

Separate Ways

Legislatures in red and blue states are enacting very different kinds of laws. Is that for the good? **By Ronald Brownstein and Scott Bland**



Different strokes: In New York, gay-rights advocates are celebrating. In Indiana (far left), conservative causes are triumphing.

At times, the past six months in the imposing state Capitol building in Indianapolis has seemed more like a track meet than a typical legislative session. After the 2010 election expanded Indiana Republicans' control of the state Senate and provided them a majority in the state House, GOP lawmakers joined

with Republican Gov. Mitch Daniels to briskly advance a long list of conservative priorities. Together they adopted tough measures on illegal immigration (including legislation similar to Arizona's controversial enforcement bill); expanded the school-voucher program; limited collective bargaining by teachers; and overrode local restrictions that prevent gun owners from carrying their weapons in many public buildings. To much fanfare,

Republicans defunded Planned Parenthood and enacted a raft of constraints on abortion, including a ban on the procedure after 20 weeks of pregnancy—a provision that critics say violates the constitutional right to abortion that the Supreme Court established under *Roe v. Wade* in 1973.

Two hundred miles to the west, in Springfield, Ill., the Legislature has marched, nearly as rapidly, in the opposite direction. Illinois

State of Play

Red and blue states diverged on an array of issues this year. Historically weak states for Republicans still passed some conservative laws, reflecting the nationwide gains the GOP made in the 2010 elections.

Conservative actions taken in states

Distribution of states based on how often they voted Republican in past 5 presidential elections

	5/5	4/5	3/5	2/5	1/5	0/5
GUNS Lighter carry restrictions (13 states)	6	2	2	1		2
UNIONS Public-employee bargaining restrictions (13)	5	2	1	1	1	3
ABORTION Limits on insurance coverage (9)	5	3	1			
IMMIGRATION Broader E-Verify application (9)	2	4	3			
IMMIGRATION Voter ID laws (7)	4		1			2
ABORTION Expanded waiting period/counseling laws (5)	4	1				
ABORTION Mandatory ultrasound (5)	2	2	1			
ABORTION 20-week bans (5)	4	1				
IMMIGRATION Enforcement laws (5)	3	2				
ABORTION Defunding of Planned Parenthood (4)	1	2				1
IMMIGRATION In-state tuition restrictions (4)	2	2				
GUNS Stronger "castle laws" (2)		1				1
HEALTH CARE Application to change Medicaid eligibility (2)		1				1
SAME-SEX MARRIAGE Ballot measure to ban (1)						1

Liberal actions taken in states

Distribution of states based on how often they voted Democratic in past 5 presidential elections

	5/5	4/5	3/5	2/5	1/5	0/5
HEALTH CARE Steps to enact state health exchange (14)	8		1	2	2	1
SAME-SEX MARRIAGE Civil unions (4)	4					
IMMIGRATION In-state tuition expansion (3)	3					
IMMIGRATION Opting out of Secure Communities (3)	3					
IMMIGRATION Guest-worker program (1)						1
SAME-SEX MARRIAGE Same-sex marriage (1)	1					
GUNS Stronger tracking and penalties (1)	1					

Democrats have moved aggressively to leverage a 2010 election that maintained their party's control of the state House and Senate and installed Democratic Gov. Pat Quinn for a full term. While devising a budget to salve the desperate fiscal condition, Illinois Democrats made permanent the state's longtime moratorium on the death penalty. Quinn withdrew Illinois from a controversial federal illegal-immigration enforcement plan championed by President Obama, and signed a law that provides undocumented immigrants in-state higher-education benefits, including tax-advantaged savings. In January, the governor approved a civil-union bill that provides same-sex couples spousal rights equiv-

alent to those of heterosexual couples. "It was," Democratic state Rep. Greg Harris said with studied understatement, "a good year."

These Midwestern neighbors aren't the only states taking separate paths through what has become a busy, even landmark, year for state legislative action. Across an array of issues, red and blue states are pulling apart.

This process isn't exactly parallel: Energized by their big 2010 wins, red-state Republicans have generally moved more boldly than blue-state Democrats to redirect state policy. But on both sides of the political divide, leaders in many states this year tilted away from the cautious centrism that often shaped the strategies of governors and legislators in

earlier times. The result has been a banner legislative year for both gay-rights advocates and abortion opponents. Along the way, the ideological and partisan polarization that defines contemporary Washington increasingly appears to be infusing debates—and driving results—in state capitals as well.

"It is a time for extreme views," said Richard Nathan, former director of the Nelson A. Rockefeller Institute of Government at the State University of New York in Albany, which studies state-level policy. "My recollection of government is that there are times when people work things out, compromise, bargain to get consensus. But there doesn't seem to be much consensus-seeking [now] at the state level."

