, which needs federal approval, would yield the state 25 percent — perhaps more than \$100 million a year — of the revenues from 3,500 slot machines.

The proliferation of gambling is not without controversy. Opponents argue that any form of gambling begets crime, gambling addictions and other social ills that can end up costing the states more in the long run.

Unease over state-sanctioned betting was front and center in Kentucky’s 2007 gubernatorial race. The incumbent governor, Ernie Fletcher (R), made opposition to gambling a top issue in his unsuccessful bid at reelection. Fletcher’s campaign featured a “No Casinos Tour,” including a television ad in which Fletcher irked

Aurora, Ill., by depicting the town as plagued with bankruptcies, divorce and crime because of its casino.

Kentucky's new governor, Democrat Steve Beshear, supports allowing a limited number of casinos but said he will let voters decide.

In Kansas, counties had the option to drop out of the state's new casino business, and voters in Sedgwick County rejected both a casino and slots at the Wichita Greyhound Park.

In 2007, Maine voters rejected a proposal to allow a tribe to run a harness-racing track with slot machines and high-stakes beano games in

Washington County. Voters in Lincoln, R.I., disapproved of expanded gambling hours at Twin River, formerly known as Lincoln Park, about 45 minutes from Boston.

Some opponents hope Americans' views will harden against gambling in the same way public opinion has turned against cigarette smoking. "We're never going to make casinos illegal, but I think we're going to see them as a social illness, just like cigarette smoking," said Rubens of the Granite State Coalition Against Expanded Gambling. "We are not going to ban cigarette smoking in America, ... but we try to contain it so

fewer people get hurt." Predicts Rubens: "States will see that they should not be in the business of established gambling."

Most experts say states still are a ways off from reaching a saturation point in satisfying Americans' appetite for games of chance. "Certainly Pennsylvania has taken some revenue from New Jersey, but overall the gambling pie has expanded," said gambling expert McGowan.

For now, Americans' hankering for gambling still seems to be growing. "How many other states can enter this fray and still claim more revenue remains to be seen," McGowan said. ■

Grim News for State Budgets

By Pamela M. Prah

Many states are greeting 2008 with a major budget hangover and are looking for relief from falling home sales, higher energy prices and reduced sales-tax collections after two years of overflowing coffers.

Red ink was showing up in as many as 20 state ledgers as the year began, and if the country dips into a recession, the number of states projecting deficits would certainly grow.

"Clearly, it's a little more gloomy than it was once was," Raymond C. Scheppach, executive director of the National Governors Association, said.

The stalled housing market is hurting states across the board, but it's more severe for states such as Arizona, California, Nevada and Florida that rely heavily on real-estate taxes. A drop in home sales and prices mean states get a smaller cut — of sales taxes as well as real-estate-related levies — because most people who buy homes also purchase new appliances and carpeting and spend big money on home improvements.

Florida is particularly dependent on sales-tax revenue because it does not have a state income tax.

The booming housing market had also filled state coffers in another way. With interest rates low, many homeowners refinanced, tapping into their homes for easy equity and then splurging on renovations or major purchases. Sales taxes on these big-ticket items brought in a significant chunk of change.

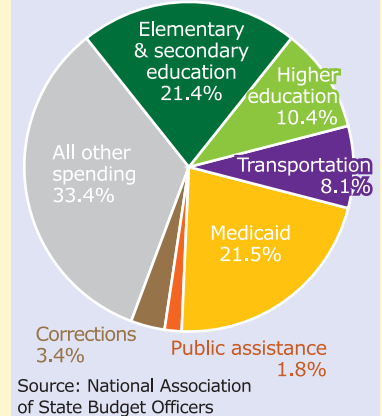
While personal income taxes are the largest single source of state tax revenue, revenue from sales taxes is more closely watched because its fluctuations are considered an early indicator of the health of the U.S. economy. As 2007 ended, 19 states told the National Conference of State Legislatures that overall sales-tax collections were failing to keep pace with what forecasters had projected for early 2008, signaling that states may face budget shortfalls.

California is struggling to plug a projected \$14 billion deficit for 2008-2009, while Florida is looking at a \$2.5 billion estimated gap between spending and revenue. Other states facing shortfalls include Maine, Michigan, New York and Virginia.

Part of the problem, some critics say, is states need to be more realistic in their budget projections and watch their spending more closely. "Budget woes have a lot to do with economic forecasts. Were prior economic forecasts a little

Use of State Budgets

Medicaid and primary education make up the biggest slices of state budgets, when combining both state and federal funds. Each accounted for about 21 percent of spending in 2007.



too rosy?” Chris Edwards, director of tax policy at Cato, a libertarian think tank, asked.

Unlike the federal government, which can run a deficit, every state except Vermont has a legal requirement to balance its budget. That means if tax revenues fall short of what a state had projected, then it either has to cut programs or find other sources of revenue. The fiscal year begins July 1 for all but four states: Alabama, Michigan, New York and Texas.

All this grim news comes at a time when national job growth is sluggish and consumer confidence is at a nearly two-year low. Eighteen states said they are “concerned” about their revenue outlook — triple the number of last year, according to NCSL.

Like a shopper who just finished a spending spree and noticed less money in the bank, states foresee some belt-tightening. State spending is expected to grow 4.7 percent in fiscal 2008, NGA predicted. That’s far below the robust 9.3 percent growth states saw in fiscal 2007 and even lower than the 30-year average of 6.4 percent.

States in 2008 also will have less money in their reserves than in the previous two years. After three years of bulging rainy day funds, state balances collectively are projected to fall to \$51 billion in this fiscal year, compared to nearly \$67 billion the year before and a record \$81 billion in fiscal 2006,

according to NCSL.

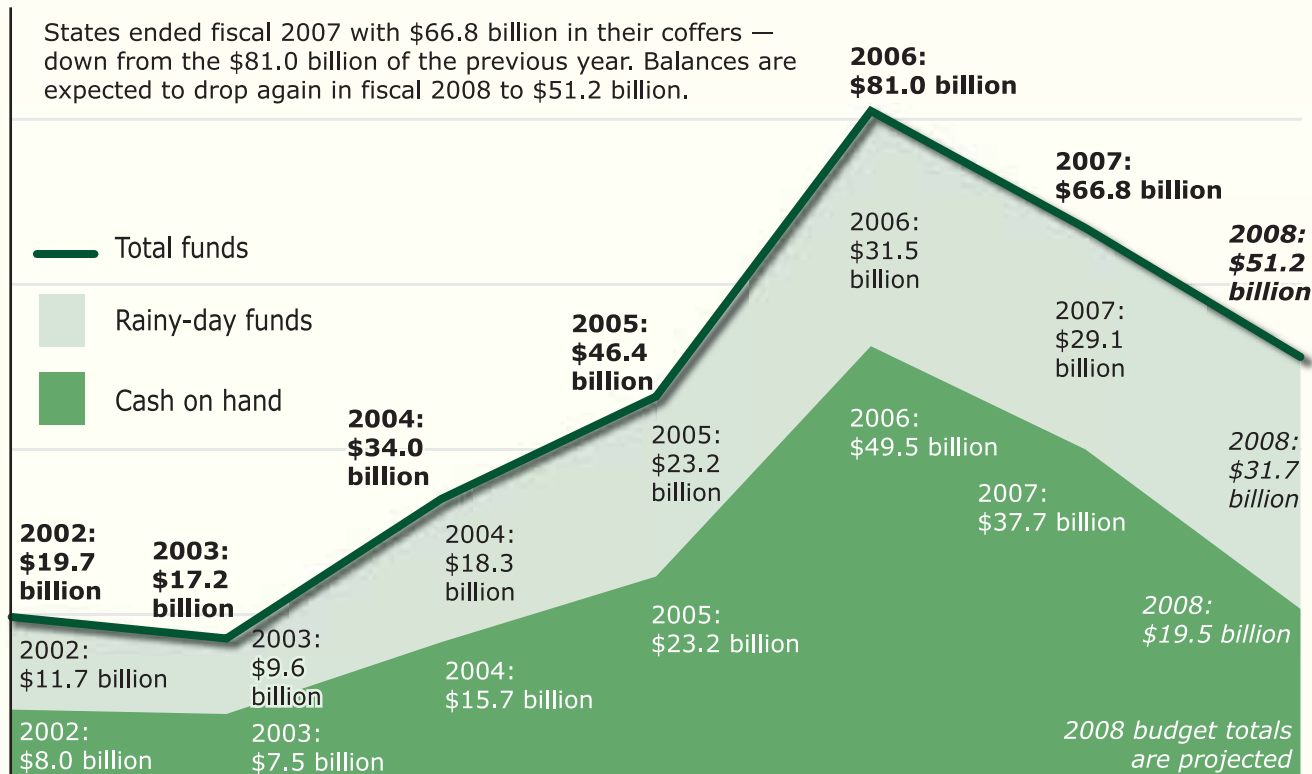
“We’ve seen the peak in state balances,” said Corina Eckl, NCSL’s director of fiscal affairs, concluding that “state finances are in transition” and heading downward.

States are worried about the amount of money coming in because they plan big-ticket programs in 2008. Health care, transportation and education rank as the top three priorities for states in the coming legislative year. Other looming costs are health care and pension benefits for retiring state workers, estimated to total \$2.73 trillion over the next 30 years, and states are \$731 billion short, according to the Pew Center on the States.

The biggest component of a state health care budget is Medicaid, the state-federal health care program that covers 59 million disabled or low-income children and adults. It is budgeted to grow 8 percent.

Scott D. Pattison, executive director of the National Association of State Budget Officers, described the states’ revenue picture this way: “States’ fiscal health was so strong in the ‘06-’07 period that they could have had no problem running the Marine Corps Marathon, but now we are starting to see some sluggish growth. ... I think states can do a walk-run of a 10K, but not necessarily at the peak that they could run a marathon.” ■

State Cushions Shrinking



Source: National Conference of State Legislatures

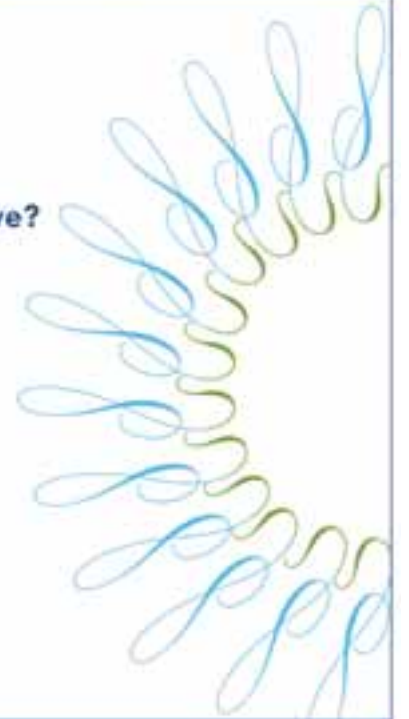
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STEM CELL

Wanted: Stem-Cell Scientists To Grow State Economies

By Christine Vestal

Far from resolving an epic moral quandary, last year's groundbreaking discovery that ordinary skin cells eventually could replace the use of human embryos in stem-cell research actually stoked the fiery debate over the cutting-edge science.

Religious opponents hailed the skin-cell breakthrough as proof that research involving the destruction of embryos is unnecessary and must end. Scientists countered that studies on stem cells harvested from human embryos must continue for at least several more years while the new technique is perfected. And the battle went on.

Much of that battle is being waged in state capitals.

At the forefront, seven big states are leading the world in political and financial support for embryonic stem-cell research.

Their goal: Attract the best stem-cell scientists from around the globe and become a hub for a multi-billion-dollar bioscience industry. So far, their plan appears to be working.

In the past two years, California, Connecticut, Illinois, Maryland, New Jersey, New York and Wisconsin have awarded some \$230 million in grants — more than three times as much as the federal government spent on embryonic stem-cell studies in that time — and there has been no shortage of scientists seeking the money.

Three more states — Iowa, Massachusetts and Missouri — have affirmed the legality of the research in hopes of keeping or encouraging scientists to work within their borders.

But six others — Arkansas, Indiana, Louisiana, Michigan, North Dakota and South Dakota — now ban studies that result in the destruction of human embryos, and Arizona bars state funding for embryonic studies. These states have positions closer to those of Japan and most European countries.

Except in these states, work on embryonic stem cells is free to go on in the United States at places such as universities and private, nonprofit and corporate laboratories — as long as no federal money is involved. But states that want to be players in the nascent stem-cell arena are finding they must ante up with state financing and a science-friendly environment.

Polls indicate a majority of Americans approve of embryonic stem-cell research, which explores special cells in 5-day-old embryos that have the unique ability to transform into cells from any organ tissue in the body. Scientists say these so-called pluripotent cells hold the keys to discovering the causes and cures for many human ailments, including Alzheimer's, Parkinson's and Lou Gehrig's disease, juvenile diabetes, blindness and spinal-cord and brain injuries.

But President George W. Bush, the Catholic Church and right-to-life

groups have cited the same moral objections they raise to abortion in demanding that human embryos — which they regard as the beginning of life — not be sacrificed, even in a search for cures to save human lives. Instead, they pressed for research into non-controversial adult stem cells.

The latest discovery satisfies those with moral objections and dramatically tips the balance toward more work on skin cells. But for scientific reasons, embryonic studies won't be abandoned just yet.

Embryonic stem-cell research is still the "gold standard" for scientists, said Jonathan Moreno at the University of Pennsylvania's Center for Bioethics. "Everyone is saying the future is with the new cells. But we're not in the future yet. It's going to take several years to get there."

Scramble for scientists

Among states seeding the fledgling science, California is the bellwether with a \$3 billion fund of taxpayer dollars being spent to build world-class research labs and lure leading stem-cell scientists to the sunny West Coast. When all seven states' investments are totaled, the commitment comes to nearly \$5 billion over the next 10 years. Massachusetts could add another \$1 billion.

States with a financial and political climate that welcomes embryonic

stem-cell work may shift more emphasis to the new techniques, but existing investments in embryonic studies will continue as well.

“States that have chosen to fund the research are in an ideal position,” said Bernard Siegel, founder of the Genetics Policy Institute, a nonprofit stem-cell advocacy group. “Scientists are energized by the new developments, and many of the best and brightest already are flocking to California and other states with generous grants and friendly science policies.”

In fact, Shinya Yamanaka, the scientist who led the research team in Japan that made the November 2007 breakthrough transforming skin cells into stem cells, recently accepted a California grant and in August 2007 began working part-time in a lab in San Francisco to avoid restrictions in his home country. In all, the California Institute of Regenerative Medicine reported it has scored 24 of the world’s top stem-cell scientists, who have relocated to take advantage of the state’s offer.

As Gov. Arnold Schwarzenegger (R) predicted when California voters approved their landmark 2004 ballot measure authorizing the stem-cell investment, the message has gone out to “the world’s scientific elite and aspiring students that, in California, you will find the resources and the freedom to expand the frontiers of science.”

For states not yet in the game, the recent discoveries could open a window for state funding that conservative state politics previously had closed. For example, Moreno cited Florida and Texas, which have major universities and businesses with big stakes in biomedicine but state politics that have prevented investment in the research so far.

“State policies will determine which states become magnets for high-tech research and which will become irradiated zones,” said Daniel Perry of the

Alliance for Aging Research, a citizen advocacy group for stem-cell research.

Missouri already has learned that lesson the hard way.

In 2004, when Harvard stem-cell scientist Kevin Eggan was completing a post-doctoral stint, he considered a position at Missouri’s well-funded Stowers Institute for Medical Research. He liked the facilities in Kansas City, the generous grant and prestigious faculty, but after learning about Missouri politics, he declined the offer.

“I couldn’t rationalize the risk of waking up some morning to find that I was a felon because of an action taken in the state Legislature,” he said.

Eggan was the first scientist to turn down an attractive post at Stowers because of Missouri politics, but he was not the last.

At the time, conservative Missouri lawmakers were trying to outlaw the human-cloning techniques used by Eggan and others in stem-cell studies.

While cloning to produce duplicate human beings — or human reproductive cloning — is universally denounced, human cloning to harvest stem cells is key at this time in the search for therapies that one day might allow a patients’ own cells to be used to regenerate diseased or damaged tissues.

Missouri’s research ban passed the Legislature in 2005, but Missouri Gov. Matt Blunt (R) — himself a conservative and abortion opponent — vetoed it. The next year, Missouri voters were asked to settle the issue and narrowly approved a constitutional amendment ensuring the legality of the science — a first-of-its-kind measure that the United Nations has since asked all countries to adopt.

Despite the legal assurance, Stowers decided to give \$12 million to Eggan

and two other Harvard scientists and let them stay in more liberal Massachusetts. Stowers also moved \$800 million of its \$2 billion private research trust to a separate out-of-state funding organization. According to Stowers chief William Neaves, the move was spurred by continuing instability in Missouri politics.

In 2007, conservative Missouri lawmakers tried to pass a bill repealing the stem-cell amendment. The initiative failed, but they succeeded in blocking bioscience funding for the University of Missouri because they said it might be used for embryonic studies. In addition, grassroots opponents began gathering signatures for a 2008 ballot measure that would outlaw the science.

