



**Monday, January 7, 2008**

**Exclusive articles on state policy, politics and trends from the staff of Stateline.org**

Thursday, January 3, 2008

## **Politically Uncorrected: Iowa and New Hampshire same old, same old**

**By G. Terry Madonna & Michael L. Young, Special to Stateline.org**

One definition of crazy is to keep doing diligently the same thing over and over when it's not working. By that definition America's presidential primary system is seriously loony, for with respect to developing a democratic process to nominate candidates for president, we have been doing the same thing over and over again for more than 60 years and it's not working.

The glaring evidence of that failure looms before us as the nation awaits the imminent Iowa caucuses and New Hampshire primary now scheduled for early January--both nomination events take place in small unrepresentative states that will largely dominate if not determine the rest of the primary process. Iowa and New Hampshire were supposed to be the warm up acts for the remainder of the primaries, but instead they have once again become the main event.

It was not supposed to be like this: not in 1948 when the modern presidential primary began with high hopes of opening up the process; nor in 1952 when early television began to cover primary events and Eisenhower's nomination seemed to confirm the efficacy of primaries; nor in 1960 when Kennedy sealed his nomination by winning key primaries; nor after 1968 when major reforms wrestled power from party bosses. Nor was it supposed to happen in any of the subsequent efforts since then to broaden the primary process beyond a few early states.

Nevertheless, the entire nominating apparatus is again fixated on Iowa and New Hampshire, resulting in more candidate visits than ever; more media coverage than ever; more TV commercials than ever; and more money spent than ever. Once again the outcome of a presidential race may depend on the results of two small unrepresentative states.

This cycle, as in cycles past, major efforts have been made by party leaders to bring some balance to the primary process. To help, the Democrats scheduled Nevada after the “big two” to add an ethnically diverse state to the mix, but it has received scant attention and has been completely irrelevant in the process. Maybe that is because Hillary Clinton has a huge lead there, but maybe because it has no history of mattering.

Then two big important states Florida and Michigan moved their primaries into January to lessen the impact of Iowa and New Hampshire. But the national parties responded by stripping the delegations of their national convention votes. Democratic candidates even have been forbidden to campaign in Florida, the state at the center of the 2000 election and one of the three most important states in the last two national elections. No one really believes that Florida and Michigan delegates won't be in their seats at their respective parties' national conventions?

Worse perhaps is the pandemonium unleashed in the rush to create Super Duper Tuesday. It is now clear that the mega 22-state delegate selection day scheduled for February 5, has only aggravated the underlying problem. The rush to be relevant and live within the party rules caused states in pell-mell fashion to move their primaries into the dead of winter. So there is now such a mishmash of them that their votes might well just cancel each other out. In the end this again will mean that the same early small states as always will likely determine the nominees but it will merely take a month less than in previous cycles. And this is what we call reform.

But why have well intended reform efforts to make primaries a more deliberative and democratic process so utterly failed? It's a good question and too rarely asked.

In theory competitive party primaries should have produced a broadly supported consensus nominee, more party unity, and more open conventions. That's certainly what early reformers like Robert La Follette expected when he championed the first primaries in Wisconsin in 1908. But since the primary system became dominant in the 1960's, few of these early expectations of the progressives have been realized.

Part of the answer is the fragmentation of the process and the nature of federalism itself. Presidential elections are 50 separate state elections for the electoral votes of each state, not a national election. And our nominating procedures are controlled by 50 different states, within the parties' rules limitations, that vote at widely different times over a six month process. When the early states vote, many voters in other states not have thought deeply about their choices. But the intense and concentrated coverage for Iowa and New Hampshire introduce candidates to a national electorate as de facto “winners” or “losers” before more than 90% of voters can cast ballots.

Consequently winners in New Hampshire and Iowa get an enormous bounce while losers with rare exceptions (Clinton in 1992) are unable to overcome weak performances in these early contests. Scholars argue whether the combination of media spin and electoral results produce a bandwagon effect that makes later voters

gravitate to earlier winners. But there is no argument that after Iowa and New Hampshire have voted the race is probably over.

