

An Assets Agenda for the States

Policy Ideas and Recent Developments

Online Appendix

Karen Harris, Illinois Asset Building Group

May 2013

Table of Contents

Appendix A: State Asset Limit Reforms..... 3

Appendix B: Recent State Asset Limit Action4

Appendix C: State Children’s Savings Account Task Forces 6

Appendix D: States and Internet Sales Tax.....7

Appendix E: State Exemptions for 529 Accounts from Financial Aid Determinations22

Appendix F: State Exemptions for 529 Accounts from Public Benefit Programs’ Asset Limits 25

Appendix G: States’ 529 Matching Programs..... 26

Appendix H: States’ Funding Sources for IDA Programs 29

Appendix I: States’ Automatic IRA Legislation30

Appendix J: States’ Prize Linked Savings Laws 32

Appendix K: States’ Credit Checks in Employment Law.....34

Appendix L: State Payday Lending Legislation 2012.....41

Appendix M: State Car Title Loan Laws 51

Appendix A: State Asset Limit Reforms¹

[Return to top^](#)

	TANF	Medicaid	SNAP
Eliminated Asset Limits	Alabama, Colorado, Louisiana, Maryland, Ohio and Virginia	Alabama, Arizona, Colorado, Connecticut, Delaware, D.C., Illinois, Kansas, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Virginia, Wisconsin and Wyoming	Alabama, Arizona, California, Colorado, Connecticut, Delaware, D.C., Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Vermont, Washington, West Virginia and Wisconsin
Increased Asset Limits to \$15,000 for Medicaid or \$2,000 for SNAP	Delaware (\$10,000), Hawaii (\$5,000), Idaho (\$5,000), Iowa (\$5,000), Oregon (\$10,000), Washington (\$4,000), Minnesota (\$5,000), Nebraska (\$6,000 for 2 or more people), and North Dakota (\$6,000 for 2 or more people)	Iowa (\$5,000), Minnesota (\$10,000 for one parent; \$20,000 for two parents), Nebraska (\$6,000 for 2 or more) and South Carolina (\$30,000)	Idaho (\$5,000), Michigan (\$5,000 excludes one vehicle up to \$15,000), Nebraska (\$25,000 in liquid assets, all non-liquid assets excluded), Pennsylvania (\$5,500; \$9,000 if households includes elderly or disabled members), and Texas (\$5,000 excludes one vehicle up to \$15,000)

In early May 2012, the U.S. House of Representatives Agriculture Committee passed legislation that would have cut the Supplemental Nutrition Assistance Program (SNAP) and forced states to reinstate asset tests by eliminating Broad Based Categorical Eligibility (BBCE).² The Senate Agriculture Committee passed its version of this legislation, which would have preserved BBCE.³ Although the chambers deliberated they did not reach agreement. As a result, a simple extension of the 2008 Farm Bill through September 30, 2013, was made as part of a much bigger legislative package to avoid the so-called fiscal cliff at the last minute at the end of December 2012.

[Return to top^](#)

¹ [Lifting Asset Limits in Public Benefit Programs](#), CFED.

² [H.R. 5652, Sequester Replacement Reconciliation Act of 2012](#), (112th Congress, 2011–2012).

³ [S. 3240, Agriculture Reform, Food, and Jobs Act of 2012](#), (112th Congress, 2011–2012).

Appendix B: Recent State Asset Limit Action

[Return to top^](#)

State	Program	Provisions	Citation	Status
California	TANF	Eliminate vehicles from asset limit determinations	A.B. 1182, Leg. Sess. (Calif. 2011-2012)	Vetoed by Governor October 2011
Colorado	TANF	Eliminate asset limit	SB 10-068 (Colo. 2011-2012)	Enacted January 1, 2011
Hawaii	TANF	One bill would eliminate asset limits. Another bill would raise asset limits from \$5,000 to \$15,000. A third bill would require a study to evaluate the effect of changing asset limits in Hawaii's public benefit Programs.	S.B. 2936, 26th Gen. Assem., Reg. Sess. (Haw. 2012). H.B. 2178, 26th Gen. Assem., Reg. Sess. (Haw. 2012). H.B. 2685, 26th Gen. Assem., Reg. Sess. (Haw. 2012).	Did not pass Did not pass Enacted 2012
Idaho	TANF	Raised asset limit from \$2,000 to \$5,000	Idaho TANF State Plan FFY 2012	Enacted 2012
Illinois	SNAP and TANF	Raise asset limits in TANF to \$10,000 and re-introduce asset limits in SNAP at \$10,000	H.B. 5611, 97th Gen. Assem., Reg Sess. (Ill. 2012)	Did not pass
Michigan	SNAP	Reinstated asset limits in SNAP. \$5,000 in bank accounts and some other types of property now excluded/Other assets that would count against the cap include vehicles with market values of more than \$15,000 and second homes	H.B. 5033, 96th Gen. Assem., (Mich. 2011)	Enacted in April 2012
Minnesota	SNAP, TANF, and Medicaid	Approved legislation requiring Department of Human Services to study impact of eliminating asset tests in public benefit programs	H.F. 2294, 87th Leg. Sess., Chapter 247 (Minn. 2011-2012)	Enacted in 2012

Pennsylvania	SNAP	Reinstated asset limits in SNAP to \$5,500.	Administrative Action	Enacted May 2012
Tennessee	SNAP	Proposed legislation to eliminate asset limits in SNAP.	Administrative Action, Rule 1240-01-04-02	The original effective date of the new rule was June 19, 2012; however, it was stayed and new effective date of October 9, 2012 was enacted. Prior to the new effective data the rule was withdrawn on September 25, 2012.

[Return to top^](#)

Appendix C: State Children's Savings Account Task Forces

[Return to top^](#)

State	Summary
Delaware	<p>State of Delaware, June 2002</p> <p>Recommended supporting efforts to obtain federal pilot funds for children's savings accounts.</p>
Illinois	<p>Illinois Child Savings Account Task Force, December 2010</p> <p>Recommended using the 529 college savings plan platform to provide a savings infrastructure for all children in Illinois.</p>
Oklahoma	<p>Oklahoma Policy Institute, April 2008</p> <p>Recommended creating a CSA program by automatically enrolling children at birth into Oklahoma's 529 College Savings Plan with eligibility for public deposits available to moderate-to-low income families.</p>
North Carolina	<p>North Carolina Asset Building Policy Task Force, May 2007</p> <p>Recommended enhancing the ability of families to save and build assets, such as CSAs.</p>

[Return to top^](#)

Appendix D: States and Internet Sales Tax

[Return to top^](#)

One way to increase state revenue to pay for asset building programs such as CSAs is to increase sales tax revenue. E-commerce is taking a bigger slice of the overall retail sales pie and is growing far faster than retail sales. 4.2% of total retail spending, amounting to an estimated \$164.6 billion, took place online during 2010, up from 3.9% in 2009, according to Commerce Department estimates.⁴ Yet, many states do not collect sales taxes on Internet sales. As a result, states lost an estimated \$7 billion in revenue in 2009 from uncollected taxes on internet sales.⁵

States' failure to collect internet sales taxes is due to U.S. Supreme Court rulings from 1967 relating to catalogs and mail orders which have been interpreted to preclude states' taxing authority in this area.⁶ According to these cases, understanding, administering and collecting different state and local sales codes was too complex and placed both an undue burden on catalog and mail order companies, as well as created an unreasonable restriction on interstate commerce in violation of the Commerce Clause.⁷ The Court, therefore, held that, only states in which a company has a nexus, through the presence of retail outlets or distribution centers, can be required to collect sales taxes.⁸

Yet, technology has made computing sales tax less burdensome so the justification for the Court's original ruling is gone. In fact, two other Supreme Court decisions seem to establish that an out-of-state seller is deemed to have a nexus through a physical presence in a state if it uses in-state third parties to help establish and maintain a market for its goods within the state.⁹

Given the rapid increase in internet sales and the corresponding loss of state sales tax revenue suggest that these decisions should be challenged. The clearest guidance on the legality of taxing remote sales would be for Congress to enact legislation and, in fact, such legislation has been proposed. The [Main Street Fairness Act, \(H.R. 2701 and S. 1452\)](#), for example, was introduced in 2011 and similar legislation was also previously introduced in the [111th](#), [110th](#), [109th](#), and [108th Congresses](#). Unfortunately, to date, such legislation has not passed.

⁴ Allison Enright, "[Retail E-Commerce Spending Rebounds: Spending on U.S. E-Commerce Jumped 9.3% in the First Half of 2010, comScore Says](#)," Internet Retailer, August 10, 2010.

⁵ Michael Mazerov, "[Amazon's Arguments Against Collecting Sales Taxes Do Not Withstand Scrutiny](#)," Center on Budget and Policy Priorities, November 29, 2010, at page 1.

⁶ Ibid. These rulings are [National Bellas Hess Inc. v. Department of Revenue of Illinois](#), 386 U.S. 753 (1967) (a state may not impose a use tax on a seller whose only connection with customers in the state is by US mail) and [Quill v. North Dakota](#), 504 U.S. 298 (1992) (holding that a state could not require a retailer to charge sales tax to the state's residents unless the firm had a physical presence because collecting sales taxes under the diverse rules of 45 states and thousands of local jurisdictions would be an excessive burden on interstate commerce). At the end of its Quill decision the court invited Congress to establish reasonable ground rules under which non-physically present sellers could be obligated to collect state sales taxes. [386 U.S. 753, 761 \(1967\)](#).

⁷ [State Revenue Systems: Options for the Current Fiscal Crisis, A Resource Guide](#), AFT Public Employees, 2009, at page 33.

⁸ Ibid.

⁹ Michael Mazerov, "[New York's Amazon Law: An Important Tool for Collecting Taxes Owed on Internet Purchases](#)," Center on Budget and Policy Priorities, July 23, 2009, at page 4. [Scripto Inc. v. Carson](#), 362 U.S. 207 (1960) and [Tyler Pipe v. Wash. Dept. of Revenue](#), 483 U.S. 232 (1987) establish, respectively, that in state solicitation of sales by independent contractors and other in state activities conducted by third parties that are significantly associated with the out of state taxpayer's ability to establish and maintain a market in this state for its sales create a tax collection or payment obligation for the out of state company. Both decisions were explicitly cited in the 1992 [Quill decision](#) as examples of the physical presence requirement under the Commerce Clause of the Constitution to obligate an out of state company to collect a use tax on behalf of its customers' states. For example, the Quill Court wrote: "Like other bright line tests, the physical presence rule appears artificial at its edges; whether or not a state may compel a vendor to collect a sales or use tax may turn on the presence in the taxing state of a small sales force, plan or office." [Quill, 504 U.S. 298, 315 \(1992\)](#).

In the meantime, several state based efforts are underway to address this issue. First, through the Streamlined Sales Tax Project, states are working together to standardize their sales tax codes to reduce the burden on sellers to collect sales taxes on internet sales. As shown below, 22 states have fully adopted the Streamline Sales Tax Act and 2 states have adopted it to a degree.

STREAMLINE SALES TAX STATE MEMBERS¹⁰

[Return to top[^]](#)

State	Full Member ¹¹	Associate Member ¹²
Arkansas	X	
Georgia	X	
Indiana	X	
Iowa	X	
Kansas	X	
Kentucky	X	
Michigan	X	
Minnesota	X	
Nebraska	X	
Nevada	X	
New Jersey	X	
North Carolina	X	
North Dakota	X	
Ohio		X
Oklahoma	X	
Rhode Island	X	
South Dakota	X	
Tennessee		X

¹⁰ [Streamlined Sales Tax Governing Board, Inc. website](#) (accessed January 16, 2013).

¹¹ A full member state is a state that is in compliance with the Streamlined Sales and Use Tax Agreement through its laws, rules, regulations, and policies.

¹² An associate member state is a state that has achieved substantial compliance with the terms of the Streamlined Sales and Use Tax Agreement taken as a whole, but not necessarily each provision, measured qualitatively.

Utah	X	
Vermont	X	
Washington	X	
West Virginia	X	
Wisconsin	X	
Wyoming	X	

Second, several states have enacted legislation to require internet retailers to collect sales taxes. In 2008, New York was the first state to enact an innovative law that relied on the fact that many out-of-state retailers enlist independent in-state websites known as affiliates to promote sales. At least 210 of the 250 largest Internet retailers operate affiliate programs.¹³ Affiliates place links on their websites to the retailer's site and receive a commission when someone follows the link and buys something from the retailer. Since it has long been established that states can require out-of-state sellers to collect sales taxes if they use independent representatives paid on commission to solicit business within the state, New York's new law effectively deems a retailer to have a physical presence within the state when it has independent affiliate websites promoting sales on its behalf within the state thereby meeting the nexus requirement. Other states have followed suite and enacted their own versions of this type of law.

STATE INTERNET SALES TAX LAWS

[Return to top^](#)

State	Bill	Description/Status	Status
Alabama	HB 365, Reg. Sess. 2011	Bill would have required internet retailers to send an annual summary of purchases to their Alabama customers, with a reminder of the customer's potential consumer use tax obligations.	Introduced in 2012, did not pass
Alaska	None	Alaska does not impose a sales tax	
Arizona	SB 1338, 50th Leg. Sess., 2nd Reg. Sess. (AZ 2012)	Bill would have expanded the definition of "physical presence" in the state to also include warehouses and distribution centers. Currently, Amazon has three distribution centers in Arizona. Given the developments in other states where Amazon has physical locations it is possible that the company will attempt to negotiate a deal with Arizona as well.	Introduced in 2012, did not pass.
Arkansas	S.B. 738, 88th Gen. Assem., Reg. Sess. (Ark. 2011)	Law created a presumption that a seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in the state if an affiliated person is subject to the sales and use tax jurisdiction of the state and the (1) Seller sells a similar line of products as the affiliated person and sells the products under the same business name or a similar business name; (2) Affiliated person uses its in-state employees or in-state facilities to advertise, promote, or facilitate sales by the seller to consumers; (3) Affiliated	Enacted April 2011

¹³ [State Revenue Systems: Options for the Current Fiscal Crisis, A Resource Guide](#), AFT Public Employees, 2009,.