Stem-cell politics in 2008

Last year, 39 states considered more than 100 bills for and against the research, but only three laws were enacted, according to the National Conference of State Legislatures. New York approved \$650,000 in funding for stem-cell and other biomedical studies. Iowa repealed its 5-year-old ban on the research. And the Illinois Legislature affirmed Democratic Gov. Rod Blagojevich’s 2005 executive order creating a \$15 million stem-cell research fund.

On the political scene, the skin-cell breakthrough came after almost all states had ended their 2007 legislative sessions. So its impact will be measured in 2008. The debate is expected to intensify in light of the discovery, said Patrick Kelly, state strategist for the Biotechnology Industry Organization.

Opponents of embryonic studies may rally for more state bans on the research, but they also could call for new investment in non-controversial techniques. Proponents may push for more state funding of embryonic research to speed the necessary paral-

EMBRYONIC STEM-CELL SCIENCE

Researchers use stem cells from human embryos to study a host of diseases because the stem cells have the unique ability to develop into every cell in the human body — a trait called pluripotent. New research using adult skin cells could eliminate the need to use human embryos.

New Process

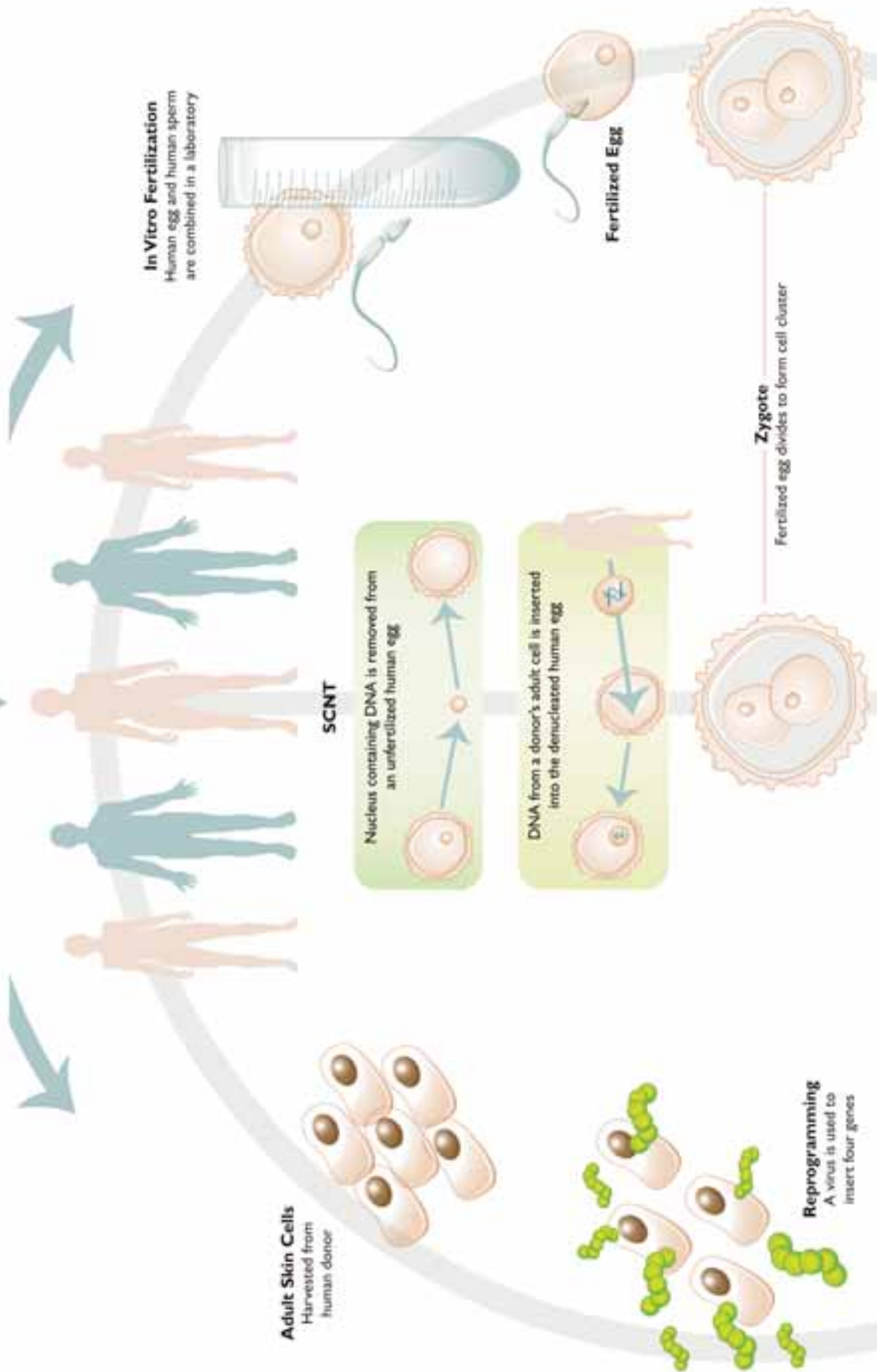
New process reprograms adult skin cells to behave like embryonic stem cells

Cloning

Somatic cell nuclear transfer (SCNT)

Surplus Embryos

Surplus embryos from fertilization clinics



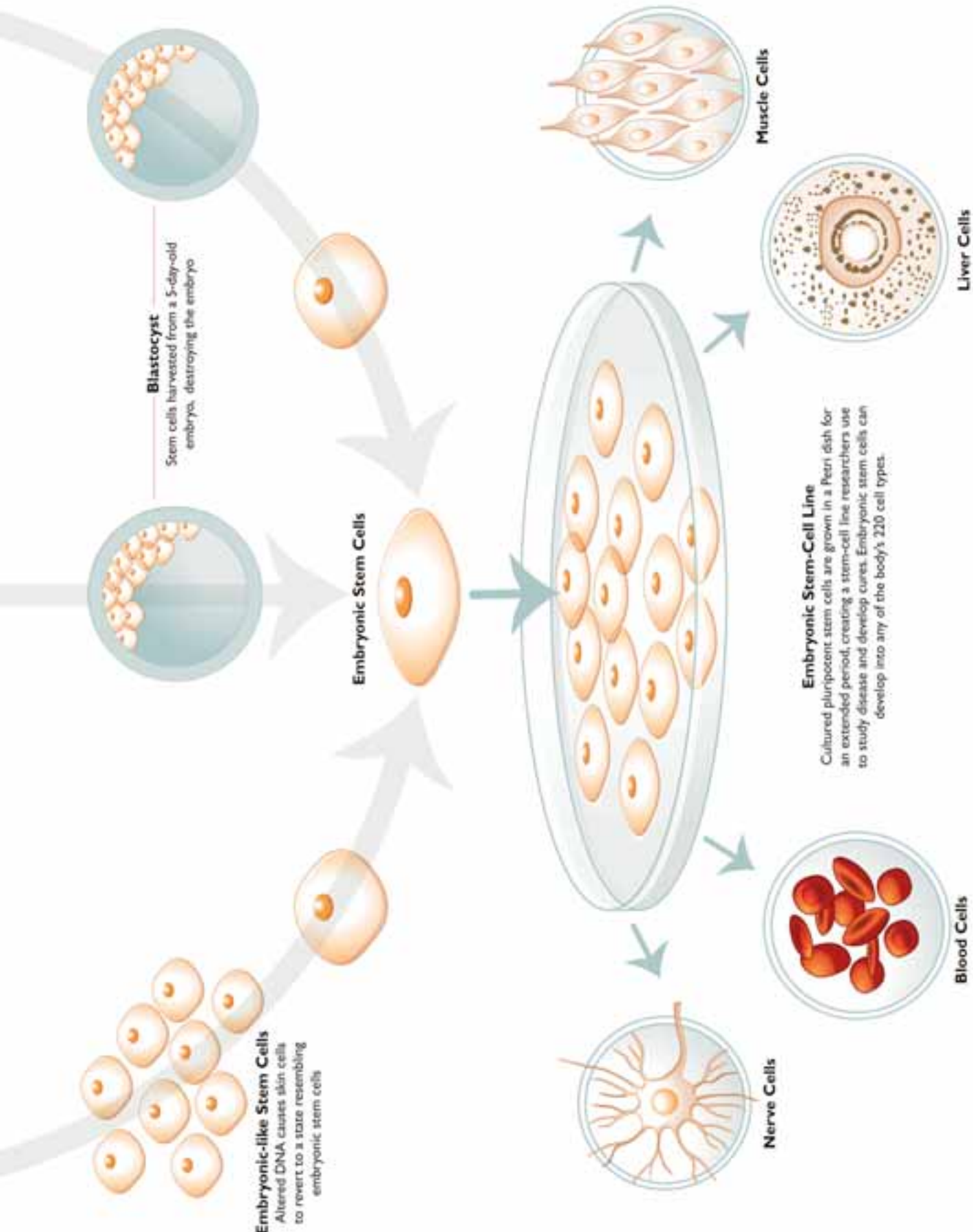


Illustration by Amanda Chip with Christine Vestal and Darryl Dougherty

lel studies to determine if the new science works as well.

Massachusetts lawmakers will weigh Democratic Gov. Deval Patrick's proposal to join the pack of states underwriting stem-cell and other biomedical studies by investing \$1 billion.

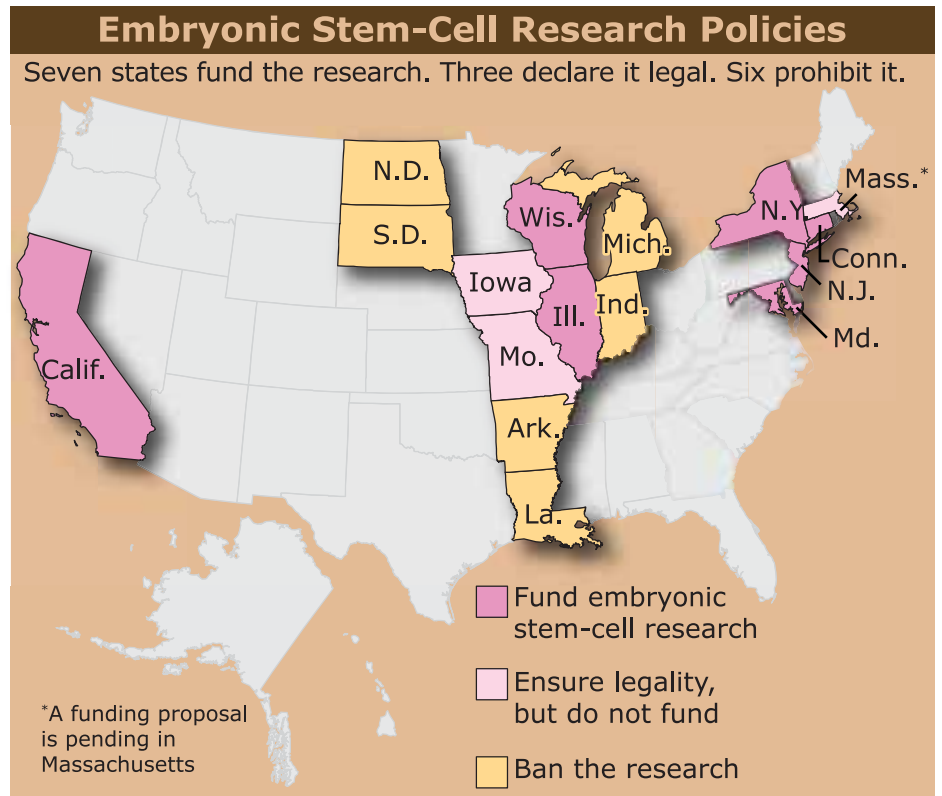
If the winner of the White House decides to drop Bush's restrictions on stem-cell funding, Congress could press again for federal money. The current policy put in place by Bush allows federal funding only for work on embryonic stem-cell lines created before Aug. 9, 2001, preventing any further destruction of embryos using federal money.

In 2006 and 2007, Bush vetoed bipartisan bills that would have allowed federal funding for the creation of new stem-cell lines using surplus embryos and research on existing cell lines created since Bush's cutoff date. Neither bill included appropriations.

Even if the next Congress and president are willing, the extent of any federal funding is another question.

"With a budget deficit and the war in Iraq, the odds of a major bump in federal stem-cell funding are slim no matter who is elected president," said James Fossett, a bioethicist with the Rockefeller Institute of Government. "The economic opportunities presented by the research make it unlikely states will diminish their funding efforts."

On the presidential campaign trail, Democratic candidates uniformly support increased federal funding for the science. U.S. Sen. Hillary Clinton (D-N.Y.) has been most outspoken, proposing broad intellectual freedom and support for science in general. Republican presidential candidates, however, vary widely. Former New York Mayor Rudolph Giuliani and U.S. Sen. John McCain of Arizona favor increased federal funding as proposed by Congress, but McCain



Source: National Conference of State Legislatures, December 2007

said he opposes cloning embryos for research, according to data collected by the Pew Forum on Religion & Public Life.

Former Govs. Mike Huckabee of Arkansas and Mitt Romney of Massachusetts fall in line with Bush in support of research only on existing cell lines. Like McCain, they oppose human cloning for research purposes. U.S. Rep. Ron Paul of Texas opposes expanded federal funding but not the research. Actor and former U.S. Sen. Fred Thompson of Tennessee condemns embryonic stem-cell studies, according to the Forum, which, like *Stateline.org*, is funded by The Pew Charitable Trusts.

States Take Sides

Most states entered the stem-cell fray in the last six years. But the ethical debate over embryonic research began in the mid-1970s over so-called test-tube babies and laid the groundwork for Bush's 2001 funding decision.

In 1994, President Bill Clinton approved federal funding of research involving surplus embryos — similar to Congress' 2006 and 2007 bills — but Congress overrode his decision in 1995, enacting an appropriations rider that prevented such funding. Clinton also imposed a five-year moratorium on funding for studies involving cloned embryos, which Bush extended in 2000.

With mounting pressure from scientists and patients, Bush decided to open a small window of funding for the fledgling research. On Aug. 9, 2001, he limited federal money to studies using already-created embryonic stem cells, skirting Congress' restriction on spending for work involving embryos. He assured his anti-abortion allies that no new embryos would be destroyed.

His decision satisfied neither side. Religious opponents had argued for a federal ban on all of the studies, and

scientists complained that most existing cell lines were contaminated and thus unusable for research.

Political positions on the issue didn't neatly divide along partisan lines. While most national Democrats supported embryonic stem-cell research, certain high-profile Republicans — including former first lady Nancy Reagan, who watched her husband succumb to the brain-destroying effects of Alzheimer's disease — parted with Bush and came out in support of the science.

The same divisions were evident in statehouses. Four states — Arkansas (2003), Indiana (2003), North Dakota (2003) and South Dakota (2004) — reinforced existing bans on human reproductive cloning to outlaw embryonic stem-cell research within their borders. Louisiana (2000) banned all research using human embryos created in fertilization clinics. Michigan already had banned research on embryos in 1978 and all forms of cloning in 1998.

Still, Louisiana is investing in other bioscience projects, including non-controversial gene therapy. And top stem-cell scientists at Michigan's state universities are working around the restrictions, in some cases relying on help from out-of-state scientists for work deemed illegal in Michigan.

With a cap on federal funding, other states saw opportunity.

New Jersey was the first to underwrite research into stem cells, appropriating \$10 million in January 2004 and taking on a role historically held by the federal government's esteemed National Institutes of Health. California came next with its November 2004 voter-approved fund of \$3 billion and immediately outstripped all other investors.

In 2005, Connecticut allotted \$100 million and Illinois \$10 million, adding another \$5 million in 2006.

Maryland approved \$15 million in 2006 and \$23 million more in 2007, and New York invested \$650 million in 2007. Wisconsin Gov. Jim Doyle (D) created a \$750 million building fund to construct a stem-cell research laboratory on the campus of the University of Wisconsin, Madison. New Jersey in 2006 appropriated an additional \$15 million in grant money, \$9.5 million for administrative costs and \$270 million to build five new research facilities.

While they didn't pony up dollars, Missouri in 2006 and Iowa last year declared their state open for stem-cell business with measures legalizing work on embryos. Massachusetts lawmakers in 2005 overrode a veto by then-Gov. Mitt Romney to ensure the legality of the research.

However, even in states with firm commitments to the research, the waters remain unsettled.

On Election Day 2007, New Jersey voters defeated Democratic Gov. Jon Corzine's bid to raise an additional \$450 million for new stem-cell grants. Some objected to the proposal on moral grounds, but political analysts said most voters were worried about how the cash-strapped state would repay the loans.

After California voters approved the state's landmark funding initiative in 2004, opponents tied up the money in court battles over copyright and other issues. In 2006, Schwarzenegger approved state loans to jumpstart the program. Courts have since cleared the way for funding to flow.

In Connecticut, shortly after the state distributed its first grants in 2006, conservative lawmakers attempted to outlaw the studies and repeated their efforts again last year, failing both times.

In job-hungry Michigan, Gov. Jennifer Granholm (D) and a handful of lawmakers have been trying for four years

to repeal the state's ban on the research.

Science and Ethics

Opponents of embryonic stem-cell research object to two basic scientific techniques: harvesting stem cells from 5-day-old human embryos and cloning human embryos using somatic cell nuclear transfer (SCNT). In both cases, the embryo is ultimately destroyed.