It is now too late to change this process for 2008. But it's exactly the right time to consider changes for 2012 and beyond. The time has clearly come for an overhaul of the entire chaotic process.

Two major options exist. One would produce a national primary while the second option provides for the adoption of regional primaries. A real national primary with every state participating on the same day has been proposed since at least 1916 when Woodrow Wilson advocated it. Its major strength is that potentially all Americans would have some role in the process.

Several versions of regional primary plans also have been proposed. Common to all the regional plans, a designated region of the country (i.e. northeast, south, west and central) would vote in alternate months beginning in February of the presidential year.

One regional plan, the so-called American plan would give small and medium states earlier primaries and larger states later primaries. A competing plan known as the Delaware plan would create regions by allocating each state into one of four population clusters based on population.

Congress will have to act to bring any of these plans to fruition. And Congress should act. Sixty years of hard experience have taught us that neither the states acting alone nor the major political parties have been able to rationalize the process. Presidential elections are national campaigns and we need national legislation to make sense of it.

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The views and opinions found in this article represent the authors' views and opinions and not those of any institution or organization with which they are affiliated.

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Thursday, January 3, 2008

## **Govs races kick it up a notch**

**By Louis Jacobson, Stateline.org Columnist**

Louis Jacobson is the editor of CongressNow, an online publication launched in 2007 that covers legislation and policy in Congress and is affiliated with Roll Call newspaper in Washington, D.C. Jacobson originated the “Out There” column in 2004 as a feature for Roll Call, where he served as deputy editor. Earlier, Jacobson spent 11 years with National Journal covering lobbying, politics and policy, and served as a contributing writer for two of its affiliates, CongressDaily and Government Executive. He also was a contributing writer to The Almanac of American Politics and has done political handicapping of state legislatures for both The Rothenberg Political Report and The Cook Political Report. On Election Day 2007, the two most vulnerable governorships in the country — Kentucky’s and Louisiana’s — fell to the opposing party. But political junkies need not despair about a lack of competitive races in 2008. Since August, the last time Out There surveyed the landscape, three key gubernatorial contests have intensified, with incumbents feeling the heat in Missouri, Indiana and Washington state. In this column’s latest assessment, each of these three governorships moves up a notch in vulnerability, from “Worth Watching” (the middle category) to “Vulnerable” (the highest). Meanwhile, the other eight 2008 gubernatorial races stand much as they did in August, although there are indications that strong candidates from the out-of-power party could enter races in North Carolina, Delaware and Vermont, potentially shaking up those contests.

All told, if the election were held today, the Democrats would stand to gain one or two seats, adding to their current lead of 28 governors to 22 Republicans.

Here is a rundown of the 11 gubernatorial races on tap this year:

#### Vulnerable

Missouri Gov. Matt Blunt (R) is the most vulnerable governor seeking re-election, with even some Republicans conceding the race now leans to Attorney General Jay Nixon (D). Blunt’s biggest problem has been the fallout from his decision to cut roughly 100,000 people from the Medicaid rolls early in his term. Blunt has been further battered by the complicated, but slowly unfolding story of Scott Eckersley, a state lawyer who clashed with his superiors over how long to retain e-mails under the law. Eckersley was fired and now accuses the administration of smearing him.

As recently as a few months ago, it seemed Indiana Gov. Mitch Daniels (R) had moved past some of the biggest problems from early in his term, including an unpopular toll-road lease and a complicated change in time-zone policy. But anger over rising property taxes and growing pessimism about the state’s economy have made all incumbents in Indiana targets, Daniels first among them. On Election Day 2007, voters stunned political observers by tossing out Indianapolis Mayor Bart Peterson, a result blamed on the tax issue. Mayors were also booted in nine other Indiana towns, even though many of these locales boasted factories built or expanded in recent years — “an all-too-real reminder that big economic gains are not enough to power the presiding executive to further terms,” the Indiana-based Howey Political Report wrote, in a clear reference to Daniels’ re-election strategy.