		<p>person maintains an office, distribution facility, warehouse or storage place, or similar place of business to facilitate the delivery of property or services sold by the seller to the seller's business; (4) Affiliated person uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the seller; or (5) Affiliated person delivers, installs, assembles, or performs maintenance services for the seller's purchasers within the state.</p>	
California	<p>California, California Rev. and Tax Code, §6203, ABX1 28 (June 29, 2011) (enacted internet sales tax), AB 155 (September 23, 2011) (postponed effective date of internet sales tax)</p>	<p>A bill was introduced and enacted in June 2011, but it was amended in September pursuant to a deal between California and Amazon wherein Amazon agreed to drop a lawsuit challenging the law in exchange for California postponing the effective date of the requirement to collect sales tax until September 15, 2012.</p>	<p>Enacted June 2011, Amended Sept. 2011, Became effective September 2012</p>
Colorado	<p>HB 1193, 67th Gen. Ass., (Colorado 2010)</p>	<p>Law requires retailers to provide (1) notice to customers that use tax not collected and may be due; \$5 penalty per failure to notify; (2) annual statements to customers of purchases; \$10 penalty per failure to provide; and (3) the Colorado Department of Revenue with annual statements; \$10 penalty per failure to provide. De minimis rule exempts retailers that made less than \$100,000 in total gross sales in Colorado in the prior calendar year and reasonably expect that total gross sales in Colorado in current calendar year less than \$100,000.</p> <p>In April of 2012, a Colorado District Court struck down this law holding that it “directly regulates and discriminates against out-of-state retailers and, therefore, interstate commerce,” which brings it into conflict with the Commerce Clause of the U.S. Constitution, and the Supreme Court ruling, <i>Quill v. North Dakota</i>. The <i>Direct Marketing Association v. Huber</i>, No. 10-cv-01546-REB-CBS (D. Colo., Jan. 26, 2011).</p> <p>Colorado’s Department of Revenue appealed to the 10th Circuit court. Direct Marketing Association v. Barbara Brohl, in her capacity as Executive Director, Colorado Department of Revenue, United States Court of Appeals for 10th Circuit, Case no: 11-1082, D.C.No. 10-cv-01546-REB-CBS. Oral argument was held October 3, 2012 and a decision is pending.</p>	<p>Enacted 2010</p> <p>Held unconstitutional by District Court in April 2012</p> <p>Appealed to 10th Circuit Court and decision is pending.</p>
Connecticut	<p>S.B. 1239, Gen. Assem., Jan. Sess. (Conn. 2011)</p>	<p>Law requires online retailers to collect Connecticut sales tax if they conduct more than \$2,000 worth of business and have affiliates (defined as “independent contractor or other representatives”) in the state.</p>	<p>Enacted 2011</p>

Delaware	None	Delaware does not impose a sales tax	
Florida	SB 7206, Reg. Sess. (FL 2012) SB 0088, Reg. Sess. (FL 2013)	<p>Bill would have revised the definition of the term "dealer" for purposes relating to the collection of the tax on sales, use, and other transactions; revised the term "mail order sale" to specifically include sales of tangible personal property ordered by Internet; deleted certain provisions that specify dealer activities or other circumstances that subject mail order sales to this state's power to levy and collect the sales and use tax; and provided that certain persons who make mail order sales and who have a substantial nexus with the state are subject to the state's power to levy and collect the sales and use tax when they engage in certain enumerated activities, etc.</p> <p>Amazon asked Florida legislators for a two-year exemption from any sales taxes in exchange for a promise to build two distribution centers and bring as many 3,000 jobs to the state. Florida legislators, however, rebuffed Amazon's attempt to negotiate such a deal.</p> <p>Proposed bill would revise the term "mail order sale" to specifically include sales of tangible personal property ordered by Internet.</p>	<p>Introduced 2012, did not pass</p> <p>Amazon tried to negotiate deal with Florida but did not work</p> <p>November 2012</p>
Georgia	H.B. 386, Gen. Assem, Reg. Sess. (Ga. 2012).	Law establishes nexus for sales tax purposes if a retailer enters into an agreement with one or more other persons who are residents of the state under which the resident, for a commission or other consideration, based on completed sales, directly or indirectly refers potential customers, whether by a link on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to the person, if the cumulative gross receipts from sales by the person to customers in this state who are referred to the person by all residents with this type of an agreement with the person is in excess of \$50,000.00 during the preceding 12 months.	Enacted 2012
Hawaii	S.B. 2226 SD2 HD2 (2012)	Bill would have required the collection of use taxes by sellers of tangible personal property who enter into agreements under which a person in the State refers potential purchasers to the seller, including by an internet link or web site, or performs related services in the State on behalf of the seller.	Introduced 2012, did not pass
Idaho	HB 581, 61st Leg., 2nd Reg. Sess., (2012)	Bill would have conformed the state's tax laws to the Streamline Sales Tax Agreement and encouraged the voluntary collection of use taxes by sellers of tangible personal property who enter into agreements under which a person in the State refers potential purchasers to the seller, including by an internet link or web site, or performs related services in the State on behalf of the seller.	Introduced 2012, did not pass
Illinois	H.B. 3659, 96th Gen. Assem., Reg. Sess. (Ill. 2011)	<p>Law requires online retailers that work with affiliates in the state to collect sales tax on purchases made by Illinois residents and businesses.</p> <p>In May 2012, an Illinois Circuit Court held that this law was</p>	<p>Enacted 2011</p> <p>Held</p>

		<p>unconstitutional. The court issued an Order granting summary judgment in favor of the plaintiff. Specifically, the court found that the law (1) violated the Commerce Clause of the U.S. Constitution, and (2) was preempted by the U.S. Supremacy Clause by virtue of the moratorium against discriminatory state taxes on electronic commerce under the federal Internet Tax Freedom Act. <i>Performance Marketing Association Inc. v. Hamer</i>, Ill. Cir. Ct. (Cook County), Dkt. No. 2011-CH-26333 (May 7, 2012).</p>	<p>unconstitutional by Circuit Court, appealed to Illinois Supreme Court in July 2012 and decision pending</p>
Indiana	None	<p>In January 2012, Indiana and Amazon reached an agreement wherein Amazon will start collecting sales taxes beginning January 1, 2014 or 90 after the enactment of federal legislation whichever comes first.</p> <p>Amazon, which has distribution facilities in Indiana, previously refused to collect state sales taxes.</p> <p>The agreement stems from a lawsuit launched by Simon Property Group against the state over the issue and a lobbying push on state legislators by traditional retailers to end what they call an unfair price advantage for online retailers.</p>	<p>Amazon reached an agreement to collect taxes starting 2014</p>
Iowa	S.F. 2309, 84th Gen. Assem., Reg. Sess. (Iowa 2012)	<p>Bill would have required retailers to maintain a place of business in the state for purposes of the collection of sales and use taxes, agreements relating to the collection of sales and use taxes in the state, and sales of tangible personal property and services to the state.</p>	<p>Introduced 2012, did not pass</p>
Kansas	SB 371, Leg. Sess. (KS 2012)	<p>Bill would have expanded the definition of a retailer doing business in the state for purposes of sales and use tax collection to include those retailers who enter into certain agreements with Kansas residents. Such agreements would include those entered into with one or more residents of Kansas under which the resident, in exchange for some consideration, directly or indirectly refers potential customers from Kansas so long as the cumulative gross receipts stemming from transactions generated by such references exceed \$10,000 during the preceding 12 months.</p> <p>Amazon, which has an automated distribution center in Coffeyville, Kansas, employing 375 people began collecting Kansas state sales tax starting April 1, 2004.</p>	<p>Introduced 2012, did not pass</p> <p>Since Amazon had a distribution center in Kansas it has a nexus with the state and has been collecting sales taxes</p>

			since 2004
Kentucky	None	Amazon, which operates four fulfillment centers in the Kentucky, has collected state sales tax in 2005.. In May 2012 Amazon announced that it would build a customer service facility in Winchester, KY, that will employ up to 1,100 workers.	Since Amazon had several distribution centers in Kentucky it has a nexus with the state and has been collecting sales taxes since 2005
Louisiana	HB 1027, Reg. Sess. (LA 2012)	Bill would have expanded the definition of "dealer" to include a person who (1) sells the same or substantially similar line of products as a Louisiana retailer under the same or substantially similar business name; (2) the facilities or employees of the Louisiana retailer are used to advertise or promote sales by the person to Louisiana purchasers and to support the maintenance of a market in Louisiana; (3) solicits business and develops a market in Louisiana through an agent or other representative through an agreement for a commission, referral fee, or other consideration who engages in activities in Louisiana that inure to the benefit of the person in the person's development or maintenance of a market for its goods or services in Louisiana, to the extent that those activities of the agent are sufficient to satisfy the nexus requirement of the U.S. Constitution; or (4) holds a substantial ownership interest, directly or through a subsidiary, in a retailer maintaining sales locations in Louisiana or who is owned in whole or in substantial part by a retailer maintaining sales locations in Louisiana.	Introduced 2012, did not pass
Maine	None	None	
Maryland	S.B. 152, 2012 Gen. Assem., Reg. Sess. (Md. 2012)	Bill would have created a presumption that a seller has nexus with the state if: (1) the seller enters into an agreement with a resident of the state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers to the seller, whether by a link on an internet web site, or otherwise; and (2) the cumulative gross receipts from sales by the seller to customers in the state who are referred to the seller by all residents having an agreement with the seller as described in item (1) of this subsection is greater than \$10,000 during the preceding four quarterly periods.	Introduced 2012, did not pass
Massachusetts	HB 1731/SB 1450, 187th Gen. Assem., (MA 2011)	Bill would have created a presumption that a retailer or other person selling tangible personal property or services of a kind the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by this chapter, including any person making sales of tangible personal property or services taxable under this chapter by soliciting business through an independent contractor or other representative if the vendor enters into an agreement with a resident of the commonwealth under which the resident, for a commission or other consideration, directly or	Introduced 2011, did not pass

		indirectly refers potential customers, whether by a link on an internet website or otherwise, to the vendor, if the cumulative gross receipts from sales by the vendor to customers in the commonwealth who are referred to the vendor by all residents with this type of an agreement with the vendor is in excess of \$10,000 during the preceding four quarterly periods.	
Michigan	HB 5004 and 5005, 2011-2012 Leg. Sess. (MI 2011)	<p>A bill creating a presumption that a retailer or other person selling tangible personal property or services of a kind the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by this chapter, including any person making sales of tangible personal property or services taxable under this chapter by soliciting business through an independent contractor or other representative if the vendor enters into an agreement with a resident of the commonwealth under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website or otherwise, to the vendor, if the cumulative gross receipts from sales by the vendor to customers in the commonwealth who are referred to the vendor by all residents with this type of an agreement with the vendor is in excess of \$10,000 during the preceding 12 months.</p> <p>Amazon has had a wholly owned subsidiary in Michigan since 2007 which, given developments in other states, may suggest that Amazon may also try to reach an agreement with Michigan regarding the collection of sales taxes.</p>	Introduced 2011, did not pass
Minnesota	H.F. No. 1849, 87th Minn. Leg., Reg. Sess. (Jan. 13, 2012)	This bill provides a definition of "solicitor" which includes residents in the state who directly or indirectly refer potential customers to a seller through an Internet website or similar link for a commission or other consideration. The presumption is that a retailer has nexus if the total receipts of sales to Minnesota customers generated by Internet referrals made through websites operated by Minnesota residents exceed \$10,000 in the last 12-month period.	Introduced 2012, did not pass
Mississippi	H.B. 135, 2012 Gen. Assem., Reg. Sess. (Miss. 2012)	A bill which would have defined remote sales and subjected such sales to taxation.	Introduced in 2012, did not pass
Missouri	HB 1569, 96th Cong., 2nd Reg. Sess. (MO 2012)	Bill would have clarified that soliciting business through an independent contractor or other representative includes a business that enters into an agreement with a resident of Missouri for a commission or other consideration and the resident directly or indirectly refers potential customers by a link on the Internet or otherwise to the seller if the cumulative gross receipts from sales by the seller to customers in Missouri who are referred by all residents with agreements with the seller exceeds \$10,000 during the preceding four quarters.	Introduced 2012, did not pass
	HB 1356, 96th Cong., 2nd Reg. Sess. (MO	Bill would have required the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax	Introduced 2012, did not

	2012) HB 1215, 96th Cong., 2nd Reg. Sess. (MO 2012)	Agreement and the department to implement the compliance provisions. Bill would have required the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax Agreement and the department to implement the compliance provisions.	pass Introduced 2012, did not pass
Montana	None	Montana does not impose a sales tax.	
Nebraska	None	None	Nebraska revised its income tax forms in 2011 to include a place for paying sales and use taxes for online purchases.
Nevada	2008 and 2010 Ballot Questions	Under Nevada law only voters can make changes to the state's tax law. In anticipation of federal legislation permitting states to require internet sellers to collect sales taxes, Nevada voters were asked twice, in 2008 and again in 2010, to allow legislators to change tax laws "to resolve a conflict with any federal law or interstate agreement" dealing with collection of sales taxes. Voters overwhelmingly (3 to 1) rejected the question. As a result, if federal legislation is passed there will be a delay in Nevada in implementing any changes while it once again seeks voter approval. Amazon, which has a distribution center in Fernley, Nevada and a subsidiary, Zappos, headquartered in Las Vegas, reached an agreement with Nevada to start collecting sales taxes on the company's internet sales to Nevada customers beginning in 2014.	Introduced 2008 and 2010, did not pass Since Amazon has a distribution center in Nevada it has a nexus with the state and will start collecting sales taxes in 2014
New Hampshire	None	New Hampshire does not impose a sales tax.	
New Jersey	A2003/S 1305, 215th Leg. Sess., (NJ 2012) S. 905, 215th Leg. Sess., (NJ 2012)	Revises sales and use tax to specify certain persons deemed to be sellers and to clarify tax collection responsibilities of certain other persons and agents. Revises sales and use tax to enumerate certain persons deemed to be sellers responsible for collection of sales and use tax and to clarify tax collection responsibilities of certain other persons and agents.	Introduced 2012, but did not pass Introduced 2012, did not pass