Instead, opponents have maintained scientists should redouble their efforts in other medical research fields, such as non-controversial adult stem-cell studies, and now, the new skin-cell process.

Up to now, scientists argued that adult stem-cell research was no substitute for embryonic studies, because the undifferentiated cells in embryos have unique capacities to develop into pluripotent cells that can make up any organ tissue in the body. In the newly announced research, scientists created what they say appear to be pluripotent cells by coaxing adult skin cells to revert to an embryonic-stem-cell-like state referred to as induced pluripotent cells.

Cloning, or SCNT, used in many embryonic stem-cell studies, ultimately may be replaced with the newly developed induced pluripotent cells. SCNT — perfected by the Scottish scientist Ian Wilmut, who produced Dolly the cloned sheep in 1996 — replaces the DNA in an egg with DNA from another organism.

The new skin-cell technique would produce stem cells compatible with the donor, and scientists believe it ultimately will make SCNT unnecessary. In addition to avoiding the ethical controversy over creating and destroying embryos, scientists say the new technique would avoid the cumbersome process of acquiring donated eggs and embryos. ■

The State Of The Union — Crumbling

By Eric Kelderman

The numbers are staggering. More than one in four of America's nearly 600,000 bridges need significant repairs or are burdened with more traffic than they were designed to carry, according to the U.S. Department of Transportation.

A third of the country's major roadways are in substandard condition — a significant factor in a third of the more than 43,000 traffic fatalities each year, according to the Federal Highway Administration. Traffic jams waste 4 billion hours of commuters' time and nearly 3 billion gallons of gasoline a year, the Texas Transportation Institute calculates.

Dams, too, are at risk. The number of dams that could fail has grown 134 percent since 1999 to 3,346, and more than 1,300 of those are "high-hazard," meaning their collapse would threaten lives, the Association of State Dam Safety Officials (ASDSO) found. More than a third of dam failures or near failures since 1874 have happened in the last decade.

Underground, aging and inadequate sewer systems spill an estimated 1.26 trillion gallons of untreated sewage every year, resulting in an estimated \$50.6 billion in cleanup costs, according to the U.S. Environmental Protection Agency.

"Much of America is held together by Scotch tape, bailing wire and prayers," said Donald F. Kettl, direc-

tor of the Fels Institute of Government at the University of Pennsylvania.

Fixing these problems and others threatening the nation's critical infrastructure would cost \$1.6 trillion — more than half of the annual federal budget, the American Society of Civil Engineers (ASCE) estimates. And that doesn't include what it will cost for new capacity to serve a growing population.

Recognizing the importance of structures so integral to U.S. commerce and Americans' well-being and safety,

local, state and federal governments already are budgeting nearly two-thirds of the \$1.6 trillion needed for infrastructure work. The problem is they raid many of those funds for other purposes, ASCE says.

Coming up with new money to fill the funding gap has become a political nightmare, with politicians and the public trying to avoid anything that looks like a higher tax.

"We have convinced ourselves that infrastructure is free, that someone else should be paying or that we have



Vehicles are scattered along the broken remains of the Interstate 35W bridge in downtown Minneapolis after the span collapsed into the Mississippi River during evening rush hour Aug. 1, 2007.

paid our share,” said Mike Pagano, an urban planning expert at the University of Illinois at Chicago.

Infrastructure is the four-syllable jaw-breaker that governments use to describe the concrete, stone, steel, wires and wood that Americans rely on every day but barely notice until something goes awry. Broadly speaking, it includes airports, the electrical energy grid, hazardous and solid-waste storage sites, navigable inland waterways, public parks, schools and even the security to protect all of those structures.

While the federal government bears the broadest responsibility to keep America’s gears turning, state and local governments are accountable for supplying more than half of the money and all of the manpower to build and maintain the country’s vast ground transportation network. States also have regulatory oversight of 85 percent of dams and help fund drinking-water and wastewater systems.

Federal and state officials share the blame for shortfalls in America’s maintenance budget. Congress hasn’t raised the federal gasoline tax of 18.4 cents per gallon — which pays for about 45 percent of all road construction — since 1993, nor have many state leaders been willing to charge drivers more at the pump to pay for local road repairs.

The association of state dam officials contends that most state dam safety programs are underfunded, understaffed and often don’t have adequate authority to regulate safety standards or emergency plans. Likewise, the federal dam safety program, which helps pay for the upkeep of structures, never has been fully funded by Congress.

The EPA estimates that the nation is falling short on water infrastructure by \$22 billion annually. The federal Clean Water State Revolving Fund,

which makes low-interest loans to clean up or protect water supplies, has shrunk from more than \$3 billion in 1990 to roughly \$1 billion in 2007.

The consequences of skimping can be dire:

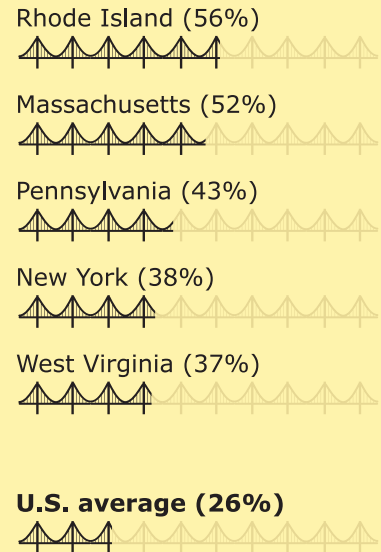
- On Aug. 1, 2007, the Interstate 35 bridge in downtown Minneapolis collapsed into the Mississippi River, killing 13 people and injuring at least 80. Losing the state’s most heavily traveled bridge is costing an estimated \$400,000 daily in extra commuting time and gasoline, said Brian McClung, a spokesman for Minnesota Gov. Tim Pawlenty (R).
- Steam pipe explosions in Midtown Manhattan last summer killed one person, injured dozens and disrupted businesses.
- In March 2006, the 116-year-old Kaloko Reservoir Dam in Hawaii collapsed after heavy rains, killing seven people and causing nearly \$15 million in damage.
- In August 2005, after Hurricane Katrina, levees holding back Lake Pontchartrain gave way, flooding major parts of New Orleans. The storm and flooding are blamed for more than a thousand deaths and more than \$100 billion in damage.
- In May 2002, the Interstate 40 bridge near Webbers Falls, Okla., collapsed into the Arkansas River, killing 14 people.

Despite urgent calls to prevent more tragedy from failed infrastructure, politicians and voters have signaled they are gun-shy of new taxes. After the collapse of the Minneapolis bridge, Minnesota politicians failed to agree to a statewide transportation package, putting off to the 2008 legislative session more debate over a proposed 5-cent hike in the state’s gasoline tax. Gov. Tim Pawlenty (R)

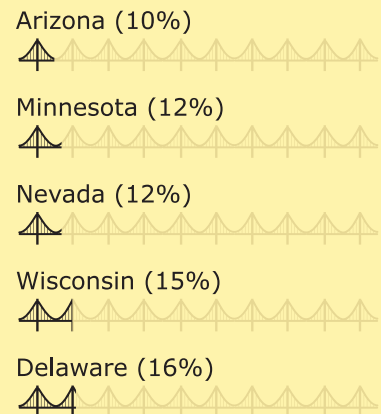
Deficient Bridges

Slightly more than one in four bridges either require significant repairs or are no longer adequate for the amount of traffic they carry, according to the U.S. Department of Transportation’s 2006 National Bridge Inventory.

States with the most obsolete or deficient bridges



States with the fewest obsolete or deficient bridges



Source: U.S. Department of Transportation

twice vetoed gas-tax hikes before the bridge fell.

Washington state voters in 2006 did pass a 9.5-cent increase in the state’s gas tax, but last year passed a follow-

up measure to require a two-thirds vote in the Legislature or voter approval for any tax increases.

To begin to address their transportation problems, state governments are borrowing more money, adding user fees such as tolls, and striking deals with private companies, including leasing state assets.

Proposals to pay for bridge and road repairs with tolling are on the upsurge with politicians — though not with the public, especially in Pennsylvania. There, Democratic Gov. Ed Rendell last year pushed through a plan to add tolls to a section of Interstate 80 to collect \$950 million a year for transportation projects. But a slew of civic groups fear tolls will discourage tourism and trucking along the I-80 corridor and have asked state and federal lawmakers to reconsider.

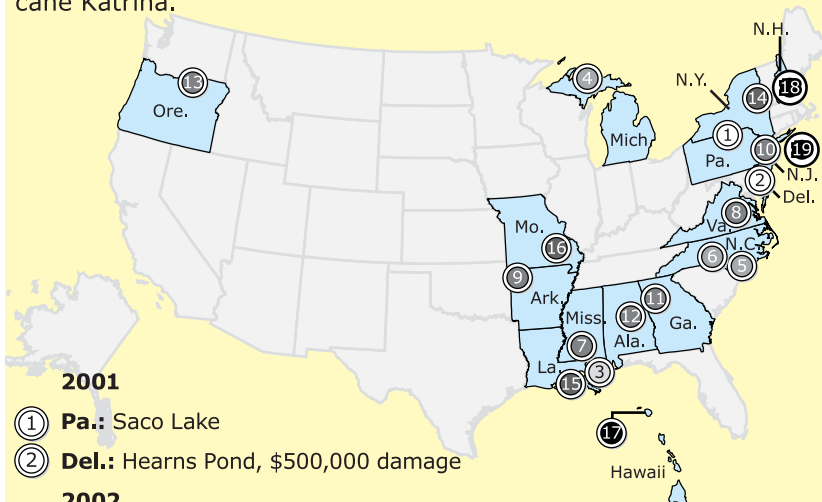
Rendell has said that if tolls are junked, he will fall back on a plan to lease the Pennsylvania Turnpike to a private company, similar to Republican Gov. Mitch Daniels' 2006 lease of the Indiana Toll Road to a foreign firm for a whopping \$3.8 billion. Political backlash over that deal became a factor in the 2006 elections, when Democrats recaptured a majority in the Indiana House. Daniels subsequently shelved two smaller proposals for privately built and managed toll roads in the Hoosier State.

But many other states continue to barrel down the path of privatization as more allow for-profit firms to lease, design, build and operate public infrastructure — options that are more widespread in other developed countries. In the United Kingdom, for example, 10 percent to 13 percent of all infrastructure projects involve some public-private partnership, according to Deloitte Services, LP, part of a worldwide consulting firm.

In the United States, more than \$21 billion in public-private transporta-

U.S. Dam Failures Since 2000

Since 2000, more than 40 dam have failed in 16 states. These incidents have ranged from single dam failures with no fatalities to the failure of the Lake Pontchartrain levees in the wake of Hurricane Katrina.



2001

- ① **Pa.:** Saco Lake
- ② **Del.:** Hearns Pond, \$500,000 damage

2002

- ③ **Miss.:** Windy Hills Lake, one person killed indirectly by dam failure

2003

- ④ **Mich.:** Silver Lake & Tourist Park, \$102 million damages
- ⑤ **N.C.:** Hope Mills, \$8.1 million cost for damages and replacing dam, 1,600 people evacuated
- ⑥ **N.C.:** Lake Upchurch & McLaughlin Lake, reconstruction cost \$350,000

2004

- ⑦ **Miss.:** Big Bay Lake, \$4.7 million in damages and more than 100 buildings destroyed
- ⑧ **Va.:** Powhatan Wildlife Management Area
- ⑨ **Ark.:** Small earth dam, at least five businesses damaged
- ⑩ **N.J.:** 21 dams, more than \$30 million damages, 350 homes flooded
- ⑪ **Ga.:** Victor Lake, 20 homes flooded, 20 people evacuated
- ⑫ **Ala.:** Keith Lake
- ⑬ **Ore.:** Simplot Wastewater Lagoon

2005

- ⑭ **N.Y.:** Hadlock Pond, \$1 million in damages, 4 homes destroyed
- ⑮ **La.:** Lake Pontchartrain levees after Hurricane Katrina. About 80 percent of New Orleans was flooded, and a majority of 1,423 storm-related deaths in Louisiana were blamed on flooding.
- ⑯ **Mo.:** Taum Sauk reservoir. Three children were injured and the state of Missouri has reached a \$177 million court settlement with Ameren Corp. for damages.

2006

- ⑰ **Hawaii:** Kaloko Reservoir, killed seven people and caused \$15 million in damages

2007

- ⑱ **N.H.:** Nottingham Dam, nearly 1,000 people were evacuated
- ⑲ **N.J.:** Rainbow Lake cost \$5.5 million to replace

Source: Association of Dam Safety Officials

tion deals have been signed in the past dozen years, with projects in California, Florida, Texas and Virginia accounting for half of that amount. Also, more than 25,000 water and wastewater systems are managed privately, according to a 2006 Deloitte report.

One new cutting-edge program will let Missouri repair or replace 800 of its small and medium-sized bridges within five years. The state will choose a team of private contractors to finance construction costs up front and maintain the structures for 25 years. The Show Me State will pay back the builders annually for a quarter century, costing the state at least double the initial construction costs but providing a quick fix for ailing bridges. The plan spares lawmakers from seeking higher gasoline taxes or new tolls.

California Gov. Arnold Schwarzenegger (R) is calling for leg-

islation to encourage more public-private partnerships to handle \$500 billion in public projects that he says are needed over the next 20 years. That plan follows his success in 2006 in convincing voters to approve more than \$40 billion in bonds for transportation, water and school-building projects.

In 2007, Texans approved more than \$6 billion in bonds for roads, flood control and clean-water projects.

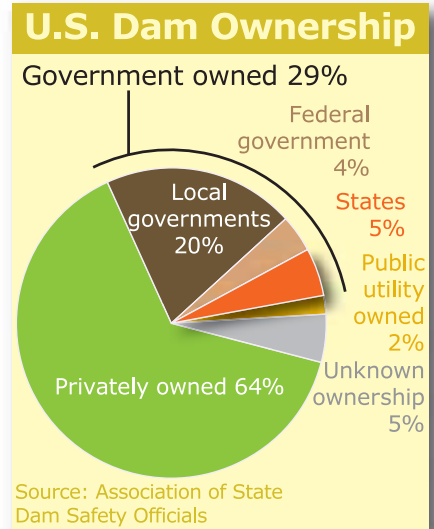
Overall, states' debts nearly doubled between 2000 and 2005, from \$1 billion to \$1.9 billion, according to Federal Reserve Board data.

Using bonds to pay for capital projects can be a worthwhile reason for debt because the results provide long-term public and economic benefits, said Sujit CanagaRetna, a fiscal analyst for the Council of State Governments. However, Chris Edwards, who studies budget issues at the libertarian Cato Institute, argues that debt, even to finance infrastructure, just defers the tax bill. Instead, he favors the privatization approach.

One of the chief challenges facing infrastructure is simply age. Much of the nation's transportation infrastructure was erected in the boom days after World War II and is reaching the end of its life cycle.

Half of the nation's bridges were built before 1964, when the ill-fated Minneapolis bridge

was constructed. More than half of the bridges in Rhode Island and Massachusetts also are rated deficient or obsolete, according to the U.S. Transportation Department.



More than a third of the nation's nearly 83,000 dams already are 50 years old, and within a decade, 60 percent will reach the half-century mark.

Cast-iron pipes from the 19th century still carry water to sinks in some of the nation's oldest cities and are overdue to be replaced, according to the American Water Works Association. Although it has not done a state-by-state survey, the association estimates that replacing worn-out water pipes will cost \$250 billion over 30 years. In November, Congress overrode President Bush's veto to authorize up to \$23 billion over 15 years for water projects.

Another worry is that the nation's growing population is creating a need for more capacity. Today, 246 million cars — 278 percent more than 50 years ago — are forced to squeeze onto 47,000 miles of interstate that have increased only 15 percent during the last half-century.

New Jersey has the most snarled traffic in the country with congestion choking 58 percent of its urban roads and 52 percent of rural roads, according to an analysis of federal data by The Road Information Project.



Inspectors use a mechanical arm to examine the condition of New Jersey's 75-year-old Pulaski Skyway. It's an example of the nation's aging infrastructure.

Ranking the U.S.

The World Economic Forum scored countries on a 1-to-7 scale based on its analysis of a nation's quality of roads, railroads, ports, air transport, electricity supply and telephone communication infrastructure.

1.	Germany	(6.65)
2.	France	(6.46)
3.	Singapore	(6.36)
4.	Switzerland	(6.32)
5.	Hong Kong SAR	(6.24)
6.	United States	(6.10)
7.	Denmark	(6.10)
8.	Canada	(6.05)
9.	Japan	(5.98)
10.	Finland	(5.84)

Source: World Economic Forum, November 2007

To handle growing transportation needs, the federal highway system will have to double during the next 50 years and public transportation ridership should double within 20 years, according to recommendations from the American Association of State Highway and Transportation Officials (AASHTO). Railways should be prepared to handle a 63 percent increase in freight by 2035, the association estimated.

Besides stretching the country's infrastructure to its limits, the growing population puts more people in harm's way when something goes wrong. Development in floodplains and below dams has contributed to the fast-rising costs of flood damage, now an annual \$6 billion, according to the Association of State Floodplain Managers.