The big development in Washington state is that Republican Dino Rossi, after a long period of indecision, is

now officially challenging Gov. Christine Gregoire (D), who beat him after two recounts by 133 votes in 2004. Rossi has come out of the gate quickly, raising well over \$1 million in the weeks following his announcement. That's still several million short of Gregoire's cash account, but Rossi will be able to add to his haul early in 2008, whereas Gregoire will be barred from fundraising when the Legislature is in session. Rossi's message has been to blast cumbersome state government — using Gregoire, a career government official, as exhibit A — and 23 consecutive years of Democratic governors.

#### Worth watching

Democrats have won five straight gubernatorial elections in otherwise red-state North Carolina, and with two strong primary contenders duking it out to succeed term-limited Democratic Gov. Mike Easley — Lt. Gov. Beverly Perdue and state Treasurer Richard Moore — the winner would be well-positioned to become the next governor. However, the possible candidacy of Charlotte Mayor Pat McCrory would shake up what even Republicans concede has been an unexciting GOP field that for now includes former state Supreme Court Justice Bob Orr, state Sen. Fred Smith and lawyer Bill Graham. In McCrory's favor would be his name identification in the sizable Charlotte media market and his ties to business leaders, some of whom have tended to give generously to Democratic governors for pragmatic reasons. The big downside is that North Carolinians outside of Charlotte tend to view politicians from the state's biggest city with suspicion; in 2000, former mayor Richard Vinroot lost the open-seat governorship to Easley. If the two Democrats can avoid damaging each other in the primary, either one would be a favorite in the general — but McCrory alone would make it competitive.

As Delaware Democrats try to retain the seat held by term-limited Gov. Ruth Ann Minner, the primary battle between Lt. Gov. John Carney (D) and state Treasurer Jack Markell (D) is heating up. Polls are scarce, but Carney is thought to be ahead, albeit by a decreasing margin. Republicans hope for two things: a rough Democratic primary that leaves the loser's supporters dejected, and the entry into the race by Alan Levin (R), a moderate former U.S. Senate aide who last year sold his family's Happy Harry's drug store chain to Walgreens. Analysts think Levin is 80 percent likely to run. Either Democrat would be favored, especially in a presidential year, but Levin would be a credible challenger.

#### Safe

Montana Gov. Brian Schweitzer (D) remains a strong favorite to win a second term, thanks to a charismatic, populist approach that sells in Big Sky country. But while his popularity remains high — 63 percent in a recent Montana State University-Billings poll — his take-no-prisoners style has made some enemies. Now he has a genuine opponent: Roy Brown, a GOP state senator, former state House majority leader and an oil-and-gas businessman. While his voting record is conservative, Brown has often outperformed other Republicans in his district. Schweitzer led Brown, 55-30, in a December Mason-Dixon poll, but that gap could narrow as the race

progresses.

Vermont Gov. Jim Douglas (R) hasn't given his opponents many openings as he seeks his fourth two-year term in one of the nation's bluest states. However, Democrats hope Douglas could be vulnerable in a presidential year, given recent trendlines: Vermont was the only state that gave U.S. Sen. John Kerry (D-Mass.) a bigger margin for president than it did Democrat Al Gore (20 points, up from 10). The biggest obstacle will be finding someone who can unite liberal voters. Former Lt. Gov. Doug Racine (D) is considering a bid, but unless Progressive Party candidate Anthony Pollina defers to him, which is considered unlikely, the center-left vote could fracture, leaving Douglas with an open path to re-election.

As he grapples with challenges in school funding and the state retirement system, New Hampshire Gov. John Lynch (D) may not duplicate his stunning 74 percent share of the vote as he runs for his third two-year term in 2008. But he's got a big margin for error, and he benefits from the continued disorganization of the state GOP, which lost both chambers of the Legislature and both U.S. House seats in 2006.