	A2608, 215th Leg. Sess. (NJ 2012)	<p>Bill would have Web retailers that add 1,500 jobs and invest \$65 million in capital expenses with a temporary exemption from having to charge sales tax until Sept. 1, 2013. The bill also allows that the company deemed not a seller for sales and use tax purposes must inform the customer that their online purchase did not have sales tax charged and is subject to use tax. They must include a link to the New Jersey Department of Revenue website where the taxpayer can file their use tax. The Legislature also has written in requirements for commuting and transportation needs of employees of any said company that fits their description in the bill. In addition, penalties will be required if the company fails to comply with all the requirements for the duration noted in the bill. The bill also defines a company as having nexus (physical presence) when they have affiliates in the state similar to New Jersey Senate Bill S905, submitted earlier in the year, which did not provide for a temporary exemption for companies meeting the above characteristics.</p> <p>Amazon, which plans to build two new distribution centers in the state together worth about \$130 million, reached an agreement with New Jersey to begin collecting sales taxes in 2013.</p>	<p>Introduced 2012, did not pass</p> <p>Since Amazon will be building distribution centers in New Jersey it agreed to start collecting sales taxes in 2013.</p>
New Mexico	H.B. 233 and S.B. 207, 2012 Gen. Assem., Reg. Sess., (N.M. 2012)	<p>Bill would have provided for the collection of the gross receipts and compensating tax of certain internet sales of goods and services.</p> <p>The New Mexico Court of Appeals held in April 2012 that the in-state use of the Barnes & Noble trademark was sufficient to meet the constitutional substantial nexus standard for Barnes & Noble to pay \$500,000 in past taxes. Although the online bookseller was a separate legal entity from the company, had no owned or leased property in New Mexico, had no retail stores in New Mexico, and no sales agents or employees in New Mexico, the court determined that nexus had been created through a relationship with the brick-and-mortar Barnes & Noble stores via utilization of common intangible property. In the Matter of the Protest of Barnes and Noble Co, LLC v. New Mexico Taxation and Revenue Department, N.M. Ct. App., Dkt. No. 31,231, 04/18/2012. This case may cause Amazon to agree to collect and pay sales taxes as well.</p>	<p>Introduced, but did not pass</p> <p>A New Mexico case, in which the court required Barnes & Noble to collect taxes, may lead Amazon to collect taxes.</p>
New York	N. Y. Tax Law § 1101(b)(8)(vi)	Law requires retailers making more than \$10,000 in annual sales in the state through New York affiliates to charge New York sales tax on all sales in the state, not just those resulting from the affiliate	Enacted 2008

		<p>program. The retailer can avoid this obligation if it can show that its New York based affiliates do nothing to encourage such sales other than place a link to the retailer on their websites.</p> <p>Both Amazon and Overstock initiated lawsuits and in February 2009, the New York State Supreme Court issued a decision that upheld the constitutionality of the statute on its face, and also as it applied to Amazon and Overstock, and dismissed both complaints in their entirety. Amazon.com LLC v New York State Dept. of Taxation & Fin. 2009 NY Slip Op 29007 [23 Misc 3d 418], January 12, 2009.</p> <p>On appeal, in November of 2010 New York's Appellate Division upheld the constitutionality of the statute on its face but ruled that further factual discovery was warranted so that a determination can be made as to whether the statute, as applied specifically to Amazon and Overstock, violated the Commerce and Due Process Clauses. Amazon.com, LLC v. New York State Dep't of Taxation & Fin., 81 AD3d 183, November 4, 2010.</p>	Amazon began collecting sales taxes in 2008 after the suit was filed.
North Carolina	§ 105-164.8 , enacted in Senate Law 2009-452 (2009-2010 Leg. Sess.) .	<p>Law creates a presumption that a retailer is presumed to be soliciting or transacting business by an independent contractor, agent, or other representative if the retailer enters into an agreement with a resident of this State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet Web site or otherwise, to the retailer. This presumption applies only if the cumulative gross receipts from sales by the retailer to purchasers in this State who are referred to the retailer by all residents with this type of agreement with the retailer is in excess of ten thousand dollars (\$10,000) during the preceding four quarterly periods.</p> <p>When North Carolina's Department of Revenue initiated an audit of Amazon's compliance with state sales and use tax laws. The company filed a lawsuit in a federal court to block North Carolina's request for customer information. The court held that the state's requests for detailed information about Amazon.com customers purchases violates their rights of free speech, anonymity and privacy. Amazon.com LLC vs Kenneth R. Lay, Case No. 10-00664, U.S. District Court, Western District of Washington. In 2007 North Carolina settled the suit, but the state reserved the right to continue pursuing Amazon and its NC customers for sales taxes. In the settlement, North Carolina said it would clarify that it does not want specific information about what books, music, movies or other items its residents purchased in future requests for information about online purchases by NC residents.</p>	<p>Enacted 2009</p> <p>North Carolina settled a lawsuit with Amazon regarding the collection of sales taxes, but said that will continue to pursue Amazon and North Carolina residents for sales taxes.</p>
North	None	The 1992 U.S. Supreme Court case of Quill v. North Dakota , 504 U.S. 298 (1992) (holding that a state could not require a retailer to	Quill v. North Dakota , 504

Dakota		<p>charge sales tax to the state's residents unless the firm had a physical presence because collecting sales taxes under the diverse rules of 45 states and thousands of local jurisdictions would be an excessive burden on interstate commerce) is one of the reasons that states have not be able to require internet companies to collect sales taxes.</p> <p>Amazon has a customer service center in North Dakota so it has a nexus with the state and has been collecting sales taxes.</p>	<p>U.S. 298 (1992)</p> <p>Since Amazon has a customer service center in North Dakota it has nexus with the state and has been collecting sales taxes.</p>
Ohio	None	None	
Oklahoma	68 O.S. § 1401 HB 2359 (2011)	Law requires retailers to provide notice to customers that use tax not collected and may be due. De minimis rule exempts retailers that made less than \$100,000 in total gross sales in Oklahoma in the prior year and reasonably expect Oklahoma sales in the current year will be less than \$100,000.	Enacted 2011
Oregon	None	Oregon does not impose a sales tax.	
Pennsylvania	Pa. Sales and Use Tax Bulletin," 2011-01 (Dec. 1, 2011)	<p>In a bulletin issued in December of 2011, Pennsylvania's Department of Revenue asserted that state law dating to 1971 requires sellers who have sales agents or use warehouses in Pennsylvania to collect its sales tax on deliveries to Pennsylvania residents.</p> <p>Amazon, which has six fulfillment centers in Pennsylvania, began collecting sales taxes in 2012.</p>	<p>Issued 2011</p> <p>Since Amazon has fulfillment centers in Pennsylvania it began collecting sales taxes in 2012.</p>
Rhode Island	Section 8 of Article 16, H-5983 Sub A (July 1, 2009)	Law defines retailer as every person making sales of tangible personal property through an independent contractor or other representative, if the retailer enters into an agreement with a resident of this state, under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer, provided the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents	Enacted 2009

		with this type of an agreement with the retailer, is in excess of five thousand dollars (\$5,000) during the preceding four (4) quarterly periods.	
South Carolina	S. 36, 119th Session, 2011-2012	In order to entice Amazon to construct a distribution center in the state, the South Carolina legislature passed a law providing Amazon with a five-year sales tax exemption. Amazon must, however, include language in confirmation emails to customers on sales that the customer may owe a state tax on the transaction. At the same time, an Internet link must be provided the customer by Amazon to the South Carolina Department of Revenue. In addition, Amazon must inform customers of the yearly total of tax they owe on their Amazon purchases. To qualify for the exemption the distribution facility must be placed in service after 2010 and before 2013 and Amazon must make a capital investment of at least \$125 million and create at least 2,000 full- time jobs with a "comprehensive health plan."	Enacted 2012. Since Amazon will build a distribution facility in South Carolina, pursuant to the deal, it will begin collecting sales taxes in 2016.
South Dakota	SB 146, Leg. Sess. (SD 2011)	Law requires all non-collecting retailers with annual gross sales into South Dakota of \$100,000 or more to give notice to customers on the billing statement and receipt that South Dakota use tax is due to the South Dakota Department of Revenue on non-exempt purchases of tangible personal property, services and products transferred electronically.	Enacted 2011
Tennessee	HB 2370, Leg. Sess. (TN 2012)	Law that states that companies with affiliates in Tennessee who sell property are not considered to have a physical presence in the state and not required to collect sales tax so long as the company to opens a distribution facility within Tennessee, makes a capital investment of \$350 million, and creates and maintain 3,500 jobs. These provisions will expire January 1, 2014 and then such companies will be required to collect sales tax on purchases made by Tennessee residents. Amazon will new distribution centers, which currently employ 1,500 workers, will soon add an additional 2,000 full-time positions as well as numerous part-time and seasonal jobs.	Enacted 2012 Since Amazon will build a distribution facility in South Carolina, pursuant to the deal, it will begin collecting sales taxes in 2014.
Texas	HB 2403, 82nd Reg. Sess., (TX 2011)	Bill would have redefined the definition of a retailer to include , a person who maintains a location in Texas from which business is conducted if the retailer sells the same or a substantially similar line of products as the person with the location in Texas and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in Texas or that person's facilities or employees in Texas are used to advertise, promote, or facilitate sales by the retailer to consumers or to perform any other activity on behalf of the retailer intended to establish or	Vetoed 2011

		<p>maintain a marketplace for the retailer in Texas, including receiving or exchanging returned merchandise; holding a substantial ownership interest in, or being owned in whole or in substantial part by or holding a substantial ownership interest in, or being owned in whole or in substantial part by, a person that maintains a distribution center, warehouse, or similar location in Texas that delivers property sold by the retailer to consumers.</p> <p>In September 2010, Texas claimed Amazon owed \$269 million in sales tax, after determining that a warehouse, owned by an Amazon subsidiary, established a physical presence in the state. In response, Amazon filed suit and said it would close the facility and canceled plans to build another warehouse in the state. <i>Amazon.com, Inc. et al v. Texas Comptroller of Public Accounts</i>, No. D-1-GN-11-000164, Filed January 14, 2011.</p> <p>In April 2012, Amazon reached a settlement with the Texas State Comptroller. The deal states that Amazon will begin collecting taxes on online sale items starting July 1, 2012 and that the it will create a minimum of 2,500 jobs. Amazon will also have to make at least \$200 million in capital investment in Texas over a four-year period.</p>	In a deal Amazon agreed to begin collecting sales taxes in 2012.
Utah	H.B. 384, Reg. Sess. (UT 2012)	A bill that would redefine sellers that are considered doing business in-state to include, among other things, a business delivering tangible personal property, a service or a product transferred electronically that is sold by a seller to a purchaser in-state. In addition to these stipulations, the Utah Legislature provided that if the "...Supreme Court issues a decision authorizing a state to require ...sales or use tax [collection]," then collection duties will be imposed on all sellers not currently required to do so under the modifications noted in the bill.	Enacted 2012
Vermont	H 436, Leg. Sess. (VT 2011)	Requires out-of-state sellers to notify purchasers of their sales and use tax obligations, but does not become effective until 15 other states have enacted similar laws.	Enacted 2011 with delayed effective date
Virginia	SB 597, Leg. Sess. (VA 2012)	<p>Law establishes a presumption of sufficient activity within the state to require a dealer to register for retail sales and use tax purposes; commonly controlled person facilitating the delivery of tangible personal property sold by the dealer to its customers.</p> <p>In March 2012 Virginia and Amazon reached a deal wherein Amazon will begin collecting sales taxes on the earlier of September 1, 2013, or the effective date of federal legislation authorizing the states to require a seller to collect taxes on sales of goods to in-state purchasers without regard to the location of the seller. In exchange for this deal Amazon has agreed to open two fulfillment centers in Virginia, investing a total of \$135 million and creating more than</p>	Enacted 2012 Since Amazon will build fulfillment centers in Virginia it agreed to begin collecting sales taxes in

		1,350 jobs.	2013
Washington	<u>SB 5809, 60th Leg., Reg. Sess. (WA 2007)</u>	Law amended Washington's sales and use laws to conform to the Streamlined Sales Tax Agreement.	Since Amazon has a customer service center in Washington it has a nexus with the state and has collected sales taxes.
West Virginia	None	None	Since Amazon has a customer service center in West Virginia it has a nexus with the state it has collected taxes there
Wisconsin	<u>SB 62, 99th Leg. Sess., (WI 2009)</u>	Law amended Wisconsin's sales and use laws to conform to the Streamlined Sales Tax Agreement.	Enacted 2009
Wyoming	None	None	

[Return to top^](#)

Appendix E: State Exemptions for 529 Accounts from Financial Aid Determinations¹⁴

[Return to top^](#)

State Plan	Does the sponsoring state exclude the value of an account for state financial aid purposes?
<u>Arizona Family College Savings Program -- CollegeSure® 529 Plan</u> Arizona	Yes
<u>Fidelity Arizona College Savings Plan</u> Arizona	Yes
<u>Ivey Funds InvestED Plan</u> Arizona	Yes
<u>Path2College 529 Plan</u> Georgia	Yes
<u>CollegeChoice 529 Direct Savings Plan</u> Indiana	Yes
<u>CollegeChoice Advisor 529 Savings Plan</u> Indiana	Yes
<u>CollegeChoice CD 529 Savings Plan</u> Indiana	Yes
<u>College Savings Iowa</u> Iowa	Yes
<u>Iowa Advisor 529 Plan</u> Iowa	Yes
<u>Kentucky Education Savings Plan Trust</u> Kentucky	Yes
<u>Kentucky Affordable Prepaid Tuition (KAPT)</u> Kentucky	Yes
<u>Michigan Education Savings Program</u> Michigan	Yes
<u>Michigan Education Trust</u> Michigan	Yes
<u>Mississippi Affordable College Savings (MACS) Program</u> Mississippi	Yes
<u>Macs 529 Advisor Program</u> Mississippi	Yes
<u>Mississippi Prepaid Affordable College Tuition (IMPACT) Program</u> Mississippi	Yes

¹⁴ [Savingforcollege.com website](#) (accessed May 25, 2012).

<u>MOST - Missouri's 529 College Savings Plan (Direct-sold)</u> Missouri	Yes
<u>MOST-Missouri's 529 Advisor Plan</u> Missouri	Yes
<u>Nebraska Education Savings Trust -- Direct College Savings Plan</u> Nebraska	Yes
<u>TD Ameritrade 529 College Savings Plan</u> Nebraska	Yes
<u>Nebraska Education Savings Trust—Advisor College Savings Plan</u> Nebraska	Yes
<u>State Farm College Savings Plan</u> Nebraska	Yes
<u>Nevada Prepaid Tuition Program</u> Nevada	Yes, the account is excluded for purposes of determining eligibility for a grant, scholarship, or work opportunity based on need and offered or administered by a state agency.
<u>NJBEST 529 College Savings Plan</u> New Jersey	Yes, by state regulation.
<u>Franklin Templeton 529 College Savings Plan</u> New Jersey	Yes, by state regulation.
<u>The Education Plan's College Savings Program</u> New Mexico	Yes
<u>Scholar'sEdge</u> New Mexico	Yes
<u>New York's 529 College Savings Program -- Direct Plan</u> New York	Yes
<u>New York's 529 Advisor-Guided College Savings Plan</u> New York	Yes
<u>Oklahoma College Savings Plan</u> Oklahoma	Effective November 1, 2008, money in an Oklahoma 529 plan account is no longer considered in calculating eligibility for TANF, Food Stamps or the Low Income Home Energy Assistance Program (LIHEAP).