Dams are a major concern for states, which have regulatory oversight of 85 percent of those structures even though nearly two-thirds are privately owned. The federal government monitors the other 15 percent, mostly major hydro-power generators such as the massive Hoover Dam on the Colorado River.

Ohio has the highest percentage of dams listed as deficient, with 48 percent, according to data compiled by ASDSO. Indiana is second, with nearly 45 percent of its dams rated in need of repair. States set their own standards for rating dam safety.

Another challenge is that infrastructure repairs simply aren't as sexy as ribbon-cuttings. The public and politicians are more likely to support new construction, leaving existing structures wanting, said Pagano, the urban planning expert in Chicago. It's like buying a car and budgeting only for the purchase price, ignoring the costs of insurance, fuel, oil changes and new tires, he said.

The Government Performance Project (GPP), which measures how effectively states are managed, called unfunded and deferred maintenance "unquestionably the biggest problem for states in their management of infrastructure." (The GPP, like *Stateline.org*, is funded by The Pew Charitable Trusts.)

Overall, rehabilitating a dilapidated structure can cost six to 20 times more than routine maintenance would have cost, Deloitte's analysts found.

For example, the Minnesota bridge that collapsed last August had been tagged "structurally deficient" in 1990. But the state deferred a \$1.5 million steel-reinforcement project scheduled for 2006 and ordered more frequent inspections. The cost to build a new bridge is slated at \$250 million.

States also are skimping on staff to check up on existing structures. Minnesota had 77 bridge inspectors for 14,000 bridges. "There aren't enough hours in the workday for 77 inspectors to check 14,000 bridges the way we should" with an inspection every two years, Minnesota bridge inspector Bart Andersen testified on Capitol Hill.

One problem of paying for repairs is that the pot of money for improvements is steadily shrinking in value, if not in size.

Matthew L. Garrett, director of the Oregon Department of Transportation, said that even with a growing number of taxpayers, revenues aren't keeping pace with the bills. Spending on bricks-and-mortar projects equaled about 2 percent of per-capita personal income in the 1950s and 1960s but has shrunk to less than 1 percent, Garrett said.

Compounding the problem, prices for steel, concrete and land have grown rapidly in recent years. Road-building costs are projected to increase more than 70 percent between 1993, when federal gas taxes were last increased, and 2015, according to an AASHTO report. The association estimates that federal gasoline taxes would have to rise 10 cents to 28.4 cents per gallon by 2015 just to keep up with maintenance. ■



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For America's Warriors, New Help At Home

By John Gramlich

As the fighting in Iraq approaches its sixth year and thousands of U.S. troops cycle in and out of the combat zone, states are repaying the nation's newest veterans — and their families — with expanded benefits and new approaches to ease their homecoming.

Spc. Andy Qualy of the Minnesota Army National Guard is a case in point. After Qualy came home from Iraq last year, the rush of celebration he felt upon his return to suburban Minneapolis soon was overtaken by a darker mood.

The then-23-year-old, who had been seriously wounded in a roadside bombing and spent six months recovering at Walter Reed Army Medical Center in Washington, D.C., stopped going out to party with friends. He started drinking alone.

He split up with his girlfriend of two years and shut himself off from family members, despite sharing a house with his father and brother. He got upset when others asked him “stupid questions” about the war. One night, while drunk, Qualy crashed his car into a ditch and landed first in the hospital and then in jail.

“Essentially you had a public health epidemic walking the streets of Shakopee, Minnesota,” Qualy said, referring to his hometown of 30,000 just outside the Twin Cities. “I was a danger to myself and others.”



Photo Courtesy Minnesota National Guard

Minnesota National Guardsman Andy Qualy photographed in a Humvee while serving in Iraq.

Qualy is the kind of soldier states are trying to help. The wars in Iraq and Afghanistan, spurred by the terrorist attacks of Sept. 11, 2001, have turned hundreds of thousands of Americans into veterans. Many, like Qualy, come home only to face serious problems.

Some can't make mortgage payments. Some find themselves in legal trouble. Others seem to settle into their daily lives without difficulty, only to fall victim to anger, depression or loneliness many months later.

The influx of returning soldiers — expected to accelerate this year as

President Bush's troop “surge” in Iraq draws down — has led states to offer more help than ever to veterans and their families. The assistance ranges from free education at state colleges and universities to income-tax breaks and, in an emerging trend, includes professional help for psychological problems that can develop after deployments.

It's a way for states to thank warriors for their service and ensure they can adapt at home after going “from hell to Main Street in one shot,” as Massachusetts state Sen. Stephen M. Brewer (D) describes the transition

Traumatic Brain Injury (TBI) and Post-Traumatic Stress Disorder (PTSD)

TBI

Traumatic brain injury, or TBI, occurs when the head suddenly and forcefully strikes an object, or when an object pierces the skull and makes contact with brain tissue. Roadside bombings, the leading cause of U.S. casualties in Iraq, commonly cause TBI in those who survive the attacks. The condition ranges from mild to severe. In its milder forms, TBI can cause headaches and dizziness, in its more severe forms, nausea, seizures and slurred speech.

PTSD

Post-traumatic stress disorder, or PTSD, is an anxiety syndrome that can follow traumatic or life-threatening events, including battle experiences, physical assaults or car accidents. Symptoms can include flashbacks, difficulty sleeping or concentrating and intense fear, nervousness and anger. Symptoms can take months to appear and can recur over the course of many years.

Source: *Stateline.org* reporting

many service members must make. Brewer sits on a governor's panel charged with improving services for veterans.

In Minnesota, Qualy found help in the form of a first-in-the-nation state program created by National Guard officials to help veterans deal with psychological and emotional problems. The initiative, called Beyond the Yellow Ribbon, requires all returning National Guard troops in the state to attend a series of three post-deployment training events — roughly 30, 60 and 90 days after arrival — to discuss with mental-health counselors the difficulties of coming home.

Qualy called the program “eye-opening” and now credits it with helping him get his life back on track. After his first training session, he took a job as a speaker with the program, traveling across Minnesota and telling other soldiers his story. In December, President Bush approved a plan to nationalize Minnesota's groundbreaking program and apply it to all National Guard and Reserve troops.

In Illinois, another first-in-the-nation state initiative requires every returning National Guard member to undergo screening for traumatic brain injury, or TBI — one of the signature injuries of the Iraq war. The injury, which can be difficult to detect because symptoms can be mild, often is linked to heavy blasts from improvised explosive devices (IEDs) set by Iraqi insurgents and was not included in federal screenings of National Guard troops — leading Illinois to fill the gap.

TBI screenings are what any high school football team would do for a quarterback “who's been knocked down again and again over the course of a season,” said Tammy Duckworth, director of the Illinois Department of Veterans Affairs, which developed the screening program. Duckworth herself is a National Guard member and Iraq veteran who

lost both legs when the helicopter she was piloting was shot down in 2004.

Across the nation, state officials have unveiled a host of other ways, large and small, to help veterans and their loved ones.

The Connecticut attorney general's office is offering free legal assistance to veterans in the state. In Washington state, an “eco-therapy” program allows veterans to work outdoors while gaining experience for careers in environmental restoration. Many other states offer honorary license plates and free hunting licenses to soldiers, provide breaks on car-loan payments and cell-phone contracts or protection from predatory lenders.

All but six states offer National Guard members education benefits, ranging from scholarships to full tuition reimbursement at state schools, according to a 50-state survey by the National Governors Association.

Twenty-one states have established “military family relief funds” for



Arkansas National Guardsmen train for urban warfare at Camp Shelby, Miss., in preparation for deployment to Iraq or Afghanistan.

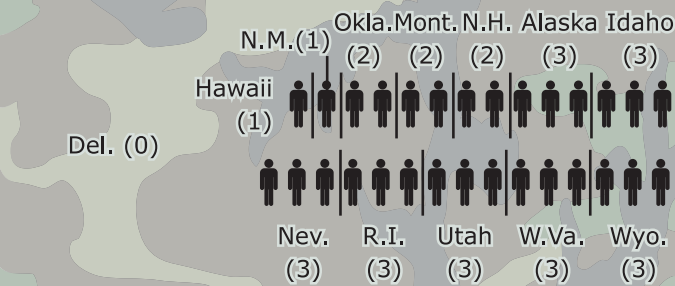
National Guard Deaths

Through Nov. 14, 2007, 514 National Guard members had died since the terrorist attacks of Sept. 11, 2001. Pennsylvania was hit hardest, with 35 Guard deaths, while Delaware was the only state not to have a fatality.

States with the most National Guard deaths



States with the fewest National Guard deaths



Source: National Guard Bureau

National Guard soldiers and their families struggled to meet financial obligations during or immediately after deployments. By checking a box on state income-tax forms, taxpayers can donate to help. Illinois pioneered the program in 2003 and last year raised more than \$200,000.

Five states — Delaware, Georgia, New Mexico, New York and West Virginia — provide National Guard members with financial assistance for life insurance. New Mexico pioneered the idea in 2005, subsidizing policies worth up to \$250,000.

“It’s incredible the amount of support that’s out there across America,” said Joe Davis, a spokesman for Veterans of Foreign Wars. Davis noted an enormous contrast between the atmosphere today and the last time thousands of soldiers returned to the United States from overseas combat — during the Vietnam War, when, he said, “the American public could not disassociate the politics of the war from the warriors fighting the war.”

John Goheen, a spokesman with the National Guard Association of the United States, said state lawmakers are keenly aware of the abandonment many Vietnam veterans felt when they came home — and are determined not to let it happen again.

“I think most people recognize how unfortunate that chapter was, and they don’t want to see a repeat of it,” Goheen said.

Some state efforts to help soldiers are aimed at all military members in the state, regardless of whether they are active or reserve, where they come from originally and, in some cases, even when they served. Illinois’ TBI screenings, for example, are available free of charge to all veterans in the state, including those who fought in Vietnam and never received assistance, according to Duckworth.

Most state help, however, has been directed at the citizen-warriors of state-based National Guard units, which have been strained considerably by the simultaneous wars in Iraq and Afghanistan.

Primarily dispatched to respond to natural disasters at home in the years leading up to the war on terrorism, the National Guard has seen its largest mobilization since World War II, leaving communities across the country without local leaders and depriving businesses and state agencies of valuable employees. More than 250,000 members of the

National Guard have seen action in Iraq or Afghanistan since the conflicts there began, and Guard troops have made up as much as half of the ground forces stationed in Iraq.

National Guard fighters also have endured some of the longest deployments of any branch of the U.S. military. Qualy's division in the Minnesota Army National Guard was deployed for 22 months, including 16 in Iraq — the longest continuous service of any unit, active or reserve, since the United States invaded Iraq in March 2003.

The deployments have taken a toll: More than 500 National Guard soldiers have been killed since the wars in Afghanistan and Iraq began, and Iraq began, including 62 last year through Nov. 19, according to the National Guard Bureau. Every state but Delaware suffered a National Guard death by the end of 2007, along with the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands.

Accordingly, 39 states have extended education benefits to survivors of National Guard soldiers killed overseas. Typical is the law signed last year by Washington Gov. Christine Gregoire (D) waiving tuition and fees at the state's public universities and colleges for spouses and children of fallen warriors.

State lawmakers have kept family members in mind in other ways as well. California, Illinois, Indiana and Nebraska have laws requiring employers to grant unpaid leave so that spouses or parents of deployed soldiers — in the National Guard or other services — can meet with support groups or, in some cases, visit wounded warriors.

The mental health of veterans, meanwhile, is a rapidly emerging area of concern for states, which traditionally have left treatment of psychological problems to the federal government and its system of veterans' health-care facilities.

A Pentagon task force last year found that thousands of U.S. military personnel — including nearly half of all Army National Guard soldiers who served in Iraq or Afghanistan — reported psychological problems after tours of duty. Among the most common conditions was post-traumatic stress disorder, or PTSD, which can cause nightmares, flashbacks and spasms of fear or anger.

Those statistics, combined with growing public awareness of soldiers' mental-health concerns, have prompted states to look at policy changes, said New Mexico Secretary of Veterans Affairs John Garcia, who has served as president of a national organization of veterans affairs directors.

"People are now becoming aware not just of the soldiers who have a visible injury, such as a missing limb or a gunshot wound, but that soldiers come back with mental injuries too," Garcia said.

National Guard Benefits

All states provide National Guard members with benefits. The benefits range from financial incentives, such as tax breaks, to special recognition, such as honorary license plates.

	Job benefits for state workers in Guard	Free or discounted higher education	Tax breaks and other financial rewards	Family support programs	Special license plates or other recognition
Ala.	★	★		★	★
Alaska	★	★	★	★	★
Ariz.	★	★	★	★	★
Ark.	★			★	
Calif.	★	★	★	★	★
Colo.	★	★	★		★
Conn.	★	★	★	★	★
Del.	★	★	★	★	★
Fla.	★	★	★	★	★
Ga.	★	★	★	★	★
Hawaii		★	★	★	
Idaho	★	★	★	★	★
Ill.	★	★	★	★	★
Ind.	★	★	★	★	★
Iowa	★	★	★	★	★
Kan.	★	★	★	★	★
Ky.	★	★	★	★	★
La.	★	★	★	★	★
Maine	★			★	★
Md.	★		★	★	
Mass.	★	★	★	★	★
Mich.	★		★	★	★
Minn.	★	★	★	★	★
Miss.	★	★	★	★	★
Mo.		★	★	★	★
Mont.	★	★	★	★	★
Neb.	★	★	★	★	★
Nev.	★	★		★	
N.H.	★				
N.J.	★	★	★	★	★
N.M.	★	★	★	★	
N.Y.	★	★	★	★	★
N.C.	★	★	★	★	★
N.D.		★	★	★	★
Ohio	★	★	★	★	★
Okla.	★	★		★	
Ore.	★	★	★		★
Pa.	★	★	★	★	★
R.I.		★	★		★
S.C.	★	★		★	
S.D.	★	★	★	★	★
Tenn.	★	★		★	★
Texas	★	★	★	★	★
Utah		★		★	★
Vt.	★	★		★	
Va.	★	★	★	★	★
Wash.	★	★	★	★	★
W.Va.	★	★	★	★	★
Wis.	★	★	★	★	★
Wyo.	★	★	★	★	
Total	45	44	40	46	40

Source: National Governors Association 50-state survey, September 2007

Minnesota's Beyond The Yellow Ribbon program

A first-in-the-nation program developed by the Minnesota National Guard is helping soldiers and their families work through the difficulties of post-deployment life. The program features training sessions for family members before soldiers return and includes three mandatory meetings for all Guard members once they are home.

Initial Meeting for Family Members

- Minnesota National Guard representatives hold workshops for family members to help them understand what returning soldiers may experience — and let them know how they can make soldiers' transitions as easy as possible.

30-Day Meeting for Soldiers

- Soldiers attend workshops focused on building relationships with family members and friends. The workshops are staffed by professional marriage counselors and parenting experts.
- A job fair allows unemployed soldiers to learn about opportunities with private businesses, as well as state agencies. Soldiers also may consult with veterans' services representatives who can help them obtain state and federal benefits.
- The 30-day meeting is the first time many soldiers see their counterparts since the immediate end of their time overseas. Program leaders stress the importance of this soldier-to-soldier contact in helping to make the transition process smoother.

60-Day Meeting for Soldiers

- A second round of workshops helps soldiers focus on problem behaviors, including gambling and substance abuse. Soldiers attend anger-management workshops.
- Minnesota State Patrol troopers provide soldiers with safety briefings and explain laws that may have changed while National Guard members were overseas.

90-Day Meeting for Soldiers

- All soldiers attend a final, thorough health checkup and consult with professionals about mental or physical problems they may be experiencing.

Source: Minnesota National Guard

New Mexico last year unveiled a package of benefits for returning soldiers, including funding to train therapists on effective methods of treating PTSD. Gov. Bill Richardson, a Democratic presidential candidate, has been an outspoken supporter of veterans and the National Guard.

In Minnesota, the state's Beyond the Yellow Ribbon program attracted national attention for being a leader in helping soldiers with psychological problems. State officials say the program is successful, in large part, because it requires soldiers to come together as soon as 30 days after they return home — providing a support structure for troops who otherwise wouldn't have one.

Unlike regular members of the U.S. military, the citizen-soldiers who serve rotations in National Guard units come back from war and immediately are thrust back into life in their home communities, often in far-flung corners of large states and isolated from the men and women they served with overseas. Just seeing one another is a help, according to many of the 350 Minnesota Guard members who gathered after returning from Iraq at a training event in the small town of Moorhead last September.

Illinois' brain-screening program also includes a component to help treat PTSD — a 24-hour hotline that struggling soldiers can use "at 2 o'clock in the morning on a Saturday" if need be, Duckworth said. The hotline is staffed by psychiatric professionals.

