

A Tale of Two Governors



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● The next issue of
 ● Capitol Journal will be
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 ●

Top Story

California Gov. Jerry Brown has much in common with New York Gov. Mario Cuomo, but almost six months into their new terms the two are on decidedly divergent paths.

SNCJ Spotlight

Andrew Cuomo soars while Jerry Brown struggles

Jerry Brown of California and Andrew Cuomo of New York have much in common. Both are Democrats and sons of famous Democratic governors. Defying a national Republican trend in 2010, both were elected governors of their respective states by decisive margins. Both inherited hefty budget deficits that were by-products of the Great Recession

A Cannon Perspective



With Lou Cannon

and past overspending. And both promised to seek political middle ground and deal realistically with the fiscal problems of their states.

Nearly five months later, the fortunes of Cuomo and Brown have diverged in ways that reflect their differing personalities and the dissimilar political processes of the states they govern. Brown, the son of Gov. Pat Brown, is on his second tour of duty as California's chief executive. In 1975, when he began eight years as governor, Jerry Brown was at 36 the youngest Californian ever to hold the office. He's now the state's oldest governor and no longer the eccentric lone wolf once known as "Governor Moonbeam." Although he still marches to his own drum roll, Brown at 73 has become more low-key and practical in trying to address California's seemingly perpetual budget shortfall with a blend of spending cuts and tax extensions. But he lacks Republican legislative support for what he had hoped would become a bipartisan plan.

Cuomo, 53, has fared better with the New York legislature, in which Republicans control the Senate and the Democrats the Assembly. Like his father Mario, who served as governor for a dozen years, Andrew Cuomo is liberal on social issues. In keeping with the temper of the times, however, he has pursued a conservative fiscal course, notably in declining to extend the so-called "millionaire's tax," actually a three-year surcharge on incomes over \$200,000 that will expire at the end of 2011. Instead, Cuomo negotiated bluntly with hospital workers and health care interests to accept spending caps and \$2.8 billion of cuts in Medicaid in a style an insider calls "very New York." With bipartisan support Cuomo then presented a \$132.5 billion budget that wiped out a \$10 billion deficit and won legislative approval before the April 1 deadline, an unusual event in New York State. "He said what he was going to do and pretty much did it," said Kathryn Wylde, president of the Partnership for New York City, a business group. "Since he'd spelled out his intentions and won by a large margin, he had a compelling mandate for his budget." A recent Marist College Poll found that 54 percent of voters believe Cuomo is doing a good or excellent job, 31 percent a fair job and only 6 percent a poor job. "Cuomo has governed from the center," said political scientist Lee Miringoff, director of the poll. "People approve of his conservative fiscal policies and trust him much more than they do the Legislature."

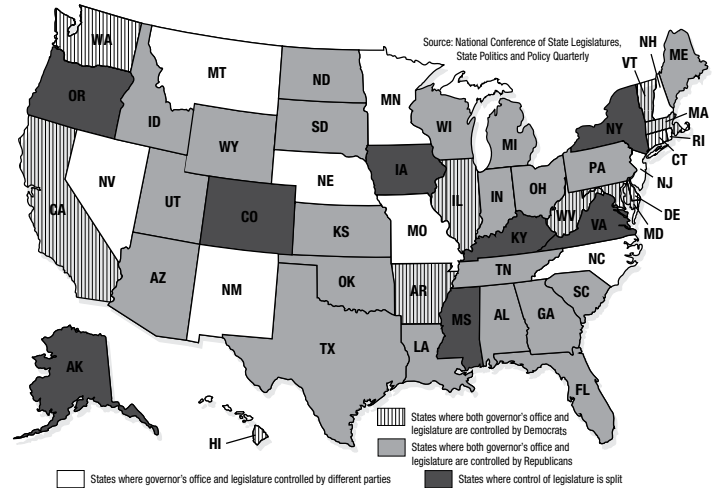
Meanwhile in California, Brown is trying to climb a steeper mountain. California has been plagued for years by recurrent budget shortfalls and an underlying structural deficit. Previous governors and a succession of Democratic-controlled legislatures have kicked the can down the road with a variety of gimmicks that have saddled California with debts and a dismal bond rating. Brown resolved to change the political culture. "Brown shocked Sacramento out of its state of denial and brought a semblance of reality into the budget discussions," said Bill Hauck, president of the California Business Roundtable.

But these discussions fell short. When he took office, Brown faced the prospect of an 18-month budget shortfall of \$26.6 billion. He won legislative approval of more than \$11 billion in budget reductions, trimming health care for the elderly, public education, and other programs. But the Democratic majority in the Legislature balked at further cuts, and the Republican minority has refused to extend surcharges on the sales tax (1 percent), vehicle registrations (0.5 percent) and state income tax (0.25 percent), all of which expire on July 1. Nor would the Republicans permit Brown to take his tax plan to the voters, as he promised to do during the campaign. Brown made his case to GOP legislators in one-on-one meetings but failed to persuade any of them, giving rise to the criticism that he should instead have tried to broker a deal with legislative leaders as past governors have done.

