

People & Politics



onstitutional or not? In Montana the Janswer depends on which branch you're in, and it may be up to the third branch—the state supreme court—to decide. Governor Brian Schweitzer maintains House Bill 676, which passed in 2009 and became law without his signature, is unconstitutional because it addresses more than one subject. Not so, lawmakers argue. Schweitzer sued the Legislature over the bill in September and settlement talks between the governor and leading legislators have stalled. Schweitzer, who said he would hold the suit in abeyance until the Legislature adjourns next year to give them time to address the parts of the bill he claims are unconstitutional, now wants to take the matter straight to the Supreme Court.

In Alaska, the U.S. Senate race has been the crowd-pleaser, but voters also had their say on expanding the size of the Legislature for the first time since statehood. They decided not to do it. At issue was increasing the 60-member Legislature to 66 members to recognize 50 years of population growth and shrink district sizes to make them more manageable. The plan included adding four state representatives and two senators to provide more even representation across the state in anticipation of redistricting in 2011.

ne of the "lucky 13" Democrats who won in the 1994 GOP landslide that changed control of Congress in 1994, Karen McCarthy—a former Missouri lawmaker, NCSL president and U.S. congresswoman-died in October from Alzheimer's disease. McCarthy began her political career in the Missouri House in 1977 after teaching high school. She was 29, and the youngest woman in the Legislature at the time. In 1994 she won her congressional seat identifying herself as a "New Democrat." She claimed President Harry Truman as a political role model and represented his hometown of Independence. Governor Jay Nixon served with McCarthy in the Legislature, and said she was "a pioneer for women in public service in Missouri." U.S. Senator Claire McCaskill served with McCarthy in the statehouse in the 1980s. "I have vivid memories of her strength and her intellect as she commanded the most complex issues as a legislator in Jeff City," McCaskill said. "Make no mistake, she was a pioneer, blazing a trail for strong, smart women in the halls of government. That's what she should be remembered for." Karen McCarthy was 63.

T daho Senator and former Minority Leader LClint Stennett died in October following a long battle with brain cancer. Stennett began his legislative career when he was elected to the House in 1990. After serving two terms, he was elected to the Senate for eight terms where he was Democratic leader and developed a reputation as an outstanding lawmaker. He became ill in 2008, and his treatments prevented him from attending session in 2009 and this year. His wife, Michelle, sat in for him and following his death was officially appointed to fill out his term. Governor C.L. "Butch" Otter called Stennett "a man of great integrity, civic virtue and common sense in the best tradition of citizen legislators ... who was trusted and respected by everyone who knew him. Clint was a model of civility and bipartisan cooperation who led by example." The flags at the Capitol flew at half staff the day he was buried. Stennett was 54.

or the second time in five months, a member of the West Virginia Legislature has died, both from the same county. Senate Minority Leader Don Caruth, 59, died in May after a long battle with brain cancer that caused him to miss much of the 2010 session. He served in the House of Delegates before winning election to the Senate in 2004. "During his time in the Legislature, Senator Caruth became the example of how representatives can work across the aisle for the benefit of all West Virginians," said Senate President and Lt. Governor Earl Ray **Tomblin**. A month before he died, Governor Joe Manchin gave Caruth the Distinguished West Virginian award, calling him a "unique public servant." In September, 59-yearold Delegate Mike Porter, first elected in 2004, also died. Porter was a veteran who ran as a Republican at a time when it was a difficult to elect members of the GOP, according to the state party chairman. House Speaker **Rick Thompson** said Porter was a "true gentleman" who "cared deeply about his work on behalf of the people of Mercer County and for the good of the entire state. He will be greatly missed."

arl Ray Tomblin is a man with a big job. Two big jobs to be precise. The West Virginia senator is president of his chamber, a job he's held since 1995. On Nov. 3, he became acting-governor-to-be, although it is uncertain when he will take the reins of that office and how-or if-he intends to balance both. Tomblin found himself with dual titles when Governor Joe Manchin bucked the red tide to fill the U.S. Senate seat of the late Robert Byrd. Speculation is that Tomblin might turn his Senate duties over to Senator Joe Minard, who is president pro tem. Transition talks are underway. Stay tuned. By the way, Tomblin is winner of the 2009 Excellence in Legislative Leadership Award presented by NCSL and the Legislative Leaders Foundation.