Connecticut, Minnesota, New Jersey and North Carolina have set up similar PTSD hotlines, while Washington state has developed a community-based program that identifies and treats soldiers with PTSD. ■



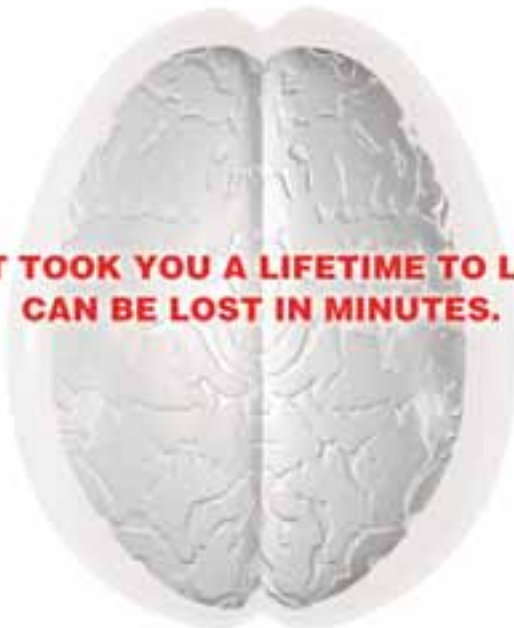
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Testing The System: Do All States Make The Grade?

By Pauline Vu

It's hard to overestimate the importance of standardized tests in public schools today. Grade advancement, high school diplomas, teacher bonuses, principals' jobs and school reputations can all hinge on whether a student picks the right answer.

So who creates the tests that carry so much weight?

Much of the work is done by five giants: CTB/McGraw-Hill, Educational Testing Service, Harcourt Assessment, Pearson Educational Measurement and Riverside

Publishing. Together, the companies own about 90 percent of the state-testing business, which has become a \$1.1 billion industry since passage of the federal No Child Left Behind Act in 2001. The law, which took effect in January 2002, requires states to give annual reading and math tests to third- through eighth-graders, and to test students in those subjects once again in high school.

Working with state educators, the big five — or big four, once Pearson's planned acquisition of Harcourt takes place — create and score the tests. But the explosion of testing and changes in

the types of tests states administer have left the companies scrambling to keep up.

Also, differences in state standards that are used to create the tests and the reluctance of some states to spend money for high-quality, challenging tests have caused a great disparity in testing from state to state.

For example, a look at various fourth-grade reading tests shows wide differences. Texas' 2006 reading test is entirely multiple-choice. Ohio's 2005 test includes several short-answer questions, such as asking for the main conflict in a

How A Question Makes It Onto The Test

The process that gets a question onto a state's test is rigorous, usually taking about two years. Only about half the questions written eventually make it. "By the time these things show up in the classroom and count, they have been through the wringer," said Dr. Michael Bunch, the senior vice president of research and development for Measurement Inc., a North Carolina-based company that designs and scores state tests.

Step 1:

The state prepares a blueprint for creating, distributing, scoring and reporting results for a test. The blueprint includes which strands, or sub-categories in a subject, the state wants to measure, how many questions for each strand and what kind of questions the state wants (such as multiple choice or open-ended answers). Companies turn in bids, and the state accepts one.

Step 2:

The company's writers, knowledgeable in the content area and often current or former teachers, write test questions (also called "items") based on the state's content standards. "That's their Bible," Bunch said. "You don't write anything that doesn't match these content standards."

passage; in another section, students fill out a cause-and-effect chart for a certain problem. Massachusetts' 2007 test was arguably the most rigorous: Students had to answer four long open-response questions.

Some states have fewer questions that test writing skills. A main reason for that is money. Gary Cook, Wisconsin's former testing director, said it could cost a thousand times more to score an essay question than a multiple-choice question. In 2005, the Editorial Projects in Education Research Center reported that 15 states relied entirely on multiple-choice questions in their reading and math tests. Some of these states gave separate writing tests in certain grades.

"People who don't have their heads stuck in the instruction don't realize it's not cheap to do this really well," Cook said of test-making. "And right now, I don't know many legislatures that are very open to spending money or raising taxes to develop these kinds of instruments."

Last year, the federal government gave states \$407.6 million to help pay for testing. But states have said that falls short. In January, a federal appeals court revived a lawsuit that charges the federal government does not provide enough money for states and districts to meet the law's requirements.

In the 2006-07 school year, Virginia spent in state and federal money about \$11.92 per test, while Washington state spent about \$17.74 per test. But these amounts also include the cost of additional tests the states administered that were not required by No Child Left Behind.

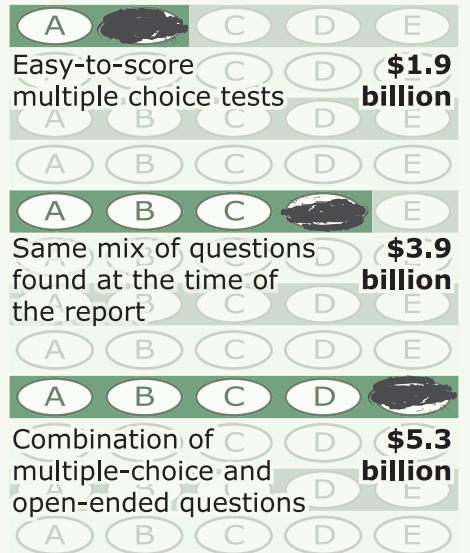
South Carolina doesn't even calculate a "per pupil" number because not every student is tested. Despite these disparate ways of measuring spending, one thing is known: Of the total education budget combining federal, state and local money, less than one quarter of 1 percent goes to testing.

"States are not putting any more resources into the testing infrastructure, and as a result, we are getting testing on the cheap, and that is working against No Child Left Behind's efforts to produce high-quality assessments that promote higher standards," said Thomas Toch, the co-director of Education Sector, a non-partisan think tank. "If we're going to make tests the driver of quality in public education, then we need to invest to ensure that we get tests that are up to that task."

On the whole, however, state spending on testing has shot up since George W. Bush's education plan became the law of the land. In early 2001, a year before No Child Left

Cost to States

A 2003 GAO report on the costs of the No Child Left Behind Act estimated states would spend \$1.9 billion to \$5.3 billion from 2002 to 2008 on creating, giving and scoring tests.



Source: U.S. Government Accountability Office

Behind was enacted, states collectively spent almost \$423 million on standardized tests, according to a *Stateline.org* report. During the 2007-08 school year, states will spend almost \$1.1 billion on these tests, according to Eduventures Inc., an

Step 3:

The company conducts an internal review of the questions for content and style. They can be altered or dropped based on whether they appear biased against English-language learners or special-education students, or even based on how well they translate into Braille, for example.

Step 4:

The company meet with a state committee, usually made up of teachers. The committee members meets for two to three days reviewing whether the items are valid for their state. "It's a lot of looking and debating and massaging things until they get to a point where everybody says, 'That's going to work,'" Bunch said. Some questions are revised or dropped.

education industry research firm.

The costs have been driven up by the sheer volume of testing required by the law. In 2005-06, when states had to have math and reading tests in place for all the required grades for the first time, about 45 million tests were administered throughout the country, 11.4 million more than the previous year. This year, states are required to add a science test, which is expected to add another 11 million tests to the total.

One side effect of the greater demand for tests is a shortage of educational professionals with a jawbreaking job title: psychometrician. Their task is to oversee test creation, administration and scoring. Competition for them is fierce among the test companies, and they're often lured away from one company by another.

"A psychometrician has to make sure that algorithm is absolutely correct so that a student who is just barely going to pass, doesn't just barely fail," said Dr. Michael Bunch, a psychologist and senior vice president of research and development at North Carolina-based Measurement Inc., which has contracts with a dozen states.

The increased emphasis on testing has caused other pressures as well. States are now testing later in the academic year to squeeze in more teaching. And, states want scores back

faster than ever before.

Not surprisingly, this has caused some high-profile errors. In 2004, CTB/McGraw-Hill had to re-score thousands of Connecticut tests after scores came in mysteriously low because of the grading on the writing section. In 2006, the late distribution of tests to Illinois by Harcourt meant a long delay in getting the scores back to the state. Last year, American Institutes for Research had to re-grade 98,000 Hawaii tests after teachers found that some students who submitted blank test books received scores anyway.

Probably the biggest impact of the No Child Left Behind law has been on the kind of tests states are giving, which has changed dramatically. The law, which imposed so much federal intrusion into local classrooms, passed only with a compromise: States would be allowed to create the tests.

The result was states switched from standardized tests that compare how their students stack up against students across the country — the Stanford Achievement Test is a prominent example — to those based on each state's specific standards. But this system allows the difficulty of the tests to vary widely from state to state, resulting in some states producing easier tests that measure lower-level skills.

A report released in October by the conservative Thomas J. Fordham Foundation studied testing in 26 states by comparing students' proficiency on two tests — their state tests and the Measures of Academic Progress (MAP) test, administered by the Northwest Evaluation Association (NWEA).

The results were stark: Differences in student performance from state to state were significant. According to NWEA's analysis, to be considered proficient readers in Wisconsin, for example, fourth-graders needed to answer questions about as difficult as one that asked them to note a few differences between cats and dogs. But fourth-graders in Massachusetts faced more difficult questions such as those about a written passage by Russian author Leo Tolstoy.

Wisconsin Department of Public Instruction spokesman Patrick J. Gasper called the Fordham study flawed and pointed out that the two tests compared in the report have different goals and measure different skills.

"Their report attempts to draw conclusions by comparing two different types of tests that are scored on two different scales," Gasper said. "The purpose and types of tests being compared are different."

Step 5:

The questions are then field-tested by including them on a regular state test. At this point, they are not scored. Students cannot distinguish between the experimental questions and real test questions, which gives a better idea of how these questions perform under real test conditions.

Step 6:

The company again meets with a committee from the state, and questions are again altered or dropped based on statistics on how the question performed on the field test, as well as whether there was any evidence of bias. If a question is altered, it goes back into the next round of field testing.

Test difficulty can be measured in a variety of ways. One is by looking at how tough the questions are. Again, a review of various fourth-grade reading tests shows that reading passages on Massachusetts' test are lengthier and appear to be more detailed and use more difficult vocabulary than the passages on Ohio's and Texas' tests. One question on Ohio's test simply asks students to identify who is speaking in the passage.

But that is an imprecise way to determine a test's difficulty, said John Cronin, a research specialist at NWEA and one of the Fordham study's lead authors. Several factors could make a reading question difficult, such as the length of the passage, how straightforward the question is and the quality of the wrong answers in multiple-choice questions. Test creators can determine how difficult a question is only after they see how it has performed in field tests with real students.

And even if the questions themselves are challenging, a test's difficulty can be misleading if the state sets a low cut score, or the number of questions a student must answer correctly to be deemed proficient. The Fordham Foundation report found that states' definition of "proficient" based on the cut score was far from consistent.

Cronin said setting low cut scores would be like saying a high school baseball player is proficient only if he can hit against Major League pitcher Roger Clemens — an admittedly high performance standard — but then requiring batters to get only one hit out of 50 pitches to meet that standard.

"Instead of a .300 (batting average), they're aiming for .020," Cronin said. "It's a very rigorous test, facing a very difficult pitcher, but the standard of performance is very low."

These test disparities and the wide variety of tests has fueled calls for national standards.

"You may be deemed proficient in North Dakota math or Wisconsin math, but that doesn't mean you're proficient, really, in math," said Fordham spokesman Jeffrey Kuhner. "If you want to prevent this varied discrepancy from state to state, rather than dumbing down our standards we believe that the way to do it is to have an across-the-board national test and national standards."

International comparisons show that students in several countries have caught up to — and passed — American students. The results from the 2006 Program for International Student Assessment, which compares how 15-year-olds in 57 countries per-

form, showed U.S. students were 29th in science and 35th in math, behind countries like Estonia, Slovenia and Latvia.

As Congress works to authorize No Child Left Behind, several experts are promoting national standards, but the concept seems unlikely to advance in the face of staunch opposition by local-control advocates. When Fordham released an analysis showing how national standards could come about, it was titled, "To Dream the Impossible Dream."

A bipartisan discussion draft proposing changes to NCLB released by key U.S. House members — most notably Rep. George Miller (D-Calif.), the chairman of the House Committee on Education and Labor and one of the prime movers of the original No Child Left Behind bill — would not require national standards or a national test. The draft, released in August, would give states incentives to work with universities and the business community to develop more rigorous standards and tests based on those standards.

"To be successful, our system of accountability must encourage states to set high standards," Miller said in September at a House hearing. "Lowering the bar so more students can reach it is a sham." ■

Step 7:

The approved questions enter a question "bank." The questions are broken down into strands measuring specific standards and are assigned weighted scores based on how difficult they are.

Step 8:

Questions are chosen from the bank for the new test, based on the test blueprint. The company's psychometrician analyzes the data on each item to ensure the test's passing score (which determines proficiency) matches the blueprint's target, which is usually to make the test as difficult as previous tests. It becomes a live text only after the project leader, the psychometrician, and the state agree that the test meets all the content and statistical requirements.

On The Front Lines: States Rush To Fill The Void On Immigration Policy

By Daniel C. Vock

If you need any proof of how divided America is on immigration, look at its state capitols.

State lawmakers have taken widely divergent approaches to dealing with an influx of immigrants, including 11 million thought to be here illegally. Some states are rolling out welcome mats while others are slamming shut their doors.

For example, Oklahoma lawmakers signed off on a sweeping anti-illegal immigration law in 2007, responding to the 56,000 foreign-born residents who have come to the Sooner State since 2000 for jobs in meat-packing, construction and service industries. The new measure, which took effect Nov. 1, punishes employers who hire undocumented workers, gives police more tools to start deporting them and denies them state identification and benefits.

“Illegal aliens will not come to Oklahoma if there are no jobs. They will not stay if they don’t have welfare benefits. They will not want to come if they know they can be detained until they are deported,” said state Rep. Randy Terrill (R), the Oklahoma law’s chief proponent.

Meanwhile in Illinois, where 1.7 million of its 12.8 million residents were born abroad, state lawmakers repeatedly have sided with immigrants, especially the children. The state offers immigrant children subsidized health care and in-state tuition at public colleges. Last spring, lawmakers in Springfield invited a show-



Victor Tezoquita, a legal resident of the United States since 1986, fell victim to a new Tennessee law designed to deny driver’s licenses to illegal immigrants.

down with the federal government by barring companies from checking the immigration status of new workers with a federal database.

The two examples highlight a rough divide in how states have responded to the wave of newcomers that began swelling in the 1970s: States with large, long-established immigrant populations have been more accommodating than states now experiencing a surge for the first time.

Two-thirds of the country’s foreign-born population (legal and illegal) live in six states – California, New York, Texas, Florida, New Jersey and Illinois, according to the U.S. Census

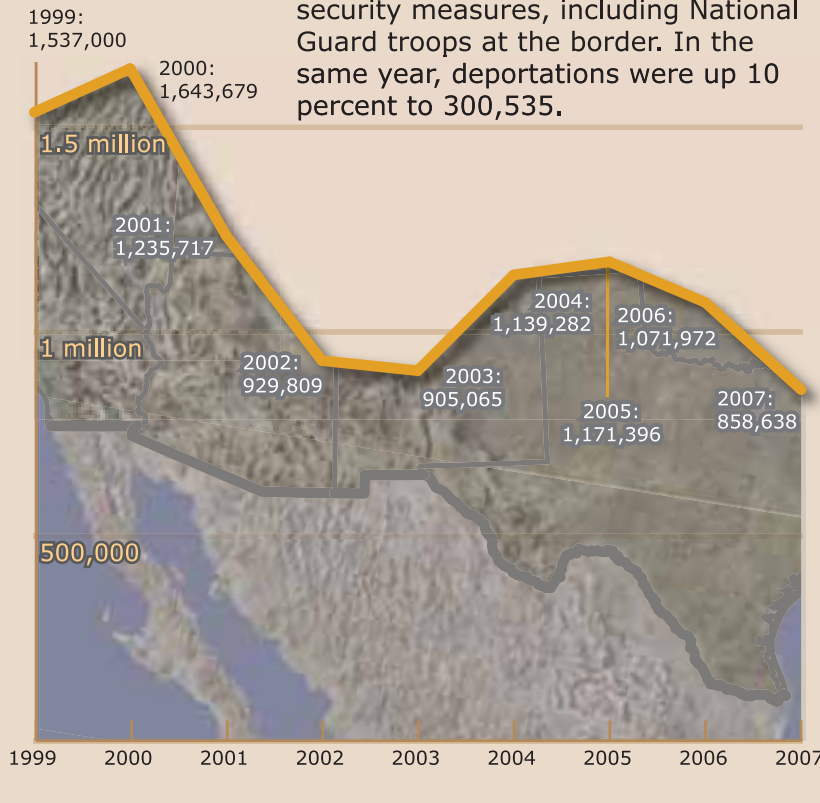
Bureau. Policies there tend to be more immigrant-friendly.

“Illinois has had waves of immigrants continuously coming in for 100 years. Voters see this new wave of immigrants much like those that came before it. ... It’s in the new magnet states that you see the biggest backlash,” said Nathan Newman, policy director for the Progressive States Network, a group that promotes liberal state policies.

Several of the states to pass wide-reaching measures to deter illegal immigration — including Arizona, Colorado, Georgia and Oklahoma — are new destination states that saw

Southwest Border Apprehensions

The number of people caught sneaking into the United States across the Mexican border dropped 20 percent in the year ending Sept. 30, 2007, compared to the previous year. The U.S. Customs and Border Protection agency attributes the decrease to a deterrent effect from stepped-up border security measures, including National Guard troops at the border. In the same year, deportations were up 10 percent to 300,535.



