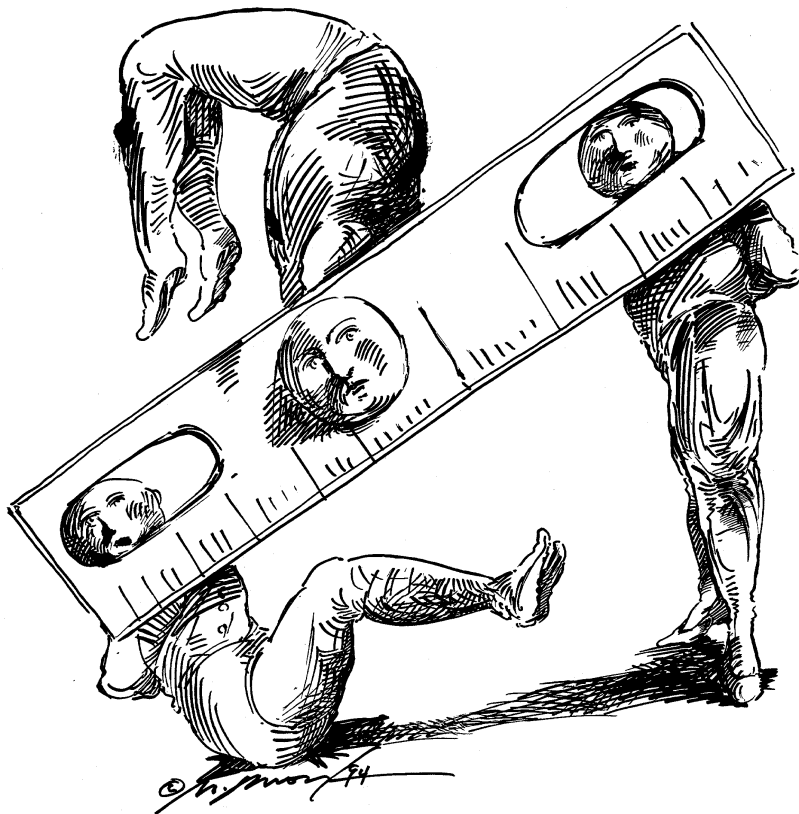


January 23, 2006

## Tipping point?



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### Top Story

*The U.S. Supreme Court and the MARYLAND General Assembly handed liberal Democrats two major victories last week (assisted suicide in OR and employee healthcare reform in MD). But how much those decisions influence other states is yet to be determined.*

## SNCJ Spotlight

### Assisted suicide & Wal-Mart: Will more states follow suit?

**T**he nation's escalating culture war took a decided turn to the left last week, starting with the MARYLAND General Assembly's override of Gov. Robert L. Ehrlich's (R) veto of a bill requiring employers with 10,000 or more workers to spend at least 8 percent of their payroll on employee health coverage. A few days later, the U.S. Supreme Court handed down a 6-3 decision upholding an OREGON law that allows

doctors to help terminally ill patients end their own lives. But those decisions did more than just give conservatives and pro-business advocates severe heartburn. They also set the stage for similar battles in statehouses across the country.

The Maryland override on Jan. 12 will likely have the most immediate impact on other states. The legislation became known as the “Wal-Mart Bill” because Wal-Mart, the world’s largest retailer, is the only company in the state that meets all the bill’s criteria. But proposals under consideration in other states could be far more strict, covering companies with as few as 1,000 employees. WASHINGTON lawmakers are already looking at two bills (SB 6356 and HB 2517) that would force companies with more than 5,000 employees to spend at least 9 percent of their total payroll costs on health care benefits.

That push is sure to further what was already a furious battle between organized labor and retail trade groups. Wal-Mart spent millions fighting the Maryland measure, but a bevy of union groups did the same to ensure the outcome favored them. One, the state chapter of the AFL-CIO, vowed to withdraw its support from any lawmaker who didn’t vote to override the veto, a significant threat in a state where the Legislature is dominated by Democrats, the traditional ally of employee unions.

