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This Month in the NEWS

Get Election Information
You know about the presidential election and the races in your state. But do you know what’s going on in other states? What seats are up in a neighboring state’s House of Representatives or Senate? Who’s running for the offices? What’s the political makeup of the state Houses and Senates?

You can find all those answers at The Council of State Governments’ new Web service that provides comprehensive state-by-state coverage of primary, special and general elections across the country. Visit www.csg.org and click on the 2008 election coverage link.

C SG and You
The Council of State Governments is celebrating its 75th anniversary this year. You can find out more about CSG’s focus on civil rights during the 1960s in the article on Page 6. And you can share your thoughts about the organization by visiting the CSG blog, Capitol Comments, and clicking on the Talk Back link.

State Immigration Laws in the Courts
Check The Council of State Governments’ blog, Capitol Comments, for a special Web extra on Oklahoma Rep. Randy Terrill’s plans for a follow-up bill on immigration, building on the controversial House Bill 1804. You’ll also find resources to get more information about the various laws discussed in the article.

State Broadband Policies
States are working to increase broadband access to their residents. Read more about what some states are doing on Page 19, and get tips on state broadband policies at Capitol Comments.

Interbranch relations
The three branches of state government must cooperate on a number of issues. CSG will hold an Interbranch Summit of the States in Bismarck, N.D., June 22–24. State News will feature the topic of interbranch relations in an upcoming article. Share your thoughts at Capitol Comments.

Water Woes
Lingering droughts and decreasing water supplies have created problems for many states. An upcoming State News article will focus on some of those problems, and look at ways states are handling the situation.

capitol trivia

Question:
What state saw the largest growth, percentage-wise, in total inmate population from 2004 to 2005?

To find the answer, log onto CSG’s Web site at www.csg.org!
Civil rights issues first made the pages of *State Government News*—the precursor to today’s monthly magazine *State News*—in 1963, nearly 10 years after the landmark U.S. Supreme Court case, Brown v. Board of Education in 1954 that helped bring down the “separate but equal” policy of segregation.

In June 1963, *State Government News*’ Washington report detailed a 1963 case that upheld a Colorado anti-discrimination law. In the court case, Colorado Anti-Discrimination Commission v. Continental Air Lines Inc., the court ruled that the state anti-discrimination law must be applied to the hiring of personnel by an interstate air carrier, according to CSG’s publication.

“Such a statute is not an undue burden on interstate commerce, nor has Congress pre-empted the field so as to prevent state legislatures requiring employers to desist from considering race, color or national origin in their personnel policies.” —June 1963 article in State Government News

Civil rights issues first made the pages of *State Government News*—the precursor to today’s monthly magazine *State News*—in 1963, nearly 10 years after the landmark U.S. Supreme Court case, Brown v. Board of Education in 1954 that helped bring down the “separate but equal” policy of segregation.

In 1964, it wasn’t just hiring practices that were under speculation—segregation in hospitals was called into question. Noteworthy to that month’s *State Government News* was the issue of Hill-Burton nondiscrimination. The Hill-Burton grants were allocated to the states to build hospitals. In 1964, under new federal regulations, state agencies that received money from the Hill-Burton federal grants could not legally practice segregation in the hospitals built using the federal funds, according to a July 1964 article in the CSG news publication.

According to the same article in *State Government News*, before construction on a hospital under the grant program was approved, all portions or services of the hospitals or research facilities had to be made available to patients and practitioners without discrimination on the basis of race. That federal law came after the Simkins v. Moses H. Cone Memorial Hospital case in 1963 in which a federal court struck down the “separate but equal” portion of the Public Health Services Act. With that case, states could no longer deny patients and hospital staff any privileges on the basis of race in hospitals constructed with federal aid.

In other news, the Nevada Supreme Court upheld the constitutionality of the
State Commission on Equal Rights of Citizens in February 1965, according to State Government News. In that case, the state's Supreme Court reversed a state district court ruling that deemed the commission unconstitutional.

Later in May 1967, the U.S. Supreme Court upheld a California Supreme Court decision on a state proposition that barred the state from preventing a property owner from renting or selling or not renting or not selling "to such person or persons as he, in his absolute discretion, chooses," according to a June 1967 State Government News article. The California Supreme Court case, affirmed by the U.S. Supreme Court, said the proposition would involve the state in "private racial discriminations to an unconstitutional degree," according to the article.

State Government News also covered other significant court cases in its June 1968 issue. In May 1968, the state's Supreme Court upheld an Illinois desegregation law passed in 1963 requiring school boards to draw district lines in a way that counteracted segregation in the schools, according to a June 1968 article in State Government News. According to that article, the law aimed to prevent the "segregation and elimination of separation of children in public schools for reasons of color, race or nationality."

Also in Illinois, the state's Supreme Court upheld the state's power to bar real estate brokers and agents from discriminating on the basis of race or creed in the sale or rental of properties in September 1968, according to an article in the October issue of State Government News that year. The case also drew attention to the state licensing board's power—implemented in 1966—to revoke the license of any broker or agent who was found discriminating.

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CSG Makes Move to Horse Country

In May 1969, after a decade of state involvement in the civil rights movement and after 32 years in Chicago, CSG Headquarters moved from its offices at 1313 East Sixteenth Street in the city to Iron Works Pike in Lexington, Ky.—the heart of horse country. In the April 1969 issue of State Government News, the top headline article detailed the new headquarters.

"The headquarters building is located on 40 acres of land near the University of Kentucky. It was constructed by the Commonwealth of Kentucky to Council specifications and will provide more ample space for the Council’s expanding programs, especially in the fields of state executive and legislative staff development and training," according to the article.

The move made the news again in June 1969 under the splashy boldface headline in State Government News, "In the Top of the News," when CSG officially dedicated the new headquarters building on June 9, 1969.

The new CSG headquarters "will provide more ample space for the Council’s expanding programs, especially in the fields of state executive and legislative staff development and training."

— May 1969 article in State Government News
The U.S. Department of Labor’s Office of Disability Employment Policy released the new “High School/High Tech Program Guide,” touted as a way states can offer a comprehensive transition program promoting careers in science, technology, engineering and math for youth with disabilities. The guide was produced by the National Collaborative on Workforce and Disability for Youth.

The guide includes information on effective practices developed as the program evolved from one administered at the local level to a state-administered national program model based on what the national organization calls “Guideposts to Success.” These guideposts are specific solutions such as school and work-based learning experiences, youth development and leadership, and family involvement and supports, which have been identified through research by the National Collaborative on Workforce and Disability for Youth as key educational and career development interventions that can make a positive difference in the lives of all youth, including those with disabilities.

The guide also includes information and materials used by the Department of Labor’s High School, High Tech programs throughout the country to offer students with disabilities opportunities to explore careers in science, mathematics and technology and gain the type of education needed to succeed in today’s technology-driven workplace.

The guide can serve as a primary resource for state coordinators and site operators for established and developing programs. The guide’s primary objectives are to promote program improvement and expansion for existing programs; to help states establish an infrastructure to support such programs; and to encourage and assist in the development of new programs.

To learn more about the High School/High Tech Program Guide, visit [http://www.dol.gov/odep/pubs/publicat.htm#pubs](http://www.dol.gov/odep/pubs/publicat.htm#pubs) and click on the publication link.

The Council of State Governments’ Justice Center in February released an updated edition of “Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court”, in an effort to provide resources to communities starting mental health courts.

“As communities across the country start mental health courts, they must have resources to help focus their efforts and ensure that their programs are based on collaboration among the criminal justice, mental health, substance abuse and related systems,” said Assemblywoman Sheila Leslie, the specialty courts coordinator of Nevada’s Second Judicial District and a Justice Center board member.

The updated publication is the result of many rounds of rigorous review and describes the 10 important program elements jurisdictions should consider when planning, implementing or enhancing a mental health court.

“The essential elements, which reflect the consensus of researchers and practitioners, should be of great use to jurisdictions as they work to improve outcomes for people with mental illnesses in the criminal justice system,” Leslie said.

U.S. mental health courts have grown steadily from four in 1997 to more than 175 today, according to CSG Justice Center estimates. Yet due to the diversity of program models and their relative newness, there have been no nationally accepted criteria for effective mental health courts. The latest edition of “The Essential Elements of a Mental Health Court” details the aspects of mental health court design and implementation that can be consistently found in successful courts.

The Justice Center’s work on the publication began as part of the Bureau of Justice Assistance’s Mental Health Court Grant Program and that work has continued over the past few years to make ongoing improvements in mental health courts. The current edition incorporates feedback from professionals and stakeholders at all levels of the criminal justice and mental health systems, including an online public forum and a series of experts’ meetings.

“The Essential Elements of a Mental Health Court” and related resources are available for download at [http://consensus-project.org/mhcp/info/mhresources/pubs/](http://consensus-project.org/mhcp/info/mhresources/pubs/).
States Fight Pollution

North Carolina's lawsuit against the Tennessee Valley Authority over air pollution from the utility's coal-fired plants will move forward following a federal court judge's ruling in late February. The judge denied the utility's motion for a summary judgment, which sought to derail the lawsuit.

The trial is set to begin July 14 in U.S. District Court in Asheville, N.C., according to court records filed Feb. 29.

In the lawsuit—filed in January 2006—North Carolina claims the pollutants that blow across the mountains from the Tennessee Valley Authority's 11 plants in Alabama, Kentucky and Tennessee have negatively affected the health of thousands of North Carolina residents.

Nineteen states—including New York, New Jersey, California, Ohio and South Carolina—and Washington, D.C., joined North Carolina in opposing the Tennessee Valley Authority by filing friend of the court briefs in support of the state's case, according to court records. The American Lung Association also sided with North Carolina, The News & Observer of Raleigh reports.

Reports by an environmental health expert filed with North Carolina's lawsuit suggest residents of Southeastern and Midwestern states would see significant health benefits from cuts in the Tennessee Valley Authority's pollution, according to The News & Observer. Cuts in the emissions would mean 1,400 fewer premature deaths a year and 2,300 fewer missed school days from asthma and other ailments, according to the expert's reports.

North Carolina and five other states—Alabama, Georgia, Kentucky, Ohio and Tennessee—would realize the greatest benefits to cutting the pollution, according to The News & Observer.

"TVA's pollution is making North Carolinians sick, damaging our economy and harming our environment," North Carolina Attorney General Roy Cooper said at a news conference at the Charlotte-Mecklenburg Health Department in 2006. "It must stop."

The Tennessee Valley Authority claims it is complying with federal air pollution laws and said it spent nearly $5 billion over the last 30 years to reduce emissions, including $1.2 billion on pollution controls at three plants in east Tennessee, according to The News & Observer.

Some States Welcome Stem Cell Research

Seven states are taking the lead in the latest developments in the field of stem cell research—a field that's suffered from mostly limited funding by the federal government. California, Connecticut, Illinois, Maryland, New Jersey, New York and Wisconsin are leading the world in financial and political support for the often controversial stem cell research, Stateline.org reports.

According to the National Institutes of Health, stem cells can develop into different cell types and because of that "may offer a renewable source of replacement cells to treat diseases, conditions and disabilities," the organization's Web site stated.

Opponents of stem cell research argue that if the process results in the destruction of human embryos, it's immoral. President Bush said in his Jan. 28 State of the Union address that new stem cell research where ordinary skin cells are used instead of human embryos may take the ongoing debate into a less divisive direction.

But some states aren't waiting for the federal government to take the lead.

In addition to the seven states supporting stem cell research, Iowa, Massachusetts and Missouri have made the research legal but haven't offered state funding as of March.

That could change. The Massachusetts House of Representatives on Feb. 28 approved a $1 billion life sciences bill that includes funding for stem cell research.

The Massachusetts House defeated one Republican amendment that would have forbidden any of the bill's expenditures from supporting embryonic stem-cell research in which the embryos were created solely for the purpose of study, according to The Providence Journal.

If the Massachusetts Senate approves its version of the bill, a conference committee will reconcile both the House and Senate versions before both chambers enact a final bill and send it to Gov. Deval Patrick, according to the Boston Business Journal in March.