There's nothing new about states charting distinct pathways. Many thinkers have long championed the idea of states as "laboratories of democracy" that provide a testing ground for competing ideas. And some leaders in both parties agree that our federal system benefits from a built-in escape valve allowing states to craft responses to national controversies that reflect local majorities. But this year's flurry of legislative activity is testing the limits of that theory by dramatically widening the gap between policies in blue and red states on polarizing issues such as abortion, gay rights, and immigration.

As so many states go their separate ways, no one can say for sure where exactly the line falls between variation that eases political tension and dissonance that intensifies it. "My own [instinct] is toward letting the states decide these things, because having national solutions imposed usually doesn't solve the problem, and it keeps the pot boiling," says Peter Wehner, a former senior adviser in the George W. Bush White House. "But at some point, you get people in different states pushing so many diverse laws with so many diverse views, it makes us less united as a country. All things being equal, we'd rather have the bandwidth narrower than wider."

FEDERALISM OR FRAGMENTATION?

The contrast this year between red and blue states is most apparent on what might be called discretionary policies. On the biggest challenge facing state governments—budgets squeezed by the lingering economic slowdown—Democratic and Republican governors have displayed a surprising degree of strategic convergence. Generally speaking, states on both sides of the political divide have moved to close budget deficits by cutting spending rather than raising revenue (with Illinois as a notable exception). Even Democrats Jerry Brown in California and Andrew Cuomo in New York, presiding over the bi-coastal two towers of blue America, have pursued givebacks from public employees.

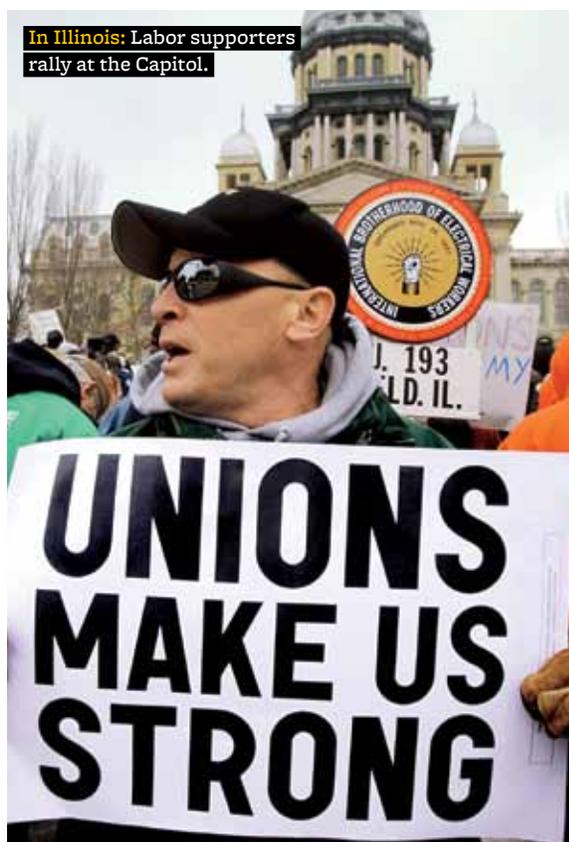
Still, differences are apparent even on the

fiscal front. Although both Democratic and Republican governors have sought budget concessions from state employees, many GOP governors and legislatures have gone a long step further by also seeking to curtail the bargaining power of the public-employee unions. Thirteen states—almost all of which have Republican governors and legislatures, and most with a strong history of backing the GOP’s presidential candidates—have pursued such limits this year. No state in which Democrats control the governorship and legislature has imposed such limits on public-employee unions.

Attempts to limit public workers’ bargaining rights have generated the most heated conflicts in state policy this year. But the pulling apart across the states is even more vivid on social issues such as abortion and gay rights. Despite the GOP’s huge state-level gains in the 2010 election that netted almost 700 state legislative seats, 2011 witnessed astounding successes in the expansion of gay marriage and civil unions, with five solidly Democratic states enacting legal recognition for gay couples. On the other side of the ledger, 15 mostly Republican-leaning states have moved sharply to restrict abortion rights. Illegal immigration has exposed the same centrifugal current: 15 mostly Republican-leaning states have adopted one or more tough new enforcement measures, while five blue states have either withdrawn from federal enforcement efforts or provided in-state tuition to the children of those here illegally. Red and blue states are also going in different directions on gun control and their response to President Obama’s health care reform law.

At some level, this patchwork of divergent approaches is exactly what the nation’s Founders intended when they established a federalist system that maintains substantial authority for the states (and rejected James Madison’s hope of a congressional veto over state actions).