Source: U.S. Customs and Border Protection Agency

their immigrant population grow by at least a third since 2000.

State lawmakers have been thrust into the middle of the debate because of Congress' failure to act. Twice in the last two years, efforts to overhaul the nation's immigration laws fizzled. That means states are exploring ways to get involved with what remains primarily a responsibility of the federal government.

So, in 2007, Missouri lawmakers voted to bar illegal immigrants from becoming social workers, but Hawaii started letting undocumented children get state-supported health care.

All 50 states have sent National Guard troops to the 1,954-mile border with Mexico since July 2006 as part of

President Bush's push to beef up enforcement through this summer while more agents for the U.S. Customs and Border Protection agency were hired.

All told, 46 states enacted 194 new immigration-related laws in 2007 — triple the number from the previous year, according to a tally by the National Conference of State Legislatures. A closer look shows laws restricting the rights or benefits of illegal immigrants outnumbered laws benefiting them by a 2-1 ratio, although roughly half did not deal specifically with illegal immigration.

Last year's activity leaves a patchwork of state policies across the country. For example:

- Nine states require at least some companies (usually state contractors) to use a federal database to verify that new hires are in the country legally. Arizona's new law is the broadest because it applies to all employers. But one state, Illinois, wants to prohibit companies from checking out new employees on the database.
- Six states partner with federal authorities to enforce immigration laws, but four states (and most major cities) forbid the practice.
- Six states passed laws since 2005 to cut off certain public benefits for illegal immigrants, but six others let undocumented children get taxpayer-subsidized health insurance.
- Ten states allow undocumented students to receive in-state tuition at public colleges, with Nebraska becoming the latest to join in 2006.
- Six states let illegal immigrants get driver's licenses, down from nine in mid-2006. However, Oregon was scheduled to drop off the list in February. Maine lawmakers were reconsidering their policies as well.

Local governments are adding to the cacophony.

Many are taking the same approach as Hazleton, Pa., which tried to prevent locals from hiring or renting to illegal immigrants before a federal judge put that law on hold last July. On the other hand, New Haven, Conn., and San Francisco decided in 2007 to issue ID cards to all their residents, including illegal immigrants.

While courts weigh the legality of housing and hiring restrictions for illegal immigrants, California's legislators refused to wait and last year prohibited its cities from enacting Hazleton-style ordinances.

Immigration is destined to be a red-hot issue in 2008, both in statehouses and on the presidential campaign trail.

The backlash against immigration is affecting the Latino community — the nation's largest and fastest-growing minority group — and could have long-term effects on the American electorate.

Republican gains among Hispanic voters since 1999 evaporated in the last year, according to the Pew Hispanic Center, which, like *Stateline.org*, is a project of the Pew Research Center. In that time, many Republicans distanced themselves from President Bush's proposal to give citizenship to undocumented workers and took a harsh stance against illegal immigrants.

Employer Sanctions

Oklahoma is one of a vanguard of states, including Arkansas, Colorado, Georgia, Hawaii, Tennessee, Texas and West Virginia, to require state contractors to check the legal status of workers with a federal "E-Verify" database. Arizona's new law goes further by applying to all employers. In addition, Idaho and North Carolina verify the status of state government workers.

Most of those states are using the incentive of state contracts to entice businesses to comply. But Arizona is walking a fine line. Starting in January, Arizona employers caught more than once hiring undocumented workers are liable to have their business licenses revoked, essentially putting them out of business.

While employers are supposed to ask job applicants for a Social Security card or proof they are eligible to work in the United States, a 1986 federal law prohibits states from imposing criminal or civil penalties on employers who hire illegal workers. The one punishment states can mete out is revoking or suspending an employer's business license. But the question remains how broad that power is.

Advocates for immigrants say states can yank licenses only for businesses

that have been disciplined by the federal government. Those who want to crack down on undocumented workers say states can force businesses to prove they're hiring only legal employees in order to get operating licenses.

Business groups, including the U.S. Chamber of Commerce, have attacked the Arizona law in court, arguing that it usurps federal authority. They've vowed to fight similar laws. Immigrant rights groups also oppose the Arizona law.

Oklahoma last year took a different approach. Its statute gives employers more incentives to ensure their workers are legal. The law allows U.S. citizens fired from a job to sue their former employer if an illegal immigrant still works for the company.

"What we're trying to do is incorporate civil-rights-type actions to protect citizens who are, in effect, discriminated against," said Michael Hethmon, general counsel for the Immigration Reform Law Institute, which promotes stricter immigration enforcement.

Most of the new employee-verification laws depend on E-Verify, a decade-old federal database that tracks whether Americans and foreigners living in the country are authorized to work.

For much of its 10-year life, outdated information and inaccurate entries dogged the system. Since 2006, though, the Bush administration has pumped \$114 million into upgrades and has heavily promoted its use. Now, the U.S. Department of Homeland Security reports more than 18,000 employers with 79,000 work sites use it.

Gerri Ratliff, chief of the U.S. Citizenship and Immigration Service's (USCIS) verification division, told *Stateline.org* the system in 2007 fielded about 14 million requests about eligibility for benefits and work and could handle as many as 25 million queries a year.



Supporter of Hazleton, Pa., Mayor Lou Barletta shows her colors during a court hearing on the city's controversial illegal immigrant policy.

Still, questions over the accuracy of E-Verify led Illinois lawmakers in 2007 to prohibit companies there from using the database until the federal government proves it is 99 percent accurate. In response, the Department of Homeland Security sued the state, claiming the statute is illegal. The state agreed not to enforce the law until the case is resolved.

Law Enforcement

Normally, when local and state police arrest someone they suspect is here illegally, they must call to see whether Immigration and Customs Enforcement wants to pursue deportation. But with spread-out offices, a heavy caseload and only 5,700 agents to deal with more than 11 million undocumented immigrants, there's no guarantee ICE officers will show up.

A Virginia lawmaker said state police contacted ICE about 12,000 inmates during 2006, but ICE detained only 690 of them.

Now, ICE is promoting a program that lets state and local authorities become part of federal immigration

Growth in Immigrant Population

Since 2000, the number of foreign-born people living in the United States has increased 20.7 percent. Delaware saw the largest growth with 53.1 percent, while Hawaii was the only state with a decline in its foreign-born population.

2000 to 2006



Source: Migration Policy Institute analysis of U.S. Census Bureau data

enforcement. Congress authorized the program in 1996, but it wasn't until 2002 that Florida's Department of Law Enforcement became the first state or local agency to sign on.

A total of 34 state and local agencies in 15 states now are taking part in what's known as the 287(g) program and another 77 have applied.

Nearly 600 local officers are now trained, and more than 30,000 people have been charged with immigration-related offenses by local and state authorities over the last three years.

But Joan Friedland, immigration policy director for the National Immigration Law Center, a group that supports immigrant rights, said she worries that Hispanics or other minority groups will be disproportionately targeted.

"I don't see how states and localities

can enforce immigration law without engaging in racial profiling," she said.

Public Benefits

At least six states — Hawaii, Illinois, Massachusetts, New York, Rhode Island and Washington — provide subsidized health care through state programs to children, regardless of their immigration status, according to the National Immigration Law Center.

But since 2005, six states — Arizona, Colorado, Georgia, Idaho, Oklahoma and Virginia — have passed measures to curb the public benefits illegal immigrants can receive. Many of the state laws simply repeat federal prohibitions, but others limit access to adult literacy programs, assisted-living help for seniors and rebates for environmentally friendly purchases.

The political impact of measures to

cut public benefits to illegal immigrants may be greater than their practical effect because the federal government limits states' options. Under a 1982 U.S. Supreme Court decision, *Plyler v. Doe*, states must provide free K-12 education to children.

Federal rules also require free emergency medical care for the poor, regardless of immigration status. Pregnant women and their young children can get healthy food and nutritional information from the nationwide Women, Infant and Children (WIC) program, even if they're illegal immigrants.

On the other hand, the federal government bars illegal immigrants from non-emergency medical care through Medicaid, which is paid for by both state and federal governments. In fact, since 2006, the federal government requires states to verify the legal residency of all Medicaid recipients.

Illegal immigrants can't get welfare benefits from Social Security or the federal Temporary Assistance for Needy Families (TANF) program, which states administer. And Food Stamps, another federal program administered by states, is open only to poor people who are legal residents.

The situation is more complicated for families in which the parents are illegally here but their children, born on American soil, are U.S. citizens. In such mixed families, poor kids can enroll in Medicaid but their parents can't.

Federal restrictions, including the *Plyler* decision, doomed the most famous state effort to cut off public benefits for illegal immigrants.

In 1994, California voters overwhelmingly approved Proposition 187, a ballot measure that would have stopped taxpayer-funded education, social services and most medical care to illegal immigrants. But federal courts quickly struck down the measure.

In-State Tuition

Ten states — California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah and Washington — offer in-state tuition at public universities to illegal immigrants, according to the American Association of State Colleges and Universities.

Dan Hurley, the group's director of state relations, said offering in-state tuition to undocumented students makes financial sense, because states typically spend \$108,000 to educate a student from kindergarten through high school. States' total costs for educating an in-state resident at a public college average about \$20,000, a small price with a great return on investment, he said.

But opponents question the wisdom of that approach. Even if undocumented students graduate with a college degree, they won't be eligible to work in the United States, giving them

“false hope and false expectations,” said Terrill, the Oklahoma legislator.

States that want to offer in-state tuition must maneuver around a 1996 federal law. The Illegal Immigration Reform and Immigrant Responsibility Act bars states from offering in-state benefits to illegal immigrants that are not available to U.S. citizens in other states.

First California and then other states devised tuition-benefit laws with an eye to surviving legal challenges. California, for example, replaced an explicit residency requirement with other conditions, such as attending a California high school for three years and graduating there.

So far, no lawsuits challenging the legality of in-state tuition policies for undocumented students have been successful. In the first ruling on the issue, a federal appeals court in August 2007 affirmed the dismissal of a challenge to Kansas' law brought by 24 out-of-state students paying higher tuition. The courts didn't pass judgment on in-state benefits but instead ruled the students had no standing to sue.

Illustrating again the gulf between states on immigration issues, North Carolina is debating not whether to offer in-state tuition but whether to even let illegal immigrant students attend its taxpayer-supported community colleges.

College officials in November reversed a ban, put in place after a state attorney general's opinion, that had kept illegal immigrants from attending North Carolina community colleges. Retiring Gov. Mike Easley (D) supported educating the students, but all of the candidates vying to replace him in 2008 criticized the new rule.

Driver's Licenses

Only six states — Hawaii, Maine, New Mexico, Oregon, Utah and Washington — allow illegal immi-

grants to get driver's licenses, but that number is scheduled to drop to five in February, when Oregon halts the practice.

In addition, Maine is considering imposing a residency requirement, and Michigan Attorney General Mike Cox (R) ruled that illegal immigrants cannot get licenses. Both North Carolina and Tennessee stopped issuing licenses to undocumented residents since 2006.

Supporters of licensing for illegal immigrant drivers say it helps authorities know who's on the road, encourages foreign motorists to buy insurance and decreases tension between police and immigrants.

The issue proved so controversial that New York Gov. Eliot Spitzer (D) was forced to rescind his plan last fall to issue driver's licenses to illegal immigrants. Some county officers had threatened to defy the order.

Under the 2005 Real ID Act, which takes full effect in 2013, security of driver's licenses in all states will be tightened. The law requires states to confirm the legal residency of applicants or else driver's licenses in the state won't qualify as official identity for boarding airplanes or entering federal buildings. States would have to issue a separate type of license if they wanted to continue giving driving privileges to illegal immigrants.

Utah is the only state to issue a different sort of license for drivers, including immigrants, without Social Security numbers. The state's “driver privilege card” is clearly marked as “not valid identification for Utah government entity.”

National Guard

Under “Operation Jump Start,” Bush sent 6,000 National Guard soldiers starting in July 2006 to help the Border Patrol in Arizona, California, New Mexico and Texas.

By doing administrative tasks normally handled by Border Patrol officers, the guardsmen allowed federal agents to focus on catching illegal

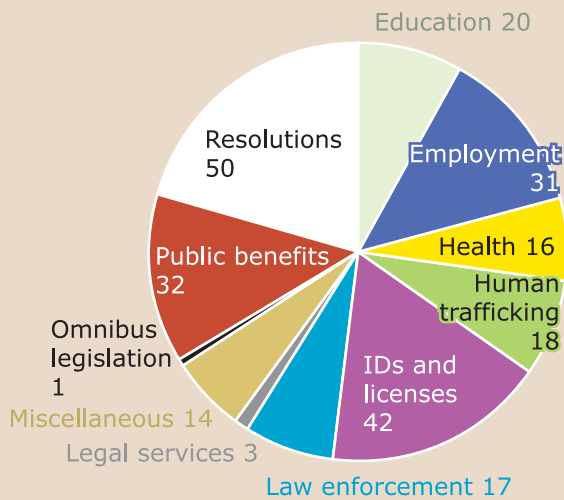
immigrants and drug smugglers. The troops don’t actually catch border crossers; that responsibility remains with the Border Patrol.

Apprehensions along the Mexican border for the federal fiscal year ending Sept. 30 dropped to their lowest point in at least a decade, marking a 20 percent decline from the year before. Border Patrol agents caught 858,638 people trying to enter the country illegally in the fiscal year.

The Pew Hispanic Center, in a May 2007 report, highlighted other indications that immigration from Mexico had slowed since mid-2006, when Operation Jump Start began.

Military planners expect the National Guard to wind down its operations supporting the Border Patrol by July, under Bush’s original plan. ■

2007 State Immigration Legislation



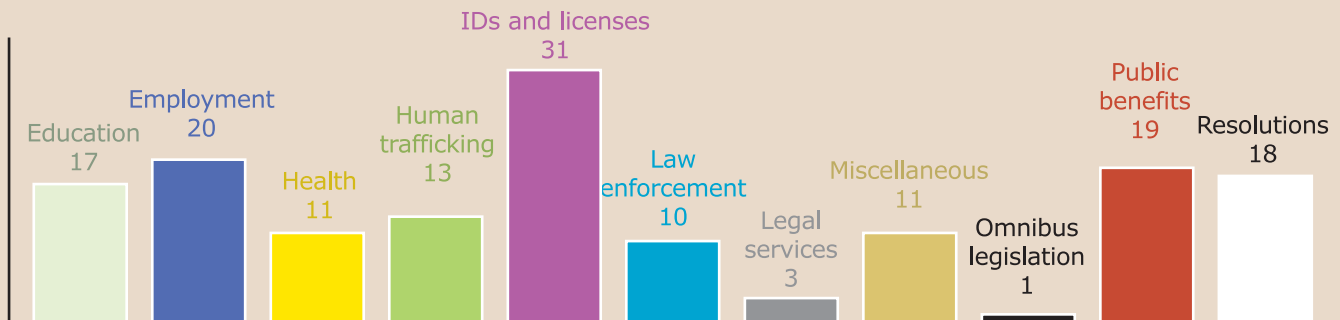
Immigration measures passed in 2007

State lawmakers considered 1,562 bills and resolutions concerning immigration during 2007. States enacted 194 new laws and passed 50 resolutions.

The most common new immigration-related laws were those regulating IDs and licenses. Forty-two of those measures passed. On the other hand, none of the 23 proposals dealing with voting became law.

Number of states passing immigration legislation, by topic

All 50 states considered legislation concerning immigration in 2007, and 46 passed laws or resolutions.



Source: National Conference of State Legislatures

State laws targeting immigrants

State lawmakers have widely divergent approaches to dealing with an influx of immigrants to the country, including 11 million thought to be here illegally. Some states are rolling out welcome mats while others are slamming shut their doors.

	Driver's licenses for illegal immigrants	In-state tuition for illegal immigrants	Employer verification laws	Health insurance benefits for illegal immigrant children	State agencies partnering with ICE to enforce immigration laws
Alabama					Department of Public Safety
Alaska					Prohibited by resolution
Arizona			All employers		Department of Corrections
Arkansas			State contractors		
California	✓				
Colorado			State contractors		Department of Public Safety
Connecticut					
Delaware					
Florida					Department of Law Enforcement
Georgia			State contractors		Department of Public Safety
Hawaii	✓		State contractors	+	
Idaho					
Illinois	✓		Prohibited	+	
Indiana					
Iowa					
Kansas	✓				
Kentucky					
Louisiana					
Maine	✓				
Maryland					
Massachusetts				+	Department of Corrections
Michigan					
Minnesota					
Mississippi					
Missouri					
Montana					Prohibited by resolution
Nebraska	✓				
Nevada					
New Hampshire					
New Jersey					
New Mexico	✓	✓			Prohibited by executive order
New York		✓		+	
North Carolina					
North Dakota					
Ohio					
Oklahoma		✓	State contractors		
Oregon	✓ ¹				Prohibited by statute
Pennsylvania					
Rhode Island				+	
South Carolina					
South Dakota					
Tennessee			State contractors		
Texas		✓	State contractors		
Utah	✓	✓			
Vermont					
Virginia					
Washington	✓	✓		+	
West Virginia			State contractors		
Wisconsin					
Wyoming					

¹Effective February 2008, Oregon will limit licenses to U.S. citizens and foreigners in the country legally, under a gubernatorial order.