Meanwhile, New York's Empire State Stem Cell Trust distributed the first round of grants totaling $14.5 million to 25 of the state's universities and nonprofits in January, according to the governor's office. The grants ranging from $100,000 to $1 million will support stem cell research, infrastructure and training.

California approved funding for stem cell research in 2004 but funding was initially stalled because of legal proceedings in which lawyers representing opponents of embryonic stem cell research argued that the program should be halted and that it violated the state's constitution. The legal battle ended in May 2007 in favor of the California Institute for Regenerative Medicine.

In June 2007, the Institute approved grants of $50 million for stem cell research for 17 academic and nonprofit institutions, according to Stateline.org.
Election Central
CSG Unveils Comprehensive State Election Information

Visit The Council of State Governments on the Web for comprehensive state-by-state coverage of 2008 primary, special and general election results. CSG is the only place with complete state election coverage for all three branches of state government in addition to presidential and congressional results. Use the site to track state elections calendars, the positions that are up for grabs, legislative breakdowns and headlines from local news sources. Visit the Web site at http://www.csg.org/pubs/Election2008/2008ElectionResultsByState.aspx, or visit www.csg.org and click on the 2008 election coverage link.

2008 State Primary Elections*

**February**
- Illinois..................................................Feb. 5, 2008
- Maryland.............................................Feb. 12, 2008

**March**
- Ohio..................................................March 4, 2008
- Texas..................................................March 4, 2008
- Puerto Rico........................................March 9, 2008
- Mississippi........................................March 11, 2008

**April**
- Pennsylvania....................................April 22, 2008

**May**
- Indiana..............................................May 6, 2008
- North Carolina..................................May 6, 2008
- Nebraska.........................................May 13, 2008
- West Virginia.....................................May 13, 2008
- Arkansas..........................................May 20, 2008
- Kentucky..........................................May 20, 2008
- Oregon..............................................May 20, 2008
- Idaho..................................................May 27, 2008

**June**
- Alabama............................................June 3, 2008
- California.........................................June 3, 2008
- Iowa....................................................June 3, 2008
- Montana.............................................June 3, 2008
- New Jersey........................................June 3, 2008
- New Mexico.......................................June 3, 2008
- South Dakota.....................................June 3, 2008
- Maine...............................................June 10, 2008
- North Dakota.....................................June 10, 2008
- South Carolina.................................June 10, 2008
- Virginia.............................................June 10, 2008
- Utah...................................................June 24, 2008

**July**
- Georgia...............................................July 15, 2008
- Oklahoma..........................................July 29, 2008

**August**
- Kansas..............................................Aug. 5, 2008
- Missouri..........................................Aug. 5, 2008
- Tennessee.........................................Aug. 7, 2008
- Colorado..........................................Aug. 12, 2008
- Connecticut.....................................Aug. 12, 2008
- Nevada.............................................Aug. 12, 2008
- Wyoming..........................................Aug. 19, 2008
- Florida..............................................Aug. 26, 2008
- Alaska..............................................Aug. 26, 2008

**September**
- Arizona............................................Sept. 2, 2008
- Guam...............................................Sept. 6, 2008
- Louisiana..........................................Sept. 6, 2008
- Delaware..........................................Sept. 9, 2008
- District of Columbia..........................Sept. 9, 2008
- Minnesota........................................Sept. 9, 2008
- New Hampshire...............................Sept. 9, 2008
- New York..........................................Sept. 9, 2008
- Rhode Island.....................................Sept. 9, 2008
- Vermont............................................Sept. 9, 2008
- Wisconsin........................................Sept. 9, 2008
- Virgin Islands....................................Sept. 13, 2008
- Massachusetts.................................Sept. 16, 2008
- Hawaii.............................................Sept. 20, 2008

*There were no primaries for state offices in January.*
Sen. Hillary Clinton’s candidacy for president is bringing new attention to women in government this year. Women are making strides in state governments, focusing particularly on the issues of health care and education, but the number of female legislators has stagnated in the last decade.
The spark started with a small group of women state legislators. They were interested in preventing cervical cancer and increasing screening for it.

But what that spark ignited was something much bigger—something that the women spread to state legislatures around the country.

Because of that interest, the Washington, D.C.-based nonprofit Women in Government began hosting conferences on preventing cervical cancer and exploring its link to human papillomavirus—known as HPV. In spring 2003, a task force met on the issue, dedicated to tackling it head on in state government.

Then in January 2004, the effort officially took off with the organization’s Challenge to Eliminate Cervical Cancer Campaign. By the end of the year, women introduced or helped pass legislation on the issue in 15 states.

Most women didn’t even know what HPV was, said Kathryn Guccione, associate director of public policy and public relations for Women in Government.

So in August 2004, the nonprofit established a policy resource center with a Web site, background information and access to sample pieces of legislation—all in the name of helping women in state government advance the cause of ending cervical cancer.

And the spark ignited a movement.

Today, all 50 states have introduced legislation or resolutions aimed at cervical cancer prevention, funding for screening, statewide task forces or study commissions, Guccione said.

**Issues Come Naturally**

In fact, women state legislators naturally gravitate to health care and education issues, according to Women in Government. The nonprofit organization reaches an audience of roughly 1,700 women state legislators, and polls a smaller group of members yearly on top issues, according to Guccione. Health care and education are always big issues, she said.

“Women as natural caregivers and as mothers, in terms of caring for their families, are interested in health care,” Guccione said. “Women are the primary caregivers—they’re making the majority of the health care decisions in their households.”

Women naturally were interested in the cervical cancer campaign because it’s a women’s health issue, said Sen. Connie Lawson of Indiana.

Back in 2002, Lawson attended her first meeting on the cervical cancer effort. The HPV vaccine wasn’t even in existence at the time.

“We were concerned about the medical advice that doctors were giving,” Lawson said of those days. “We were concerned about whether or not doctors were telling women that there was a new HPV test available.”

Lawson formed a task force in Indiana on the issue without legislation in 2003. Then in January 2007, she filed legislation that would require girls entering the sixth grade to be vaccinated for HPV.

Although the attacks on the bill and vaccine requirement seemed to come from every direction, Lawson pushed Senate Bill 327 out of Indiana’s Senate with the support of every female senator behind it.

The final version of the bill eventually passed without the vaccine requirement. It does require all public schools in the state to send home a pamphlet to parents prepared by the state health department, using the latest scientific information about cervical cancer and HPV, Lawson said.

Rep. Karen Morgan of Utah followed a similar path. First, Morgan sponsored a cervical cancer and HPV awareness resolution in 2004. Then in 2007, she tried to get $1 million from the state to fund a public awareness campaign and also to aid in vaccinations for underinsured women. Although she didn’t succeed in getting money from the state, her dream was funded by a private donor.

The $1 million private donation includes funds for HPV and cervical cancer awareness efforts as well as for vaccines for underinsured women.

“It’s been a great success,” Morgan said.

Sen. Julie Denton of Kentucky received an award from the American Advocates for Health in January for her work on health issues. The award recognized a diabetes bill, which passed nearly three years ago, mandating all public and private schools to have someone on site who can administer special shots to prevent children with diabetes from going into diabetic shock.

For the bill’s success, Denton received the Legacy in Public Health Award from the Lexington, Ky.-based not-for-profit association formed to recognize health care contributions and achievements associated with chronic disease.

“I think women—and I think states have proven this—make most of the health care decisions in their families,” Denton said. “It’s a natural extension with public policy.”

In fact, all the women in Kentucky’s general assembly received the Health Achievement Award from the American Advocates for Health for their work in diabetes policymaking.

Education is also a natural public policy area for women. Of the eight female governors this year, five have major education priorities and initiatives.
Making History

If Beverly Perdue wins the North Carolina governor’s race, she’ll be the state’s first female governor.

Perdue, currently the lieutenant governor, took a unique road to politics. She taught school for three years and, when her husband was serving in the military in Vietnam, she got into aging issues and caring for seniors. From there, she began a lifelong passion for gerontology.

When she moved to New Bern, N.C., in the 1970s, she ran a national program at a local hospital dealing with seniors’ health care issues. Then she had an epiphany.

“Well why don’t I run for office instead of sitting here complaining about it,” she said of the moment of realization back then. “Nobody thought a woman could win then,” she said. And when she did, “it was a big deal.”

Prior to her election as lieutenant governor, Perdue served in the North Carolina House of Representatives for two terms and the North Carolina Senate for five terms.

But politics to her has never been about being in the minority—it’s about hard work.

Today Perdue still focuses hard work on aging issues as well other health care, education, environment and military issues.

“I’ve morphed over into energy and environment issues,” she said. She was also involved in the fight to save her state’s military bases during the military base realignment and has maintained an involvement in military issues.

In-Tune
Kentucky Sen. Julie Denton

Kentucky Sen. Julie Denton nearly had her third child at the Capitol.

Denton’s water broke when she was in the Kentucky Senate. She was two weeks into the session and her third child was two and a half weeks early.

“I got into the car and drove straight to the hospital,” she said. And she barely made it. The trip from the Capitol in Frankfort to the hospital in Louisville usually takes about an hour.

Gathering Support
Indiana Sen. Connie Lawson

When Indiana Sen. Connie Lawson filed a bill in 2007 that sought to mandate the HPV vaccine for all girls entering sixth grade, she had no idea she’d find herself in the middle of a heated debate.

The 12-year legislator simply wanted to eliminate cervical cancer in her state.

With her passion, she was able to push the bill—Senate Bill 327—through Indiana’s Senate with the support of every female state senator.

In the end, the bill was changed to require public schools to give out educational pamphlets on HPV and cervical cancer to parents, but did not require the vaccination.

“In the end we were successful,” Lawson said.

And although Lawson is one of only 28 women state legislators in Indiana, she doesn’t feel like a minority. “There’s a minority of people who are interested in certain issues,” she said. “Women have a better understanding and empathy for families and what families need to go through in order to get along in the world.”

Answering the call
Utah Rep. Karen Morgan

Before Rep. Karen Morgan served five terms in Utah’s House, she was recruited to run for a seat in the state’s House by a state senator and a state representative.

She answered that call and is now the chair of the board of directors of the national Washington, D.C.-based educational and policy organization Women in Government.

In 2007, Morgan answered another call, this time to eliminate cervical cancer. She went back to her state and tried to get $1 million in state funding for a cervical cancer and HPV educational awareness campaign as well as to fund HPV vaccines for underinsured women.

The state did not fund her bill, but a private donor provided the $1 million for the educational campaign and the vaccines. The public awareness campaign began last August.
Women in State Government by the Numbers

1975  Ella Grasso of Connecticut was the first woman elected governor of any state in her own right in 1975.

49  To date, women have been elected to statewide executive offices in 49 states. In Maine, the only statewide elected executive is the governor and a woman has never held the position.

37.8%  The highest percentage of women state legislators in the country is the 37.8 percent in Vermont. The top five states with the highest percentage of women state legislators this year (in order) are: Vermont, New Hampshire, Washington, Colorado and Minnesota.

10  There are 10 female lieutenant governors this year.

8.8%  The lowest percentage of women state legislators in the country is the 8.8 percent in South Carolina. The states with the lowest percentage of women state legislators this year (in order) are: South Carolina, Oklahoma, Alabama, Kentucky and West Virginia.

8  There are eight female governors this year.

2 to 1  Democrat women serving in state legislatures in 2008 outnumber their Republican counterparts by more than 2 to 1.

In Arizona, one of Gov. Janet Napolitano’s main priorities is education. Among her education achievements, Napolitano has secured raises in teacher pay and also created a new grade level by offering voluntary full-day kindergarten across the state, according to the Arizona governor’s office.

In her State of the State speech earlier this year, Napolitano announced her intention to raise the high school dropout age from 16 to 18 years old. She also wants to give students—starting with this year’s eighth graders—who agree to stay out of trouble and maintain a B average throughout high school free tuition at any of the state’s universities or community colleges, according to the speech.

In Delaware, Gov. Ruth Ann Minner wants to expand one of her biggest education priorities by growing the state’s Student Excellence Equals Degree—or SEED—scholarship program, which offers free college tuition to students maintaining at least a 2.5 grade point average and who stay out of trouble.

Minner calls it one of the most important accomplishments of her career in public service, according to the SEED program’s Web site.