The grande dame of the Missouri Senate has decided to resign her seat effective Dec. 31. Eighty-one-year-old Yvonne Wilson began her legislative career in the Missouri House, where she served five years and then moved to the Senate in 2004. She currently serves on the Appropriations and Education committees among others. Her announcement is likely to spark great interest in her seat. Those possibly interested in a run are Representatives Kiki Curis and Craig Bland. The governor will set a special election to fill her seat.

Public Officials of the Year by Governing magazine. Representative **Jerry Madden** and Senator **John Whitmire**, both of Texas, were honored for their work in corrections reform. Connecticut Representative **Diana Urban** was recognized for sponsoring the first and only legislation of its kind—results-based accountability—that targets programs that aren't working.

S STATE LEGISLATURES DECEMBER 2010

Electric Cars Take Charge



uto manufacturers are steering car buyers this year to the Chevrolet Volt and the Nissan Leaf. And electric models from BMW, Ford, Honda, Mitsubishi and Toyota are coming out in 2012. With the help of a one-time federal electric vehicle tax credit—ranging from \$2,500 to \$7,500—and 13 state tax credits and rebates, buyers are likely to be snapping up electric vehicles as soon as they come out.

Powered by rechargeable batteries, these vehicles can be plugged in at home or at public charging stations. Although they can travel 100 to 200 miles before needing to be recharged, it can take four to six hours to recharge them. Consumers may be shocked if they buy them but find few charging facilities available.

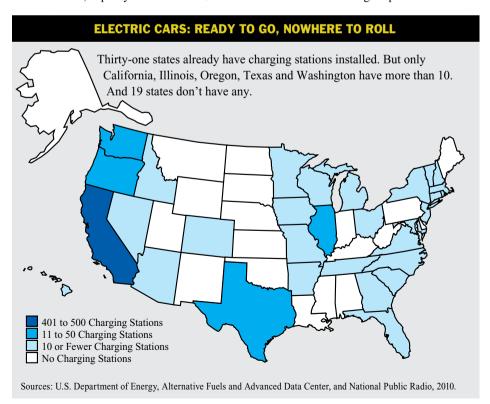
Twenty states have tax credits, grants or loans to promote the development of charging stations, which can be run by independent owners or local governments. Currently, most public charging stations are free. Owners have the option, however, to charge a fee for using them.

To help jump-start the market, Coulomb Technologies, along with Chevrolet, Ford and smart USA, announced last summer that it will deliver nearly 5,000 free home and public charging stations to Austin, Texas,

Detroit, Los Angeles, New York, Orlando, Fla., Sacramento, Calif., the San Jose/San Francisco Bay Area, Redmond, Wash., and Washington, D.C. The program, Charge-Point America, is partly funded with a \$15

million grant from the American Recovery and Reinvestment Act.

Electric vehicle infrastructure may have a long way to go, but it's just a matter of time before electric cars light up our roads.



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A Real Steal

dentity theft generates more complaints than anything else received by the Federal Trade Commission. Credit card abuse was the most common form of fraud reported in 2009, followed by government benefits, phone or utilities, and employment fraud.

Every state has some kind of law regarding identity theft or impersonation. Twenty-nine states also have specific restitution provisions, and three states have forfeiture provisions, which prevent the thief from keeping any property obtained through the identity theft.

Eleven states have created identity theft passport programs to protect victims from ongoing problems.

Among other things, passports identify holders

as identity theft victims, protecting them from getting unfairly arrested or detained.

In 2010, as state legislatures continue to combat identity theft, several have expanded what constitutes identity theft.