Particularly on divisive social issues, some liberal and conservative thinkers have long argued that providing states more flexibility to set rules that reflect local mores could drain some of the venom from intractable national debates. Wehner, now a senior fellow at the Ethics and Public Policy Center, argues that the unending generation-long controversy over the *Roe v. Wade* decision legalizing abortion shows the cost of imposing a single national solution on divisive cultural questions. On gay marriage, he maintains, the nation would be better served by allowing states to go their own way rather than attempting to either guarantee or ban equal treatment through the courts or a federal constitutional amendment. “To have same-sex marriage now decided at a state level, and different state levels, makes the culture wars less heated than they otherwise would be,” Wehner says.



In Illinois: Labor supporters rally at the Capitol.

Attempts to limit public workers’ bargaining rights have generated the most heated conflicts.

In the 2008 Republican presidential primary campaign, Rudy Giuliani, attempting to temper conservatives’ skepticism about his liberal social views, argued for allowing states more leeway to pursue their own course on social issues. If Texas Gov. Rick Perry seeks the nomination in 2012, he may use comparable arguments to soften resistance among more-moderate GOP primary voters to his staunchly conservative social views. From the other side of the ideological spectrum, Jeffrey Rosen, a law professor at George Washington University, has contended that returning control over abortion to the states by overturning *Roe v. Wade* would allow the nation to reach a “democratic equilibrium” on the perennial dispute.

Bruce Cain, a University of California (Berkeley) political scientist, agrees with Wehner that many Americans will probably

welcome the trend toward diverging state policies. “We are a divided country, and if we were all mixed in one state, we’d be fighting to a standstill,” Cain said. “It may be a way of diffusing the tension somewhat to allow states to have different paths, and then people can choose to live in a state or not.”

As states pull apart, though, it raises questions of how far they can extend flexibility without either undermining nationally guaranteed rights or simply producing an unworkable jumble of cacophonous directives. After all, for decades, state-sponsored segregation was defended as an expression of distinctive Southern mores and preferences. Only decisive national action, first from the Supreme Court through the *Brown v. Board of Education* decision and then Congress through the 1964 Civil Rights Act, dismantled Jim Crow and ensured African-Americans that they would possess (if not always be able to exercise) equal rights in every state. The *Roe* decision did the same thing for women on abortion, overriding discordant state laws that permitted or prohibited the procedure.

The aggressive laws that states passed this year, particularly on abortion and illegal immigration, will likely keep federal courts busy for years determining whether they infringe on federal law or constitutional rights. Nathan, the scholar on state policy, believes that the deeper problem with the centrifugal movement isn’t so much legal as political: He sees the

trend as reflecting a rising absolutist strain in American politics in which the majority party, no matter how narrow its advantage, pursues a winner-take-all agenda, at the national and the state level, that offers few concessions to opponents’ views. “You could argue that [this trend amounts] to reconciling diversity,” he says. “But I wouldn’t, because I think there’s a churning hardball-politics process at work within both the red and blue states. It doesn’t pretend that you’re going to have a consensus on the social issues or the role of government through deal-making or bargaining.”

It’s possible that the powerful centrifugal force evident this year in the states will prove a temporary surge driven mostly by the historic GOP gains in 2010. But other factors indicate that it could endure.

One reason is that so many states now lean

Social Sorting

States in traditionally blue regions legalized same-sex marriage and civil unions in 2011, while the conservative heartland sharply curtailed the availability of abortions.



reliably and durably toward one party or the other as Americans arrange themselves in their housing patterns along cultural, ideological, and partisan lines. Bill Bishop, the Texas-based coauthor of the acclaimed 2008 book *The Big Sort*, which chronicled the increasing tendency of like-minded Americans to flock together, says that the clustering phenomenon creates communities in which converging viewpoints encourage policies that tilt sharply left or right. Increasingly, he contends, the same dynamic is affecting states. "If you look at them, a lot of the states are tipping too," he says. "And as these places begin to tip, their policies reflect more of the direction they are tipping toward. You saw that initially locally.... Now, as states begin to tip, you see those kinds of [dynamics] carrying over."

Another factor is that state politics no longer are as resistant as they once were to the polarization and reflexive partisanship that characterizes Washington. Even as national politics grew more divided after the 1960s, governors often prided themselves on functioning as nonpartisan, pragmatic problem-solvers. The National Governors Association cherished its ability to produce bipartisan proposals for almost every challenge.