But beyond those top issues of health care and education, women state legislators are taking an interest in newer issues as well. Every year Women in Government surveys its members, and this year energy efficiency and environmentalism seems to be floating to the surface, Guccione said.

With new interest in topics like energy efficiency, sustainability and environmentalism, “we’re going to see a shift in some of the trends,” Guccione said.

Women by the Numbers

And as far as trends, the number of women getting involved in state government speaks volumes. Though the percentage of women state legislators certainly hasn’t decreased over the years—it hasn’t really been increasing lately either. (Please see related graph.)

There are more women in state government than ever before, but since the late 1990s, the number of women state legislators has virtually stagnated—fluctuating only in minuscule increments of less than 1 percent, according to the Center for American Women in Politics at Rutgers University in New Jersey.

“This feels like we’ve been stuck since 1999,” said Debbie Walsh, executive director of the center.

In fact, from 1999 to 2006 women state legislators made up 22 percent of all state legislators in the country, according to the center. That number barely changed during those years—increasing and decreasing by only tenths of a percent, the center reports.

Only last year did the percentage of women legislators in the country increase to more than 22 percent, growing to just 23.5 percent. This year, the percentage of women state legislators is virtually holding steady, according to the center.

Walsh offers several reasons for the stagnation in the percentage of female state legislators. First, term limits have hurt women, she said.

For example, when term limits kicked in during the 1990s in Michigan, the state lost more than half the women in office, according to Walsh.

Since 1993, state senators are limited to two terms of four years each, and state representatives are limited to three terms of two years each.

“If you look at states with term limits, we’ve lost women in those states. Women benefited in the past from incumbency,” she said.

“There’s not a bench of women coming in.”

—Mikel Chavers is associate editor of State News magazine.
Back in the 1980s, the percentage of women state legislators in the country would increase by one or two points every election cycle. But a stagnation of growth started in 1999.

That's according to Debbie Walsh, executive director of the Center for American Women and Politics at Rutgers University in New Jersey.

There are various forces at work here. With term limits, lack of recruitment efforts for women and just the challenges of a tough job with often little pay, the percentage of female state legislators will continue to stagnate, Walsh said.

“All of those things combined make for not a rosy future,” Walsh said.

In states like Michigan that have instituted term limits, women are not being replaced by other women, Walsh said. Women benefit from incumbency, she said. According to research from the center, women incumbents win about 95 percent of the time—“you could count on incumbents winning,” Walsh said.

More than that, though, there’s a problem of simple recruitment.

Walsh sums it up like this: “Women are much more likely than their male colleagues to need to be asked to be in office.”

According to the Center for American Women and Politics, women are less likely than men to see themselves as qualified and less likely to be asked by their parties to run for office. Some states are trying to address that problem. New Jersey, for example, began a program called Ready to Run, a one-day bipartisan training program designed to recruit women state legislators and help them get into office.

In 2004, with its low percentage of female legislators, New Jersey ranked among the lowest in the nation for the number of female legislators. But the 10-year-old program seemed to involve more and more women in state government over time. In 2005, New Jersey was 43rd in the nation for the percentage of women legislators—today the work has paid off and it’s 15th in the nation.

Walsh attributes that improvement to the recruitment efforts of Ready to Run, where 70 percent of the graduates of the program have won office, she said.

“Women kind of need that push,” she said.

The recruitment program—held at the center—is now branching out to other states, including Iowa and Oklahoma.

For the majority of state legislative seats, however, the job—and pay—is not often full-time, Walsh said. And women are more likely to be the full-time caregiver at home, making it a challenge to serve in state legislatures. Women tend to wait until their families are older, Walsh said, and that adds to the leveling off of women in state government.

And even at a time when Sen. Hillary Clinton is a viable Democratic candidate for president, although inspiring for many women, Walsh believes the media’s treatment of her may be discouraging to a lot of women.

Citing the media’s treatment of Clinton as an example, Walsh does not believe America is in a period of “post-gender, post-race politics,” and “there really is this sort of resistance to it,” she said.

But even in the current political climate, women can be seen as a welcome change, Walsh said. In New Jersey, four recent indictments of state legislators resulted in four open seats. All four were filled by women in the last cycle, she said.

“When there’s corruption in government, it’s interesting, women look like change,” Walsh said.

— Mikel Chavers is associate editor of State News magazine.
Phillip Mueller doesn’t have to look far for a reason states should fund quality pre-kindergarten programs. He sees it regularly in the faces of his five grandchildren—three of them are preschool age.

“It just seems to me that, as I’ve watched these young people develop and grow … they’re like little sponges,” said Mueller. “Early childhood experts will be the first to tell you that’s the age where they can learn and pick up so much.”

So Mueller, a North Dakota state representative, last year proposed the state fund a voluntary preschool program. The bill passed the House but failed in the Senate, but Mueller said the legislature did take a good first step by placing in state law language that will pave the way for future public preschool offerings in his state.

Of officials in North Dakota, and the nine other states without public-funded preschool programs, don’t have to look far for a model. Forty states provide public preschool funding at some level, and seven of those states have or are phasing in pre-K-for-all programs.

“Folks across the country have found out how to complement and supplement Head Start,” Mueller said of the federal preschool program targeted to economically disadvantaged children. “I don’t envision any kind of a stand-alone program without community involvement.”

That vision is similar to the one in Oklahoma, the first state to fully fund universal preschool for all 4-year-olds, not just those from poor families.

Oklahoma Leads in Preschool

Oklahoma began its universal preschool through a pilot grant program in 1980. The program’s success led in 1998 to the establishment of a universal preschool program funded through the state public school formula. Local school districts get money for preschool using the same funding formula as the state uses to send money to local districts for other grades.

Ramona Paul, assistant state superintendent, developed the pilot program that began by serving every interested 4-year-old in 10 Oklahoma school districts. The program was expanded statewide in 1990, but targeted only those students who met the federal Head Start income eligibility guidelines. It was opened in 1998 to all 4-year-olds.

That’s a key to the success of the program, Paul said, because children learn from each other. “If you put a group of people together that have a deficit—you’re poor, you’re in a minority … when you look at all those categories, why would you take a group and say you’re all alike with the same deficit and we expect you to get better,” she said.

Beyond that, Paul believes having a certified teacher in the 4-year-old classroom is a key to providing a high-quality preschool program.

“We like having it through the public schools because of the authority public schools have for the standards,” she said. “Public schools have the highest standards that we have in this country (for teacher certification).” 

Requiring the same standards as for any other grade ensures stability and quality at the preschool level, Paul said.

Here’s how it works in Oklahoma. The state schools budget distributes funding for preschool using the same public school financing formula as for other grades. Oklahoma doesn’t require 4-year-olds to attend preschool, but Paul said about 72 percent of eligible children take advantage of the state program. The money is allocated to school districts, which can offer classes

“Preschool education really is a long-term investment in economic growth, the quality of their work force and in holding down future state government costs for criminal justice systems, education system, even health care costs.”

—Steven Barnett, director National Institute for Early Education Research
in the schools, through partnerships with child care centers in the community or a combination of both. The teacher is an employee of the school district, regardless of where the preschool class is located, according to Paul.

By allowing the flexibility to offer preschool in this way, the schools can not only save transportation costs, they can also help elevate the standards in the child care centers. The preschool teacher paid by the public school district must meet state quality standards; that teacher can serve as a model for other teachers in that child care center, which improves quality throughout the center, said Paul.

“You have a huge ripple effect,” she said. “This is a much faster method to bring quality.”

Making the Grade

Quality is important in not only bringing educational success for the preschool students, but also for selling the program to taxpayers and legislators, who must find funding in what can be tight budget years.

“Given that we have a lot of research about pre-K, if states want the outcomes that are suggested can come from high quality pre-K, you can’t do it on the cheap,” said Holly Higgins, media manager for Pre-K Now, a Washington, D.C.-based public education and advocacy group based in Washington, D.C.

Preschool advocates recognize the funding challenges. But Steven Barnett, director of the National Institute for Early Education Research at Rutgers University, said preschool programs should be seen as an investment, not an expense.

“Preschool education really is a long-term investment in economic growth, the quality of their work force and in holding down future state government costs for criminal justice systems, education system, even health care costs,” Barnett said. “I think when you look at it in that perspective, preschool education is one of the things that ought to have a steady place in state budgets rather than waxing and waning from a good year to a bad year.”

For the most part, state officials haven’t retreated from that funding, even as budgets grow tight. Thirty-seven states increased funding for new or existing programs in fiscal year 2008, according to Pre-K Now. Only Arizona and Missouri maintained the same level of funding, while Florida decreased funding for early childhood education. Ten states, in-

States Lack Programs

Ten states—Hawaii, Idaho, Indiana, Mississippi, Montana, New Hampshire, North Dakota, Rhode Island, Utah and Wyoming—provide no state funding for pre-kindergarten, according to Pre-K Now, a Washington, D.C.-based public education and advocacy organization.

Hawaii’s Early Learning Educational Task Force in December submitted a 10-year plan to establish a statewide early education system starting with a program for 4-year-olds.

Lawmakers in Indiana and Mississippi last year passed bills related to early childhood education, but included no appropriations for the programs.

New Hampshire approved an increase in state funding for federal Head Start programs for low-income children to support quality enhancements, but does not fund additional students.

Benchmarks for Quality Preschool

The National Institute for Early Education Research at Rutgers University in New Jersey developed 10 benchmarks for quality preschool programs. They are:

- Comprehensive early learning standards;
- Teachers with at least a bachelor’s degree;
- Teacher training specializing in pre-K;
- At least 15 hours of teacher in-service;
- Assistant teachers with at least a Child Development Associates credential or equivalent;
- Maximum class size of 20 or fewer students;
- Staff-child ratio of at least 1:10 or better;
- Screening/referral of vision, hearing and health and at least one support service;
- At least one meal per day; and
- Monitoring of classes through site visits.

Only Alabama and North Carolina met all quality benchmarks for 2006, the latest information available. Six states—public programs in Arkansas, Illinois, Oklahoma and Tennessee, as well as nonpublic programs in Louisiana and New Jersey—met nine of the 10 benchmarks.

“This is an investment states can’t afford not to make.”

— Kathy Patterson, federal policy director
Pre-K Now
“Given that we have a lot of research about pre-K, if states want the outcomes that are suggested can come from high quality pre-K, you can’t do it on the cheap.”

—Holly Higgins, media manager Pre-K Now

said Kathy Patterson, federal policy director for Pre-K Now. “This is an investment states can’t afford not to make.”

Start Quality, Then Grow

Preschool advocates point out, though, that simply making a financial investment isn’t enough.

“We need to remind ourselves that it’s not about throwing money at the problem,” said Stephanie Rubin, Pre-K Now state policy director. “Without the infrastructure and the training and the systems in place, programs won’t succeed, she said.

Rubin said the debate in state capitals is no longer whether the state should invest in preschool. “The debate is how do we roll this out gradually or how do we expand the program,” she said. “We’ve moved away from the focus of is this a good idea to how do we do it in a measured and appropriate way.”

Most advocates say if money is tight, states venturing into the preschool arena should start small, with quality. Rubin cites the example of Florida, where voters wanted a pre-K program for all eligible students. Legislators funded a statewide program, but included no quality assurances. “They serve a huge number of children, but their quality standards are minimal,” Barnett said of Florida. “Their plan is once you have all the kids to now improve the quality.”

On the flipside, Alabama started a small program and increased funding this year. The preschool program in Alabama is one of only two statewide programs to meet all of National Institute for Early Education Research’s 10 benchmarks for quality.

Barnett calls the benchmarks “preconditions for quality.” He said, “They’re not a guarantee of quality, but if you don’t have those you’re going to have a very difficult job providing a quality program.”

The two toughest benchmarks, according to Barnett, are the qualifications for staff and class size because those are the most expensive components of a quality program. Not only must the teacher be state-certified, an assistant preschool teacher would have to meet the same qualifications as an aide at a Title I public school.

“We’re really saying it’s got to be as high as you would require for kindergarten or first grade,” said Barnett. “If we need highly qualified teachers for 6-year-olds, we need a highly qualified teacher for 4-year-olds.”