Now, labor advocates nationwide are using that vote to publicly bolster their efforts to enact similar legislation in as many as 30 other states, with the national AFL-CIO stating it will specifically target COLORADO, CONNECTICUT, FLORIDA and KENTUCKY. In turn, multiple state and national retail and restaurant associations, including the U.S. Chamber of Commerce, the National Retail Federation, the National Restaurant Association and the International Franchise Association, have formed alliances to fight those bills.

“We’re just looking for large employers — large and extremely profitable employers like Wal-Mart — to shoulder some of the burden of ensuring that their employees get their basic needs met,” said Steve Smith, a spokesman for the AFL-CIO. “And one of those needs is health care.”

The override could give them the momentum they did not have in 2005. According to the National Conference of State Legislatures, more than a dozen states — ARIZONA, CALIFORNIA, Connecticut, Maryland, MASSACHU-

## *The Week in Session*

### States in Regular Session:

AK, AL, AZ, CA, CO, DC, DE, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MO, MS, NE, NJ, NM, NY, OH, PA, RI, SC, SD, TN, US, UT, VA, VT, WA, WI, WV

### States in Special Session:

CA "a", PA "a", TN "a"

### States in Recess: NH

### Special Sessions in Recess: OK "a"

Letters indicate special/extraordinary sessions

Source: State Net, 01/20/06

SETTS, MINNESOTA, NEW HAMPSHIRE, NEW YORK, Oregon, PENNSYLVANIA, TENNESSEE, VERMONT and WASHINGTON — considered but rejected bills last year that would have required large companies to provide health insurance or to pay a fee to the state.

Several states in addition to Washington already have new legislation in the works. In WEST VIRGINIA, for instance, Sen. Jon Hunter (D) has introduced SB 147, which is a direct replica of the Maryland measure. In WISCONSIN, Sen. Dave Hansen (D) has introduced AB 860, which would require companies with more than 10,000 workers to pay for at least 80 percent of their health coverage premiums. Gov. Jim Doyle (D) has announced his support, although the Republican-dominated legislature is not likely to go along with the proposal. RHODE ISLAND lawmaker Amy G. Rice (D) is also expected to introduce legislation in that state this week. Her bill, however, would require companies with

more than 1,000 employees to devote 8 percent of their payroll to health insurance.

Because it is so narrowly written and may not result in coverage for significant numbers of uninsured people, some advocates for the working poor say they don't view the Maryland bill as a valid model for other states to follow.

"The Maryland law is aimed at Wal-Mart, not the issue of the uninsured," said Paul B. Ginsburg, the president of the Center for Studying Health System Change, a nonprofit research group in Washington.

Others contend that the Maryland law and others will affect only a minuscule number of the working uninsured. Even if other laws apply to significantly more

## Bird's eye view



### *States bear brunt of federal Medicare prescription makeover*

Significant problems with the new federal Medicare prescription program have led to many of the nation's sickest and poorest recipients being turned away or charged up to \$250 for their medications. Those glitches have also forced at least 18 states to become the "payer of last resort" for those prescriptions. The program, which began Jan. 1, provides prescription drug coverage to 43 million Americans, including 6.4 million low-income beneficiaries who previously received medications through state Medicaid plans. Federal authorities have so far refused to reimburse states for their expenses, but the Bush administration has ordered insurers to provide a 30-day supply of any drug that a beneficiary was previously taking for no more than a \$5 co-pay. The accompanying map shows which states are covering those prescription medication costs.



employers, some policy analysts say these measures do not represent long-term solutions to the problem of paying for health care.

“I’d rather see the state work with all employers to see if they can come up with incentives to spread the risk among a broader pool,” said Laura D. Tyson, dean of the London Business School and former chief economic adviser to President Bill Clinton. “This [the Maryland bill] is a Band-Aid, arbitrary, firm-specific solution to one of the most important policy problems of the United States.”

The Supreme Court’s ruling on the Oregon assisted suicide law could also have a ripple effect in at least some states, although there does not appear to be wide support for similar legislation.

Previous state referendums supporting assisted suicide have not fared well in recent years, with such attempts in fact going down to defeat in California, MAINE, MICHIGAN and Washington, while legislation failed in Maryland in both 1995 and 1996. Overall, 44 states prohibit assisting in a suicide.

California and Vermont are the only states where measures similar to the Oregon Death With Dignity Act are currently being considered. Golden State lawmakers submitted such a bill last year but later abandoned the effort due to a lack of support. They have since resurrected the measure in the Senate and plan to aggressively campaign for it this year.