Highly popular North Dakota Gov. John Hoeven (R) is aiming to become the first person in state history to win three four-year terms. He should have little trouble, particularly given his likely fund-raising edge, though state Sen. Tim Mathern (D) is running an aggressive campaign and another Democratic legislator or two are weighing a bid.

Republicans and Democrats alike agree that West Virginia Gov. Joe Manchin III — the newly installed chairman of the Democratic Governors Association — will cruise to re-election.

None of the limited pool of rising-star Democrats in Utah is foolhardy enough to take on the Beehive State's wildly popular governor, Jon Huntsman Jr. (R), as he seeks a second — and reportedly final — term.

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Friday, January 4, 2008

## **WORTH NOTING: Lawmaker loses to a cockroach**

**By Eric Kelderman, Stateline.org Staff Writer**

Did you hear the one about the state legislator who tussled with a cockroach at a political debate? No joke here. Kansas state Rep. Vaughn Flora (D) paid \$2,500 to settle a \$75,000 lawsuit filed by an anti-abortion

protester who wore a cockroach costume to a September 2006 gubernatorial debate, The Topeka Capital-Journal reports. In May, Flora was found guilty of misdemeanor battery and fined \$100 for removing a mask worn by Operation Rescue President Troy Newman and scratching his face. Operation Rescue protesters dressed as cockroaches to mock Democratic Gov. Kathleen Sebelius' veto of legislation that would have bolstered state regulation of sanitation at abortion clinics. Children might scoff at the idea of getting underwear for Christmas. But the mother of one West Virginia National Guardsman began gathering donations of underwear for her son and others serving in Iraq during the holiday season, according to the Charleston Daily Mail. Although the Army issues briefs, soldiers often must throw out several pairs during a mission and replace them at their own expense, explained Tammi Brown, whose son serves in the state's 821st Engineering Group.

Youths in Oklahoma's juvenile institutions had better watch out next Christmas, according to The Oklahoman. Office of Juvenile Affairs Director Gene Christian is trying to abolish the state's Santa Claus Commission, which is tasked with providing gifts for youths in state custody. Christian argues that 40 percent of those who receive the gifts are criminals over the age of 18 and that the state instead should offer help with educational scholarships. In 2007, the commission spent about \$5,500 in private donations for 600 duffel bags.

Talk about limited government. The South Dakota Legislature's annual session of 35 days already is among the shortest in the nation. Now, citizen legislators will have four-day workweeks for most of their time at the Statehouse in Pierre, The Associated Press reports. Senate President Pro Tempore Bob Gray (R) said the shorter workweeks will give legislators more time to keep up with their private businesses and jobs during the session.

Oregon state Sen. Larry George (R) doesn't want to be at the Statehouse at all this year. He has filed a lawsuit to try to block the Legislature's first-ever annual session, slated to begin on Feb. 4, according to The Oregonian. The Oregon Legislature is one of a half-dozen that normally meet every other year, but it decided last year to "test drive" an annual session. George said that he favors meeting every year but that voters should approve a constitutional amendment to make that happen.

Friday, January 4, 2008

## States unveil mortgage licensing system

By Pauline Vu, Stateline.org Staff Writer

States have a new tool to regulate mortgage companies and access their track records, including information on companies punished in other states for fraud or predatory lending.

The Nationwide Mortgage Licensing System is an online database that will make it easier for states to monitor mortgage companies. If a firm operating in multiple states is sanctioned in one of them, other states will know

immediately. And if that firm applies to open in new states, officials will know about the infractions and could deny the company a license.

“The ability to hide a blemish is gone,” said Steven Antonakes, Massachusetts’ state banking commissioner. In the last two years Massachusetts has issued more than 215 enforcement actions against lenders and brokers.

So far, seven states are participating in the registry, which kicked off Jan. 2: Idaho, Iowa, Kentucky, Massachusetts, Nebraska, New York and Rhode Island. Another eight are slated to join by July, and more than 35 states are expected to participate by the end of 2009. By then, the public also will be able to use the portal to see a company’s state record.

All states require that mortgage companies be licensed, though licensing standards vary in each state.