<u>Oklahoma Dream 529 Account</u> Oklahoma	Effective November 1, 2008 money in an Oklahoma 529 plan account is no longer considered in calculating eligibility for TANF, Food Stamps or the Low Income Home Energy Assistance Program (LIHEAP).
<u>Pennsylvania 529 Guaranteed Savings Plan</u> Pennsylvania	Yes
<u>Pennsylvania 529 Investment Plan</u> Pennsylvania	Yes
<u>CollegeBoundfund (Direct-sold, Alternative RI)</u> Rhode Island	Yes
<u>CollegeBoundfund (Advisor Sold)</u> Rhode Island	Yes
<u>Virginia529 prePAID</u> Virginia	Yes
<u>Guaranteed Education Tuition (GET)</u> Washington	Yes, Washington considers current income for state financial aid purposes (all assets, including 529 accounts, are excluded from consideration).
<u>SMART529 Select</u> West Virginia	Yes
<u>Smart 529 Prepaid Tuition Plan</u> West Virginia	Yes
<u>SMART529 WV Direct College Savings Plan</u> West Virginia	Yes
<u>The Hartford Smart529</u> West Virginia	Yes
<u>EdVest (Direct-sold)</u> Wisconsin	Yes
<u>Tomorrow's Scholar 529 Plan</u> Wisconsin	Yes

[Return to top^](#)

Appendix F: State Exemptions for 529 Accounts from Public Benefit Programs' Asset Limits

[Return to top^](#)

TANF

As of July 2009, fourteen states (and DC) have either eliminated the asset limit or explicitly excluded 529s when determining eligibility for assistance:

Alabama, California, Colorado, Connecticut, District of Columbia, Kansas, Louisiana, Maryland, Mississippi, Ohio, Oklahoma, Texas, Virginia, West Virginia.

While most of these states uniformly exclude 529 college savings plans, some states (notably Texas¹⁵ and Louisiana) only explicitly exclude moneys held in their own state's plan.

Other states have more confusing rules, for example, Wyoming only excludes higher education savings accounts if they are established from earnings of a dependent child under 18 who is a full-time high school student.

SNAP (Supplemental Nutrition Assistance Program)

As of the adoption of the Food, Conservation and Energy Act of 2008, also known as the 2008 Farm Bill, 529s are no longer counted in determining eligibility for SNAP.

[Return to top^](#)

¹⁵ Texas recently introduced a bill which would exempt college savings plans from asset limits when determining a family's eligibility for state financial aid, public health, and other assistance programs. [H.B. 3708, 82nd Gen. Assem., Reg. Sess. \(Tex. 2011\)](#).

Appendix G: States' 529 Matching Programs

[Return to top^](#)

State	Matching Amount and Guidelines																													
Arkansas	Grant application must be submitted and, if approved, funds are deposited in the approved applicants' matching grant accounts. To be eligible, an applicant must meet the following requirements: Adjusted household gross income (AGI): \$0 to \$30,000 Matching Rate: \$2 for each \$1 contributed Max grant: \$500 Household AGI: \$30,000 to \$60,000 Matching rate: \$1 for each \$1 contributed Max grant: \$500																													
Colorado	Matching funds of up to \$500 each year for up to five years. Matching is based on family AGI as follows: <table><tr><td>Number of Dependents</td><td>One Parent Household</td><td>Two Parent Household</td></tr><tr><td>1</td><td>\$35,321</td><td>\$41,247</td></tr><tr><td>2</td><td>\$41,285</td><td>\$51,966</td></tr><tr><td>3</td><td>\$52,147</td><td>\$61,154</td></tr><tr><td>4</td><td>\$60,219</td><td>\$68,472</td></tr><tr><td>5</td><td>\$67,189</td><td>\$76,692</td></tr><tr><td>6</td><td>\$73,675</td><td>\$84,316</td></tr></table>			Number of Dependents	One Parent Household	Two Parent Household	1	\$35,321	\$41,247	2	\$41,285	\$51,966	3	\$52,147	\$61,154	4	\$60,219	\$68,472	5	\$67,189	\$76,692	6	\$73,675	\$84,316						
Number of Dependents	One Parent Household	Two Parent Household																												
1	\$35,321	\$41,247																												
2	\$41,285	\$51,966																												
3	\$52,147	\$61,154																												
4	\$60,219	\$68,472																												
5	\$67,189	\$76,692																												
6	\$73,675	\$84,316																												
Kansas	Kansas families meeting certain income limits are eligible to receive matching funds of up to \$600. Matching is based on family AGI as follows: <table><tr><td>Number of Dependents</td><td colspan="2">AGI Equal to or Less Than</td></tr><tr><td>1 =</td><td colspan="2">\$22,340</td></tr><tr><td>2 =</td><td colspan="2">\$30,260</td></tr><tr><td>3 =</td><td colspan="2">\$38,180</td></tr><tr><td>4 =</td><td colspan="2">\$46,100</td></tr><tr><td>5 =</td><td colspan="2">\$54,020</td></tr><tr><td>6 =</td><td colspan="2">\$61,940</td></tr><tr><td>7 =</td><td colspan="2">\$69,860</td></tr><tr><td>8 =</td><td colspan="2">\$77,780</td></tr></table>			Number of Dependents	AGI Equal to or Less Than		1 =	\$22,340		2 =	\$30,260		3 =	\$38,180		4 =	\$46,100		5 =	\$54,020		6 =	\$61,940		7 =	\$69,860		8 =	\$77,780	
Number of Dependents	AGI Equal to or Less Than																													
1 =	\$22,340																													
2 =	\$30,260																													
3 =	\$38,180																													
4 =	\$46,100																													
5 =	\$54,020																													
6 =	\$61,940																													
7 =	\$69,860																													
8 =	\$77,780																													
Louisiana	Annual match of a percentage of the deposits made to an account depending upon the category into which the account has been classified and the federal AGI reported by the account owner for that year. The actual amount of the match is calculated by multiplying the annual deposits to an account by the Earnings Enhancement rate applicable to the account category:																													

	<p>For account Categories I, II and III, the match rate is based on the account owner's reported AGI for the preceding taxable year (the AGI for tax year 2010 will be used to calculate match rate for 2011 deposits), according to the following schedule:</p> <p>Reported AGI Rate Earnings Enhancement</p> <table> <tr> <td>\$0 to \$29,999</td><td>14%</td></tr> <tr> <td>\$30,000 to \$44,999</td><td>12%</td></tr> <tr> <td>\$45,000 to \$59,999</td><td>9%</td></tr> <tr> <td>\$60,000 to \$74,999</td><td>6%</td></tr> <tr> <td>\$75,000 to \$99,999</td><td>4%</td></tr> <tr> <td>\$100,000 and above</td><td>2%</td></tr> </table> <p>For account Category IV the match rate is based on the two percent (2%) rate.</p> <p>For account Category V, no match is paid.</p> <p>For account Category VI, the match rate is based on the federal AGI reported for the previous year by the beneficiary's family and are paid to the same rate schedule as used for account Categories I, II and III.</p> <p>For account Categories I, II, III and VI that do not provide documentation of the federal AGI, the match rate is based on the two percent (2%) rate.</p>	\$0 to \$29,999	14%	\$30,000 to \$44,999	12%	\$45,000 to \$59,999	9%	\$60,000 to \$74,999	6%	\$75,000 to \$99,999	4%	\$100,000 and above	2%
\$0 to \$29,999	14%												
\$30,000 to \$44,999	12%												
\$45,000 to \$59,999	9%												
\$60,000 to \$74,999	6%												
\$75,000 to \$99,999	4%												
\$100,000 and above	2%												
Maine	Eligible Maine accounts can receive a \$200 initial matching gift when opening an account with a minimum balance of \$50. Either the account owner or the account beneficiary must be a Maine resident at the time the grant is awarded and the account beneficiary cannot be eligible for the Harold Alfond College Challenge Grant ¹⁶ in order to receive the match grant. Includes no-fee option.												
Michigan	Matching was discontinued for the 2009-2010 year. In prior years, a Michigan resident with adjusted gross income of \$80,000 or less and a beneficiary under seven years old could apply for a one-time matching grant of \$1 for every \$3 contributed, up to a maximum \$200 grant.												
Minnesota	Matching was discontinued for the 2011 and subsequent calendar years as the result of a budget compromise agreement for the state's next biennium. In prior years, Minnesota offered a 15% - 10%, based on income, up to \$80,000. The maximum match amount was \$400.												
Missouri	\$1 for \$1 match on contributions up to \$500 per year with a lifetime maximum of \$2,500 for families with AGI of \$74,999 or less.												
Nevada	The Silver State Matching Grant Program is open to families in the SSgA Upromise 529 Plan, one of five plans in Nevada. The Program provides a \$1 for \$1 match on contributions up to \$300 per year with a lifetime maximum of \$1,500 for families with AGI of \$41,300 or less; \$1 for \$2 match on contributions up to \$600 per year with a lifetime maximum of \$1,500 for families with AGI from \$41,301 to \$61,950.												
North Dakota	Matching grants for families earning \$80,000 or less if married or \$40,000 or less if single of up to \$ 500. If family earns \$40,000 or less if married or \$20,000 or less if single, they are eligible for \$ 500 per year for up to three years, for a total of \$900.												

¹⁶ The Harold Alfond College Challenge is a statewide scholarship program that gives a \$500 grant to every Maine resident baby to start an account with Maine's college savings program. Maine resident babies, including babies who are adopted by Maine parents or whose parents move to Maine before the baby's first birthday are eligible as long as the baby is enrolled in the college saving program on or before his/her first birthday.

Rhode Island	<p>To be eligible for a match the account must be opened and established before the beneficiary's nth birthday. Matching is based on income:</p> <p>For families with AGI of \$72,000 or less, the match is \$2 for every \$1 contributed in 2011 up to a maximum of \$1,000.</p> <p>For families with AGI between \$72,001 and \$87,000, the match is \$1 for every \$1 contributed in 2011 up to a maximum of \$500.</p>
Texas¹⁷	<p>A pilot matching program for custodial parents living in designated counties (Austin – Travis County; Bryan/ College Station – Brazos, Burleson, Grimes, Lee, Leon, Madison, Robertson, Walker, or Washington County; and San Antonio – Bexar County) who receive lump sum child support payments exceeding their regular child support payments.</p> <p>While there is no income threshold for participation in the program, the target population for this program is the estimated 134,000 families living in the three areas receiving child support considered of low- or moderate-income.</p> <p>The first matching incentive is based on the initial deposit into the college savings account and equals 20% of total deposits, up to \$500 if participants attend 4 financial coaching sessions.</p> <p>A secondary incentive is available based on the account holder's savings pattern during the first year of account ownership. To be eligible for the secondary match, participants must meet with a financial coach a minimum of three times to be eligible for the initial matched savings and one additional time for the second savings match.</p>
Utah	<p>\$1 for \$1 match is available, for up to 4 years, for net contributions, up to \$400 annually per beneficiary, for Utah residents whose total income is less than 200% of the federally established poverty guidelines.</p>
West Virginia	<p>\$1 for \$1 match up to \$500, per year, based on the amount contributed to account within the same calendar year of applying for the match, up to a maximum lifetime benefit of \$2,500. To be eligible the applicant must have filed a West Virginia state income tax return as a West Virginia resident in the year prior to opening an account, the beneficiary must be 12 years old or younger, family AGI must meet one of the following requirements:</p> <p>If 1 dependent, AGI must be equal to or less than \$50,000.</p> <p>If 2 dependents, AGI must be equal to or less than \$60,000.</p> <p>If 3 dependents, AGI must be equal to or less than \$70,000.</p> <p>If 4 dependents, AGI must be equal to or less than \$80,000.</p>

[Return to top^](#)

¹⁷ This initiative, the Child Support for College initiative, is separate from the state's 529 program. It is funded and operated by RAISE (Resources, Assets, Investments, Savings, Education) Texas, three local nonprofit financial coaching entities (based in Austin, College Station/Bryan, and San Antonio) and the Texas Attorney General – Child Support Division (CSD) to help families in the child support system save for their children's college education.

Appendix H: States' Funding Sources for IDA Programs

[Return to top^](#)

Although the TANF program does not dedicate funds for IDAs, states may elect to use TANF funds for IDA programs under two statutes.

Under Section 404(h) of the Social Security Act, states are permitted to use their TANF block grant funds to create or support IDA programs for “qualified purposes,” i.e., homeownership, business capitalization, and post-secondary education.¹⁸ Under this provision, states must disregard all money saved in IDAs when determining eligibility for all means-tested government assistance.¹⁹ In addition, since matching funds come from “non-assistance” TANF dollars, they cannot be counted against a family’s lifetime allowance or time limit for TANF assistance.²⁰ To qualify, participants must meet their states’ eligibility requirements for TANF and their contributions must be derived from earned income.²¹ Each state determines whether its TANF funds can be used to match account holders’ savings or to cover administrative costs.

States can also create or support IDA funds under another broader section of the Social Security Act. [Section 404\(a\) of the Social Security Act](#). Under this section, federal law allows states to use their TANF funds in “any manner reasonably calculated” to advance the four statutory goals of TANF, which are to: (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families.²² As a result, IDA programs that do not meet the restrictions of Section 404(h) but that are designed to meet one of these broad goals may still be eligible for TANF funds.²³ However, IDA assets accumulated under this provision are not automatically exempt when determining whether participants meet the eligibility requirements for means-tested assistance.²⁴ States have discretion over whether and how these assets are treated.²⁵

States that used TANF funding for IDA programs as of 2001 are: Arkansas, Indiana, Iowa, Michigan, Montana, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, Virginia, and Washington.²⁶

[Return to top^](#)

¹⁸ [Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 404\(h\)](#).

¹⁹ [Encouraging Savings Financing Individual Development Account Programs](#), Financing Strategy Series, the Finance Project, October 2002.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ See, [TANF Program Policy Questions and Answers Index](#), U.S. Department of Health and Human Services website.

²⁶ Supra, Note 21.

Appendix I: States' Automatic IRA Legislation

[Return to top^](#)

State	Year	Bill	Description
California	2009	A.B. 125, Gen. Assem. (Cal. 2009)	<p>Passed S.B. 1234 in 2012. This puts in place the foundation to enact a state Automatic IRA plan with the following components. Eligible employers not electing to offer their own savings option would be required to automatically enroll all employees into a 3% payroll deduction auto IRA plan. Employees could opt-out of the program and/or change deduction amount. All investments would be placed in a pooled trust fund to manage, invest and administer the funds. The trust fund would provide a modest guaranteed rate of return through the use of private insurers who would insure the return rate and bear any liability for losses.</p> <p>Before the law can be implemented there must be a preliminary market analysis paid for by an entity other than the state, it must be approved by the IRA and deemed not to be subject to ERISA by the Department of Labor. Finally the California legislature must enact legislation approving the plan.</p>
	2012	S.B. 1234 Gen. Assem (Cal 2012)	
Connecticut	2009	S. 971, 2009 Gen. Assem., Reg. Sess. (Conn. 2009)	Proposal to establish a retirement plan for small employers and self-employed individuals.
Illinois	2011	H.B. 1672 98th Gen. Assem., Reg. Sess. (Ill. 2013) and SB 1844, 97th Gen. Assem., Reg. Sess. (Ill. 2013).	Proposal to create an Illinois Automatic IRA program.
	2012	H.B. 4497 97th Gen. Assem., Reg. Sess. (Ill. 2013) and S.B. 1844 97th Gen. Assem., Reg. Sess. (Ill. 2013).	Proposal to create an Illinois Automatic IRA program.
Maryland	2008	S. 728, Reg. Sess. (Md. 2008) and H.B. 1228, Reg. Sess. 2008)	Proposal to establish the Maryland Voluntary Employee Accounts Program.