California Assemblyman Lloyd Levine (D), a leading advocate for assisted-suicide, says the Court’s decision can only help their cause.

“The Supreme Court vote gives them a little more comfort to say, ‘Society is changing. This is OK. This is not an evil thing,’” Levine said.

But there is still significant opposition, both in the statehouse and in Congress. And the narrow focus of the court’s verdict did nothing to dissuade the broad alliance of opposition from disability rights groups, independent living centers and religious leaders. Many opponents claim that the poor and disabled might be steered toward assisted suicides for economic reasons, leading to state-sanctioned euthanasia. Others argue that a wrong prognosis could incorrectly convince people they have less than six months to live, which is the law’s primary eligibility requirement.

Congress could also be spurred to action. The Court’s ruling did not say that a person has the constitutional right to suicide (the court had previously ruled in 1997 that no such right exists), but rather only that former Attorney General John D. Ashcroft exceeded his legal authority in 2001 when he threatened to prohibit doctors from prescribing federally-controlled drugs if they authorized lethal doses of barbiturates to their terminally ill patients. Ashcroft reasoned that the federal Controlled Substances Act (CSA) gave him the authority to invalidate the law because assisting suicide is not a “legitimate medical purpose” for which federally-regulated drugs may lawfully be prescribed.”



gress' bestowal of \$300-billion in federal highway funds last year and indications that Americans are fed up with traffic problems. WASHINGTON voters, for example, recently declined the opportunity to cut the price of a gallon of gas by 9.5 cents in order to allow the state to repair its congested and crumbling highways and bridges. And according to the American Road and Transportation Builders Association, voters nationwide have approved about 80 percent of the transportation bond issues put before them in the last two years, up substantially from the 50-percent approval rate in 2002. The big-budget proposals do have their critics, however. Conservatives, for instance, fear a new era of fiscal irresponsibility, and environmentalists and advocates of mass-transit challenge the notion that more pavement is the solution to the nation's traffic problems. How the proposals will play out this election year remains to be seen, but it's not likely they'll disappear anytime soon. This year marks the 50th anniversary of the interstate highway system, which faces tremendous pressures today. As Jack Basso, a senior official with the American Association of State Highway and Transportation Officials, put it, "Overall, there's a clear need for investment. That's what a lot of the governors are responding to." (LOS ANGELES TIMES)

**STATES VOICE REAL DOUBTS ABOUT REAL ID:** State transportation officials have some serious doubts about their ability to comply with the federal Real ID Act on schedule, according to an unpublished, five-month-old survey by the American Association of Motor Vehicle Administrators and a recent follow-up investigation by the Associated Press. The survey, conducted last August, asked state licensing officials for detailed information on what it will take for them to meet Real ID's mandates, which establish national standards for driver's licenses, beginning in 2008. And while the survey did not provide an accurate estimate of the total costs of compliance nationwide, the detailed forecasts supplied by a few states suggested that the price tag will be far higher than the \$100 million federal reimbursement recommended by the Congressional Budget Office in February 2005. PENNSYLVANIA estimated its compliance costs at \$85 million alone. And WASHINGTON projected it would spend \$46 million annually in the first few years after the law takes effect. Although the survey respondents also expressed hope at the time that the feds might address their concerns before the law takes effect, they're not exactly brimming with optimism now, if the comments of PENNSYLVANIA Department of Transportation Deputy Secretary Betty Serian are any indication. In a recent interview, Serian stated, "It is just flat out impossible and unrealistic to meet the prescriptive provisions of this law by 2008." (ASSOCIATED PRESS, MSNBC.COM)