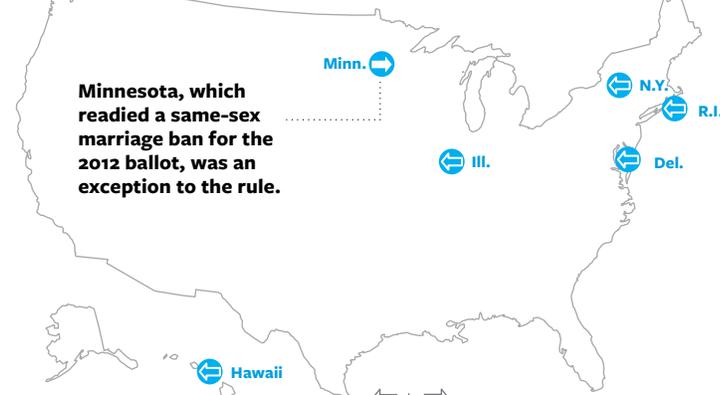
That has grown much more difficult to do, as governors (and state legislators) divide along party lines as reliably as their congressional counterparts do on issues such as climate change, immigration, or Obama's health care law. The divergence evident this year among red and blue states is not so much a cause of our divisions as a reflection of the fact that no level of American politics remains immune to them. Allowing local majorities to follow increasingly inimical paths may indeed produce more "democratic equilibrium," but at the price of institutionalizing the deepening divisions between these ostensibly *United States*.

Following is a look at how the deepening divisions have manifested themselves this year in five areas: public-employee collective bargaining; social issues, such as abortion and gay rights; immigration; health care; and gun control.

THE MAJOR DIVIDES

Probably the sharpest confrontations in state policy this year have come in the 13 states that have acted to limit the bargaining rights of public-employee unions. Eight—Arizona, Idaho, Indiana, Oklahoma, South Carolina, Tennessee, Utah, and Wyoming—have backed Republican presidential candidates in at least three of the past five elections, and all have Republican governors and legislatures. The other five states pursuing such limits—Michigan, New Hampshire, New Jersey, Ohio, and Wisconsin—have predominantly supported Democrats in the past five presiden-

SAME-SEX MARRIAGE



KEY
Blue indicates state voted Democratic in 4 or 5 of the past 5 presidential elections.
Direction of arrow indicates ideology of legislation:
 ← Liberal
 → Conservative

State	Civil unions	Marriage	"One man, one woman" ballot measure
Delaware	●		
Hawaii	●		
Illinois	●		
Minnesota			●
New York		●	
Rhode Island	●		

ABORTION



KEY
Blue indicates state voted Democratic in 4 or 5 of the past 5 presidential elections.
Red indicates state voted Republican in 4 or 5 of the past 5 presidential elections.
Yellow indicates state vote was split between Democratic and Republican candidates in the past 5 presidential elections.
Direction of arrow indicates ideology of legislation:
 → Conservative

State	CONSERVATIVE				
	Mandatory ultrasound	Waiting period and counseling	Limit on insurance coverage	20-week ban	Defund Planned Parenthood
Alabama	●			●	
Arizona	●				
Florida			●		
Idaho	●		●	●	
Indiana	●	●	●	●	●
Kansas	●	●	●	●	●
Nebraska			●		
North Carolina			●		●
North Dakota		●			
Oklahoma			●	●	
South Dakota		●			
Texas	●	●			
Utah			●		
Virginia			●		
Wisconsin					●

PHOTOS: (L TO R) GETTY IMAGES/JUSTIN SULLIVAN; GETTY IMAGES/SCOTT OLSON

tial campaigns; but Republicans control both chambers of the state legislature in all of them except New Jersey, and hold the governorship in each of them except New Hampshire.

Meanwhile, as noted earlier, no Democrat-controlled state has pursued similar measures. The contrast between red- and blue-leaning states is even sharper on the two most polarizing social issues in contemporary politics: gay rights and abortion. Gay-rights advocates made dramatic breakthroughs this year, all of them in states that lean strongly Democratic. Four states—Delaware, Hawaii, Illinois, and Rhode Island—enacted civil-union laws for gay couples. On June 24, New York capped that advance in emphatic fashion, becoming the sixth, and by far the largest, state to legalize gay marriage. “This has definitely been a watershed year for relationship recognition,” said Michael Cole-Schwartz, a spokesman for the Human Rights Campaign, a group that advocates for gay rights. “New Hampshire and Vermont enacted marriage in [2009], but I think this has been the most successful year.”

These gay-rights gains underscore the movement’s strengthening position in blue states. Each of the five states that recognized gay marriage this year is part of the “blue wall”—the 18 states that have voted Democratic consecutively in at least the past five presidential elections. After this flurry of action, two-thirds of the blue-wall states—12 of the 18—have approved same-sex marriage or civil-union laws that provide equivalent spousal rights for gays and lesbians. By comparison, of the 32 other states, just Iowa, Nevada, and New Hampshire have authorized either gay marriage or equivalent rights for domestic partners. (And Iowa and New Hampshire, although more closely divided than the typical blue-wall states, have each voted Democratic in four of the past five presidential elections.)