Massachusetts	2009	H.B. 78, 2009 Gen. Assem. (Mass. 2009).	Proposal to allow the Treasurer's office to create and administer a defined contribution plan for the state's not-for-profit employees. Not-for-profit employers could opt into the retirement plan and contributions to the plan could be made by the employer, the employees, or by both.
Michigan	2007	S. 0027, 95th Gen. Assem, Reg. Sess.. (Mich. 2007) and H.B. 1669, Gen. Assem. (Pa. 2007)	Proposal to provide a retirement system to increase access to retirement plans for small business employees.
Pennsylvania	2007	H.D. 1669, 2007-28 Reg. Sess. 2007	Proposal to establish the Pennsylvania Voluntary Accounts Program; introduced legislation to establish universal voluntary retirement accounts.
Rhode Island	2009	H.B. 5696, 2009 Gen. Assem., Jan. Sess. (R.I. 2009) and S.J. Res. 0453, 2009 Gen. Assem., Jan. Sess. (R.I. 2009).	Proposal to create a legislative commission to study the establishment of UVRAs, including a defined contribution plan, that would allow tax-deferred payroll deductions and portability between jobs and to offer a system with both workplace based individual retirement accounts open to all workers and a deferred compensation 401(k) or Simple IRA type program open to all employers.
Virginia	2009	H.B. 2026, 2009 Gen. Assem., Jan. Sess. (Va. 2009).	Proposing the creation of a program for qualified small employers with 50 employees or fewer to utilize one of the retirement plans permitted by the IRS tax code.
Washington	2009	S. 6541, 61st Gen. Assem., Reg. Sess. (Wash. 2009) and H.B. 2754, 61st Gen. Assem., Reg. Sess. (Wash. 2009).	Proposing the establishment of employer-sponsored plans and employee IRAs.
West Virginia	2008	West. Virginia Con. Res. 6, 78th Leg., 1st Reg. Sess. 2008)	Proposal to study the benefits, costs and feasibility of establishing a UVRA program to assist private employers in offering employees an optional retirement fund.

[Return to top^](#)

Appendix J: States' Prize Linked Savings Laws

[Return to top^](#)

In April 2012 the Filene Research Institute and SaveUp.com, a nonprofit, launched a pilot initiative involving 20 credit unions in 15 states offering customized packages promoting account savings wherein the credit unions reward positive financial action for savings behavior using a point system redeemable in prizes.²⁷ Under the arrangement, credit union members who use SaveUp – offered through their credit unions' websites – are rewarded each time they contribute to savings or retirement accounts, pay down credit cards or other loans, or utilize SaveUp's financial education materials. Credit unions participating in the program are located in California, Colorado, Indiana, Michigan, Missouri, New Hampshire, New Mexico, New York, Oregon, Texas, Virginia, and Wisconsin. State legislative efforts to create prize-linked savings programs are listed below.

State	Bill	Status
Alabama ²⁸	-----	-----
Alaska	Existing laws may allow for prize-linked savings.	
Arizona ²⁹	Existing laws may allow for prize-linked savings.	
Arkansas	S. 905, 88th Gen. Assem., Reg. Sess. (Ark. 2011) .	Failed
Connecticut	S. 358, 2012 Gen. Assem., Reg. Sess. (Conn. 2012) .	Introduced
Georgia ³⁰	Existing laws may allow for prize-linked savings.	
Hawaii	S.B. 2257, 26th Gen. Assem., Reg. Sess. (Haw. 2012) .	Introduced
Iowa	S.F. 490, 84th Gen. Assem., Reg. Sess. (Iowa 2011) .	Failed
Maine	S.P. 0645, 124th Gen. Assem., 2nd Reg. Sess. (Me. 2010) .	Enacted 2010
Maryland	S. 886, 2010 Gen. Assem., Reg. Sess. (Md. 2010) and H.B. 786 Fiscal Note, 2012 Gen. Assem. (Md. 2012) .	Enacted 2010

²⁷ [“Savings Rewards Pilot Program From Filene, SaveUp Launches at 20 Credit Unions,”](#) Jim Rubenstein, Credit Union Times, April 3, 2012.

²⁸ In 2011, Impact Alabama, an Alabama non-profit, piloted a prize linked savings program. Under the program for every \$50 dollars eligible participants bought in U.S. savings bonds during tax season, they were entered into a drawing for \$20,000 dollars. The contest was limited to families earning up to \$50,000 dollars a year or individuals earning up to \$25,000.

²⁹ Under existing state gambling law, qualified tax-exempt organizations, which may include credit unions, are permitted to conduct raffles subject to several restrictions. In terms of banking law, Arizona state-chartered credit unions are not explicitly granted the authority to operate raffles; however, they are granted the rights, powers, and privileges of federal credit unions. While the National Credit Union Act is silent regarding raffles, the industry regulator, the National Credit Union Administration (NCUA), has promulgated regulations that explicitly authorize credit unions to engage in raffles for marketing purposes.

³⁰ Under existing state gambling law, a qualifying nonprofit, which includes state and federal credit unions, may conduct up to one raffle per year with a license from the county sheriff. In terms of banking law, Georgia state chartered credit unions are not explicitly granted the authority to operate raffles. However, with approval from the Department of Banking and Finance, they may undertake other activities that are consistent with state law or regulation, including powers afforded to federally chartered credit unions.

Michigan	Law already allowed prized-linked savings.	
Mississippi	H.B. 61, 2012 Gen. Assem., Reg. Sess. (Miss. 2012).	Failed
Nebraska	L.B. 524, 2011 Gen. Assem., Reg. Sess. (Neb. 2011).	Enacted 2011
New Mexico	H.B. 340, 50th Gen. Assem., Reg. Sess. (N.M. 2011).	Withdrawn since existing state law may allow for prize-linked savings
North Carolina	SB 513, 2011-2012 Gen. Assem., Reg. Sess. (N.C. 2011).	Enacted 2011
Rhode Island	S. 2399, 2010 Gen. Assem., Jan. Sess. (R.I. 2010).	Enacted 2010
Washington	S.B. 5232, 2011 Gen. Assem., Reg. Sess. (Wash. 2011).	Enacted 2011

[Return to top^](#)

Appendix K: States' Credit Checks in Employment Law

[Return to top^](#)

40 bills in 19 states and the District of Columbia were introduced or were pending in the 2012 legislative session. Out of the total 41 bills, 40 address restrictions on the use of credit information in employment decisions. The total number of states that limit employers' use of credit information in employment is now eight: California, Connecticut, Hawaii, Illinois, Maryland, Oregon, Vermont and Washington. [Washington](#) enacted legislation in 2007, [Hawaii](#) enacted legislation in 2009, [Illinois](#) and [Oregon](#) enacted legislation in 2010. [California](#), [Connecticut](#) and [Maryland](#) enacted legislation in 2011. [Vermont](#) enacted its legislation in 2012.

The chart lists state legislation introduced or pending during the 2012 legislative session relating to the use of credit information in employment.

State	Bill Summary
Alabama	None
Alaska	None
Arizona	None
Arkansas	None
California	None
Colorado	<p>S.B.3 <i>Passed Senate 2/21/12</i></p> <p>The bill creates the "Employment Opportunity Act", which specifies the purposes for which consumer credit information (i.e., consumer credit reports and credit scores) can be used by an employer or potential employer (jointly referred to as "employer"). Specifically, the bill: Prohibits an employer's use of consumer credit information for employment purposes if the information is unrelated to the job; requires an employer to disclose to an employee or applicant for employment (jointly, "employee") when the employer uses the employee's consumer credit information to take adverse action against him or her and the particular credit information upon which the employer relied; authorizes an employee aggrieved by a violation of the above provisions to bring suit for an injunction, damages, or both; and requires the department of labor and employment to enforce the laws related to employer use of consumer credit information.</p>
Connecticut	None
California	None
Delaware	None
District of Columbia	<p>B19-38 Prohibits the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.</p> <p>B19-476 <i>Passed Congressional Review 3/14/12, Law 19-0155</i> Amends the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to require all Excepted Service appointees to be subject to a credit check and criminal background check.</p>
Florida	<p>H.B. 303 <i>Died in committee 3/9/12</i></p> <p>S.B. 102 <i>Died in committee 3/9/12</i></p>

	<p>Prohibits use of job applicant's personal credit history as hiring criterion; provides exception.</p> <p>S.B. 1356 <i>Died in committee 3/9/12</i></p> <p>Prohibits an employer from using a job applicant's credit report or credit history to make certain hiring, compensation, or other employment decisions; provides specific situations where an employer may use such information; provides exemptions for certain types of employers; provides remedies for aggrieved persons; provides for attorney fees and court costs; provides for a plaintiff to post a bond in certain situations.</p>
Georgia	<p>H.B. 780</p> <p>Provides that it shall be unlawful for an employer to fail or refuse to hire, bar, discharge from employment, or otherwise discriminate against an individual because of the individual's credit history or credit report; provides for exceptions; provides a penalty.</p>
Hawaii	None
Idaho	None
Illinois	None
Indiana	<p>S.B. 261, Did Not Pass</p> <p>This bill would have prohibited an employer from using a credit report in the process of hiring a prospective employee or in determining whether to continue the employment of an employee. It would have also provided that an employee or prospective employee could bring a civil action against an employer for violating this prohibition including for actual damages, court costs, and attorney's fees to an aggrieved individual, along with an injunction against the employer's further use of credit reports in violation of the prohibition.</p>
Iowa	<p>H.F. 2281, Did not pass</p> <p>This bill would have prohibited discriminatory employment practices based upon a person's credit score or homeowner status. The bill defines "consumer reporting agency", "credit report", "credit score", and "homeowner status". It would have included penalty provisions for discriminatory employment practices and made them applicable to discrimination based on a person's credit score or homeowner status.</p>
Kansas	<p>S.B. 286, Did not pass</p> <p>This bill would have enacted the Fair Use of Credit History Act which would have prohibited employers from using an applicant's or employee's consumer report in determining whether to deny employment to the applicant, discharge the employee; or determine compensation or the terms, conditions or privileges of employment.</p>
Kentucky	None
Louisiana	None
Maine	None
Maryland	None
Massachusetts	<p>H.B. 3518, Did not pass</p> <p>This bill would have prohibited an employer from refusing to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions or privileges of employment of any individual because of the individual's credit history or credit report, unless the information in the individual's credit history or credit report directly relates to a bona fide occupational qualification. A bona fide occupational requirement requires at least one of the following: (i) state or federal law requires bonding or other security covering an individual holding the position; (ii) the duties of the position include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more; (iii) the duties of the position include signatory power over business assets of \$100 or more per transaction; (iv) the position is a managerial position which involves setting the direction or control of the business; (v) the position involves access to personal or confidential information, financial information, trade secrets, or commonwealth or national security information; (vi) the position meets criteria in administrative rules, if any, that the federal Department of Labor has promulgated to establish the circumstances in which a credit history is a bona fide occupational requirement; (vii) the position meets criteria in regulations promulgated by the executive office of labor and workforce development to establish the circumstances in which a credit</p>

	history is a bona fide occupational requirement; (viii) the employee's or applicant's credit history is otherwise required by or exempt under federal law or any general or special law.
Michigan	H.B. 4363 , Did not pass This bill would have prohibited the use of credit history in the hiring process.
Minnesota	None
Mississippi	None
Missouri	H.B. 1240 This bill specifies that it will be an improper employment practice for any employer to directly or indirectly use a job applicant's personal credit history as hiring criteria. An employer may request a credit history background check as part of the application process where it is shown to be directly related to the position sought by the applicant. The history cannot be the determinant factor in whether the person is ultimately hired. H.B. 1555 Makes it an improper employment practice for an employer to refuse to hire or to discharge, reduce compensation, or modify any condition of a person's employment based on his or her credit score or history.
Montana	No regular session 2012
Nebraska	L.B. 113 , <i>Indefinitely postponed 4/18/12</i> Prohibits discrimination based upon an individual's credit history or credit report as prescribed. L.B. 530 , <i>Indefinitely postponed 4/18/12</i> Adopts the Employee Credit Privacy Act.
Nevada	No regular session 2012
New Hampshire	None
New Jersey	A.B. 704 S.B. 1102 This bill prohibits an employer from requiring a credit check on a current or prospective employee as a condition of employment, unless the employer is required to do so by law, or reasonably believes that an employee has engaged in a specific activity that is financial in nature and constitutes a violation of law. The bill does not prevent an employer from a credit inquiry or employment action if credit history is a bona fide occupational requirement of a particular position or employment classification, including: (1) A managerial position which involves setting the financial direction or control of the business; (2) A position which involves access to customers', employees', or employers' personal belongings or financial information, other than information customarily provided in a retail transaction; (3) A position which involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, transfer money or enter into contracts or involves leases of real property; (4) A position which provides an expense account for travel; or (5) A law enforcement officer for a law enforcement agency in this state, as defined by the bill. The bill prohibits an employer from requiring a prospective employee to waive or limit any protection granted under the bill as a condition of applying for or receiving an offer of employment. The bill also prohibits retaliation or discrimination against an individual because the individual has done or was about to do any of the following: (1) file a complaint pursuant to provisions of the bill; (2) testify, assist, or participate in an investigation, proceeding, or action concerning a violation of the bill; or (3) otherwise oppose a violation of the bill. Any current, prospective, or former employee aggrieved under the provisions of the bill may bring an action in a court of competent jurisdiction for appropriate injunctive relief and damages, including reasonable attorneys' fees and court costs. In addition, the bill provides for the imposition of civil penalties in an amount not to exceed \$5,000 for the first violation, and \$10,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development. A.B. 2360 This bill makes it a violation of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 <i>et seq.</i>), for an employer to discriminate against an individual in hiring or employment because of an individual's credit