GRAPH). • Last week, **MARYLAND**'s Democrat-controlled General Assembly overturned Republican Gov. Robert L. Ehrlich Jr.'s vetoes of two bills requiring every voting district to offer early voting and allowing voters to file a provisional ballot at any polling place in the state. Critics of the bills say they will increase the chances of voter fraud by enabling individuals to cast

provisional ballots in multiple jurisdictions (CAPITAL NEWS SERVICE [COLLEGE PARK]). • **INDIANA** House Speaker Brian Bosma (R) announced last Tuesday that he plans to end a key perk for Hoosier State lawmakers: taxpayer-funded lifetime health insurance. Capitol insiders say the move could spur a mass exodus at the end of the session, with House members seeking to retire with their benefit intact (JOURNAL GAZETTE [FORT WAYNE]). • **ILLINOIS** House Speaker Michael Madigan (D) has imposed a three-bill limit on members of his chamber for the session. The move is aimed at helping Prairie State lawmakers get out of Springfield by April 7, two months before the constitutional deadline, to allow for campaigning and a major Capitol renovation (CHICAGO TRIBUNE). • Lobbyists spent a record \$67.8 million on the **PENNSYLVANIA** Senate — about \$1.4 million per senator — in the first six months of the 2005 legislative session, according to a disclosure report released last week. The health care lobby topped the spending list at \$15.6 million, followed closely by construction and manufacturing interests (\$15 million), with telecommunications a more distant third (\$5.8 million) (PITTSBURGH POST-GAZETTE). • **HAWAII** Gov. Linda Lingle (R) appointed legislative aid Anne Stevens to fill the 23rd House District seat of Rep. Galen Fox (R), who resigned last year after being convicted of fondling a woman on a flight from Honolulu to Los Angeles in December, 2004. Stevens was the office manager for state Sen. Gordon Trimble (R), who serves the same region of the state, which includes downtown Honolulu and Waikiki (HONOLULU ADVERTISER).

## Upcoming Elections

(01/19/06 - 02/09/06)

01/24/2006 Alabama party primaries  
House 031

01/24/2006 Virginia Special Election  
House 097

02/07/2006 Missouri Special Election  
House 132

— Compiled by *KOREY CLARK*

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# Governors

**K**ANSAS GOP SAYS SEBELIUS' MEMORY FAULTY: KANSAS Gov. Kathleen Sebelius' (D) recent State of the State address lit a major fire under GOP lawmakers, who claimed she was stealing credit for their ideas and misrepresenting both her record and theirs. Republicans were specifically annoyed with the impression they felt Sebelius left with television viewers — specifically that her administration has brought prosperity to a deeply flawed state over the constant protestations of an uncooperative and highly partisan GOP-controlled legislature. Most galling to Republicans was Sebelius' taking credit for improving the economy without raising taxes, something they say they are more responsible for than her. In 2004, for instance, Sebelius proposed phasing in more than \$300 million in tax increases to help schools, and followed that in 2005 with a proposal to raise tobacco taxes by \$50 million to pay for health care initiatives. Both initiatives failed. Democrats laughed off the complaints, saying the GOP was just experiencing what they had endured for years under former Gov. Bill Graves (R). "We used to doubt it when Governor Graves said he'd cut taxes a billion dollars," said House Minority Leader Dennis McKinney, (D). "We used to laugh when we had ideas that we put on the table, and Governor Graves took credit for them a year later." Sebelius staffers contend that Republican critics misread her address, or misinterpreted what they heard, saying it was GOP critics themselves that substituted "I" when she said "we." (LAWRENCE JOURNAL-WORLD)

## GOVERNOR TIM

**McGRAW?** Country music star Tim McGraw is the latest celebrity to be bitten by the urge to run for public office. McGraw said last week that he will consider running for governor of TENNESSEE "maybe in 10 or 15 years, when the music has died down." McGraw says he was approached about running for the U.S. Senate a few years ago, but declined because he wanted to focus on his singing career. That seat eventually went to Republican

## Quoteable

"There was no demonstrated commitment to historical accuracy in the governor's remarks. Add fries and a Coke, and you'd have a Burger King value meal with the whoppers that were told."