²For children enrolled before December 2006.

Lethal Injection, Voter ID Top State Concerns On Docket

By Daniel C. Vock and John Gramlich



The U.S. Supreme Court stepped squarely into the emotional debate over lethal injection in September when it accepted a case brought by two Kentucky death-row inmates who claim the three-drug mixture used to execute prisoners in 36 states inflicts illegal cruel and unusual punishment.

This is not the only appeal before the high court being closely watched by state officials.

Also awaiting decision is a case with ramifications for this year's presidential contest. It tests the validity of an Indiana law requiring voters to show photo identification at the polls. The court will also decide the fate of Washington state's unique primary election process, review state powers to regulate dangerous products and settle another death-penalty dispute that pits Texas state courts against the Bush administration and much of the world.

In accepting *Baze v. Rees*, the Kentucky prisoners' challenge, the Supreme Court not only agreed to rule on a method of execution for the first time since 1879, but also ushered in a nationwide, de facto moratorium on lethal injections pending its decision. As a result, in 2007 fewer executions were carried out in the United States — 42 — than in any year since 1994, according to the Death Penalty Information Center, a Washington, D.C., nonprofit group.



Entrance to the U.S. Supreme Court. In the foreground is "Authority Of Law," a sculpture by James Earle Fraser.

The Kentucky inmates do not argue that lethal injection itself is unconstitutional. Instead, they seek changes in the way the three-drug cocktail is administered to prisoners and how it is reviewed by courts. The prisoners contend that drugs now available could make executions far less painful and note that lower courts have introduced a wide array of differing legal standards for whether lethal injections cause too much pain.

The same deadly recipe for lethal injection questioned in *Baze v. Rees* is used in 36 of the 37 states that allow the death penalty. Nebraska carries out executions solely by the electric chair — the only state that uses only this method. But its practice is under

assault in a case likely to be decided by the Nebraska Supreme Court this year.

The lethal injection procedure under review is a three-step process: First, a sedative called sodium thiopental is administered to the condemned through an IV, rendering the inmate unconscious. Then a paralyzing agent named pancuronium bromide stops the breathing muscles. Finally, a dose of potassium chloride stops the heart.

Experts on both sides of the death-penalty debate say they are pleased the Supreme Court will consider the issue.

"We really need some clarification of the law," said Kent Scheidegger, legal director and general counsel of the

Internet Tobacco Sales

11 states require age verification the first time someone purchases tobacco online.

13 states require age verification every time someone purchases tobacco online.

18 states specify that the recipient's ID matches the purchaser's name.

16 states require that an adult sign for deliveries.

Sources: Kurt M. Ribisl, Annice E. Kim and Rebecca S. Williams — University of North Carolina at Chapel Hill, School of Public Health

pro-death penalty Criminal Justice Legal Foundation. "I think there's a pretty good chance that the way states are doing it now will be upheld. If a change needs to be made, all we need to know is what the change will be."

Lethal injection was placed on hold in 10 states even before the Supreme Court agreed to hear *Baze v. Rees*, underscoring legal uncertainty surrounding the procedure.

In the election law case, the groups challenging Indiana's voter ID rule want the court to let states know by the presidential election whether such laws are valid.

In general, fights over the voter ID laws have broken down along party lines. Republicans have promoted ID requirements as a way to prevent voter fraud. Democrats say the laws discourage the poor and elderly from voting, and they say there's little evidence of voter fraud that such rules would prevent.

Indiana and six other states (Florida, Georgia, Hawaii, Louisiana, Michigan and South Dakota) ask voters to show photo identification at the polls.

Indiana's law specifies that voters must present a government-issued photo identification that carries the

voter's address and signature. Those without proper identification in Indiana can cast provisional ballots that are counted only if the voter provides proof of identity within 10 days.

Eighteen other states accept other forms of identification that could include utility bills or pay stubs. Indiana's voter ID law is considered to be the toughest, but so far, it has survived legal challenges filed by Democrats and civil rights groups. The 7th U.S. Circuit Court of Appeals upheld the law on a 2-1 vote in January 2007, setting up the current appeals. *Crawford v. Marion City Election Board* and *Indiana Democratic Party v. Rokita*.

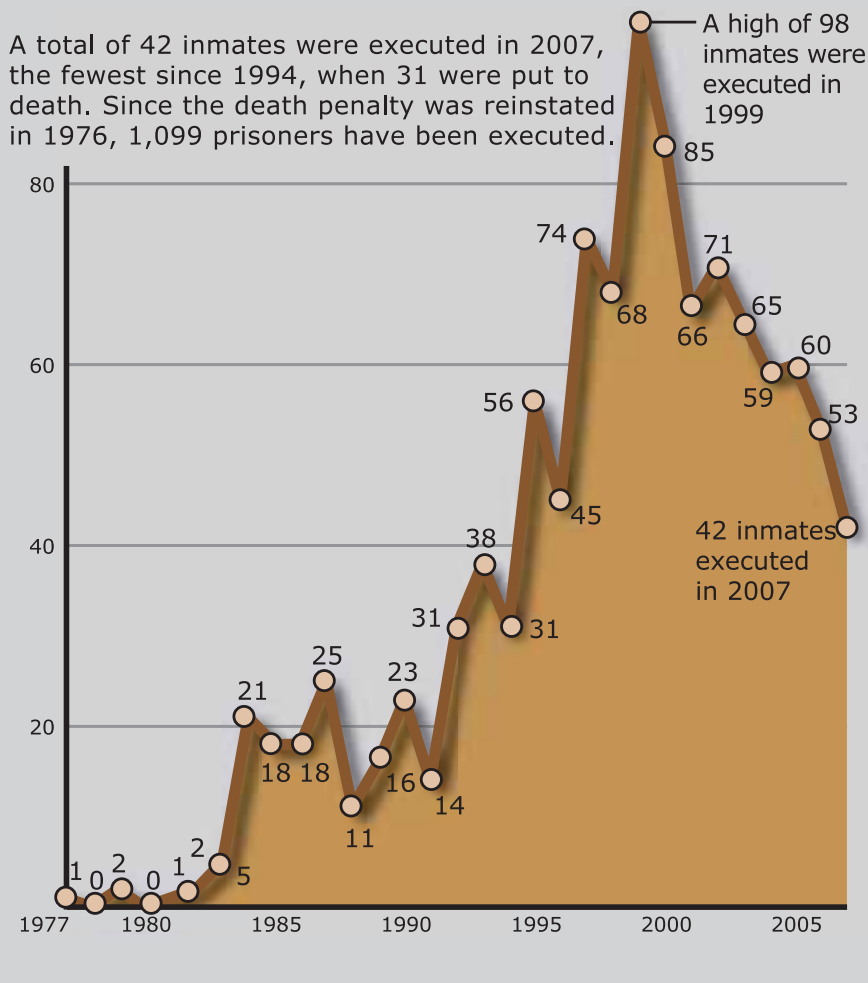
Another election-related case on the high court docket involves a unique primary system approved by voters in Washington state in 2004 but on hold as a result of court challenges.

Under the system, the top two vote-getters in state primaries advance to the general election, regardless of their political affiliation. Supporters say the system would let voters — not political parties — control the outcome of elections.

But Democrats, Republicans and Libertarians convinced lower courts that the system violates their First Amendment right of free association. *Washington State Grange v. Washington State Republican Party*

Executions In The U.S. Since 1976

A total of 42 inmates were executed in 2007, the fewest since 1994, when 31 were put to death. Since the death penalty was reinstated in 1976, 1,099 prisoners have been executed.



Source: Death Penalty Information Center

and *Washington v. Washington State Republican Party*.

Four cases on the docket deal with federal preemption of state laws. A Maine law to prevent underage smokers from buying cigarettes online — and similar laws in 39 other states — are being scrutinized in *Rowe v. New Hampshire Motor Transport Association*. Delivery companies say federal law prevents states from regulating their services.

In the New York case of *Riegel v. Medtronic*, the judges will determine whether injured patients can use state law to sue medical-device manufacturers for malfunctions of equipment approved by the U.S. Food and Drug Administration. *Warner Lambert Co. v. Kent* involves a Michigan law allowing suits against drug manufacturers who defraud the FDA.

The fourth preemption case, *Chamber of Commerce v. Brown*, could jeopardize a California law that prohibits companies receiving state money from using those funds to influence union elections. Businesses claim the regulations run afoul of the federal National Labor Relations Act.

Other state-related cases include:

- ***D.C. v. Heller***: A challenge to the District of Columbia's handgun ban that could determine whether the Second Amendment's right to bear arms allows state, federal or local governments to prohibit the possession of firearms.
- ***Kennedy v. Louisiana***: A case that tests whether rapists of children can be executed despite the high court's 1977 ruling outlawing capital punishment for rapists when the victim isn't killed.
- ***Medellin v. Texas***: A showdown between President Bush and the top criminal court in his home state of Texas over the rights of

foreigners facing the death penalty. The president ordered the Texas Court of Criminal Appeals to review the case of a Mexican citizen who claimed his rights were violated because his country's consulate was never told of his detention, as required by the Vienna Convention on Consular Relations. The Texas judges ruled the president didn't have the authority to tell them to reconsider the case.

- ***Kentucky Retirement Systems v. Equal Employment Opportunity Commission***: A review of a decision that state pension systems claim would have "catastrophic and destabilizing results" on state budgets and even their constitutions. The issue is whether Kentucky pension plans illegally discriminated by using age as a factor to deny a government worker a disability pension, a common practice among pension plans.
- ***Department of Revenue of Kentucky v. Davis***: A tax dispute that raises the question of whether states can give people who buy the state's own bonds an income-tax break without doing the same for people who hold bonds from other states.
- ***Snyder v. Louisiana***: The case of a black Louisiana man sentenced to death by an all-white jury that raises questions of what evidence courts can weigh to determine whether the prosecutor purposely excluded black jurors.
- ***Virginia v. Moore***: A case questioning the admissibility of evidence of drug possession against a Virginia man who was arrested on charges of driving with a suspended license, because the arrest violated state law.
- ***MeadWestvaco Corp. v. Illinois Department of Revenue***: A tax challenge brought by former own-

Voter ID Requirements

Who is required to show ID at the polls?

Every first-time voter

Kansas Pennsylvania

First-time voters who registered by mail

California	New Jersey
Idaho	New York
Illinois	North Carolina
Iowa	Oklahoma
Maine	Oregon
Maryland	Rhode Island
Massachusetts	Utah
Minnesota	Vermont
Mississippi	West Virginia
Nebraska	Wisconsin
Nevada	Wyoming
New Hampshire	

Every voter

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

Every voter must show a photo ID

Florida	Indiana
Georgia	

Every voter is asked to show a photo ID

Hawaii	Michigan
Louisiana	South Dakota

Source: electionline.org

ers of the online legal research company LexisNexis who object to paying \$4 million in Illinois taxes from the 1994 sale of their company because it wasn't based in Illinois. ■



Hot Topics

'Romeo and Juliet' Laws

Lawmakers across the country continue to mete out harsh punishments to sex offenders — from satellite tracking to the death penalty — but a handful of states have eased up on penalties in cases of youths prosecuted for consensual sex.

Connecticut, Florida, Indiana and Texas enacted laws in 2007 that make a distinction between sexual predators and adolescents who do not pose a risk, such as those caught in so-called “Romeo and Juliet” relationships, in which one partner is of consenting age and the other is not.

The case in Georgia of former high school football star and homecoming king Genarlow Wilson served as a rallying symbol for supporters of more nuanced state laws and could have lasting repercussions in statehouses nationwide, criminal justice experts said.

Wilson was convicted of aggravated child molestation in 2005 for receiving consensual oral sex from a 15-year-old girl in 2003 when he was 17. State law at the time required Wilson to serve 10 years behind bars without the possibility of probation or parole.

The sentence sparked national outrage, and the Georgia Supreme Court freed Wilson last October after he spent more than two years in prison, finding that his sentence was “grossly disproportionate to his crime.” Wilson’s case was frequently cited by lawmakers in states that last year took steps to prevent low-risk adolescents from facing the same penalties as serious offenders.

Connecticut’s new law widens the permissible age gap between consenting sexual partners from two years to three, in an attempt to trim the number of “Romeo and Juliet” cases prosecuted. Florida’s updated law allows those involved in consensual sexual encounters — with no more than four years between them — to petition to have their names removed from state and national sex-offender registries.

Indiana decriminalized consensual sex between adolescents if they are found by a court to be in a “dating relationship” and have an age difference of four years or less. Texas overhauled a risk-assessment system that, according to critics, allowed some juvenile offenders — including those having consensual sex with a younger partner — to receive a higher risk rating than many serious predators.

Georgia, meanwhile, revised the law that was used to prosecute Wilson, introducing a maximum 12-month punishment for similar offenses.

—John Gramlich

Prison Overcrowding

Surging prison populations — and costs associated with it — bedevil policymakers across the country, and a number of states are testing new ways to address the problem without building expensive correctional facilities.

Kansas and Texas have attracted attention for programs that focus on rehabilitating inmates and preventing recidivism. Among other things, the Kansas initiative offers localities financial incentives for reducing the number of parole or probation infractions — a leading cause of prison overcrowding.

Texas, a state second only to California in prison population with 153,000 inmates, made what lawmakers called a “sea change” in corrections policy. The plan could divert thousands of prison inmates to rehabilitation facilities, where they will receive help to rapidly re-enter society.

In Nevada, legislators doubled good-time credits available to certain low-risk offenders, shortening their time behind bars and freeing up valuable space. The state also introduced changes at the front end of the criminal justice system, giving judges more discretion to shorten sentences and reinstating a commission — dormant since 2000 — to recommend further changes in sentencing laws.

Meanwhile, other states, including Alabama, California, Hawaii, Idaho and Oklahoma, continued a recent trend of relieving strained prison systems by shipping inmates out of state, often to privately run facilities. Critics charge that out-of-state prisons are less practical and more dangerous than state-run institutions.

Campus Security

A murderous rampage last April 16 at Virginia Tech, in which a disturbed student killed 32 students and professors before turning the gun on himself, was a wakeup call to colleges across the country to beef up their security systems and improve identification and treatment of the mentally ill.

The most common move: setting up emergency text-message warning systems, which are quickly becoming a collegiate norm. Schools also launched plans to set up more sirens, public address systems, television monitors and emergency phones.

Corrections trails only health care, education and transportation in swallowing state dollars, and a study released last year by the Public Safety Performance Project — which, like *Stateline.org*, is funded by The Pew Charitable Trusts — forecast steep increases in incarceration rates and state spending on prisons in the next five years unless new policies are enacted.

The project's study predicted a 12-percent jump in state prison populations by 2011, at an increased cost of more than \$27 billion, including up to \$12.5 billion extra for new prisons. "Every additional dollar spent on prisons, of course, is one dollar less that can go to preparing for the next Hurricane Katrina, educating young people, providing health care to the elderly, or repairing roads and bridges," the study said.

State lawmakers are likely to keep trying different initiatives to find prison space, said Ryan King, a policy analyst with The Sentencing Project, a Washington, D.C.-based organization that advocates for changes in sentencing policies. King said state legislators recently have shown a greater willingness to consider targeted sentencing revisions such as eliminating mandatory minimum sentences for some drug offenses — despite the political liability of being labeled "soft on crime" when it involves reducing prisoners' time behind bars.

"States simply don't have the space and the money to build (prisons) that they did 15 years ago," King said.

—*John Gramlich*

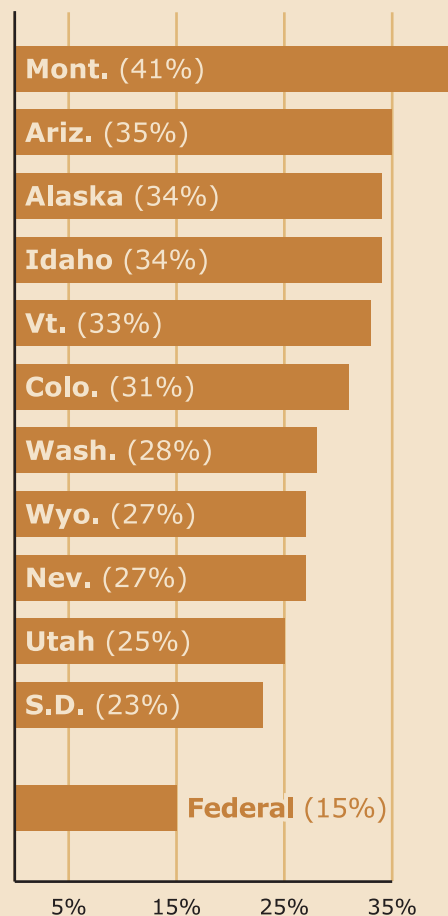
Another issue raised by the Virginia Tech incident was whether academic institutions have adequate services to help students with mental disorders. Although professors and officials knew Virginia Tech shooter Cho Seung-Hui was mentally ill, they were unable to act on that knowledge.

A task force convened by Virginia Gov. Timothy Kaine (D) blamed the lack of follow-up on confusion over how much information schools could share under state and federal privacy laws, especially the federal Family Educational Rights and Privacy Act (FERPA). Legislation was introduced in Congress to clarify the matter.