“This will enhance our regulatory supervision over the mortgage industry. ... We’re sharing resources, trying to focus our efforts into providing the most bang for the buck,” said Jeffrey Vogel, chairman of the Conference of State Bank Supervisors (CSBS) and the banking commissioner in Wyoming, which will join the registry in July.

The two groups that set up the system, CSBS and the American Association of Residential Mortgage Regulators, say the depository is a one-stop shop where mortgage companies and loan officers can fill out a standardized set of forms to apply for a license in all participating states. For example, if a firm already has information in the registry to operate in New York and wants to open in Kentucky, it only needs to make a few clicks on the Web to apply for a Kentucky license instead of filling out a new set of state-specific forms.

Planning for the database began four years ago, before the mortgage crisis began dominating headlines. The current wave of foreclosures stems partly from shady lending practices in the high-interest subprime loan market. Some unscrupulous lenders hid the true cost of subprime loans, tacked hidden or excessively high fees onto the loans, or included prepayment penalties for borrowers who tried to refinance. Last year, 1.5 million homes entered foreclosure.

The database will include unique identifiers for each company, its branches, owners and loan officials. Similar to Social Security numbers, these identifiers will follow that firm or person throughout the industry. This is to prevent fraudulent loan originators from escaping punishment by moving to another company, companies from changing their names, or owners from setting up new firms to avoid disclosing past infractions.

On the registry’s first day, 289 companies began filing applications, and 55 submitted them. Eventually, the database could grant more than 370,000 licenses to companies, their branches and loan officers.

One group critical of the registry is the National Association of Mortgage Brokers (NAMB) because they say it doesn’t go far enough. The system only oversees state-regulated banks and lenders, not the largest banks that are regulated by the federal government.

“From a consumer standpoint, this isn’t the perfect scenario because if there’s a bad originator out there, they can easily fall through the cracks and work for someone else,” such as a federally regulated bank, said George Hanzimanolis, NAMB’s president. “If this is about consumer protection, there can’t be an argument that anybody should be left out of this.”

He supports a bill the U.S. House of Representatives passed in November that would require state-regulated banks to join the registry, while loan originators at federal banks must register with the system and receive a unique identifier.

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Saturday, January 5, 2008

## High court to hear lethal injection case

By John Gramlich, Stateline.org Staff Writer

36 states allow lethal injection

Alabama    Arizona    Arkansas    California    Colorado    Connecticut    Delaware  
Kansas    Kentucky    Louisiana    Maryland    Mississippi    Missouri    Montana    Nevada    New  
York\*    North Carolina    Ohio    Oklahoma    Oregon    Pennsylvania    South Carolina    South Dakota  
Utah    Virginia    Washington    Wyoming

Note: New York has a statute allowing lethal injection, but it was ruled unconstitutional by the state Court of Appeals in 2004

Source: Death Penalty Information Center

Ralph Baze was waiting for the two police officers who came to arrest him on Jan. 30, 1992, at his cabin in rural Powell County, Ky. Hiding in a bush outside the cabin, Baze attacked them from behind with an assault rifle, firing multiple rounds into their backs and killing them within seconds.

Two years earlier in Lexington, Ky., Thomas C. Bowling Jr. crashed his car into another car parked outside a dry-cleaning business. Bowling emerged from the wreck, drew a gun and repeatedly fired it into the other vehicle, killing the couple sitting inside and wounding their 2-year-old son.

Baze and Bowling both were convicted of first-degree murder and sent to Kentucky's death row, where for years they have awaited execution by lethal injection. But their executions — along with those of all other inmates facing lethal injection across the country — have been on hold since last September, when the U.S. Supreme Court granted the two men the rare chance to bring a challenge to a method of capital punishment to the nation's highest court.

Oral arguments are scheduled for Monday (Jan. 7) in *Baze v. Rees*, the joint lawsuit brought by Baze and Bowling against John D. Rees, commissioner of the Kentucky Department of Corrections, and two other state officials, including former Gov. Ernie Fletcher (R). In the lawsuit, the prisoners claim the three-drug combination used to put inmates to death in Kentucky — and in the 35 other states that allow lethal injection — violates the U.S. Constitution's ban against cruel and unusual punishment.