— **KANSAS Senate Majority Leader Derek Schmidt (R) reacting to Gov. Kathleen Sebelius' State of the State address.**  
(LAWRENCE JOURNAL-WORLD)



Lamar Alexander. He adds that he hasn't ruled out a Senate run, but prefers focusing on the governor's office because "It's more of a leadership role, and I think that's something that I'd do well. That doesn't rule out senator; I just think that as governor of a state, especially where I live, there would be a lot more opportunities to make some decisions and change some things." McGraw didn't expound on what decisions he would make or what things he would change. (ASSOCIATED PRESS)

**GOVERNORS IN BRIEF: WEST VIRGINIA** Gov. Joe Manchin (D) last week promised the families of 12 miners killed in the explosion at the Sago Mine an investigation that will include "a full disclosure, with open, public hearings of all the findings" by the end of June. "We cannot know the purpose of this tragedy, but I promise you, we will find the cause," Manchin added (PITTSBURGH POST-GAZETTE). • **Calling it an alternative to a bill he vetoed last year that was supported by gay rights advocates, MARYLAND** Gov. Robert L. Ehrlich Jr. (R) proposed legislation last week that would make it easier for unmarried partners to make medical decisions for one another. Ehrlich's bill would create a database of advance directives that allow people to designate any adult of their choosing to make health care decisions for them (WASHINGTON POST). • **LOUISIANA** Gov. Kathleen Blanco (D) ended speculation about her political future last week by announcing she will seek re-election in 2007. Blanco has been harshly criticized for her leadership since Hurricanes Katrina and Rita, and political circles have been rife with rumors that she would not seek another term. She is also facing a recall campaign that, if successful, could force her from office (TIMES-PICAYUNE [NEW ORLEANS]). • **MONTANA** Gov. Brian Schweitzer (D) announced the creation of a new state advisory council on civil rights, which will be charged with promoting diversity and advising the governor on civil rights issues. Schweitzer is also planning to organize a similar council to find ways to deal with global warming in the Treasure State (MISSOULIAN, BILLINGS GAZETTE).

— *Compiled by RICH EHISEN*

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## Hot issues

**B** **USINESS:** A **VIRGINIA** Senate committee endorses SB 77, a bill that would allow the Old Dominion State to extend its anti-price gouging law for 30 days after a state of emergency declaration is declared. The law was passed last fall to address complaints that gas stations were using Hurricanes Katrina and Rita as an excuse to dramatically increase fuel prices. It heads to the







nesses about a special session of the Volunteer State Legislature. Tennessee law makes it illegal for legislators to accept campaign contributions during regular sessions of the Legislature. But through a quirk of law, those same contributions are legal during special sessions. So less than a day into the special session, lobbyists began offering contributions to legislators. Oh, by the way, the special session was called to deal with ethics.

**THE BI-COASTAL THREAT INDUSTRY:** Conservatives on each coast have taken a slightly inconsistent approach to dealing with enemies. In NEW YORK, reports the *New York Post*, they are lampooning what they consider Atty. Gen. Eliot Spitzer's "alleged penchant for threatening critics" by selling paraphernalia — T-shirts, mugs, bumper stickers — with slogans such as "I was threatened by Eliot Spitzer" or "Eliot Spitzer threatened my little sister." In CALIFORNIA, however, the tack is different. Instead of reacting to perceived threats, the right is making them. As *Capitol Weekly* notes, a conservative group called the "Bruin Alumni Association" has published an online list of UCLA professors it considers "radical." The group also is offering to pay students to rat on professors by collecting evidence that left-wing views are being expressed in class.

**A BATTLE IN THE EVOLUTIONARY WAR** took place in UTAH recently when Beehive State lawmakers showed up for their first day of session to find empty beer bottles strewn across their desks. Aftermath of a staff party? No, a "message" from the opponent of a bill designed to challenge the teaching of evolution in Utah schools. The bottles, from a local brewery, bore the label "Evolution Amber Ale." "I was just sorry it was empty," Democratic state Sen. Mike Dmitrich joked to the *Daily Herald*.

**A TRADITION IN JEOPARDY:** If ALABAMA lawmakers have their way, reports the *Mobile Register*, traditional "keg parties" at fraternities and high-school graduation parties will slip quietly into history in the Heart of Dixie. In an

## In the Hopper

State Net's database tracks tens of thousands of bills in all 50 states at any given time. Here's a snapshot of what's in the legislative works:

Number of 2006 profiles last week: 650

Number of 2006 Intros last week: 6,623

Number of bills enacted/adopted last week: 371

Number of 2006 profiles to date: 9,167

Number of 2006 Intros to date: 25,095

Number of enacted/adopted overall in 2006: 1425

— Compiled By JAMES ROSS  
(Measures current as of 01/19/06  
Source: State Net)