Paul, of Oklahoma, endorses the quality approach. “I would never recommend anybody have anything but the very best standards up front,” she said.

If states have problems funding all children, Paul recommends starting with schools identified as a “needs improvement” school under federal assessment guidelines. That targets a school, she said, and helps all students in that school. The pilot program Paul wrote in 1980 was based on a per-unit, not a per-child, cost. That meant funding was based on how much it would cost to have a classroom.

“Depending on how much money you have, that’s how many units we do.”

Oklahoma’s model of tying preschool funding to the K-12 funding formula is gaining ground, according to a new report from Pre-K Now. In fiscal year 2008, 11 states—plus Washington, D.C.—allocated funds for pre-K through their public school systems, according to Pre-K Now. Other states use lottery funds or public-private partnerships to offer quality, affordable preschool, the report said.

“A lot of times,” said Higgins, “it’s improving what is there. It’s not starting from scratch.”

Tailor the Program

While there are many good models for quality preschool, Barnett said states should look to their own needs before settling on a program.

“The good program is tailored to what your state needs,” Barnett said.

That’s what Mueller hopes to do in North Dakota.

He serves on a subcommittee with other legislators and educators exploring what the state can do to provide pre-kindergarten. Mueller said North Dakota’s financial situation—with a robust farm economy and oil reserves in the western part of the state—may be better than other states. And the rural makeup of the state will require innovation in ensuring preschool is available in all areas, he said.

“Apparently it’s an important thing,” he said. “If we’re only one of 10 states that aren’t doing it, it’s time we did something similar to most of our fellow states across the country in terms of early childhood education. I’m cautiously optimistic that that’s what is going to happen in this next session.”

—Mary Branham Dusenberry is managing editor for State News magazine.
States are recognizing the importance of broadband expansion, and many are taking steps to guarantee access to all their residents. But many involved in the effort to expand broadband say the federal government also must get involved.

By Mary Branham Dusenberry
Volunteer firefighters in the rural community of Berry, Ky., found some much-needed firefighting training manuals on the Internet. But they couldn’t download them; their Internet connection was too slow. “We had to go to Georgetown to the coffee shop over there to do any downloads or research for the fire department,” firefighter/engineer Donald Adams Jr. said. That entailed a 35-minute trip one way to Georgetown, a small town 15 miles north of Lexington, Ky.

After a state partnership effort helped bring broadband to the small Harrison County community, the department can now download large files easily and has the capability to participate in live Web training classes.

“I believe it’s going to do some good,” Adams said. “I do know there are more people utilizing computers (now) because they just didn’t want to do anything with dial-up (before).”

The situation in Berry isn’t unique—many rural areas across the country face the same lack of broadband access. Some rural communities can’t get broadband even if residents can pay for it because of the cost to build the infrastructure in sparsely populated areas.

“This is equally or more critical to our economic competitiveness as railways, electricity and highways were in the past,” said Brian Mefford, chief executive officer of Connected Nation, a nonprofit organization that works to help states and communities make broadband available to more people.

“Our economy was shaped around the rail system as it developed. The places where the rail bypassed foundered until the highways came along.”

It’s the same way with broadband, he said.

“Communities that don’t have access (to broadband), but don’t continually invest to ensure they are served by the best technology, are going to be faced with the same challenges as people bypassed in the past.”

In Competition with the World

Communities today face competition from more than just neighboring states and communities—their competition is the world. And the changing economy demands high-speed connectedness.

“We’ve largely exited from an industrial manufacturing economy that was the pulse of our business activity in the 20th century,” said Derek Turner, research director for Free Press, a national nonpartisan organization based in Washington, D.C., working to reform the media. “We’ve entered into an era of digital economy, an era where geography doesn’t matter as much. You can conduct similar business activity anywhere in the world if you are connected at a high enough level.”

The problem is that’s not happening as quickly in the United States as it is in other developed countries. The U.S. ranks 16th in the world in broadband penetration, far behind the top three—Iceland, Korea and The Netherlands, according to the 2006 Free Press study, “Broadband Reality Check II.”

Part of the problem, said Robert Atkinson, president of the Washington, D.C.-based nonpartisan think tank Information Technology and Innovation Foundation, is that the U.S. does not have a national broadband policy. So states have stepped up to the plate.

“The problem with the states doing it alone is that they don’t have enough resources to do it,” he said. “This is a nationwide challenge. I do think there’s an important role for the states, but I think we need that federal leadership.”

In addition, federal policy should govern interstate commerce and infrastructure, Turner said. “Ultimately, you don’t want 50 disparate programs that have their own nuances,” said Turner.

Absent federal leadership, states are confronting the challenge of trying to get broadband Internet access to far reaches of the country, including the most rural areas.

“The states have to be in the game,” said Doug Robinson, executive director of the National Association of State Chief Information Officers. “They just can’t sit back and let the marketplace dictate and define what the future is going to do.”

But that involvement varies from state to state, Robinson said, and the debate continues about the role states should play in broadband initiatives. According to Free Press, state plans range from simply trying to identify areas with no access to broadband to developing a complete roadmap in an effort to become an “e-state.”

“The state role in broadband,” Atkinson said, “is becoming more about promotion and less about regulation.”

Governors have embraced that reality, and several have included broadband initiatives as goals in their State of the State addresses.

Mapping Broadband Access

Most broadband advocates agree that to get broadband to new areas, states must first discover where access isn’t available. That was a key component in the roots of Kentucky’s efforts.

“The first and most important step is identifying the gaps,” said Mefford. “That tells us where the work needs to be done.”

Mefford’s company started as ConnectKentucky, which began as a public-private partnership with state government to help support the research and strategic development for broadband in the state. The nonprofit expanded to a national effort after it received numerous requests for startup assistance from other states, Mefford said.

To develop the broadband inventory map, ConnectKentucky worked with telecommunications companies across the state to determine where the service existed. Kentucky’s map has information from 81 providers, Mefford said, but every state will have a different number and types of providers.

Inventory maps are crucial to expanding service, Mefford said, but many states don’t have them.
“Once the gaps are identified … we can begin working in those gap areas to determine what’s the best way to get broadband service there,” said Mefford.

He said it’s important to get community members on board to show providers they would have enough subscribers to generate a good return on investment by expanding service to the area.

“We’re generating that demand ahead of that investment,” he said.

Generating Demand

Turner of Free Press said the demand for broadband lately has been strong. The adoption rate for the technology has been much faster than the adoption rates of television, telephone and cable, he said.

Broadband was once considered a luxury, but no more, according to Robinson. “People are realizing now that broadband is a de facto necessity to conduct your daily business in some places,” he said.

Atkinson points out that “up until three years ago, there weren’t many people using broadband. Now that broadband has become more prevalent, people are aware of how critical it is.”

That was evident in ConnectKentucky’s early efforts. The nonprofit brought together companies from various sectors, representing health care, automotive manufacturing, telecommunications and technology, as well as state and local government officials.

“We had the public sector talking about policies along the lines of e-health and e-government, as well as distance learning and online education,” Mefford said. “We were talking about e-health, yet only half of our doctors had the ability to subscribe to broadband. Only a fraction was using broadband.”

That illustrated the need for a major effort in Kentucky.

New York officials helped feed the need for broadband by fully embracing the e-government concept. The state offers everything online from applications for services to webcasts of government meetings.

The state’s broadband initiative has several components, one of which is the build-out of broadband to serve every New Yorker, according to Melodie Mayberry-Stewart, New York’s chief information officer and director of the Office of Technology.

“Another component of the strategy is to increase the digital literacy level of underserved and rural communities that are the last to receive broadband access,” she said. “Our model is unique in that we also have a component to increase the use of e-government.”

The state also has instituted a $5 million grant program to help facilitate the expansion of a broadband network and provide universal broadband Internet services for underserved rural and urban areas, according to a fact sheet about the grant program. The program also looks for open access environments promoting competition and providing consumer choice, as well as efforts to increase digital literacy in unserved and underserved areas.

“Digital literacy is equally important to the infrastructure build-out,” Mayberry-Stewart said. Nonusers, she said, need to have the skills and understand why it’s important to learn to navigate the Internet.

Increased use is also a focus of California’s effort. The California Broadband Task Force in January released its final findings and recommendations after a yearlong study. The report, “The State of Connectivity: Building Innovation Through Broadband,” includes maps of current broadband availability and speed, recommendations to achieve universal access and increased use, and a timeline to meet those goals. Among the recommendations: Building a high-speed broadband infrastructure to serve all Californians; increasing the use and adoption of broadband and computer technology; and creating a statewide e-health network.

“Implementing these recommendations will create jobs, improve public health and safety and expand educational opportunities,” Dale E. Bonner, co-chair of the task force and secretary of the state’s Business, Transportation and Housing Agency, said in a press release announcing the report.

Bonner’s co-chair, Silver Lake managing director Charles Giancarlo, said the recommendations “provide a detailed roadmap for California and the rest of the country to maintain our economic competitiveness and technology...
leadership through increased broadband deployment.”

Other states have recognized the importance of broadband access to economic development, as well as to providing better services to their residents.

“As the global economy becomes more and more digital, jobs are more and more mobile,” Mefford of Kentucky said. “So at a minimum, we have to ensure as states that our people are the most competitive people in the world when it comes to having the technology-based skills and literacy relative to the global work force. We can’t expect people to have those skills unless they have access to the technology in their homes.”

Expanding Services

But it all comes back to access.

While states can play several different roles in bridging the broadband divide, they need help from the private sector to build that bridge.

“The whole strategy is based on driving public-private partnerships,” Mayberry-Stewart said of the New York model. “It’s critical to sustain coverage. It’s got to be community-based.”

That’s one reason for the broadband grants. The response has been overwhelming. “We have more demand than we have funding available,” she said. “There are a lot of needs out there.”

There are also some federal grants to help meet needs across the states. The Department of Rural Development in the U.S. Department of Agriculture, for instance, provides Community Connect grants to expand broadband access.

ConnectKentucky has directed providers—including the telephone company that expanded service to Berry, Ky.—to funding opportunities, and helped to gather information and support for service expansion, according to Mefford. Those services can include everything from DSL through telephone lines to wireless Internet.

But Turner with Free Press believes the private sector investment will only go so far, even with grants, because of the cost and return on investment. “In the long run,” he said, “some of these areas, especially rural areas, aren’t going to get broadband.

What you’re going to need is some type of public infrastructure investment.”

In addition, Turner says some of the expansion focuses too much on DSL and not enough on the true two-way communication model Congress envisioned in setting the national broadband policy. Most providers, he said, are existing telephone and cable television companies, and they are relying on older technologies that offer slower speeds and come with a higher price tag.

But Mefford said the need is here now, and U.S. citizens need to have access to broadband to remain competitive.

“Philosophically, we’re all for more and bigger broadband,” he said. “We sort of deal with the reality too, though, that we have to begin somewhere. In those unserved communities, if it’s a matter of an intermediate solution today and an upgrade tomorrow … when you don’t have broadband, the intermediate step to get broadband is welcome.”

—Mary Branham Dusenberry is managing editor of State News magazine.

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As states seek to fill the void in immigration policy left by the federal government, statewide immigration laws in Oklahoma, Arizona and Illinois face lawsuits and costly court battles.

By Mikel Chavers
Oklahoma Rep. Randy Terrill received death threats at home because of his involvement in a contentious state immigration law that is now being challenged in court. And although he believes Oklahoma’s law—known as House Bill 1804—will be upheld in the most recent string of lawsuits, he and his family still had to unplug their home phone and rely solely on cell phones to avoid the menacing calls.

Perhaps controversial is a bit of an understatement.

“I had to have security posted outside my office on two to three occasions,” Terrill said.

He’s been called every name in the book—racist, bigot, hatemonger—and others he prefers not to repeat, and still others he can’t repeat because they were in Spanish.

“It’s tough,” he said.

State lawmakers like Terrill are increasingly active in immigration policy. Altogether, states introduced more than 1,500 bills and resolutions concerning immigration, and 46 states enacted 194 new immigration-related laws last year, according to the National Conference of State Legislatures.

Immigration lawyers and state legislators say the absence of comprehensive immigration reform at the federal level has prompted state governments to take action.