Georgia added businesses as potential identity theft victims. In Illinois, an applicant for a building permit now commits identity theft if he knowingly uses the license numbers of contractors who do not work on the project.

Kansas clarified the definitions of what constitutes identity theft and identity fraud to include selling or purchasing identity information

to commit fraud and using false information to obtain documents containing personal identifying information.

Virginia added the sale, distribution or release of personal identifying information to the definition of "injury to property" in their extortion law.

This year also saw more emphasis on protecting children from identity theft. Connecticut now requires the state's Department of Children and Families to review every foster child's credit report for evidence of identity theft, if they are 16 years old or older. Illinois enacted similar legislation

last year requiring the state's Department of Children and Family Services to conduct annual credit history checks of children placed under its guardianship, beginning when a child turns 12. And last year, Indiana increased the penalty to a Class C felony if a parent steals a child's

DENTIT

identity.

THE TOP 10 STATES FOR IDENTITY THEFT COMPLAINTS

- 1. Florida
- 2. Arizona
- 3. Texas
- 4. California
- 5. Nevada
- 6. New Mexico
- 7. Georgia
- 8. New York
- 9. Colorado
- 10. Illinois

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Where's the Money?

here's a battle brewing over life insurance payout methods. Questions arose after Cindy Lohman, the mother of an Army sergeant killed in Afghanistan, had difficulty accessing his \$400,000 life insurance proceeds because they were placed in a "retained asset account."

Since 1982, life insurance companies have offered beneficiaries these accounts when they choose to receive the payment as a single lump sum. In the account, the money draws interest, and the beneficiary is supposed to be able to access the funds through a check or a draft book. They're designed to be temporary, allowing beneficiaries time to decide what to do next.

There currently are more than 60,000 retained asset accounts in the U.S. Department of Veterans Affairs's Group Life Insurance program.

But concerns are growing over how these accounts operate and whether consumers know the risks involved. When Lohman tried to use the "checks" to purchase a bed and a camera on two different occasions, the stores refused to accept them because they were drafts, not checks. Questions focus on the interest

rates paid, the security and soundness of the money, and disclosures made by insurance companies.

Critics say insurance companies are not paying beneficiaries a fair interest rate and their money is not secure because it is not FDIC-insured. They also charge that beneficiaries are not given adequate information on how these accounts operate.

Insurance companies counter that the accounts earn interest at rates comparable to other similar accounts and are protected by state law through state



insurance guaranty associations. Insurance companies also argue that they comply with all disclosure rules set by the National Association of Insurance Commissioners and the states.

Since 1991, insurance regulators in nine states thought regulatory rules and bulletins were needed to protect citizens. Colorado, Kansas, Kentucky, Nevada, New Jersey, North Carolina and North Dakota have specified what information, such as the account's features and how the funds can be withdrawn, must be included in retained asset account disclosures.

Maryland allows insurers to settle a claim for life insurance proceeds through a retained asset account only if the beneficiary expressly consents to do so. Arkansas reviews these account programs on a case-by-case basis.

A bill currently in the California Legislature would require an insurer that uses a retained asset account to:

- Obtain prior written approval from the beneficiary or the claimant
- ◆ Disclose that the beneficiary is not obligated to accept the retained asset account and may receive the proceeds in full.
- ◆ Disclose that the account is not FDIC insured, and if the insurer goes out business, the money

could be lost.

◆ Pay all interest made, less any administrative fees, to the beneficiary.

A bill in New York would prohibit holding any life insurance proceeds in an insurer's retained asset account.

The National Association of Insurance Commissioners is reviewing the use of retained asset accounts and whether appropriate consumer protections are in place.

Businesses On Top

CNBC's list of America's top states for businesses.

And the winners are:



To rank the states, the television business news channel used public data on 40 measures of competitiveness—in each of the following categories: cost of doing business, workforce, quality of life, economy, transportation and infrastructure, technology and innovation, education, business friendliness, access to capital and cost of living.

CHECK OUT the full list at www.ncsl.org/magazine.

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