Although the decision of New York’s Republican-controlled state Senate to approve gay-marriage legislation (albeit mostly with votes from Democrats) understandably drew much attention, it remains the exception. Democrats control every other legislative chamber in the five states that recognized gay unions in 2011. Similarly, Democrats hold the governorships in all of the states that acted this year, except for Rhode Island, where independent Lincoln Chafee, a social liberal, presides. Opinion on same-sex relationships is morphing quickly inside the blue wall, where it appears that civil unions are becoming a compromise position, not a reach. “There are people to my left saying it’s not far enough, and to the right people are saying this shouldn’t be on the books at all,” says Harris, the Illinois state legislator who sponsored the state’s civil-union bill. “But this is what we came up with.”

The effort to limit marriage rights to heterosexual couples has had no comparable

triumphs so far in 2011, partly because most conservative states have already passed constitutional amendments restricting the definition of marriage to one man and one woman. In all, 29 states have approved such amendments; in 18 of them the amendments also prohibit legal recognition of civil unions. The list of states that have constitutionally banned same-sex marriage includes some Democratic territory such as Michigan and Wisconsin and scattered swing states including Florida and Ohio, but it is dominated by red-leaning states. In fact, nearly every state that voted Republican in at least four of the past five presidential elections has imposed a constitutional ban on same-sex marriage, and the few that have not have passed laws with the same effect.

One blue-wall state did take a preliminary step toward banning same-sex marriage. The Minnesota Legislature, now controlled by Republicans, approved legislation authorizing a 2012 ballot initiative on the subject, bypassing Democratic Gov. Mark Dayton.

The mirror image of the advance for gay-rights advocates in blue states has been big gains for abortion opponents in red states. Fifteen states this year have reduced the availability of abortions within their borders. Arizona, Florida, Indiana, Kansas, and Texas approved legislation requiring women to receive ultrasound examinations before getting an abortion. Five states banned abortion after 20 weeks of gestation—a policy that abortion-rights opponents believe violates the constitutional right to the procedure that the Supreme Court established in *Roe v. Wade*. Four states defunded Planned Parenthood, a group that provides health services including abortion. Another five states expanded waiting-period and counseling laws designed to prevent or at least delay abortions. South Dakota extended its waiting period, now the nation’s longest, from 24 to 72 hours. Indiana newly requires counseling on fetal pain for women seeking abortion and, along with Kansas, mandates that clinic staff members tell women that fetuses are “people.” Nine states imposed restrictions on insurance funding for abortion—either through Medicaid, private insurance, state-employee health plans, or the exchanges planned under the 2010 health care law.

“This year was different in some of the substance of the legislation—that’s the difference from previous years,” said Mary Spaulding Balch, the state legislation director for National Right to Life. “Some states where we haven’t had recent victories; we’ve had several this year.”

Still, the movement’s gains were concentrated in red-leaning states. All but one of the states that enacted at least one restriction on abortion this year voted Republican in a majority of the past five elections. Four of the five states that extended waiting periods for abor-

tions voted Republican in each of the past five elections. Each of the five states that banned abortion after 20 weeks voted Republican in at least four of the past five elections, as did four of the five states requiring mandatory ultrasound procedures before abortions. Of the four states that defunded Planned Parenthood, only Wisconsin (where Republicans in 2010 swept into control of the governorship and both legislative chambers) did not vote Republican in at least four of the past five elections. Likewise, of the nine states that limited insurance coverage for abortion, only Florida did not vote Republican in at least four of the past five elections.

The state-level political balance follows these same tracks. Republicans hold unified control of the governorship and both state legislative chambers in 12 of the 15 states that limited access to abortion in the areas that *National Journal* examined. Of the outliers, Nebraska has a nominally nonpartisan Legislature, and Democrats still hold the state Senate in Virginia and the governorship in North Carolina.

In blue states, the modest offsetting activity involved small expansions of family-planning funding. With those slight exceptions, this year has witnessed the broadest, and most successful, one-year offensive for the antiabortion movement in memory. “The breadth of the attack is especially notable, as well as the depth, in creativity and angle,” said Donna Crane, the policy director for NARAL Pro-Choice America. “Living in a red state is certainly a different experience than it was a year ago.”