But some states face court battles over the new laws. Lawsuits filed in state and federal district courts are challenging immigration laws and trying to bring them down.

States Fill Policy Void

Immigration was an issue that mostly concerned border states until now. In recent years, states all over the country are experiencing growth in foreign-born populations, according to the U.S. Census Bureau.

“All states are becoming what used to be called border states,” said Ron Woodard, director of NC Listen, an immigration reform nonprofit organization based in Cary, N.C. Eleven bills concerning immigration were introduced in North Carolina last year, but only one passed out of committee, Woodard said.

North Carolina—although not a border state—was among the states with the largest growth in foreign-born population in the U.S., growing by nearly 43 percent from 2000 to 2006, according to the Migration Policy Institute’s analysis of U.S. Census Bureau data.

While states have seen an increase in immigrants—some illegal, many officials believe the federal government has done little to solve the problem.

“The federal government has absolutely fallen down on their responsibility to protect our nation’s borders,” Terrill said. “There was a huge policy void. It’s always been the states that have stepped in to fill policy voids.”

Put bluntly: “It was the states that were picking up the tab as a result of the federal government’s inaction,” Terrill said.

In fact, significant state laws addressing employment of undocumented workers are surfacing not just in border states like Arizona and Texas. Louisiana, Illinois, Arkansas, Colorado, Georgia and Oklahoma are tackling the very same issue.

And Oklahoma’s law, like other states, is the source of multiple court battles.

Ripe for Litigation

Terrill’s H.B. 1804, which created the Oklahoma Taxpayer and Citizen Protection Act of 2007, went into effect in November 2007. So far, four lawsuits have been filed challenging the law, according to Terrill.

The law basically creates state barriers to hiring illegal immigrants and requires employers doing business with the state to check and verify the eligibility status of all new workers.

By the summer, the law will require all state contractors and subcontractors to verify the eligibility status of workers to ensure they aren’t hiring illegal immigrants. On top of that, the law allows employees who have been fired and replaced to sue their employer if they are able to show an undocumented worker replaced them.

Two of the lawsuits against H.B. 1804 have already been dismissed—upholding Oklahoma’s law. The National Coalition of Latino Clergy and other businesses filed a lawsuit against Oklahoma Gov. Brad Henry, Oklahoma Attorney General Drew Edmondson and others challenging the law in federal district court in Tulsa. The suit also included undocumented immigrants as plaintiffs listed as “John Doe” or “Jane Doe.”

The federal district judge initially dismissed the lawsuit in October on the grounds that the plaintiffs could not show they suffered damage from the law before it took effect. The judge dismissed the second version of the lawsuit in December after the party re-filed, according to court documents.

Two other lawsuits are still pending as of March 10—the latest of which was filed in federal court Feb. 1 by the U.S. Chamber of Commerce and others arguing that the Oklahoma law is unconstitutional. The other lawsuit was filed in January in Tulsa County court against the governor and the Tulsa County Board of Commissioners. It also challenges H.B. 1804’s constitutionality.

Terrill said simply that the two pending lawsuits “won’t be successful.”

Aside from the earlier decisions that upheld Oklahoma’s law, Terrill cites public opinion surveys used by the legislature to show the public’s support for the state’s action on illegal immigration and the employment of undocumented workers.

Terrill said illegal immigration showed up on the public opinion survey in 2005 as the fifth top issue for Oklahomans. Illegal immigration moved to number three in March 2006, and then to number two in June 2006, behind only education reform, according to the survey. In April 2007, 78 percent of Oklahomans said illegal immigration was a big problem, according to Terrill.

He said the earlier court decisions have clearly upheld the state law and he doesn’t expect the outcome of the pending suits to be any different.

“We got the green light on the bill,” he said.

Checking for Undocumented Workers

Other states with similar laws have faced similar court battles. Those state laws—including Oklahoma’s—typically deal with e-Verify, a federal database that allows employers to determine if employees are legally allowed to work in the U.S. and to check the validity of their Social Security numbers. The Internet-based system, previously known as the Basic Pilot Program, is operated by the Department of Homeland Security in partnership with the Social Security Administration.

The Legal Arizona Workers Act gives the state authority to suspend or revoke the business license of any employer that “knowingly” or “intentionally” hires an illegal immigrant. Under the law, Arizona businesses are required to check the eligibility status of all new workers using e-Ver...
ify to make sure they are legally allowed to work in the U.S.

That law, originally set to take effect Jan. 1, has been plagued by several lawsuits since it was enacted in July 2007. After a federal judge upheld the law in February, Arizona officials were able to begin enforcing it on March 1.

In February, U.S. District Court Judge Neil Wake upheld the Arizona law and dismissed the arguments brought by several parties who had filed several lawsuits—including the Arizona Contractors Association Inc., Arizona Employers for Immigration Reform, Valle del Sol Inc., Chicanos por la Causa Inc. and Wake Up Arizona! Inc., according to court documents. Those parties had consolidated their arguments into one lawsuit challenging the Legal Arizona Workers Act.

Although Wake upheld the Arizona law, the coalition of businesses and Latino civil rights groups appealed to the U.S. Court of Appeals for the Ninth Circuit Feb. 28. The case is pending in the appellate court, but the law is still in effect, according to recent court documents.

“We wrote this very carefully knowing we’d be sued and we came through,” said Arizona Rep. Russell K. Pearce, the main author of the Legal Arizona Workers Act. He is a firm believer that the law is simply exercising the state’s inherent authority on the issue.

“Courts are siding with us with strong, strong decisions,” Pearce said.

The American Civil Liberties Union, one organization supporting the group in its appeal, asserts that the new Arizona law conflicts with federal law and also violates the constitution, according to a February ACLU press release.

“Arizona is shooting itself in the foot by aggressively pursuing this drastic and unprecedented sanctions regime that will harm innocent workers, close down businesses and increase discrimination against people of color,” said ACLU Immigrants’ Rights Project attorney Omar Jadwat in the press release.

But Pearce tells a different story—one that’s been supported by the courts so far.

Pearce worked on the law for five years before it became the Legal Arizona Workers Act. Although it may be the toughest work site enforcement law in the country, Pearce said, the states have always had the inherent authority to enforce a law like this.

“We fight that battle all the time,” he said. “And we won and will continue to win.”

Battling a Database in Court

In Illinois, state immigration law has taken a decidedly opposite approach from Oklahoma and Arizona. House Bill 1744, passed in August 2007, prohibited employers from using the federal e-Verify database to check for undocumented workers until the database could reach the state’s specific quality control benchmarks.

Some lawmakers in Illinois believe e-Verify has an unacceptable error rate. H.B. 1744 did not allow employers to use the database until the Social Security Administration or the Department of Homeland Security are able determine a worker’s eligibility status within three days in 99 percent of the cases—a benchmark that so far is unmet.

“The problem with e-Verify is that it was sending people that were legally allowed to work here and considering them a ‘no match,’” Illinois Sen. Iris Martinez said of the idea behind H.B. 1744. Therefore, people who were legally allowed to work in the U.S. were getting caught up in the system, she said. “How can you trust a system that has so many flaws?”

The federal government sued the state on the grounds that the law “conflicts with federal law and/or that it otherwise presents an obstacle to accomplishment and execution of the full purposes and objectives of federal law,” according to the court document filed in September.

A federal judge put a hold on the lawsuit because bills in the Illinois legislature might just take care of the problem. One of those pending bills, Senate Bill 1878, aims to amend the language of H.B. 1744 by allowing employers to use e-Verify if they choose.

Martinez, the main author of the bill, said basically the new bill “will make the lawsuit go away.”

In addition to cleaning up the language found objectionable by the Department of Homeland Security, the new bill allows workers who believe they were deemed ineligible to work in the U.S. by mistake to bypass the bureaucracy of the Department of Labor and file a complaint directly with the state in circuit court, according to Martinez.

“The workers have a little bit more leeway in filing a complaint,” Martinez said.

As of early March, the bill was well on its way through the state Senate. But Martinez offers a strong promise: “I intend to pass this bill,” she said.

“It will avoid the costly court battle and everything else.”

But sometimes the costly court battle is well worth the pain—especially in immigration issues, according to state legislators like Oklahoma’s Terrill and Arizona’s Pearce.

Like Terrill, Pearce has been called a plethora of dirty names because of his efforts on controversial state immigration laws and measures.

“I’ve had protests at the Capitol and boot stepping on my head and calling me names—it’s been pretty extreme at times,” Pearce said. “I’ve been called everything and it’s OK and I will not shy away from this fight.”

And amidst the threats, Pearce isn’t backing down in Arizona for one simple reason.

“The citizens are on our side.”

—Mikel Chavers is associate editor of State News magazine.
More than 100 state and provincial government officials attended The Council of State Governments’ U.S.-Canada Forum on the Western Hemisphere Travel Initiative in Detroit in late February.

Nowhere is the strength and prosperity of the U.S.-Canada economic partnership more apparent than at the border crossing between Detroit and Windsor, Canada—the busiest commercial land border crossing in America. Each day, nearly 36,000 trucks cross the Canada-U.S. border, and one-third of those cross between Detroit and Windsor.

That’s why a delegation of more than 100 state and provincial government officials toured customs facilities and viewed the proposed sites for new border crossings intended to alleviate congestion, as part of The Council of State Governments’ U.S.-Canada Forum on the Western Hemisphere Travel Initiative—commonly known as WHTI.

The diverse group of delegates came together to discuss common concerns surrounding the federal initiative that requires all travelers to and from the U.S., Canada, Mexico, Bermuda and the Caribbean to present either a passport or other document that establishes the bearer’s identity and citizenship to enter the United States.

While participants applauded the progress so far in modifying WHTI and the development of alternatives to passports—especially enhanced driver’s licenses—they stressed that much work remains to ensure security requirements do not unnecessarily hinder cross-border travel and trade.


“The Council of State Governments has been at the forefront of advocacy on this issue,” said Russell Copeman, a member of National Assembly in Québec.

With the U.S. and Canadian economies so intertwined, the consensus among the officials in attendance was that neither country could afford a border characterized by needless and costly delays.

Delegates toured a truck customs inspection facility in Windsor and witnessed advanced X-ray and scanning technology at work. The mobile Vehicle and Cargo Inspection System, or VACIS for short, is a truck-mounted, gamma-ray scanning system that can capture an image of a ship container, rail car or truck contents. Shipments are scanned quickly and safely, and the technology helps officers identify hidden compartments and detect contraband, weapons and other potentially dangerous goods.

Moving people—tourists, school groups and small business owners—is equally important. Ann Barrett, deputy assistant secretary in the U.S. Department of State’s Office of Passport Services, said “passport offices are processing high volumes of applications in a timely manner after delays occurred last year.”

In order to process passports more efficiently, Barrett said the State Department plans to put expanded offices—or “Gateway City” offices—in Detroit, as well as in Dallas and Minneapolis. Other cities are also being considered. The new Detroit office will mean U.S. citizens who need a passport for emergency travel will no longer have to go to Chicago to get one, he said. Delegates at the conference, who represented all four CSG regions, voiced interest in establishing such offices in their regions.

Technology-packed Passports, Driver’s Licenses

Furthermore, the State Department is now accepting applications for a new passport card. The PASS Card was “developed with the border community in mind,” Barrett said. The credit card sized document would be half the price of a passport and is valid at land or sea crossings in North America. The PASS card will be linked electronically to a government database containing biographical data and a photograph, proving identity and citizenship.

Meanwhile, states have come up with their own alternative documentation to meet the requirements of WHTI. The Department of Homeland Security signed agreements with Washington, Vermont, New York and Arizona to enhance the security of their state driver’s licenses under WHTI. The licenses are voluntary for motorists.
Michigan is seeking federal approval of a pilot project after legislators approved creating enhanced driver’s licenses that would act as a passport substitute at land border crossings between Canada and Mexico.

British Columbia and Washington state cooperated on an enhanced driver’s license effort to keep crossings between the United States and Canada operating seamlessly in the face of tightening regulations. State and provincial officials are concerned that stricter border-crossing requirements could disrupt the flow of tourists, especially as the 2010 Vancouver Olympics will raise the profile of the British Columbia-Vancouver corridor. Becky Loomis, assistant director of state and federal initiatives for the Washington Department of Licensing, called the special license “faster, cheaper” and emphasized its convenience—“it fits in your wallet.”