"From all accounts that I've read, the stuff is like liquid fire going into your veins. Taking my life should be enough," Baze said in a videotaped interview with *The New York Times* in 2005. Baze and Bowling filed their initial challenge to Kentucky's lethal injection procedure in state court in 2004.

The Kentucky prisoners' case is among the most closely watched of the current Supreme Court term, in part because the justices' decision to hear the challenge has resulted in a de facto moratorium on lethal injections nationwide. Governors, state and federal courts and the Supreme Court itself have intervened to postpone all scheduled lethal injections until *Baze v. Rees* is decided, likely sometime in late spring or summer. As a result, 42 prisoners were executed in the United States last year, the fewest since 1994.

The case has major implications for states. The justices could uphold the current drug protocol in lethal injections or force legislatures or state departments of correction to spell out new procedures. Though some states have slightly altered their lethal injection protocols recently — Florida, Georgia, South Dakota, Tennessee and Washington did so in a three-month period last year — none have made major changes to use of the drugs being challenged.

With either outcome, advocates on both sides of the case expect the high court to provide states with more guidance on whether their lethal injection protocols meet constitutional requirements. The Supreme Court has not ruled on a method of execution since 1879, when it upheld the firing squad in Utah, then a territory, not a state.

The legal team for Baze and Bowling will not argue that the death penalty itself is unconstitutional — nor did they ask the justices to consider that question. Instead, they are seeking changes in the way lethal injections are carried out. They claim the current drug regimen is administered haphazardly across the country and that less painful methods exist, including a single-drug procedure used to euthanize animals.

According to the Kentucky prisoners' lawyers, the three-drug formula now used in lethal injections — sodium thiopental (which causes unconsciousness), pancuronium bromide (which causes paralysis) and potassium chloride (which stops the heart) — masks excruciating pain felt by dying inmates. If the first drug doesn't work, lawyers say, prisoners are unable to signal their distress because of the second, paralyzing drug.

Critics point to botched executions like that of Ohio double-murderer Joseph Clark, who in 2006 took nearly 90 minutes to die — lethal injections normally take about 15 minutes — when prison officials had difficulty finding a vein to inject the deadly drugs. Clark did not lose consciousness immediately and repeatedly complained that the process “don't work,” according to witnesses.

Lawyers say euthanized animals — typically put down using a single barbiturate — are killed more humanely and more effectively than inmates executed by lethal injection. In fact, a group of five veterinarians filed a supporting brief with the Supreme Court criticizing the procedure used by Kentucky and other states.

“Kentucky's current lethal injection protocol would not meet the minimum standards for the humane euthanization of animals,” the veterinarians wrote in the brief.

In their brief to the high court, lawyers for the state of Kentucky — supported by briefs from 16 other states and the federal government, as well as outside groups — say the U.S. Constitution does not require lethal injection to be totally free of pain and that Baze and Bowling cannot prove that the current procedure amounts to cruel and unusual punishment.

They point to past executions to support their point: 929 inmates have been put to death by lethal injection since the Supreme Court reinstated capital punishment in 1976, but only a small number of those have proven problematic. In Kentucky, only one prisoner has been put to death by lethal injection — Eddie Lee Harper in 1999 — and the death sentence was carried out with no apparent problems.

Kentucky's lawyers say each of the three chemicals in lethal injection serves a purpose; the muscle relaxant, for example, prevents a prisoner from jerking and knocking an IV out of place, according to the state.

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Sunday, January 6, 2008

## **Back to the future to cure mortgage scandal?**

**By Neal Peirce, Special to Stateline.org**

Can it be as bad as some say — 2 million home foreclosures in 2008, the worst housing slump since the Great Depression? Will there be heartbreak for so many more families, boarded-up windows and abandonment ravaging vulnerable neighborhoods coast to coast?