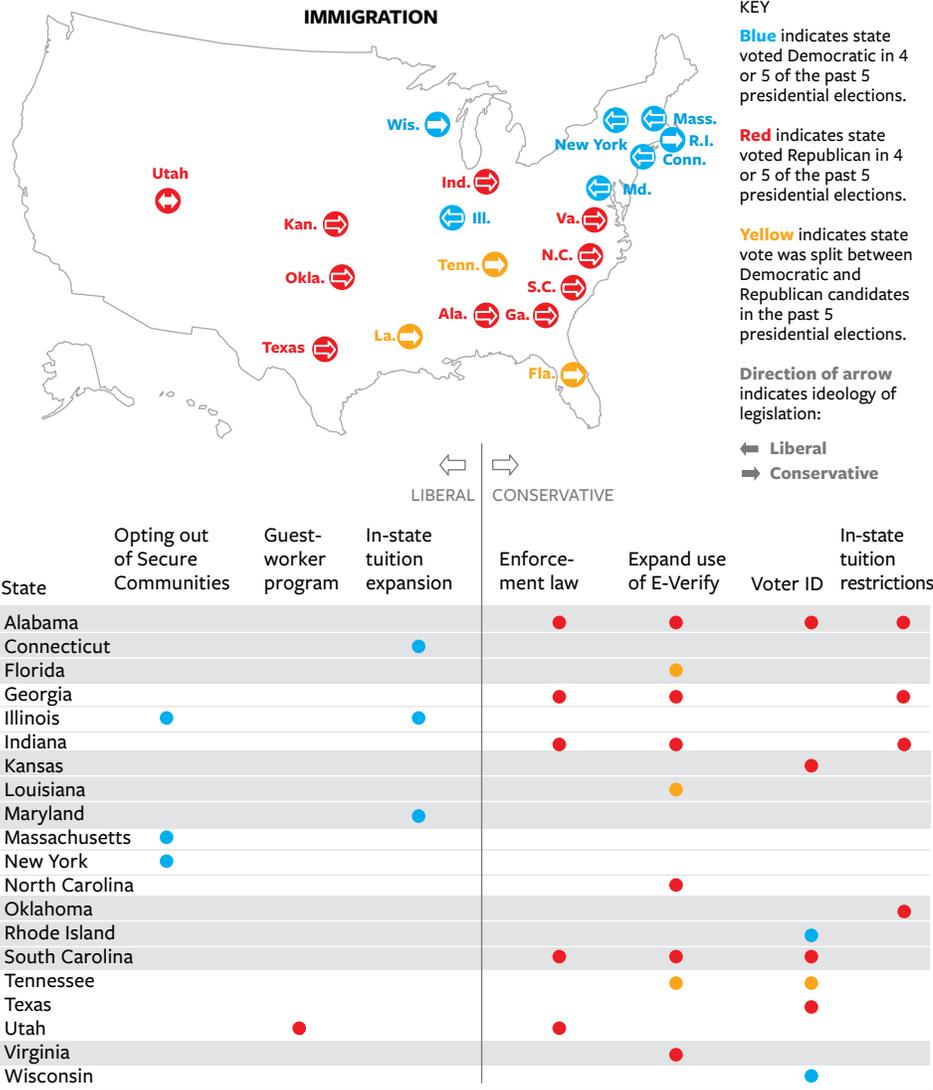
IMMIGRATION

Blue and red states also went their separate ways this year on immigration. Politicians in both parties are fond of calling the U.S. immigration system “broken.” After this year, it is also fundamentally different depending on where you live. “Some voters are saying, ‘We want this solved by getting tough,’ and some are saying, ‘We don’t want to treat people this way,’” said Tamar Jacoby, the president and CEO of ImmigrationWorks USA. “They’re not contradictory messages. They’re all saying, ‘Fix it.’”

That may be the common motivation. But in practice, the results have been wildly divergent. In 2011, Alabama, Georgia, Indiana, South Carolina, and Utah passed immigration-enforcement laws similar to the controversial SB 1070 legislation that Arizona approved in 2010. That law would have required police to check the immigration status of anyone they suspected of being an illegal immigrant; a federal judge issued an injunction against the measure before it went into effect. The U.S. Court of Appeals for the 9th Circuit has since ruled parts of the law

Go Easy, Get Tough

The traditional “immigration-receiving states” of the Northeast, which are also blue states, mostly leaned against bringing the law down on illegal immigrants. Southern and Midwestern states moved the other way, empowering police and mandating E-Verify to try to curb illegal immigration.



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South Carolina, call for all employers, public and private, to use E-Verify.

The common thread is that each of the nine states that promoted this approach leans toward the GOP. Republicans won at least three of the past five presidential elections in each of them. Republicans control both legislative chambers in eight of the nine (Virginia’s Democratic Senate is again the sole exception.) And eight of the nine states have Republican governors, with North Carolina’s Bev Perdue the lone Democrat to sign E-Verify legislation this year.