	<p>history or financial status. The bill also prohibits an employer or employment agency from expressing to an applicant for work any limitation, specification or discrimination against the applicant because of the applicant's credit history or financial status. Finally, the bill prohibits an employer or employment agency, unless required by law to do so, from making inquiries about the credit history or financial status of an applicant for employment.</p> <p>A.B. 2840 S.B. 455 <i>Passed Senate 5/31/12</i></p> <p>This bill prohibits an employer from requiring a credit check on a current or prospective employee, unless the employer is required to do so by law, or reasonably believes that an employee has engaged in a specific activity that is financial in nature and constitutes a violation of law. It prohibits any employment discrimination against a current or prospective employee based on information in a credit report. The bill does not prevent an employer from performing a credit inquiry or taking an employment action if credit history is a bona fide occupational qualification of a particular position or employment classification, including: 1. A managerial position which involves setting the financial direction or control of the business; 2. A position which involves access to customers', employees', or employers' personal belongings or financial assets or financial information, other than information customarily provided in a retail transaction; 3. A position which involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, transfer money or enter into contracts or involves leases of real property; 4. A position which provides an expense account for travel; or 5. A law enforcement officer for a law enforcement agency, or a governmental or non-governmental security personnel position, including security personnel in a homeland security agency. The bill prohibits an employer from requiring a prospective employee to waive or limit any protection granted under the bill as a condition of applying for or receiving an offer of employment. The bill also prohibits retaliation or discrimination against an individual because the individual has done or was about to do any of the following: 1. File a complaint pursuant to provisions of the bill; 2. Testify, assist, or participate in an investigation, proceeding, or action concerning a violation of the bill; or 3. Otherwise oppose a violation of the bill. Any current, prospective, or former employee aggrieved under the provisions of the bill may bring an action in a court of competent jurisdiction for appropriate injunctive relief and damages, including reasonable attorneys' fees and court costs. In addition, the bill provides for the imposition of civil penalties in an amount not to exceed \$2,000 for the first violation, and \$5,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development.</p>
New Mexico	None
New York	<p>A.B. 4052/S.B. 7716, Did not pass</p> <p>This bill would have prohibited the use of job applicant's personal credit history as hiring criteria, unless a reasonable nexus exists.</p> <p>A.B. 6672/S.B. 1519, Did not pass</p> <p>This bill would have prohibited the use of an employee's or prospective employee's consumer credit report in making employment decisions, except in certain job related instances.</p> <p>A.B. 8159/S.B. 3987 Signed by governor 7/20/11, Chapter 184 This law authorizes performance of credit, security clearance and criminal background checks of employees and prospective employees of the New York state higher education services corporation.</p>
North Carolina	None
North Dakota	No regular session in 2012
Ohio	H.B. 131 , Did not pass

	<p>This bill would have prohibited employers from using a consumer report or investigative consumer report for employment purposes.</p> <p>S.B. 30, Did not pass</p> <p>This bill would have specified that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.</p>
Oklahoma	<p>H.B. 2860, Did not pass</p> <p>This bill would have created the Employee Credit Privacy Act and prohibited employers, with certain exceptions, from using credit history or credit reports as hiring criteria.</p>
Oregon	None
Pennsylvania	<p>H.B. 2619</p> <p>Provides that it shall be an unlawful discriminatory practice for any employer or any employer's agent, representative or designee to require an employee or prospective employee to consent to the creation of a credit report that contains information about the employee's or prospective employee's credit score, credit account balances, payment history, savings or checking account balances or savings or checking account numbers as a condition of employment unless one of the following applies: (1) Such report is substantially related to the employee's current or potential job. (2) Such report is required by law. (3) The position is with the Office of Attorney General, Pennsylvania State Police or other law enforcement agency.</p>
Rhode Island	<p>S.B. 2587, Did not pass</p> <p>This bill would have regulated the use of credit reports by prospective employers for hiring purposes.</p> <p>S.B. 2727, Did not pass</p> <p>This bill would have prevented a prospective employer from using or requesting a job applicant's credit report history unless certain conditions or circumstances are met.</p>
South Carolina	<p>H.B. 4823, Did not pass</p> <p>This bill would have prohibited an individual's credit score from being the basis of any personnel action, and provided penalties.</p>
South Dakota	None
Tennessee	None
Texas	No regular session in 2012
Utah	None
Vermont	<p>H.B. 42</p> <p><i>Passed House 4/15/11</i></p> <p>Generally prohibits employers from making employment decisions based on an applicant's credit report.</p> <p>S.B. 95</p> <p><i>Signed by governor 5/17/12, Act 154</i></p> <p>Provides that an employer shall not: (1) Fail or refuse to hire or recruit; discharge; or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's credit report or credit history. (2) Inquire about an applicant or employee's credit report or credit history. An employer is exempt from these provisions if one or more of the following conditions are met: (A) The information is required by state or federal law or regulation. (B) The position of employment involves access to confidential financial information. (C) The employer is a financial institution as defined in 8 V.S.A. §1101(32) or a credit union as defined in 8 V.S.A. §30101(5). (D) The position of employment is that of a law enforcement officer as defined in 20 V.S.A. §2358, emergency medical personnel as defined in 24 V.S.A. §2651(6), or a firefighter as defined in 20 V.S.A. §3151(3). (E) The position of employment requires a financial fiduciary responsibility to the employer or a client of the employer,</p>

	including the authority to issue payments, collect debts, transfer money, or enter into contracts. (F) The employer can demonstrate that the information is a valid and reliable predictor of employee performance in the specific position of employment. (G) The position of employment involves access to an employer's payroll information.
Virginia	None
Washington	None
West Virginia	None
Wisconsin	<p>A.B. 350</p> <p><i>Failed to pass pursuant to Senate Joint Resolution 1 3/23/12</i></p> <p>This bill prohibits employment discrimination based on credit history. The bill specifies that employment discrimination because of credit history includes an employer, labor organization, employment agency, licensing agency, or other person requesting an applicant, employee, member, licensee, or any other individual, on an application form or otherwise, to authorize that person to procure the individual's credit history, except that it is not employment discrimination to request that authorization: 1) if the circumstances of an individual's credit history are substantially related to the circumstances of a particular job or licensed activity; or 2) if employment, membership, or licensing depends on the bondability of the individual and the individual may not be bondable due to his or her credit rating. The bill also specifies that it is not employment discrimination because of credit history to refuse to employ, admit, or license, or to bar or terminate from employment, membership, or licensing, any individual if: 1) the circumstances of an individual's credit history are substantially related to the circumstances of the particular job; or 2) if the individual is not bondable when bondability is required by state or federal law, administrative regulation, or established business practice of the employer. Under the bill, credit history means information provided in a consumer report under the federal Fair Credit Reporting Act (FCRA), which defines consumer report as any written, oral, or other communication by a consumer reporting agency bearing on an individual's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used as a factor in establishing the individual's eligibility for credit, insurance, employment, or any other purpose allowed under federal law. The FCRA further defines consumer reporting agency as any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on individuals for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.</p> <p>S.B. 246 <i>Failed to pass pursuant to Senate Joint Resolution 1 3/23/12</i></p> <p>This bill prohibits employment discrimination based on credit history. The bill specifies that employment discrimination because of credit history includes an employer, labor organization, employment agency, licensing agency, or other person requesting an applicant, employee, member, licensee, or any other individual, on an application form or otherwise, to authorize that person to procure the individual's credit history, except that it is not employment discrimination to request that authorization: 1) if the circumstances of an individual's credit history are substantially related to the circumstances of a particular job or licensed activity; or 2) if employment, membership, or licensing depends on the bondability of the individual and the individual may not be bondable due to his or her credit rating. The bill also specifies that it is not employment discrimination because of credit history to refuse to employ, admit, or license, or to bar or terminate from employment, membership, or licensing, any individual if: 1) the circumstances of an individual's credit history are substantially related to the circumstances of the particular job; or 2) if the individual is not bondable when bondability is required by state or federal law, administrative regulation, or established business practice of the employer. Under the bill, credit history means information provided in a consumer report under the federal Fair Credit Reporting Act (FCRA), which defines consumer report as any written, oral, or other communication by a consumer reporting agency bearing on an individual's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used as a factor in establishing the individual's eligibility for</p>

	<p>credit, insurance, employment, or any other purpose allowed under federal law. The FCRA further defines consumer reporting agency as any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on individuals for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.</p> <p>A.B. 578</p> <p><i>Failed to pass pursuant to Senate Joint Resolution 1 3/23/12</i></p> <p>This bill prohibits employment discrimination based on credit history. The bill specifies, however, that it is not employment discrimination because of credit history for an employer to request or use the credit history of an employee or an applicant for employment if any of the following applies: 1. The employer has offered employment to the applicant and the credit history of the applicant will be used for a purpose other than to refuse to hire the applicant on the basis of credit history. 2. The employer has a bona fide purpose for requesting or using information in the credit history of the employee or applicant that is substantially related to the job-related responsibilities of the position in which the employee is employed or the applicant is seeking employment and the employer discloses that purpose to the employee or applicant in writing. The bill specifies that the positions for which an employer has such a bona fide purpose include all of the following: 1) a position that is managerial and that involves setting the direction or control of the business of the employer or of a department, division, unit, or agency of the employer; 2) a position in which the individual holding the position has access to personal information of the employer or of any employee or customer of the employer, other than personal information that is customarily provided in a retail transaction; 3) a position in which the individual holding the position has a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts; 4) a position in which the employer provides the individual holding the position with an expense account, a credit card, or a debit card; or 5) a position in which the individual holding the position has access to a trade secret or any other confidential business information. The bill also specifies that it is not employment discrimination because of credit history for an employer to refuse to employ an individual or to bar or terminate an individual from employment if the employer is any of the following: 1. Required under any state or federal law to inquire into the credit history of an employee or applicant for the purpose of employment. 2. A bank, savings bank, savings and loan association, or credit union (depository institution) that accepts deposits that are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any other federal agency or an affiliate or subsidiary of a depository institution that accepts those deposits. 3. The Wisconsin Credit Union Savings Insurance Corporation. 4. An investment adviser that is registered under the federal Investment Advisers Act of 1940 (federal covered investment adviser) or an affiliate of a federal covered investment adviser. Under the bill, "credit history" means credit account information bearing on an individual's creditworthiness, credit standing, or credit capacity that is provided in a consumer report under the federal Fair Credit Reporting Act (FCRA), which defines "consumer report" as any written, oral, or other communication by a consumer reporting agency bearing on an individual's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used as a factor in establishing the individual's eligibility for credit, insurance, employment, or any other purpose allowed under federal law. The FCRA further defines "consumer reporting agency" as any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on individuals for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.</p>
Wyoming	None

Source: National Conference of State Legislators' website (accessed May 24, 2012).

[Return to top^](#)

Appendix L: State Payday Lending Legislation 2012

[Return to top^](#)

Twenty-two states introduced or had pending legislation in the 2012 legislative session. Six states enacted legislation during the 2012 legislative session. [Delaware](#) set a limit of five loans per 12-month period. [Louisiana](#) now requires the commissioner of the Office of Financial Institutions to collect and compile information and data from licensees concerning the operation, function, and customers of deferred presentment transactions and small loan businesses for a period of one year, beginning Jan. 1, 2013. [Nebraska](#) now provides that the director of Banking and Finance shall collect fees, charges, costs, and fines under the Delayed Deposit Services Licensing Act and remit them to the state treasurer. [Oklahoma](#) amended its provisions to make certain information confidential. [Tennessee](#) authorized the commissioner of Financial Institutions to require persons subject to Deferred Presentment Services Act to be licensed through a multi-state automated licensing system. [Utah](#) modified the Check Cashing and Deferred Deposit Lending Registration Act to address reporting requirements and the requirement to register and requires an interim committee to study whether to require local forums for settling payday loan disputes.

Below is a summary of state payday reform legislation introduced in 2012.

STATE	BILL SUMMARY
Alabama	H.B. 680/S.B. 532 , <i>Did not pass</i> This bill would have altered the Deferred Presentment Services Act and provided for a bad check fee; implemented a common database; clarified the roll-over of deferred presentment transactions; and provided for violations.
Alaska	H.B. 274 , <i>Passed</i> August 15, 2012 The law narrowed the scope of a loophole in the statute to more explicitly cover small dollar payday lenders under Alaska's Consumer Protection Act (AS 45.50). Also see CFED's " Recent Gains and Losses on 12 Scorecard Policy Priorities ."
Arizona	None
Arkansas	None
California	A.B. 986 , <i>Died pursuant to Art. IV, Sec. 10(c) of the Constitution 2/1/12</i> Existing law requires the Commissioner of Corporations to submit a report, on or before January 1, 2014, to the Senate Committee on Banking, Finance and Insurance and the Assembly Committee on Banking and Finance summarizing the utilization of the Pilot Program for Affordable Credit-Building Opportunities and including recommendations relative to the continuation of the program. This bill would have specified that the report is required to be submitted to the Senate Committee on Banking and Financial Institutions and the Assembly Committee on Banking and Finance. A.B. 1158 , <i>Passed Assembly 6/1/11</i> Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation by the commissioner of Corporations of persons engaged in the business of making or negotiating deferred deposit transactions, as defined. Existing law authorizes a licensee to defer the deposit of a customer's personal check for up to 31 days, prohibits the face amount of the check from exceeding \$300, and requires each deferred deposit transaction to be made pursuant to a written agreement. New law instead authorizes the face amount of a check for a deferred deposit transaction to be up to \$500. A.B. 1980 , <i>Did Not Pass</i> Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders

	<p>and brokers by the Department of Corporations. Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation of lenders who make deferred deposit transactions in an amount equal to or less than \$300, as specified. A willful violation of these provisions is a crime. This bill would have required those licensees to, on and after January 1, 2014, and until January 1, 2018, include a financial facts label with any deferred deposit transaction or an unsecured consumer loan in a principal amount that is equal to or less than \$2,500, as specified, and required the financial facts label to be placed on specified advertising.</p> <p>S.B. 365, <i>Returned to secretary of Senate pursuant to Joint Rule 56 1/31/11</i></p> <p>Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation by the commissioner of Corporations of persons engaged in the business of making or negotiating deferred deposit transactions, as defined. Existing law requires an agreement to enter into a deferred deposit transaction to be in writing and to include specified information and disclosures. Existing law provides that a licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect. This bill would have declared the intent of the Legislature to enact legislation that would authorize the commissioner to contract with a qualified third-party provider for the implementation of a database to aid in the enforcement of the California Deferred Deposit Transaction Law, and clarified that a licensee may not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect with any licensee.</p>
Colorado	None
Connecticut	None
Delaware	<p>H.B. 289</p> <p><i>Signed by governor 6/27/12, Chapter 278</i></p> <p>This bill limits to five the number of short-term consumer loans (sometimes called payday loans) that any one borrower may obtain in a 12-month period. It changes the definition of short-term consumer loan to include loans up to \$1000 rather than \$500. The bill also provides for establishment of a database to track the number of short-term consumer loans an individual has obtained in a 12-month period. Finally, the Banking commissioner is directed to provide a report on the prevalence and nature of these payday loans to the General Assembly.</p>
District of Columbia	None
Florida	None
Georgia	None
Hawaii	None
Idaho	<p>H.B. 470, <i>Did not pass</i></p> <p>Amends existing law to provide for a maximum fee for a payday loan; and to provide for a maximum interest rate for a title loan; and to provide for disclosure of all fees and interest.</p>
Illinois	<p>H.B. 1017</p> <p>Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>H.B. 1276</p> <p>Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>H.B. 1939</p> <p>Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p>