Washington state signed a Memorandum of Understanding with the Department of Homeland Security in March 2007. This document will be based on the standard Washington state driver’s license or identification card, but will be enhanced to meet the requirements of the WHTI. The legislation passed in the state covers radio frequency identification technology for the licenses, new training and background checks for Department of Motor Vehicles’ employees and a business plan for standards, quality assurance and auditing throughout the implementation process.

Washington and British Columbia began issuing the advanced cards in late January. In the initial phase of British Columbia’s initiative, a limited number of the special driver’s licenses were issued to test the program and “ensure all citizenship, privacy, and security requirements of the Canadian and U.S. governments are met,” according to a press release from the British Columbia Intergovernmental Relations Secretariat. Eligible participants must be Canadian citizens born in British Columbia and hold a valid British Columbia birth certificate and driver’s license.

John van Dongen, minister of state for Intergovernmental Relations in British Columbia, hopes the enhanced driver’s license gains critical mass so that it is “adopted at the federal level and becomes useful on the national landscape.”

As with the State Department’s PASS Card, the enhanced driver’s licenses will contain no private information. Instead, these documents will have a chip that points border officials to a secure database where they can check an individual’s citizenship and immigration status.

Vermont plans to issue an enhanced driver’s license by year’s end, according to Bonnie Rutledge, director of the Vermont Department of Motor Vehicles.

The Department of Homeland Security will allow New York state’s Department of Motor Vehicles to begin offering an enhanced driver’s license that will allow western and northern New Yorkers to cross the New York-Canadian border without a passport. With 445 miles of border and 17 land crossings, New York has half a million jobs that are supported by U.S.-Canada trade.

“DHS heard our concerns about the need to safeguard our upstate economy, and agreed to allow us to provide an enhanced driver’s license as an alternative to a passport to permit the free-flow of commerce across the New York-Canadian border,” said former Gov. Eliot Spitzer in a statement.

Crossing the Southern Border

Delegates from Southern border states also shared experiences from the U.S.-Mexico border. The El Paso/Juarez region in Texas is the third largest manufacturing area in the hemisphere. It has also been referred to as the “biggest parking lot in the world” because of backups at border crossings.

Eighty-five percent of U.S.-Mexico trade is carried through Texas and the state’s trade with Mexico is greater than all the trade it conducts with the European Union.

Texas Sen. Eliot Shapleigh presented a vision for the border in 2020 and steps needed to get there—fully staff existing ports, build more ports/bridges, enhanced driver’s licenses and 21st century technology pilots.

“From Vancouver to Brownsville, we have common challenges and goals—a fast, secure and smart border,” said Shapleigh.

Shapleigh is chairman of the Border Legislative Conference, a joint program of CSGWEST and its regional partner in the South, the Southern Legislative Conference. Comprised of the 10 states along the U.S.-Mexico border, this initiative is aimed at enhancing collaboration and communication among state legislators of the United States and Mexico.

—Karen Imas is director of communications and leadership training for The Council of State Governments Eastern Regional Conference.
Speakers and Sessions

Opening this year’s MLC Annual Meeting is Marc Freedman, one of the nation’s leading thinkers and writers on the opportunities presented by the aging of America. Freedman serves as CEO of Civic Ventures, which aims to “help society achieve the greatest return on experience” and is co-founder of Experience Corps, a non-profit program engaging Americans over 55.

During Monday’s lunch, Dr. Gerard Baker, superintendent of Mount Rushmore, will give a presentation on the rich, diverse culture and history of the Black Hills. Baker has been with the National Park Service for 30 years. Prior to coming to South Dakota, he worked with American Indian tribes and states to establish the Lewis & Clark National Historic Trail traveling exhibit.

Tuesday’s luncheon speaker is David Brooks, author and op-ed columnist for the New York Times. Brooks’ presentation will draw on his books—including New York Times bestseller “Bobos in Paradise: The New Upper Class and How They Got There”—and from more recent social observations to explain how being American shapes who we are and how we see life.

The closing speaker, Pulitzer Prize-winning author Edmund Morris, will look at the leadership lessons we can learn from our multifaceted 26th president, Theodore Roosevelt. Currently at work on the final volume of his trilogy on Roosevelt, Morris was also President Ronald Reagan’s biographer and wrote the New York Times bestseller “Dutch: A Memoir of Ronald Reagan.”

Social Events

Sunday’s Opening Night Reception is at Ellsworth Air Force Base, a training ground for troops being deployed around the globe in support of Operation Enduring Freedom, and home of the 28th Bomb Wing and the B1-B Lancer aircraft. Adjacent to Ellsworth, guests can visit the South Dakota Air and Space Museum. Get a close-up look at dozens of aircraft and sit in the cockpit of a B-1B Lancer flight simulator!

Monday’s Family Night takes us to two world-famous monuments, Crazy Horse and Mount Rushmore. First we’ll go to Crazy Horse, which once completed will be the largest sculpture in the world. Then the group will travel to Mount Rushmore for a spectacular lighting ceremony. This is a night you don’t want to miss!

Special day trips for spouses, guests and children will include a trip to Custer State Park, where you’ll learn about the area’s wildlife and enjoy the park’s spectacular beauty.

Extend your stay and enjoy beautiful South Dakota. See our Web site for vacation ideas. Free day care for children 12 months old and older.

Early-bird discount ends June 6th!

Register online at www.csgmidwest.org.

Remember to register your spouse, guests and kids! For more information, call 630.925.1922.
State legislators, legislative staff and agency officials from 11 CSG-Eastern Regional Conference jurisdictions, along with representatives from the White House, nonprofit organizations and the private sector, shared common challenges and best practices in dealing with infrastructure issues at the Northeast Transportation Financing seminar in Philadelphia in February.

By Karen Imas

New Jersey Assemblyman John Wisniewski is candid when he talks about state efforts to deal with transportation challenges. He’s looking further down the road.

“All of us are collectively out of money,” said Wisniewski, chairman of the New Jersey Assembly’s Transportation Committee as well as The Council of State Governments Eastern Regional Conference’s Transportation Committee. “We need to be careful about what we think is innovative today, so we don’t create a host of problems down the road.”

Infrastructure in the Eastern region of the United States is aging rapidly, and traditional funding mechanisms are proving to be inadequate to meet the minimum levels needed to maintain the current system, experts say. Toll increases, public-private partnerships and gas taxes are touted as possible solutions to the problem, which is only expected to worsen.

Over the next 50 years, the U.S. population is forecast to grow from 295 million to 435 million, according to the American Association of State Highway and Transportation Officials. Coupled with growing demands on transportation systems, the nation’s infrastructure will be severely strained. Structurally deficient bridges, for instance, are a source of concern in several states.

In Maine, a study of the state’s bridges found “there was a lot of work to be done,” said Sen. Christine Savage.

New Jersey found “$13.6 billion is needed for bridge repair in the state, which is more than some states’ total budgets,” said Stephen Dilts, deputy commissioner of the state’s Department of Transportation.

Those states are not alone. Lawmakers are reaching consensus that investment in surface transportation must be substantially increased to maintain American competitiveness in the global economy. Inadequate resources to meet the demands of a crumbling infrastructure and a projected 70 percent increase in freight between now and 2020, according to the Department of Transportation, have state government officials studying new and innovative revenue-generating initiatives.

An increase in the federal gas tax is one option, but many people see a lack of political will to raise it. The federal 18.4 cents-per-gallon tax on gasoline, the primary source of federal highway funds, has not been raised since 1993. The 12-member National Surface Transportation Policy and Revenue Study Commission, which released a long-awaited report Jan. 15, suggested the best short-term solution to the nation’s infrastructure problems would be to raise federal gasoline taxes by as much as 40 cents a gallon over five years.

But raising the gas tax has been a politically difficult issue for members of Congress, especially at a time of record oil prices. U.S. Secretary of Transportation Mary Peters was one of three members who dissented from the commission’s recommendations for higher motor fuel taxes and a larger federal role in national transportation policy and financing.

“Raising gas taxes won’t improve traffic congestion; it will only perpetuate our ineffective reliance on fossil-based fuels to fund infrastructure and send more of Americans’ hard-earned money to Washington to be squandered on earmarks and special interest programs,” Peters said in a statement.

Dennis Enright, principal at the NW Financial Group, makes the case for public financing—such as the gas tax—as a more efficient tool for financing of roads than public-private partnerships.

“Public-private partnerships have been done for decades, usually to save taxpayers money. Recent proposals for asset sales, concessions, long-term leases and monetizations impose much higher charges on users than the public sector would have imposed in exchange for significant upfront cash,” said Enright.

He raised concerns that the interests of the public will go unprotected as public-private partnerships are used to provide financing for infrastructure investment.

“The upside to the buyer from higher than expected traffic growth and tolling increases will be captured as profits to the new owners, rather than as public transportation system funding dollars,” Enright said.

He suggested states consider voter referendums that would ask voters whether they prefer higher gas taxes or higher tolls.

Along with the issue, several ERC states are considering such innovative transportation financing options.

New Jersey

Gov. Jon Corzine proposed capturing the value in New Jersey toll roads...
to pay down 50 percent of the state’s general debt and fund statewide transportation investments. He has since said his plan, which sought to finance the state’s highways without raising the gas tax, cannot garner enough support from legislators to be passed.

“We have overwhelming debt and no revenue sources,” said Dilts, of the state’s transportation department. “We looked at prisons, schools, lotteries and ultimately we focused on toll roads. New Jersey will not lease assets to a private corporation and will provide a predictable schedule of tolls.”

Corzine proposed a nonprofit public benefit corporation be formed to manage the day-to-day operations of the roads, but the state will maintain ownership.

The plan could raise approximately $38 billion to help the state pay off half its debt and pay for transportation improvements, Corzine said in his State of the State address.

In the plan, drivers would face a 50 percent increase in tolls on the state’s three toll roads—the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway—every four years, beginning in 2010. The corporation would borrow money based on the identified and dedicated revenues of tolls. The initial payment of money raised will be contractually dedicated to state debt reduction and to transportation improvements.

Although the legislature has not considered Corzine’s plan, Assemblyman Wisniewski recently introduced the first major counterproposal. He proposed raising the gas tax from 10.5 cents to 28.5 cents a gallon over three years and doubling highway tolls within eight years.

New York

The Port Authority of New York and New Jersey employed variable toll rates at bridges and tunnels as a traffic management tool. The Port Authority is studying differential tolling for more fuel efficient cars, according to Victoria Cross Kelly, director of its Tunnels, Bridges and Terminals Department. She said changing technology can increase efficiencies in toll operations.

Under a plan announced last November, hybrid vehicles would have a special E-ZPass recognition tag that would entitle them to a $2 discount. The plan is modeled after that the New York State Thruway Authority’s program, which introduced 10 percent E-ZPass discounts on hybrid vehicles in 2006.

George Schoener, executive director, I-95 Corridor Coalition, said states will remain at the forefront of such innovative financing mechanisms since, as he puts it, “Congress and the White House are lacking vision in this area.”

He pointed to the recently passed federal economic stimulus package, which did not include any funding for transportation infrastructure.

Pennsylvania

Gov. Ed Rendell supported legislation last year creating Act 44, which authorizes the Pennsylvania Turnpike Commission to collect tolls on Interstate 80.

Federal approval is needed before the tolling can take effect because I-80 is part of the federal highway system and was built with federal funds to facilitate interstate commerce and national defense.

The federal transportation department raised several questions about the information contained in the turnpike commission’s application.

While the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission seek federal permission to make I-80 a toll road, Rendell is keeping the idea of leasing the turnpike alive. Nearly 35 different companies working together in 14 separate groups submitted responses to Rendell’s request for proposal in September from potential turnpike bidders.

Pennsylvania Sen. Roger Madigan, chairman of the Senate Transportation Committee and CSG/ERC Transportation Committee vice-chair, said, “We need to make sure that the choices we make withstand the test of time.”