In a similar vein, seven states adopted laws requiring voters to display photo identification to cast their ballots. Of the group, Alabama, Kansas, South Carolina, and Texas each voted Republican in at least five consecutive presidential elections; Republicans control the governorship and both legislative chambers in each as well. Tennessee, which also has a GOP legislature and governor, voted Republican in the past three presidential elections. The only exceptions to this pattern are Wisconsin and Rhode Island, where the Democratic-controlled Legislature and independent governor unexpectedly approved voter-ID legislation.

By contrast, Democratic governors in five other states, all with Republican legislatures, vetoed voter-ID bills. The same split was evident on the issue of offering in-state college tuition rates to the children of illegal immigrants. Alabama, Georgia, Indiana, and Oklahoma—red-leaning presidential states in which Republicans now control the governorship and both legislative chambers—curtailed the availability of in-state tuition this year. (Montana, another traditional Republican presidential state with a GOP Legislature, will put the issue to voters on its 2012 ballot.) Meanwhile, three blue-wall states with Democratic governors and legislatures—Connecticut, Illinois, and Maryland—went in the opposite direction by expanding access to in-state higher-education benefits for illegal immigrants.

The most dramatic departure by the blue-wall states came on a federal enforcement initiative that was launched under former President George W. Bush but continued under President Obama. Illinois, Massachusetts, and New York this year all took the extraordinary step of opting out of the Secure Communities program, an information-sharing initiative that transmits fingerprints and other arrest data from police departments to federal immigration authorities. Governors in those states argue that the program casts too wide a net, ensnaring not only serious criminals but also illegal immigrants that present no threat to the community.

The red-blue pattern on immigration wasn’t absolute this year. Some red states such as Mississippi, Nebraska, and Tennessee pointedly rejected Arizona-type initiatives. Reliably red Utah even approved a liberal-leaning

unconstitutional; Arizona’s appeal is pending before the Supreme Court. The Alabama law was challenged in federal court on July 8, and judges have blocked parts of all four of the other laws thus far.

Republicans hold unified control of the governorship and both state legislative chambers in all five of the states that passed an Arizona-type law this year—each of which voted Republican in at least four of the past five presidential elections. Several of those states have also seen substantial recent increases in their Hispanic populations. State Rep. Matt Ramsey, the Republican author of Georgia’s enforcement bill, expresses views common

to supporters of these initiatives. “It’s an issue that costs Georgia taxpayers more than \$2 billion each year,” he said. “We know we can’t solve the problem, but we know we can reduce incentives so that people who come here illegally will seek out another state.”

With similar motivation, nine states this year also mandated broader use of E-Verify, the federal electronic database that double-checks work-authorization records to discourage businesses from hiring illegal immigrants. The laws varied in scope, with some states such as Indiana requiring only public employers and state contractors to do database checks. Others, including Alabama and

guest-worker program. And yet, as on abortion and gay rights, the overall trend on immigration is a widening chasm. As a group, red states moved to toughen enforcement, and almost all blue states either sidestepped that current or actively resisted it. In the long run, that separation may increase the pressure on Washington to set uniform national policies. But in the near term, it means increasingly contradictory experience for employers and immigrants alike, depending on where they are located. “If you have 50 states doing it 50 different ways,” Jacoby says, “it’s hard to do business.”

HEALTH CARE

The main action on health care at the state level has been in trimming Medicaid budgets, often by cutting benefits or reimbursement levels. Several Republican-controlled states have also made high-profile attempts to tighten the standards for Medicaid eligibility.

Blue states also took steps to trim their Medicaid budgets, but they have devoted significant time to establishing the insurance exchanges mandated by last year’s health care reform act. While 26 mostly conservative states (plus a few liberal ones with Republican attorneys general, such as Washington) have signed onto a lawsuit challenging “Obamacare,” seven blue-wall states—California, Connecticut, Hawaii, Maryland, Oregon, Vermont, and Washington—have taken initial steps to set up the insurance exchanges central to the legislation’s operation. Three others have started that process—swing states Colorado and Nevada, and West Virginia, which increasingly leans Republican at the presidential level.

Four additional states (Illinois, Indiana, North Dakota, and Virginia) have taken a more tentative step forward, indicating their intention to establish exchanges, though not yet beginning the process of doing so. The small number of Republican states that are moving toward creating exchanges could portend more conflict down the road, because the health care reform law allows the federal government to establish the state exchanges if governors fail to act, a prospect unlikely to win much applause in red places.