	<p>H.B. 2314 Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>H.B. 2319 Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>H.B. 2334 Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>H.B. 3257 <i>Signed by governor 8/16/11, Public Act 97-0413</i> Amends the Payday Loan Reform Act. Re-inserts only the provision providing that notwithstanding any other provision of law, a violation of any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of the Act.</p> <p>S.B. 44 Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p> <p>S.B. 1133 <i>Signed by governor 8/16/11, Public Act 97-0421</i> Amends the Payday Loan Reform Act. Limits finance charges when the first installment period is longer than the remaining installment periods. Provides that the term "consecutive days" does not include the date on which a consumer makes the final installment payment for purposes of determining eligibility.</p> <p>S.B. 1375 Amends the Payday Loan Reform Act. Makes a technical change in a section concerning the short title.</p>
Indiana	None
Iowa	None
Kansas	None
Kentucky	<p>H.B. 332, <i>Did not pass</i> Amends KRS 286.9-010 to define "annual percentage rate," "consideration," and "interest"; amends KRS 286.9-100 to delete the service fee of \$15 per \$100 loan and establish a maximum annual percentage rate of 36 percent; provides that making a deferred deposit transaction in violation of the maximum interest provisions is an unfair, false, misleading and deceptive practice in violation of the Consumer Protection Act and subject to its rights and remedies; prohibits a licensee from engaging in deceptive practices to evade the requirements of Subtitle 9 of KRS Chapter 286; amends KRS 286.9-102 to require a licensee to conspicuously display interest charges for services; creates a new section of Subtitle 9 of KRS Chapter 286 to provide that knowing violation of the maximum allowable interest rate provisions shall be deemed a forfeiture of the entire interest for the transaction and the person who paid the interest, or his or her legal representative, may recover twice the amount paid in any action against the lender if commenced within two years of the deferred deposit transaction.</p>
Louisiana	<p>H.B. 424, <i>Did not Pass</i> Provides for changes to interest rates on deferred presentments and small loans.</p> <p>S.B. 326 <i>Signed by governor 5/22/12, Act 234</i> Requires the commissioner of the Office of Financial Institutions, beginning January 1, 2013, for a period of one year, to collect and compile information and data from licensees concerning the operation, function, and</p>

	customers of deferred presentment transactions and small loan businesses. The information and data collected by the commissioner from a licensee shall include but not be limited to the following: (a) The number of deferred presentment transactions and small loans issued quarterly. (b) The fees collected quarterly on deferred presentment transactions and small loans. (c) The location of the licensee's business. (d) The number of checks returned unpaid for any reason and the amount of the fee charged by the licensee for such checks.
Maine	None
Maryland	None
Massachusetts	None
Michigan	None
Minnesota	<p>H.F. 1195 <i>Indefinitely postponed 5/21/11</i></p> <p>S.F. 1268 <i>Passed Senate 5/20/11</i> Authorizes the imposition of certain fees and charges in connection with certain loan transactions.</p>
Mississippi	<p>H.B. 39 <i>Died in committee 3/6/12</i> Amends §75-67-519 to prohibit check cashers from cashing a delayed deposit check for any person who has an outstanding delayed deposit check with another check casher that has not been repaid in full; directs the commissioner of Banking to provide for the development of a database in which check cashers must record each delayed deposit transaction in order to prevent violations of the maximum amount that may be outstanding; authorizes the commissioner to charge a fee to check cashers as necessary to maintain the database system; provides that the maximum amount that check cashers may charge for cashing a delayed deposit check shall not exceed an annual percentage rate of 36 percent per annum on the face amount of the check.</p> <p>H.B. 309 <i>Died in committee 3/6/12</i> Amends §75-67-313 and §75-67-413 to provide that the maximum amount that pawnbrokers and title pledge lenders may charge for their services shall not exceed an annual percentage rate of 25 percent per annum on the amount of the principal amount advanced in the transaction that remains unpaid; amends §75-67-519 to provide that the maximum amount that check cashers may charge for cashing a delayed deposit check shall not exceed an annual percentage rate of 25 percent per annum on the face amount of the check.</p> <p>S.B. 2900 <i>Died in committee 3/6/12</i> Declares legislative intent to prohibit activities commonly referred to as payday lending, deferred presentment services, advance cash services and other similar activities; provides that it shall be unlawful to engage in the business of making certain small loans; provides criminal penalties therefor; provides for collection of civil penalties in actions by the state or by private parties on behalf of the state; declares the site or location of a place of business where payday lending takes place in the state of Mississippi as a public nuisance; repeals §§75-67-401 through 75-67-449, which create the Mississippi Title Pledge Act; repeals §§75-67-501 through 75-67-539, which create the Mississippi Check Cashers Act.</p>

Missouri[H.B. 1294](#), Did not pass

This bill would have changed the laws regarding consumer credit interest rates. In its main provisions, the bill: (1) Requires any person making or offering a consumer credit loan to contract for and receive interest and fees in accordance with §§408.100, 408.140, and 408.170, RSMo, relating to small loans (§367.105); (2) Specifies that it is the intention of the people of Missouri to prevent lenders of payday loans, car title loans, and installment loans from charging excessive fees and interest rates that can lead families into a cycle of debt by: (a) Reducing the annual percentage rate for payday, title, installment, and other high-cost consumer credit and small loans from triple-digit interest rates to 36 percent per year; (b) Extending to veterans and others the same 36 percent rate limit in place for payday and title loans to active military families as enacted by the 109th United States Congress in 10 U.S.C. §987; and (c) Preserving fair lending by prohibiting lenders from structuring other transactions to avoid the rate limit through subterfuge (§408.100); (3) Prohibits any lender of small loans, subject to §408.100, from charging interest, fees, and finance charges at an annual percentage rate greater than 36 percent (§408.100); and (4) Prohibits a person from engaging in any device or subterfuge intended to evade the requirements of Chapter 408, relating to legal tender and interest, through any method including, but not limited to, mail, telephone, Internet, or any electronic means (§408.100). The bill contains a referendum clause and will be submitted to qualified voters in November 2012.

[H.B. 1393](#)

This bill changes the laws regarding unsecured loans of \$500 or less, commonly known as payday loans. In its main provisions, the bill: (1) Allows a lender to renew a loan once, instead of the current six times; (2) Prohibits a borrower from having more than \$500 in outstanding loans at one time; (3) Prohibits a lender from making a loan to a borrower who has one outstanding loan or until the next business day after the borrower has paid or otherwise satisfied in full a previous payday loan; (4) Requires a lender to disclose to a borrower at the time of signing a loan the duration of the loan, amount and date of payments due, and amount of interest and fees to be charged through the duration of the loan; (5) Specifies that the lender's sole and exclusive remedy against a borrower who delivers a check that is not honored in relation to the loan will be a breach of contract claim and that a lender is barred from bringing a civil action for passing a bad check; and (6) Requires the Division of Finance within the Department of Insurance, Financial Institutions and Professional Registration to develop and administer a real-time statewide compliance system for licensed payday lenders to record each payday loan transaction.

[H.B. 1828](#)

This bill changes the laws regarding unsecured loans of \$500 or less, commonly known as payday loans, by changing the font size of the required notice a licensed lender has to provide the borrower from at least 10-point bold type to at least 14-point bold.

[S.B. 462](#)

This act amends the law relating to unsecured loans of \$500 or less. Under current law, lenders may renew such loans upon the borrower's request. This act prohibits lenders from renewing such loans more than once. Lenders shall not make loans to consumers who have one outstanding or within 1 day of a borrower paying a previous loan. Lenders shall make certain disclosures to consumers at loan signing, including the duration of the loan, amount and date of payments due, and amount of interest and fees to be charged through the duration of the loan. Under current law, loans have a minimum term of 14 days and a maximum term of 31 days. Under the act, lenders shall give the borrower a minimum of 90 days for repayment and a payment shall be required every 15 days. The lender's exclusive remedy against consumers who deliver checks that are not honored in relation to the loan shall be a breach of contract claim and lenders shall be barred from bringing a civil action for passing bad checks.

	<p>S.B. 791</p> <p>This act creates the Small Loan Community Reinvestment Program to distribute grants to non-profits dedicated to community reinvestment in educational tutoring and development, financial literacy, early childhood development, youth mentoring, and senior services. The grants shall be used in geographic areas containing the highest concentration of payday and title loan lenders in the state as determined by the division of finance. The grants shall consist of moneys collected as a \$1 surcharge on every payday and title loan which shall be deposited in the newly created Small Loan Community Reinvestment Fund. The director of the division of finance shall administer the program. The act also makes modifications to the law regulating payday lenders. Currently, such lenders may renew payday loans 6 times. This act bars renewals. Currently, lenders may charge simple interest and fees up to 75 percent of the initial loan amount. This act does not allow lenders to charge interest. Only fees may be charged. Lenders shall not make more than one loan to a borrower at a time and shall wait one business day before making another loan to a borrower who has just paid a previous loan. Currently, payday loans have a minimum term of 14 days and a maximum term of 31 days. This act repeals that provision and allows the borrower to choose a loan with a 30, 60 or 90 day duration. Loan renewals are no longer allowed. Borrowers are required to make two installment payments within each 30 day period. Fees shall be prorated and paid back to the borrower when the borrower prepays the loan and all fees shall be returned to the borrower when the borrower repays the loan at the end of the lender's next full business day.</p> <p>S.B. 476</p> <p>This act amends the law relating to unsecured loans of \$500 or less. Under current law, lenders may renew such loans upon the borrower's request. This act prohibits lenders from renewing such loans more than once. Lenders shall not make loans to consumers who have one outstanding or within one day of a borrower paying a previous loan. Lenders shall make certain disclosures to consumers at loan signing, including the duration of the loan, amount and date of payments due, and amount of interest and fees to be charged through the duration of the loan. Under current law, loans have a minimum term of 14 days and a maximum term of 31 days. Under the act, lenders shall give the borrower a minimum of 90 days for repayment and a payment shall be required every 15 days. The lender's exclusive remedy against consumers who deliver checks that are not honored in relation to the loan shall be a breach of contract claim and lenders shall be barred from bringing a civil action for passing bad checks. The Division of Finance is required to develop and administer a real-time statewide compliance system for payday lenders to record each payday loan transaction.</p>
Montana	No regular session 2012
Nebraska	<p>L.B. 269</p> <p><i>Signed by governor 3/7/12</i></p> <p>Relates to the Delayed Deposit Services Licensing Act; changes provisions relating to fees and the distribution of fees; provides powers and duties for the Director of Banking and Finance; provides that the director shall collect fees, charges, costs, and fines under the Delayed Deposit Services Licensing Act and remit them to the State Treasurer; creates the Financial Literacy Cash Fund to assist nonprofit entities that offer financial literacy programs to students in kindergarten through 12th grade.</p>
Nevada	No regular session 2012
New Hampshire	<p>S.B. 186, Did not pass</p> <p>This bill would have removed the exemption from the consumer protection act for trade or commerce under the jurisdiction of the bank commissioner, the director of securities regulation, the insurance commissioner, the public utilities commission, the financial and insurance regulators from other states, and federal banking or securities regulators with authority to regulate unfair or deceptive trade practices in regulating small loans, title loans and payday loans. It would have permitted the banking department to investigate unfair or deceptive banking practices in conjunction with the attorney general and removed the exclusive authority of the securities division to investigate unfair or deceptive trade practices under the jurisdiction of the director of</p>

	securities regulation.
New Jersey	None
New Mexico	<p>S.B. 143, Did not pass This bill would have changed elements of annual reports filed by certain licensees regarding the loans they made.</p> <p>S.B. 233, Did not pass This bill would have amended the New Mexico Bank Installment Loan Act of 1959 and the New Mexico Small Loan Act of 1955 and imposed a cap on interest rates and fees for certain loans and amended payday loan disclosure requirements.</p>
New York	<p>A.B. 3288, Did not pass This bill would have prohibited foreign banking corporations from issuing payday loans; defined payday loans as any transaction in which a short-term cash advance is made to a consumer in exchange for (i) a consumer's personal check or share draft, in the amount of an advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or (ii) a consumer's authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.</p>
North Carolina	None
North Dakota	No regular session 2012
Ohio	None
Oklahoma	<p>S.B. 1082/ S.B. 1261 <i>Signed by governor 4/23/12, Chapter 117</i> This law states that the Oklahoma deferred deposit lenders database is confidential and exempt from disclosure under the Oklahoma Open Records Act and that the database may be accessed by deferred deposit lenders to verify whether a transaction is outstanding for a particular person and by the Department of Consumer Credit for regulatory purposes.</p>
Oregon	None
Pennsylvania	<p>HB 2191 <i>Passed House 6/6/12</i> Bill would limit borrowing to 25% of a person's gross paycheck, eliminate rollover loans and provide for credit counseling and extended payment plans at no additional charge. Borrowers could only be charged a one-time interest fee of 12.5% on the principal borrowed, and an additional \$5 fee to cover the cost of program monitoring and administration. Loans would be required to be paid off in one pay period, and, if necessary, could be extended for four additional pay periods at no additional cost.</p>
Rhode Island	<p>H.B. 7257, Did not pass This would have repealed sections of the general laws allowing deferred deposit providers, also known as "payday lenders."</p> <p>H.B. 7588, Did not pass This bill would have reduced the amount a check cashing business could charge for deferred deposit transaction fees from 10 percent to five percent of the funds advanced.</p> <p>H.B. 7689, Did not pass This bill would have required the Department of Business Regulation to develop and administer a statewide compliance system for deferred deposit lenders.</p> <p>S.B. 2307, Did not pass This bill would have repealed sections of the general laws allowing deferred deposit providers, also known as</p>