The prognosis is not favorable. Subprime lending — mortgages with interest rates that suddenly escalate after a few years, forcing often naive and unprepared homeowners to default — has taken a heavy toll. Houses vacated by foreclosures are deteriorating into eyesores, encouraging crime, depressing property values, costing localities revenues they need for schools, police and other vital services.

Some Northeastern cities — Cleveland, Buffalo, Pittsburgh among them — are said to be the hardest hit. Among the states, Florida, California and Indiana are registering the most foreclosures.

But the pain is being felt nationwide. The U.S. Conference of Mayors projects the weak housing market and large inventory of unsold homes may reduce cumulative U.S. home values by \$1.2 trillion this year.

Is there a villain in this story? Yes, and he's hidden in plain view: a heavily lobbied federal government that lost sight of ordinary Americans' interests.

That's the story told in *The American Prospect* magazine by John Atlas of the National Housing Institute and Peter Dreier, a professor of politics at Occidental College in Los Angeles. The problem, they say, is that Washington succumbed to pressure from Wall Street and other financial players and deregulated a once stable, smoothly functioning American housing finance market. And that the only way out is a U-turn, back to circa 1970 or earlier in national regulation.

The history is illuminating. The ravages of the Depression triggered a range of bank regulations and agencies to protect consumers, among them the Federal Deposit Insurance Corporation, the Federal Home Loan Bank System, Fannie Mae and the Federal Housing Administration. The savings and loan industry was highly regulated, its mission to take people's deposits and use them exclusively for home mortgages. Washington also insured loans through the FDIC, created a secondary market to keep capital flowing, and required S&Ls to make predictable 30-year fixed-rate loans. Homeownership soared and there were few foreclosures.

But in the early 1980s, the politically powerful lending industry convinced Congress to eliminate interest-rate caps and loosen mortgage controls. The S&Ls got permission to compete with conventional banks, then began a decade-long orgy of real estate speculation. Banks and S&Ls started devouring each other and making loans for shopping malls, golf courses and condo projects with scant financial logic. Result: By the late '80s, hundreds of banks and S&Ls went under and the federal government had to step in to bail out depositors.

In the aftermath, with stable S&Ls vanished and federal controls emasculated, a giant "financial services" industry of banks, insurance companies, credit card firms and other money lenders emerged. Mortgage brokers, Atlas and Dreier charge, became "the street hustlers of the lending world," making a fee for each borrower they recruited and handed over to a mortgage lender — often collecting an extra fee in return for negotiating an inflated interest rate.

Large mortgage finance companies began to make massive profits on subprime loans. Wall Street in recent years created special investment units to buy up those mortgages from the lenders, bundling them into mortgage-backed securities and selling them (at fat fees) to unsuspecting investors around the world.

But when thousands of the unregulated mortgages started to go south, the present collapse was triggered, with billion-dollar losses for Wall Street firms and dark clouds across all mortgage lending.

So how should we recover? President Bush's so-called interest-rate "freeze," announced in late fall, is hardly the answer. It's entirely voluntary and is projected to apply to only 12 percent of the mortgage holders — none already in default in 2007 — that are likely to have severe difficulty making their monthly payments.

Some better ideas are before Congress, including a recently House-passed bill that requires lenders to verify all applicants' income and document their creditworthiness. Mortgage companies and brokers would have to be licensed, like stockbrokers and insurance brokers.

But Dreier tells me he'd go further — for example, simply forbid adjustable-rate mortgages because they're just as risky, he insists, as playing the stock market. And he'd strengthen nonprofit lenders such as the federally chartered Neighborhood Housing Services of America. NHSA has made thousands of loans to low-income borrowers with an enviable delinquency rate of just 3.34 percent — mostly because it requires every borrower to take its strong mortgage education program before and after a loan is made.

"Daylighting" the lending process, putting tight rules on all mortgage lending? Would those moves be too restrictive, harm our free market? No way, I'd say. Strong regulations led post-World War II America toward world-leading homeownership rates and an expansive economy. Capitalism works best with clear rules. Let's go back there.

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