Meanwhile, Sen. John Gordner recently introduced an alternate plan; Senate Bill 1280 would allow a public-private partnership to lease the Pennsylvania Turnpike and would raise funds without the need to impose tolls on I-80.

“It is important to note that my proposal will provide $750 million or more annually for road and bridge projects throughout the commonwealth, as well as provide $250 million annually for funding for mass transit,” said Gordner, who represents a district that I-80 runs through. “It is a far superior plan to the flawed Act 44 that passed the General Assembly last July, it will provide more money and it does not require the imposition of tolls along I-80.”

Gordner’s proposal would allow the Pennsylvania Turnpike to be divided into three sections for the purpose of entering into public-private partnerships. The State Transportation Commission is given the power to negotiate 50-year agreements with American-based and majority American-owned companies in return for an upfront payment to the commonwealth.

“In the governor’s budget address, he said that he would not sign any legislation to repeal Act 44 unless the funds generated by proposed tolls on I-80 were replaced. Senate Bill 1280 does that,” said Gordner.

—Karen Imas is director of communications and leadership training for The Council of State Governments Eastern Regional Conference.
States can’t wait on the federal government to deal with infrastructure issues. In California, Gov. Arnold Schwarzenegger is pushing for performance-based infrastructure, the term the state uses for public-private partnerships.

By David Crane

Across America, you will find decaying infrastructure: crumbling roads, structurally deficient water facilities and bridges, and dilapidated schools and courthouses. It’s estimated that America needs $1.6 trillion worth of infrastructure investment over the next five years, but federal investment has been cut in half—as a percent of gross domestic product—since 1987.

California Gov. Arnold Schwarzenegger, Pennsylvania Gov. Edward Rendell and New York Mayor Michael Bloomberg recently announced the formation of a nonpartisan national coalition—Building America’s Future—that will lobby for federal investment in America’s aging infrastructure. It also will work with presidential candidates and the national political parties to ensure infrastructure is one of the most discussed issues this campaign season.

Nearly three-quarters of our nation’s infrastructure spending is by state and local governments, so while it’s essential to push for an increase in federal funding, most states simply can’t wait.

Here in California, we need to invest $500 billion in infrastructure over the next two decades just to catch up and then keep up with expected population growth.

In 2006, California voters approved a $42 billion infrastructure bond package, but our state must always be on the lookout for new and innovative forms of procurement for the infrastructure projects we so desperately need.

In his State of the State address in January; Gov. Schwarzenegger laid out a plan to broaden our approach by aggressively pushing for performance-based infrastructure projects, our term for what most people know as public-private partnerships. We prefer performance-based infrastructure because it correctly puts the focus on performance, which is what matters to our residents. They don’t care if infrastructure is provided on a public-public or public-private basis, but rather that it works, provides good service and is on time, on budget and low risk.

Current California law does not allow for a broad use of performance-based infrastructure except in emergencies or through legislative approval. So the governor is calling on the legislature to pass a law to expand the types of projects, services and government entities that can enter into such arrangements and to increase contracting flexibility so the state can better negotiate with potential contractors.

To be successful, performance-based infrastructure requires sophisticated negotiation with private providers. Accordingly, the governor also asks for legislation to provide a performance-based infrastructure center of excellence to help determine which projects would work best for the arrangement, as well as to ensure transparency and monitor performance throughout the process.

The center would assist California government in achieving the best financing, procurement, risk allocation, delivery, operation and maintenance of joint public-private financed infrastructure assets. The center would also assemble purchasing power, ensure transparent and competitive processes, and confirm that infrastructure is provided at the highest level of service at the lowest cost and risk.

It’s essential that the public understand performance-based infrastructure is not a means for cutting labor costs, which is often synonymous with user fees and toll roads, or a way to skirt environmental rules. All the rules are the same regardless of whether a project is provided traditionally or through performance-based infrastructure projects. These types of projects simply involve the public and private sectors working together to provide better service to citizens.

But a performance-based infrastructure model is not going to solve our infrastructure deficit alone. It is simply a tool to help deliver more value for government money and better service to constituents and government workers.

We intend to employ performance-based infrastructure whenever it can add value—whether for bridges, highways, high-speed rail links, wastewater treatment plants, dormitories and recreation centers, classrooms for our school districts, courthouses and detention centers or government office buildings.

Gov. Schwarzenegger understands these improvements are aimed at, and directly tied to, quality of life and economic growth. If we can cut commuters’ drives by 10 percent or provide a reliable and fast transit system, they’ll have a better quality of life.

Similarly, a company is more apt to open an office or headquarters in a location that can meet or exceed its infrastructure needs and its employees’ infrastructure needs. And the faster you’re able to move goods through a city, county, state and region, the stronger your economic growth and the healthier your environment.

The United States and California face an enormous infrastructure shortage. Failure to invest in California’s and the country’s infrastructure jeopardizes our quality of life, environment and position in the national and global economy. Together, federal funding and performance-based infrastructure can help close the gap in our infrastructure needs.

—David Crane is a special adviser on jobs and economic growth in the office of California Gov. Arnold Schwarzenegger.
The electricity transmission grid used to transport power in the United States is outdated and overloaded—yet it’s more important today than ever before.

Demand for electricity in the U.S. will outgrow transmission line mileage in the next few years, former Federal Energy Regulatory Commission member William Massey told an audience of state legislators at The Council of State Governments’ 2007 Annual Meeting in Oklahoma City.

Updating the grid sounds simple—a power line here, a power line there—but in reality it is much more complex. Investments and incentives to build new lines are inadequate because utilities are reluctant to invest as they aren’t guaranteed a rate of return and approval is uncertain, according to a report from the National Council on Electricity Policy. In addition, unwieldy state permitting processes can further hamper upgrades. Massey said the cost of updating the grid will reach approximately $85 billion over the next decade.

Further complicating matters are simply questions about logistics—who builds the grid and pays for upgrades, how rates are charged, where the grid updates will be located, and who makes those decisions.

The Federal Energy Regulatory Commission and various state entities that regulate transmission share power in making those decisions, but their rules often conflict. States are responsible for transmission line siting, although the regulatory commission, in the Energy Policy Act of 2005, has final authority in certain areas.

For instance, the Arizona Corporation Commission, the state’s regulatory authority, recently denied a new power line that would feed electricity to California, according to Greenwire, a publication of E & E Publishing LLC. The line would go through the National Interest Electric Transmission Corridor in the Southwest that spans parts of southwestern Arizona and southern California. That corridor is a federally designated area of intense congestion over which the energy commission has ultimate authority to determine the location of power lines.

Officials in Arizona question whether the line is needed and whether California will benefit at Arizona’s expense. In a letter to the energy commission, the Arizona Corporation Commission said it did not want to be “forced to pay for California’s flawed energy policy of not building adequate new generation.” The
Electricity Transmission Grid

Last June, The Council of State Governments released a new report focusing on 10 trends that state policy experts, state government leaders and business professionals have identified as major forces of change. These Trends in America were addressed in issue briefs released at last year’s annual meeting. This year, a new Trends in America series begins and CSG will continue to educate state officials through online issue briefs.

Challenges regarding the electricity transmission grid in the United States is the subject of April’s issue brief. Visit www.csg.org to read this issue brief.

Fast Facts

- In some locations, the electricity transmission grid has become so congested it causes what the U.S. Department of Energy calls “transmission bottlenecks” that hold-up electricity flow and threaten reliability. These are designated as National Interest Electric Transmission Corridors by the federal government.
- Transmission congestion costs the Mid-Atlantic $2 billion per year in increased electric prices, according to former Federal Energy Regulatory Commission member William Massey.
- 70 percent of power lines are 25 years or older, Massey said.
Farley Joins NASTD As Technology Analyst

Alison Farley in February joined the National Association of State Technology Directors as a technology analyst. In this role, Farley is responsible for providing NASTD members with the latest information on technology trends and regulatory issues impacting technology professionals serving state government. She will also support NASTD special interest groups and committees and be responsible for NASTD’s weekly electronic newsletter, The Gateway.

“Alison is a highly motivated, organized, and capable individual who will make great contributions to NASTD,” said Mark McCord, NASTD executive director. “She offers a rare combination of research, writing and customer service skills vital to any organization, and we are very pleased to have her on the NASTD team.”

Farley holds a Master of Public Policy degree from the University of Kentucky and a Master of Science degree from Indiana University. She previously worked as an associate for AcademyHealth and as a policy analyst for the Government Accountability Office in Washington, D.C. Most recently, she worked as a policy analyst for the Commonwealth of Kentucky.

Established in 1978, NASTD is a professional organization whose purpose is to advance and promote the effective use of technology to improve the operation of state government. With more than 1,000 members, NASTD provides a forum for interstate cooperation and collaboration among telecommunications and information technology professionals across the United States and its territories.

CSG Midwest Welcomes New Chairs, Builds on Recent Efforts

South Dakota Gov. Mike Rounds is the new chair of the Midwestern Governors Association, a bipartisan association of the region’s 12 governors. Michigan Gov. Jennifer Granholm will serve as vice chair of the nonpartisan organization.

Rounds’ agenda, which will steer the organization’s work over the next year, has three components: making greater use of the energy produced in the Midwest, helping business move products more efficiently, and improving travel for residents and visitors.

The organization will also build on its recent efforts to promote energy independence. Last year, the group established the Energy Security and Climate Stewardship Platform. That platform sets out energy policy goals for the Midwest and the Greenhouse Gas Accord, a plan to develop a regional cap-and-trade system.

CSG’s Midwestern Office provides secretariat service for the Midwestern Governors Association. For more information, visit www.midwesterngovernors.org.

Wicklund Elected Vice Chair of Justice Department’s Global Advisory Committee

Carl Wicklund, executive director of the American Probation and Parole Association, was elected vice chair of the U.S. Department of Justice’s Global Advisory Committee in February.

The federal advisory committee reports to the U.S. attorney general on justice-related information-sharing issues. It represents more than 30 independent organizations spanning the spectrum of those interested in justice and public safety.

Wicklund is a longtime member of the Global Advisory Committee serving in multiple capacities. He has served on the Global Justice Information Sharing Initiative Advisory Committee since 1998, the Executive Steering Committee since 2004, the Privacy and Information Quality Working Group since 2004 and as that group’s chair since 2006. He’s also served on the Intelligence Working Group/Criminal Intelligence Coordinating Council since 2005.

Wicklund, who was appointed by former U.S. Attorney General Janet Reno, is the only remaining inaugural member of the Advisory Committee. He continues his efforts to bring probation and parole issues to the attention of the Global community for continued federal support for state public safety initiatives.

To read more about the Global Advisory Committee, visit http://www.iir.com/global/committee.htm.

APPA is an affiliate member of The Council of State Governments and is located in Lexington, Ky. APPA is a nonprofit membership association representing more than 35,000 probation, parole and community corrections professionals across the U.S. and around the world. For more information, visit APPA’s Web site at http://www.appa-net.org/.
Three lieutenant governors had the opportunity to cast tie-breaking votes in a three-day period in February. This may be the first time in history lieutenant governors’ state senate tie-breaking vote opportunities occurred so close in succession, according to the National Lieutenant Governors Association.

From Feb. 25 to Feb. 27, the lieutenant governors of Indiana, Oklahoma and Virginia had the opportunity to cast tie-breaking votes in their respective state senates. Twenty-three states empower the lieutenant governor to break a tie vote in the state senate, according to The Book of the States, a publication of The Council of State Governments.

On Feb. 25, Oklahoma Lt. Gov. Jari Askins cast a tie-breaking vote in support of a bill aimed at helping the state in collecting unpaid child support. It was the first senate tie-breaker cast in the state since 1959. On Feb. 27, Virginia Lt. Gov. Bill Bolling cast a tie-breaking vote to approve a budget amendment that would prohibit directing taxpayer money to Planned Parenthood.