	<p>"payday lenders."</p> <p>S.B. 2602, Did not pass This bill would have required the Department of Business Regulation to develop and administer a statewide compliance system for deferred deposit lenders.</p> <p>S.B. 2832, Did not pass This bill would have created separate licensing requirements for check cashers and pay day lenders. It would also have created a payday lending law in order to subject pay day lenders to various consumer protecting provisions.</p>
South Carolina	None
South Dakota	None
Tennessee	<p>H.B. 2353 <i>Substituted 3/19/12</i> S.B. 2215 <i>Signed by governor 4/4/12, Public Chapter 679</i> Revises various provisions governing deferred presentment services, including provisions regarding qualifications for licensure; authorizes commissioner of Financial Institutions to require persons subject to Deferred Presentment Services Act to be licensed through a multi-state automated licensing system.</p> <p>H.B. 2726 <i>Withdrawn from further consideration 1/19/12</i> Increases the shareholder ownership requirement from five percent to 10 percent to obtain a deferred presentment license; establishes a multi-state automated licensing system for deferred presentment services; authorizes the commissioner to set fees and deadlines for applications; promulgates rules and regulations; and implements sharing agreements between government agencies to use the multi-state automated licensing system.</p> <p>H.B. 2841 S.B. 2713 Revises various provisions governing deferred presentment services, including provisions regarding qualifications for licensure; authorizes commissioner of financial institutions to require persons subject to Deferred Presentment Services Act to be licensed through a multi-state automated licensing system.</p> <p>H.B. 3187 S.B. 2995 Increases from \$500 to \$1,000 the license fee for any person engaging in the business of deferred presentment services in this state.</p> <p>H.B. 3188 S.B. 2994 Increases from \$1,000 to \$2,000 the amount of civil penalty that the commissioner of financial institutions may assess for each transaction in violation, or each day that a violation occurs, of the Deferred Presentment Services Act.</p> <p>H.B. 3189 S.B. 2993 Requires persons licensed under the Deferred Presentment Services Act to file annual reports of certain information with the commissioner of Financial Institutions by October 1 of each year instead of September 1.</p>

Texas	No regular session in 2012
Utah	<p>H.B. 66 <i>Enacting clause struck 3/8/12</i> This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address reporting, registration related to deferred deposit loans, and implementation of a statewide technology system. This bill: modifies definition provisions; addresses reporting requirements for deferred deposit lenders; makes void a deferred deposit loan issued by a person required to be registered but who is not registered under the chapter; requires the implementation of a statewide technology system; addresses various requirements related to the operation of the statewide technology system; grants rulemaking authority; and makes technical and conforming amendments.</p> <p>H.B. 205 <i>Enacting clause struck 3/8/12</i> This bill amends the Check Cashing and Deferred Deposit Lending Registration Act to require additional reporting by deferred deposit lenders. This bill: defines terms; requires a deferred deposit lender to report additional information as part of its annual operation statement; and makes technical and conforming amendments.</p> <p>H.B. 459 <i>Signed by governor 3/22/12, Chapter 323</i> This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address reporting requirements and the requirement to register. This bill: defines terms; modifies what a deferred deposit lender is required to report as part of its operations statement; makes void a deferred deposit loan issued by a person required to be registered but who is not registered under the chapter; requires the department to report certain information regarding complaints; and makes technical and conforming amendments.</p> <p>H.B. 466 <i>Enacting clause struck 3/8/12</i> This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address forum requirements. This bill: prohibits a deferred deposit lender from imposing certain forum requirements; and makes technical amendments.</p> <p>S.B. 110 <i>Enacting clause struck 3/8/12</i> This bill modifies the Check Cashing and Deferred Deposit Lending Registration Act to address forum requirements. This bill: prohibits a deferred deposit lender from imposing certain forum requirements; and makes technical amendments.</p> <p>S.J.R. 3 <i>Adopted 3/8/12</i> This joint resolution of the Legislature gives the Legislative Management Committee items of study it may assign to the appropriate interim committee, including whether to require local forums for settling payday loan disputes.</p>
Vermont	<p>H.B. 481, Did not pass This bill would have required the attorney general to conduct a study of payday lending in Vermont.</p>
Virginia	<p>H.B. 725, Did not pass This bill would have capped the rate of interest that could be charged on motor vehicle title loans, payday loans, and open-end credit plans at 36 percent per year.</p> <p>S.B. 28, Passed by indefinitely 2/6/12 Removes provisions of the Payday Loan Act that authorize lenders to charge a loan fee or verification fee, thereby limiting permissible charges on payday loans to simple interest at a maximum annual rate of 36 percent.</p>

	S.B. 186 Incorporated into S.B. 28 2/6/12 Repeals provisions of the Payday Loan Act that authorize lenders to charge a loan fee or verification fee, thereby limiting permissible charges on payday loans to simple interest at a maximum annual rate of 36 percent.
Washington	None
West Virginia	None
Wisconsin	A.B. 150 <i>Failed to pass pursuant to Senate Joint Resolution 1 3/23/12</i> This bill limits the interest rate that a payday loan licensee may charge, before the maturity date, on a payday loan to an annual percentage rate of 36 percent. A payday loan on which a greater rate of interest is charged is not enforceable. S.B. 99 <i>Failed to pass pursuant to Senate Joint Resolution 1 3/23/12</i> This bill limits the interest rate that a payday loan licensee may charge, before the maturity date, on a payday loan to an annual percentage rate of 36 percent. A payday loan on which a greater rate of interest is charged is not enforceable.
Wyoming	None

[Return to top^](#)

Appendix M: State Car Title Loan Laws³¹

[Return to top^](#)

State	Status	Summary
Alabama	Allow	300% APR
Alaska	Do not Allow	
Arizona	Allow	204% APR
Arkansas	Prohibited	
California	Allow w/ Loophole	Loan must be over \$2,500, Unlimited APR
Colorado	Prohibited	
Connecticut	Prohibited	
Delaware	Allow	Unlimited APR
Florida	Prohibited	
Georgia	Allow	300% APR (Not advertised as loans)
Hawaii	Prohibited	
Idaho	Allow	Unlimited APR
Illinois	Allow	Unlimited APR
Indiana	Prohibited	
Iowa	Prohibited	
Kansas	Allow w/ Loophole	Sold as Open Ended Credit, Unlimited APR
Kentucky	Prohibited	
Louisiana	Allow	164% APR
Maine	Prohibited	
Maryland	Prohibited	
Massachusetts	Prohibited	
Michigan	Prohibited	
Minnesota	Prohibited	
Mississippi	Allow	300% APR
Missouri	Allow	Unlimited APR
Montana	Prohibited	
Nebraska	Prohibited	
Nevada	Allow	Unlimited APR
New Hampshire	Prohibited	
New Jersey	Prohibited	
New Mexico	Allow	Unlimited APR
New York	Prohibited	
North Carolina	Prohibited	
North Dakota	Prohibited	
Ohio	Prohibited	
Oklahoma	Prohibited	
Oregon	Prohibited	
Pennsylvania	Prohibited	
Rhode Island	Prohibited	

³¹ [Car Title Lending By State, Center for Responsible Lending.](#)

South Carolina	Allow w/ Loophole	Unlimited APR
South Dakota	Allow	Unlimited APR
Tennessee	Allow	264% APR
Texas	Allow w/ Loophole	Unlimited APR
Utah	Allow	Unlimited APR
Vermont	Prohibited	
Virginia	Allow	264% APR
Washington	Prohibited	
West Virginia	Prohibited	
Wisconsin	Allow	Unlimited APR
Wyoming	Prohibited	

[Return to top^](#)

Examples of Local Payday Loan and Auto Title Loan Ordinances³²

Jurisdiction	Basis for Limits	Details	Citation
Santa Clara, CA	Ban	Prohibit new payday lending operations in unincorporated areas.	
San Jose, CA	Moratorium/Zoning	Capping the number of payday lenders at the existing 38. Prohibit new payday lenders from opening within either 500 feet or 1,320 feet of very low-income neighborhoods, and prohibit another payday lender from opening within either 500 feet or 1,320 feet of an existing lender.	
Ames, IA	Zoning	Requires payday lenders to be more than 1,000 feet from schools, daycares, other payday lenders, and any land zoned for residential.	
Evanston, IL	Zoning/Permit	Limit stores to business districts zoned C2. Require stores to be at least 1,000 feet away from any similar establishment. Require special use permit.	
Overland Park, KS	Permit	Legislation regulating the placement of payday and auto title lenders and their practices.	Chapter 5.72
City of North Kansas City, MO	Permit	Conditional use permit. Restricts payday lenders and check cashers from doing business in certain zones. Restricts amount of signage allowed in windows.	
Oak Grove, MO	Permit	Passed-density of 1 per 5000 residents. Proposed-special use permits with certain restrictions	

³² [Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions](#), Kelly Griffith, Linda Hilton and Lynn Drysdale, Center for Economic Integrity (Nov. 2007).

St. John, MO	Licensing	Creates a separate license category for payday lending.	
St. Joseph, MO	Density	Per capita limit of one store per 15,000 residents	
St. Louis County, MO	Permit	Conditional Use Permit for each location. Requires republic hearing for each request.	
Clark County, NV	Permit/Density	Same as for city of Las Vegas	
Henderson, NV	Permit	Essentially banned in Downtown Redevelopment Area. In 2004, began requiring a Conditional Use Permit for all new payday loan centers and declared several zoning categories off limits to them. New rules considered: Separation requirements from schools, residential areas, and other check cashing business.	
Las Vegas, NV	Permit/Density	Special use permit requirement. May not be within 200 ft. of residences. Must be 1,000 ft. from other financial institutions, auto title loan business, and pawn shops. Restricted hours.	Title 19.06
North Las Vegas, NV	Moratorium	A 6 mo. Moratorium on new payday lenders started in July 05. Considering restrictions similar to Las Vegas.	
Lakemore, OH	Density/permit	Ordinance defines number of terms and limits location of payday loan business. They cannot be within 750 ft. of any other payday loan or similar business.	Ordinance No 1365-2006
Beaverton, OR	Loan restriction	Same as Portland, OR	Title 7, chap 7.12
Bend, OR	Loan restriction	Same as Portland, OR	
Eugene, OR	Loan restriction	Same as Portland, OR	Council ordinance #20372, code sec. 3.550-3.560
Gresham, OR	Loan restriction	Same as Portland, OR	Chap 9, Art. 9.90
Oregon City, OR	Loan Restriction	Same as Portland, OR	Ord. 06-1005
Portland, OR	Loan restriction	Lenders may not renew loan unless borrower has paid at least 25% of principal prior to renewal. Borrower may cancel loan within 24 hours with certain restrictions. After max number of rollovers, lender shall allow borrower to convert to payment plan prior to default. Passage of 2007 Oregon state law capping rates at 36% had no effect on local ordinances.	Ch. 7.26
Troutdale, OR	Loan restriction	Same as Portland, OR	Chap 5.06.050-070
Woodburn, OR	Loan restriction	Some as Portland, OR	
Pittsburg, PA	Density	500 ft. from residence, 1000 ft. from a similar business	
Columbia, SC	Permit	Special use permit required	

Easley, SC	Temporary suspension	Voted to suspend the issuance of business licenses to any new payday loan, cash advance, title loan, pawn broker, bail bondsman or similar types of business until Dec. 11, 2007	
American Fork, UT	Density	One store per 10,000 residents	
Draper, UT	Zoning/permit	Prohibits payday lenders from location in any of 10 of 11 commercial zones. Location in the one zone where payday lenders are allowed requires a conditional use permit.	Chapter 9-11, commercial zoning
Midvale, UT	Density	One outlet per 10,000 residents	5.20.210
Orem, UT	Density	One outlet per 10,000 residents, minimum ½ mile between outlets	Ord. 0-07-0037 Sec. 22-14-21(A)
Salt Lake County (Unincorporated)	Moratorium	Six month moratorium while final ordinances being drafted	
Sandy, UT	Density	Minimum 1000 feet between outlets; out outlet per 10,000 residents	
South Salt Lake City, UT	Density	Restricts business to 600 ft. from the nearest residential zone (some exceptions). Restricts the number of facilities to 1 every 5,000 people. Prevents all check cashing establishments from certain districts of city.	5.48.240 5.48.200
South Jordan, UT	Density	Outlets must be a minimum of one mile apart.	
Taylorsville, UT	Density	Only one outlet per 10,000 residents	
West Jordan, UT	Density	Minimum 1000 ft between outlets, One outlet per 10,000 residents	Chapter 17
West Valley City, UT	Density	600 ft between payday lending outlets. One outlet per 10,000 residents.	City Code Section 7-1-103, subsection 30
Chesterfield, VA	Conditional Use	Conditional use process that allows a site-specific review by the Board of Supervisors.	
Chesterfield County, VA	Zoning	Limited to certain commercial zones	
Norfolk, VA	Permit	Payday loan and/or auto title loan establishments must receive permission from the city council in the form of a “special exception use” permit	Chapter 6-4
Henrico Co (Richmond, VA)	Moratorium	Established “sunset” period to phase out locations	
Langley, VA	Zoning	Outlets allowed only in an enclosed mall with C3 commercial zoning	
Burlington, VT	Prohibition	Zoning does not include check cashing	
Green Bay, WI	Density	Prevents stores from opening within 5,000 feet of each other	Sec. 13-1606(v), Code of Ordinances
Madison, WI	Density	Prevents stores from opening within 5,000 ft of each other	City Code 28.03-28.08
Milwaukee, WI	Permit	Special use permits, 1,500 ft from similar business; 150 ft. from single or two-family	Sec 114-468(28). Code of

		zoned property.	Ordinances
Racine, WI	Zoning/permit	Makes payday loan stores a conditional use, and sets distance requirement of 2500 ft between stores and 250 feet from residential districts.	
Superior, WI	Zoning/density	2,500 ft separation; commercial highway locations only	
Wauwatosa, WI	Moratorium	Within 300 feet of residentially zoned parcels and 1500 feet of similar business	Sec. 24.46.100, Code of Ordinances

[Return to top^](#)




© 2012 New America Foundation

This report carries a Creative Commons license, which permits re-use of New America content when proper attribution is provided. This means you are free to copy, display and distribute New America’s work, or include our content in derivative works, under the following conditions:

- Attribution.** You must clearly attribute the work to the New America Foundation, and provide a link back to www.Newamerica.net.
- Noncommercial.** You may not use this work for commercial purposes without explicit prior permission from New America.
- Share Alike.** If you alter, transform, or build upon this work, you may distribute the resulting work only under a license identical to this one.

For the full legal code of this Creative Commons license, please visit www.creativecommons.org. If you have any questions about citing or reusing New America content, please contact us.

		 NEW AMERICA FOUNDATION WWW.NEWAMERICA.NET
<p>MAIN OFFICE 1899 L Street, NW Washington, DC 20036 Phone 202 986 2700 Fax 202 986 3696</p>	<p>NEW YORK OFFICE 199 Lafayette Street, Suite 3B New York, NY 10012</p>	