Prison Crowding

State prisons, many already overcrowded, are expected to grow 12 percent by 2011, with Montana leading the way.

Projected growth in prisoners, 2006-2011



Source: The Public Safety Performance Project

State legislatures also are expected to address the issue. Possible actions include amending student-records laws so that high schools can share more information with colleges and giving colleges more leeway in handling mental-health issues.

The shooting spurred nine more states, for a total of 32, to contribute mental-health data to an FBI database program meant to stop the mentally ill from buying guns. This year, more states are expected to share data because of a bill Congress passed in December giving states financial incen-

tives to participate. Those that don't could lose federal crime-fighting money.

The Virginia Tech incident also rekindled the debate over whether to allow those with concealed weapons permits to carry guns on campus. Several states either ban it or let colleges set gun policies. Last year, only Utah acted to allow guns on campus, but many state legislatures are set to debate the issue in 2008.

— *Pauline Vu*

Subprime Mortgage Crisis

The nationwide mortgage crisis caused sliding property values, shrinking state revenues and 1.5 million homes to enter foreclosure last year — and it's going to get worse.

The meltdown, which has victimized home buyers who took out mortgages with low initial interest rates that rise sharply after a few years, could worsen as 2 million so-called subprime loans reset in the next two years.

In November, California Gov. Arnold Schwarzenegger (R) announced agreement with four major lenders to temporarily freeze the rates of some subprime borrowers; three weeks later, the White House unveiled a similar plan.

One of the states' biggest efforts is to encourage communication between borrowers and lenders about repayment problems to avoid loan defaults and foreclosures down the road. Already, at least six states have set up foreclosure hotlines, while officials in Illinois and Michigan have arranged meetings for borrowers to talk one-on-one with their lenders about repayment options. More states are expected to follow suit.

Some state efforts will more directly address those in financial trouble. Nine states have established foreclosure prevention funds to help homeowners refinance. However, the funds so far have been limited in scope. Maryland's program, for example, has guidelines that make it available only to those under a specific income and home-value limit; the state was considering setting up another fund with looser guidelines.

Another effort will focus on tackling conditions that led to the housing meltdown in the first place. More states are expected to follow Maine, Minnesota, North Carolina and Ohio, which require that lenders first determine that borrowers can afford a loan, or copy Massachusetts' law, which requires borrowers to attend counseling before taking out big loans.

States also are banning predatory lending practices such as prepayment charges, which impose huge penalties if borrowers try to refinance. Minnesota and North Carolina have restricted such charges, and legislators in California and Nevada announced plans to address the practice in their next legislative sessions.

But the federal government might supersede some state efforts. In late December, the Federal Reserve proposed rules to place restrictions on prepayment penalties and to require that lenders verify borrowers can afford a subprime loan. Lenders also would have to disclose all fees in writing, and borrowers could sue lenders if they violated the rules.

A few weeks before the Federal Reserve's move, the U.S. House passed a bill that would prohibit lenders from steering borrowers into loans they can't repay and set up a national licensing registry for mortgage brokers. Currently, licensing of mortgage brokers is done on a state-by-state basis.

— *Pauline Vu*

Global Warming

A bipartisan mix of governors is leading a nationwide movement to combat global warming as states add laws to conserve energy and require cleaner smokestacks and auto emissions.

States were bolstered by the U.S. Supreme Court's ruling that the U.S. Environmental Protection Agency (EPA) must regulate carbon-dioxide emissions, blamed for global warming, under the federal Clean Air Act. But the EPA rejected an effort by California and at least 14 other states to limit greenhouse-gas emissions from autos.

In December, the National Governors Association chairman, Gov. Tim Pawlenty (R) of Minnesota, issued a "Call to Action," urging his peers and the federal government to promote renewable and other clean-burning alternative fuels to wean the country of its dependence on imported oil.

Pawlenty and other governors filmed public service announcements to appear on the cable television Discovery Channel to give easy energy-conservation tips. Republican Govs. Arnold Schwarzenegger of California and Jon Huntsman Jr. of Utah joined Montana's Democratic Gov. Brian Schweitzer in another TV commercial meant to prod federal lawmakers to address the problems of climate change. The 30-second advertisement was paid for by the pro-conservation group Environmental Defense Fund.

Under mounting political pressure from states, the Republican White House and Democratic-controlled Congress enacted a new energy policy raising vehicle fuel-economy standards for the first time since 1975, requiring a fivefold increase in the use of ethanol and other biofuels and improving energy-efficiency standards for buildings and light bulbs.

But EPA's rejection of states' greenhouse-gas limits for autos will likely force that issue back to the courts. Federal judges in California and Vermont have rejected automakers' challenges to those rules.

California's 2004 regulations, copied by at least 14 states, ordered cuts in carbon-dioxide emissions from autos beginning with 2009 models. Those states have vowed to sue the environmental agency to approve a waiver for the auto-emissions standards, which are tougher than federal law.

Besides the state-led push for lower auto emissions to reduce greenhouse gases, 22 states also have signed onto one of three separate regional efforts to limit the carbon dioxide emitted from power plants, which spew roughly 40 percent of the gases blamed for heating the Earth's atmosphere. Six states in the Midwest — Illinois, Iowa, Kansas, Michigan, Minnesota and Wisconsin — are the latest to create a regional cap-and-trade system. Regional agreements also have been struck by 10 states in the Northeast and seven Western states.

In all, 26 states have committed to get a percentage of their electricity from sources that do not burn fossil fuels, such as coal and natural gas. Illinois, Minnesota, Maine, Oregon and New Hampshire boast the highest standards for renewable energy, requiring 25 percent of their state's electricity to come from clean sources by 2025.

Hawaii, Minnesota, Oregon, New Jersey and Washington state last year all set targets to reduce greenhouse-gas emissions within their borders. New Jersey also will count emissions from out-of-state producers that sell power in the state.

— *Eric Kelderman*

Global Warming

States adopting California's greenhouse-gas limits for cars

Arizona	New Mexico
California	New York
Connecticut	Oregon
Florida	Pennsylvania
Maine	Rhode Island
Maryland	Washington
Massachusetts	Vermont
New Jersey	

States joining regional pacts to reduce greenhouse gases

Multi-state agreements to measure and reduce greenhouse-gas emissions from power plants or other industrial sources, including establishing cap-and-trade systems, setting stricter auto emissions or increasing renewable energy.

Arizona	Montana
California	New Hampshire
Connecticut	New Jersey
Delaware	New Mexico
Illinois	New York
Iowa	Oregon
Kansas	Utah
Maine	Rhode Island
Maryland	Washington
Massachusetts	Wisconsin
Michigan	Vermont
Minnesota	

States with renewable portfolio standards

Requirements that a percentage of the state's electricity comes from renewable sources such as the sun or wind

Arizona	Nevada
California	New Hampshire
Colorado	New Jersey
Connecticut	New Mexico
Delaware	New York
Hawaii	North Carolina
Illinois	Oregon
Iowa	Pennsylvania
Maine	Rhode Island
Maryland	Texas
Massachusetts	Washington
Minnesota	Wisconsin
Montana	Vermont

Source: Pew Center on Global Climate Change, December 2007

Same-Sex Marriage

Now that high courts in three states have ruled against same-sex marriage, the issue is moving out of the legal system and into state capitals where lawmakers are carving an emerging middle ground — civil unions and domestic partnerships.

On Jan. 1, 2008, New Hampshire became the fourth state — after laws in Vermont (1999), Connecticut (2005) and New Jersey (2006) — to provide civil unions that convey all state-level marriage rights to gay couples short of marriage itself.

Oregon and Washington enacted domestic partnership laws, following Hawaii (1997), California (1999) and Maine (2004). Oregon’s new law, like California’s, conveys all state marriage rights, making it the same as civil union statutes in other states.

Gay Rights

Headed for 2008 ballot
 Florida (ban on same-sex marriage)
 Arkansas (ban on gay adoptions)

In the courts
2008: High court marriage decisions expected in Connecticut and California
2009: High court marriage decision expected in Iowa

Marriage alternatives

Domestic Partnerships	Civil Unions
California	Connecticut
Hawaii	New Hampshire
Maine	New Jersey
Oregon	Vermont
Washington	

Prohibiting workplace discrimination

Sexual orientation and gender identity	Only sexual orientation
California	Connecticut
Colorado	Hawaii
Illinois	Maryland
Iowa	Massachusetts
Maine	Nevada
Minnesota	New Hampshire
New Jersey	New York
New Mexico	Wisconsin
Oregon	
Rhode Island	
Vermont	
Washington	

Source: The Human Rights Campaign

This year, New Mexico will consider a broad domestic partnership bill carried over from 2007 that presidential candidate Gov. Bill Richardson (D) has vowed to sign. The bill, which failed to pass by one vote last year, is similar to those in Oregon and California.

Also expected to take up civil union or domestic partnership laws are Maryland and Illinois.

Since 2003, when the Massachusetts Supreme Judicial Court ordered lawmakers to legalize gay marriage, court battles — and state constitutional amendments aimed at barring all but traditional marriage — have swept the nation.

But after 23 states added gay marriage bans to their constitutions, fears that other high courts would follow Massachusetts did not materialize.

On Sept. 19, 2007, Maryland’s high court became the third — after New York and Washington — to rule against gay marriage rights. Courts in Vermont and New Jersey called for alternatives to marriage but, so far, no court has followed Massachusetts in requiring the marriage title.

By last year, the tsunami of constitutional amendments appeared to have subsided and attempts to launch new ones were unsuccessful.

On June 14, 2007, Massachusetts lawmakers narrowly defeated a measure that would have undone the state’s one-of-a-kind gay marriage law and replaced it with a constitutional same-sex marriage ban. Gay marriage prohibitions also died in Indiana, Maryland, New Hampshire, New Mexico and North Carolina, according to the Human Rights Campaign, which advocates for gay rights.

However, at least one new constitutional prohibition is expected to appear on the 2008 ballot. In Florida — among the most important electoral states in this presidential election year — gay marriage foes are virtually certain to gather the required number of signatures by a February deadline.

Also expected to be on the November ballot is a measure in Arkansas that would bar anyone “cohabiting with a sexual partner outside of marriage” from adopting a child or becoming a foster parent. Florida enacted a law prohibiting gay individuals and couples from adopting, but the statute was struck down by a court. Mississippi prohibits gay couples from adopting, but allows adoption by gay individuals.

A case in Connecticut is ripe for a state Supreme Court decision. In the case, a lower court ruled that same-sex couples

Real ID

2008 was to be the year that states were to start meeting new federal rules to make driver's licenses more secure, including by verifying the identities of all 245 million drivers. Instead, deadlines have been extended, databases to check records aren't in place and several states are refusing to go along.

Six states — Maine, Montana, New Hampshire, Oklahoma, South Carolina and Washington — have passed laws refusing to comply with the federal Real ID Act, which they say will cost too much and risks the privacy of their residents. The penalty is their driver's licenses eventually won't be accepted as official identification when boarding airplanes or entering federal buildings.

Georgia lawmakers gave the governor the power to refuse to comply with Real ID if the costs remain too high. Idaho legislators pointedly refused to provide any funding for the state to meet the act's requirements, and more than a dozen legislatures have passed non-binding resolutions opposing the act.

The federal Department of Homeland Security (DHS) gave an extension to states unable to meet the law's May 11, 2008, deadline for revamping how they issue licenses. States that apply by February for an extension will have until Jan. 1, 2010, to begin beefing up the security of their driver's licenses.

Under Real ID, drivers have to renew their licenses in person and provide photo identification and documents showing their date of birth, Social Security number and address. State motor vehicle departments must digitally store applicants' identification documents and share the information with other states to verify the identity of individuals who move.

have no right to marriage because the state's civil union law provides similar protections.

A decision in a California case also is expected. In that case — a consolidation of several lower court cases — a trial judge ruled in favor of same-sex marriage rights, and all other courts demurred. Iowa's high court accepted a similar case last year, with a decision expected in 2009.

Colorado, Iowa and Oregon adopted laws prohibiting workplace discrimination based on sexual orientation and transgender identity, and Vermont added transgender identity to an existing anti-discrimination law.

Real ID is a response to recommendations of a task force studying the 2001 terrorist attacks. Several of the Sept. 11 hijackers had used state-issued driver's licenses to board airplanes. The law also is meant to keep illegal immigrants from getting official identification.

DHS put off issuing final rules specifying the new requirements for driver's licenses until at least the end of 2007. In addition, four of the five databases needed to verify licensees' legal presence didn't exist, were incomplete or were inaccessible to states.

DHS had hinted in discussions with state legislators that final rules would assuage some state fears by giving them more time to complete the process of re-issuing all of their licenses and by exempting persons with federal or military identification from the rigorous new verification process.

Arizona, Vermont and Washington may offer an example of how some states will eventually react to Real ID. All three have signed agreements with DHS to create a separate class of more secure licenses that could be used as identification for crossing the U.S. borders into Mexico and Canada. Those licenses, which would be voluntary for drivers, also may be compliant with the Real ID laws.

New York Gov. Eliot Spitzer (D) dropped his plan to issue Real ID licenses that would have made it easier for residents to cross the Canadian border because of an uproar over his proposal to also grant driver's licenses to illegal immigrants.

Two bills in Congress would repeal Real ID, but Capitol Hill may find another way to compel tighter state licensing rules. Late in 2007, two Republican congressmen introduced bills threatening to hold back federal highway funds from states that allow illegal immigrants to get driver's licenses.

— *Eric Kelderman*

Colorado also enacted a so-called second-parent adoption law, allowing a same-sex partner to adopt the other partner's child from a previous relationship without requiring the biological parent to give up parental rights, the same as adoption rights in traditional marriages. Similarly, a Maine court ruled that the state's existing adoption laws allowed second-parent adoption by same-sex couples.

— *Christine Vestal*

Abortion

The U.S. Supreme Court's 2007 decision upholding the federal ban on what's known as partial-birth abortion gave states a green light to pursue further regulation of abortion. But abortion foes are at odds over how to proceed.

National groups plan to push new limits on abortion without making it illegal. But some regional abortion groups want to launch a direct attack on the high court's 1974 landmark *Roe v. Wade* decision guaranteeing a woman's right to abortion.

The national groups, including the National Right to Life Campaign, oppose such a move because they say the high court has not yet shown it is willing to scrap *Roe v. Wade*. "I think that it is better policy to be passing legislation that can be enforced and that can protect women and minors from the physical and psychological risks of abortion," said Clarke Forsythe, legal director of anti-abortion activists Americans United for Life.

While state politicians typically avoid the issue in an election year, experts on both sides predict that 2008 will be an exception.

In Missouri, a tight race between abortion opponent Gov. Matt Blunt (R) and abortion rights advocate Attorney General Jay Nixon (D) will focus on the issue as voters decide whether to enact one of the strictest abortion laws in the country. A measure expected on the 2008 ballot would require abortion doctors to investigate their patient's backgrounds to certify they were not coerced into the procedure. Abortion rights activists say most women would not meet the strict screening criteria. Additionally, a deluge of bills to limit abortion are expected in Missouri, Mississippi, Louisiana, South Dakota and Utah, according to the Center for Reproductive Rights and other national groups.

The Supreme Court's partial-birth abortion decision in *Gonzalez v. Carhart* came too late in the year for most state legislatures to respond, said Elizabeth Nash of the Guttmacher Institute, an abortion-rights group. "When lawmakers come back in 2008, we expect the floodgates to open," she said.

Employing the successful, decades-old approach of chipping away at abortion rights, foes plan to push a variety of measures, including new types of counseling, requirements that doctors tell patients about fetal pain and show them sonograms, longer waiting periods, greater parental involvement and stricter regulations for abortion clinics, said Denise Burke, state legal expert with Americans United for Life.

Grassroots groups in Colorado, Georgia, Michigan, Mississippi and Oregon were collecting signatures to try to get measures on the ballot that would give legal protection to fertilized eggs. Such measures would make abortion illegal, spurring a challenge of *Roe v. Wade*.

Abortion-rights advocates say they also expect some states to consider South Dakota-style legislative bans. In 2006, Gov. Mike Rounds (R) signed a law banning all abortions except when a woman's life was at risk. But South Dakota voters overturned the measure in the 2006 elections.

Three months after the high court approved the federal ban on partial-birth abortion, Louisiana became the first state to enact an identical state ban, which lawmakers said was necessary to ensure the federal prohibition could be enforced at the local level. Activists on both sides of the issue expect other states to pass similar laws this year.

Other restrictions enacted in 2007 that experts expect to see more of this year:

- So-called trigger laws in Mississippi, Illinois, Louisiana, Kentucky, North Dakota and South Dakota that would ban all abortions if *Roe v. Wade* were ever overturned.
- Laws in Georgia, Idaho, Louisiana and Mississippi requiring a doctor to offer to show a woman a sonogram of the fetus before performing an abortion.
- A statute in Arizona requiring a woman to be counseled to determine whether she has been coerced into getting an abortion.
- A strict parental-involvement law in Oklahoma requiring a parent to consent to his or her daughter's abortion and show a photo identification.

— *Christine Vestal*



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