On Feb. 25, Indiana Lt. Gov. Becky Skillman had the opportunity to cast a tie-breaking vote on a senate amendment that was a key piece of the governor’s tax reform plan. The vote on the amendment was tied at 23–23. Due to confusion over the rules under which a lieutenant governor can vote to break a tie, Skillman did not actually cast the tie-breaking vote. As legislative leaders conferred on the rules governing her vote, staff cleared the voting board and the senate had moved on to another amendment. Legislative leaders and chamber attorneys later agreed that the lieutenant governor can cast the tie-breaking vote on an amendment by creating a simple majority. A constitutional majority, conversely, is required to pass a bill; hence the lieutenant governor cannot cast a tie-breaking vote on a bill only when he or she is casting the 26th vote.

The National Conference of State Legislatures noted in 2006 that states are in an era of tightening party control. NLGA Director Julia Hurst noted in the 2007 The Book of the States that if that trend continues, the power of lieutenant governors to cast a tie-breaking vote would grow.

Yet another state is facing that possibility. New York voters on Feb. 26 narrowed the Republicans’ state senate majority to one seat, thereby drawing attention to New York Lt. Gov. David Paterson’s ability to cast a tie-breaking.

For more information, visit the NLGA’s Web site at www.nlga.us.
This calendar lists meetings as designated by CSG’s Annual Meeting Committee. For details of a meeting, call the number listed. “CSG/” denotes affiliate organizations of CSG. Visit www.csg.org for updates and more extensive listings.

April 2008

April 8-10  Interstate Commission for Adult Offender Supervision (ICAO S) Compliance Committee Meeting—Lexington, KY—Hyatt Downtown. Contact Barno Saturday at (859) 244-8235 or bsaturday@csg.org.

April 10-12  CSG/WEST and Southern Legislative Conference 17th Border Legislative Conference—Coahuila, Mexico—Hotel Quinta Real Saltillo. Contact Edgar Ruiz at (916) 553-4423 or eruiz@csg.org. More information at www.borderlegislators.org.

April 19-22  National Association of State Technology Directors (NASTD) Eastern Region Seminar—Mystic, CT—Hilton Mystic. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

April 22-24  CSG/State International Development Organizations—SIDO W hite House Forum—Washington, D.C. Contact Chris W hatley, Director of International Programs, cwhatley@csg.org or (202) 624-5460.

May 2008

May 2-3  (DATE CHANGE) CSG/WEST Executive Committee—Napa Valley CA—Napa Valley Marriott. Contact Lolita Urrutia or Cheryl Lee Duvauchelle at (916) 553-4423 or csgw@csg.org.

May 18-21  National Association of State Technology Directors (NASTD) Midwestern Region Seminar—Duluth, MN—Radisson Hotel Duluth-Harborside. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

May 28-30  CSG/joint-Regional Legislative Service Agency and Research Directors Meeting (LSA/RD)—Lexington, KY—Embassy Suites Lexington. Contact Ken Fern, SLC at (404) 633-1866 or kfem@csg.org; or Mary Lou Cooper, CSG/WEST (505) 424-3322 or mcooper@csg.org.

May 29-30  Interstate Commission for Adult Offender Supervision (ICAO S) Executive Committee Meeting—Lexington, KY—Marriott Hotel. Contact Barno Saturday at (859) 244-8235 or bsaturday@csg.org.

May 29-June 1  CSG 75th Anniversary Celebration—Spring Conference—Lexington, KY—Griffin Gate Marriott Resort and Spa. Contact registration at (800) 800-1910 or registration@csg.org.

May 31-June 3  National Association of State Technology Directors (NASTD) Western Region Seminar—Moran, WY—Jackson Lake Lodge at Grand Teton National Park. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

June 2008

June 7-11  National Association of State Chief Administrators (NASCA) & National Association of State Facilities Administrators (NASTA) National Conference & Resource Expo—Jackson, WY—Jackson Lake Lodge. Contact Marcia Stone at (859) 244-8181 or mstone@csg.org.

June 14-18  National Association of State Technology Directors (NASTD) Southern Region Summer Seminar—Little Rock, AK—Peabody Little Rock Hotel. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

June 22-24  CSG Interbranch Summit of the States—Bismarck, N.D. Contact registration at (800) 800-1910 or registration@csg.org.

July 2008

July 11-15  CSG/Southern Legislative Conference—62nd Annual Meeting—Oklahoma City O K—Contact Elizabeth Lewis at (404) 633-1866 or visit www.slcatlanta.org for more information.

July 12-16  National Association of State Personnel Executives, Annual Meeting (N ASPE)—Oklahoma City, O K—Skirvin Hilton Convention Center. Contact Leslie Scott at (859) 244-8182 or lscott@csg.org.

July 13-16  CSG/Midwestern Legislative Conference—36th Annual Meeting—Rapid City, SD. Contact Cindy Andrews at (630) 925-1922 or candrews@csg.org, or visit www.csgmidwest.org for more information.

July 16-20  CSG/C SG/WEST Annual Meeting—Anchorage, AK—The Hotel Captain Cook. Contact Cheryl Duvauchelle or Lolita Urrutia at (916) 553-4423 or csgw@csg.org.

August 2008

Aug. 3-6  CSG/American Probation and Parole Association—33rd Annual Training Institute—Las Vegas, NV—Rio All-Suite Hotel. Contact Kris at (859) 244-8204 or visit www.appa-net.org.

Aug. 8-12  CSG/Midwestern Legislative Conference—14th Annual Bowhay Institute for Legislative Leadership Development (BILLD)—Madison, WI—Fluno Center of Executive Education. Contact Laura Tomaka at (630) 925-1922 or lomaka@csg.org, or visit http://www.csigmidwest.org for more information.


Aug. 10-13  CSG/ERC 48th Annual Meeting and Regional Policy Forum—Atlantic City, NJ—Sheraton Hotel. Contact Pamela Stanley at (212) 482-2320 or pstanley@csg.org.

Aug. 18-21  National Association of State Treasurers (NAST) Annual Conference—Rockport, ME—Samoset on the O cean Resort. Contact Adnée Hamilton at (859) 244-8174 or ahamilton@csg.org.

Aug. 23-27  National Association of State Technology Directors (NASTD) 31st Annual Conference & Technology Showcase—Boston, MA—Seaport Hotel & World Trade Center. Contact Pamela Johnson at (859) 244-8184 or pjohnson@csg.org.

September 2008

Sept. 8-11  CSG/National Emergency Management Association—NEMA Annual Conference—Portland, OR—Contact Karen Cobuluis at (859) 244-8143 or kcobuluis@csg.org.

Sept. 8-11  Interstate Commission for Adult Offender Supervision (ICAO S) Annual Business Meeting—Palm Springs, CA—W yndham Palm Springs Hotel. Contact Barno Saturday at (859) 244-8235 or bsaturday@csg.org.

Sept. 20-24  CSG/Southern Legislative Conference—Center for the Advancement of Leadership Skills (CALS)—Norman, OK—University of Oklahoma and the Carl Albert Congressional Research and Studies Center. Contact Lori Jones-Rucker at (404) 633-1866 or ljonersucker@csg.org.

Sept. 27-Oct. 2  CSG—Henry Toll Fellowship Program—Lexington, KY—Palm Suites at Lexington Green. Contact Krista Rinehart at (859) 244-8249 or krinehart@csg.org.

December 2008

Dec. 4-7  CSG 75th Anniversary Celebration—Annual Conference—O maha, N.E. Contact registration at (800) 800-1910 or registration@csg.org.

August 2009

Aug. 15-19  CSG/Southern Legislative Conference—Annual Meeting—W inston-Salem, N.C. Contact Elizabeth Lewis at the Southern Legislative Conference at (404) 633-1866 or visit www.slcatlanta.org for additional information.
Although the federal government tends to get more attention, state officials are often on the front lines of cutting-edge trends and issues. On the other hand, sometimes in the community of state governments, the more things change, the more they stay the same.

In print since 1958, State News (formerly State Government News) has chronicled many of the changes … and continuities.

Here’s what we reported on:

**40 years ago—April 1968**

**Reject the Electoral College?**

Residents of each Virginia Congressional district filed suit in March 1968 seeking a three-judge court be convened to bar the state from using the “unit rule” system of election, according to the April 1968 State Government News. The plaintiffs asked to have the 1968 presidential electors elected from the district instead of the state at large.

The lawsuit claimed that giving the state’s electoral votes to the candidate who wins a plurality of the popular vote violates the Supreme Court’s one-man, one-vote doctrine. The plaintiffs said the system effectively disenfranchises the minority party within the state.

The suit also said the present electoral system magnifies the political influences of residents of large states to the disadvantage of those in smaller states. While the case would have affected only Virginia, the plaintiffs had hoped it would be a test case eventually affecting all states.

It was the second time in two years for such a lawsuit. Delaware took a similar case directly to the Supreme Court, but the suit was dismissed on the grounds that it did not raise a substantial constitutional question.

**Update**

Former Vice President Al Gore received 539,893 votes more than George W. Bush in the 2000 presidential election, but Bush took the White House by garnering more electoral votes than Gore. That election brought the issue of how electoral votes are allocated back into the national discussion.

For example, a 2004 initiative in Colorado would have scrapped the winner-take-all allocation of the state’s electoral votes. Instead, Colorado’s nine electoral votes would have been divided to reflect each candidate’s share of the popular vote. California, Washington and Oregon also considered initiative processes that would force reform.

And George C. Edwards III noted in his 2004 book, “Why the Electoral College is Bad for America,” that the nearly 3 million people who voted for Gore in Florida were disenfranchised because Bush won 537 more votes in the state than Gore. “In effect,” Edwards wrote, “the system gives the votes of the people who voted against the winner to the winner.”

Earlier this year, New Jersey became the second state—after Maryland—to enact the National Popular Vote bill to reform the Electoral College by guaranteeing the presidency to the candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would enact the proposed interstate compact entitled the “Agreement Among the States to Elect the President by National Popular Vote.” The compact would take effect only when enacted, in identical form, by states possessing a majority of the membership of the Electoral College (that is 270 of 538 electoral votes). Under the compact, all of the members of the Electoral College from all states belonging to the compact would be from the same political party as the winner of nationwide popular vote. For more information, visit www.nationalpopularvote.com.

**25 years ago—April 1983**

**Infrastructure Still a Hot Topic**

Much of the April 1983 State Government News focused on the infrastructure needs of the states. CSG’s Eastern Regional Conference, with participation from the Southern and Midwestern offices, held a symposium on infrastructure finance in late April 1983 to investigate the techniques state and local governments were using to finance public facilities without tight budgets.

Rep. Timothy J. Moynihan of Connecticut wrote that state and federal roles differ in rebuilding infrastructure. He said states were most suited to conduct needs assessments for roads or bridges and other capital facilities, while the federal government should be responsible for the final accounting for the process and set standards by which the assessments take place at the local level.

Mark Ferber, a former budget director for the Massachusetts state Senate, noted that most conventions of public officials addressed the nation’s infrastructure. The media—including Business Week, Time and Newsweek—all declared an “infrastructure crisis.” The infrastructure movement, Ferber wrote, gained momentum following the previous summer’s dam collapse in Colorado and the aqueduct break in New Jersey. Ferber advocated for a standardization of project evaluation criteria, including the number of both construction and permanent jobs created by the project, the scope of services to be provided, and the ability of the facility to generate revenues.

**Update**

States are again focusing on infrastructure particularly in the transportation sector. CSG will hold a policy workshop on transportation infrastructure and finance at the 75th Anniversary—Spring Conference from 10:30 a.m. to noon, May 30 in Lexington, Ky. To register for the conference, visit www.csg.org. To learn more about what some states are doing, check out the story package beginning on page 30.

**10 years ago—April 1998**

**Preschool Mandate to Pre-K-For-All**

A court adviser’s proposal to the New Jersey Supreme Court in 1998 was the most radical solution proposed to expand the state role in meeting its constitutional obligation to education poor children, according to an article in the April 1998 State Government News. Among Superior Court Judge Michael Patrick King’s proposals was one that would require the state to provide full-day preschool for 3- and 4-year-olds and to offer social services through schools in poor, urban districts.

**Update**

Several states are grappling with how to expand preschool offerings, and seven states either have or are phasing in pre-K-for-all programs. For more information on what states are doing to expand preschool programs, see the story on Page 16.
CSG 75TH ANNIVERSARY CELEBRATION

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Spring Conference
May 29–June 1, 2008

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75th Anniversary Celebration
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