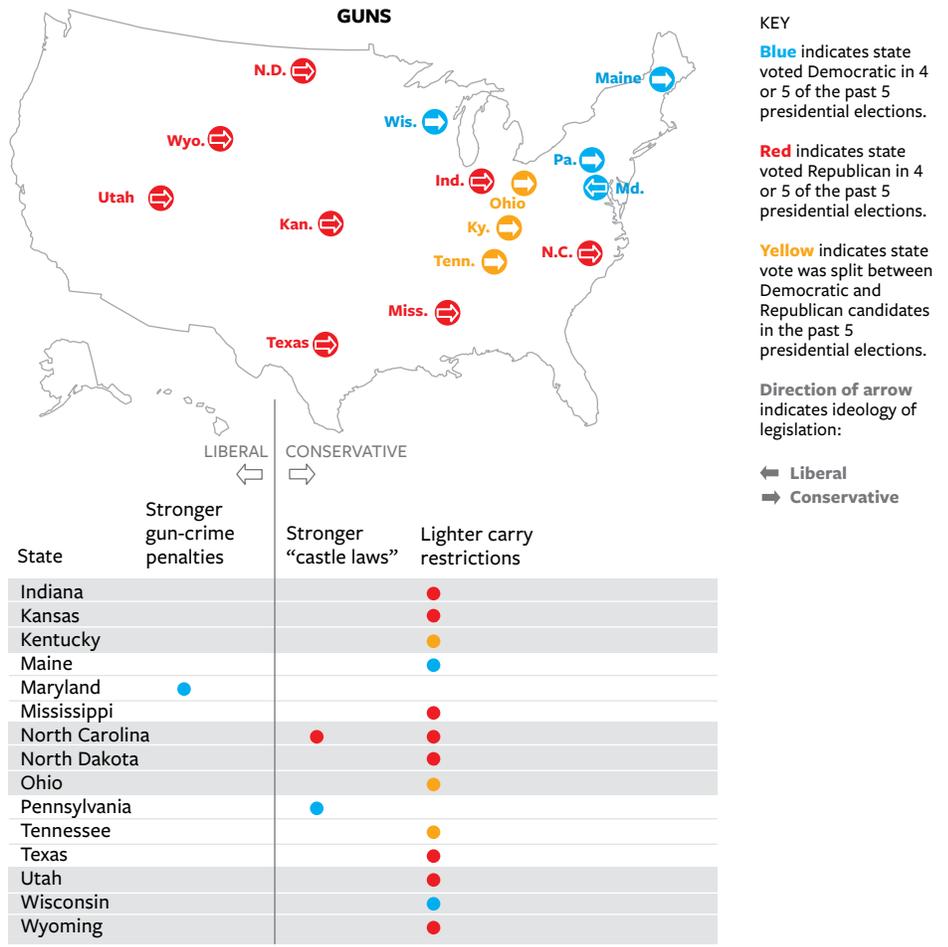
GUNS

Opponents of gun control gained as much ground in 2011 as antiabortion activists have. Fourteen states moved to loosen restrictions on gun ownership, possession, and use. The laws vary in reach. North Carolina and Pennsylvania broadened the conditions in which citizens can defend themselves with deadly force. North Dakota and Texas enacted laws allowing people to keep weapons unattended in parking lots. Wisconsin authorized concealed carry of guns.

The other states reduced or eliminated restrictions on carrying firearms in schools or courthouses. Florida passed a law forbidding

Taking Aim

Gun-rights advocates this year loosened restrictions primarily, but not exclusively, in Republican-leaning states.



pediatricians from inquiring whether parents keep firearms in their homes. Texas tried to become the second state to permit concealed weapons on all of its public university campuses, but the bill stalled in the Legislature. “It was ruled subject to a point of order,” said its sponsor, Republican state Sen. Jeff Wentworth. “But we did get a parking-lot bill passed and signed by the governor.”

As on abortion, this was a one-sided competition in 2011: Politicians in blue states made little effort to advance liberal gun-control policies. The most significant exception came in Maryland, which mandated stronger punishments for crimes committed with guns by repeat offenders. Mostly, though, the gun-rights movement has had free rein. “Legislatively, it’s been a good year,” said Andrew Arulananandam, the public affairs director for the National Rifle Association’s lobbying arm. “We’ve

found ourselves playing a lot of offense ... [and] we’ve been able to beat back just about every piece of anti-gun legislation in the states.”

The right turn on gun issues, like the similar movement on abortion and immigration, occurred mostly in red-leaning states. Ten of the 14 states that lightened restrictions on gun possession voted Republican in at least three of the past five presidential elections. Only Maine, Ohio, Pennsylvania, and Wisconsin joined those Republican-leaning states in broadening gun rights, and in all four of them, Republicans emerged from 2010 with unified control of the state legislature and the governorship.

The big gains for gun owners represented a fitting capstone for a year in which voters on both sides of the red-blue divide found themselves firmly in the cross fire as confrontations that are largely stalemated at the national level burned through the states. ■