Whatever the merit of Brown's tactics, he is handicapped by a creaking and complicated political system that resorts more to referendums and initiatives than any other state. These ballot measures have contributed to the state's fiscal chaos. Over the years California voters have written into law or the state constitution a multiplicity of mandates that direct how the budget should be apportioned. Advocates of majority rule especially fault Proposition 13, a 1978 ballot measure that requires two-thirds approval of voters or legislators for any tax increase although the initiative did not itself gain a two-thirds majority. The two-thirds rule has empowered otherwise impotent Republicans, who lost every statewide race in 2010 but are still able to call the tune on tax issues in the Legislature.

In New York State, which has no initiative process, Republicans are resurgent, and their rise has paradoxically benefited Cuomo. In the 2010 midterms, Republicans won control of the State Senate by a one-vote margin while gaining nine seats and reducing the Democratic majority in the Assembly. The new GOP leadership in the Senate saw in Cuomo's relatively austere budget an opportunity to demonstrate that it

Bird's eye view



Some governors' legislative agendas face longer odds

Most governors currently share the same party affiliation as the majorities that control their respective state legislatures. But in 18 states, the governor's office and at least one chamber of the legislature are controlled by opposing parties, which a 2003 study found hampered a governor's success rate in getting his or her legislative agenda enacted by as much as 10 percent. Other critical factors singled out in the study, "Chief Executive Success in the Legislative Arena," published in *State Politics and Policy Quarterly*, were the volume of legislative adoptions in a governor's state and the state's unemployment rate.





can be constructive. Although most Democrats also voted for the budget, Cuomo’s refusal to extend the tax surcharge on high incomes alienated elements of his party’s left wing. Supporting Cuomo’s liberal critics, the *New York Times* editorially declared that his budget “will bring unnecessary pain to the less fortunate of the state, while allowing some of the richest residents to escape their share of the burden.” Similarly, liberals decry Cuomo’s campaign promise to cap the property tax as unfair to poorer districts. The proposal was dropped from the budget and, standing on its own, faces a difficult course in the Assembly. But liberal opposition has reinforced the governor’s centrist standing; in the Marist Poll more than half those surveyed described Cuomo as a moderate and nearly a fifth called him a conservative.

In California, meanwhile, economic good news has been of little benefit to Jerry Brown. On May 23, the state Department of Finance reported that revenues had surged \$6.6 billion, primarily because of a rise in the incomes of the wealthy, who pay much higher taxes than other Californians. This revenue surge cut the projected deficit to about \$9 billion and enabled Brown, in a revised budget submitted to the Legislature, to allocate an extra \$3 billion to California schools. He also tinkered with his tax plan, which in its new version would allow the income tax surcharge to lapse on July 1 and be reinstated in 2012. Instead of taking the plan to the voters, Brown is now asking that the Legislature pass the budget and then have voters ratify it.

Unfortunately for Brown, however, the revenue surge has encouraged Republicans in their view that tax extensions are unnecessary. Brown’s hole card in the budget debate had been a not-so-veiled threat to make additional cuts in public education, unpalatable to Republicans and Democrats alike, if the GOP legislators did not go along with his tax plan. Now that threat seems empty. Even before the full extent of the revenue surge became known, the GOP caucus in the Assembly unveiled a rival budget plan with no tax extensions. It would additionally cut services for the poor, already hard hit by Brown’s budget, and reduce the state work force but make no further dents in education spending.

In presenting his revised budget, Brown did not explain how he expects to obtain the Republican legislative support he needs — votes he was unable to get when the deficit projection was direr. Legislatures have rarely met the June 15 budget deadline in the recent past, instead resorting to state IOUs and other demonstrations of dysfunction that have diminished the popularity of a succession of California

In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here’s a snapshot of what’s in the legislative works:

Number of Prefiles last week: 48

Number of Intros last week: 1,243

Number of Enacted/Adopted last week: 1,104

Number of 2011 Prefiles to date: 31,335

Number of 2011 Intros to date: 121,866

Number of 2011 Session Enacted/Adopted overall to date: 27,551

Number of Measures currently in State Net Database: 157,195

— Compiled By JAMES ROSS
(measures current as of 5/18/2011)
Source: State Net database



governors. Brown, who had a 40 percent favorability rating in an early May poll by the Public Policy Institute of California, could still win approval of a budget that overall is more straightforward than the spending plans of recent predecessors. But his window of opportunity narrows with each passing day.

— Lou Cannon

Budget & taxes

STATES AT EDGE OF WOODS: State tax collections, which saw their longest and steepest decline on record during the recession, are continuing their steady rise. Michigan recently announced it would probably take in \$429 million more than expected this year. Pennsylvania said it collected \$506 million more in taxes this year than predicted. And California officials reported last week the state was on track to collect \$6.6 billion more this year and next year than they had projected.

But experts say it's still a little too early to pop open the champagne.

"If the question is 'Are we out of the woods?' I think the answer is probably no," said Donald J. Boyd, a senior fellow at the Nelson A. Rockefeller Institute of Government in Albany. "We're closer to the edge."

Despite the recent increase in revenues, states still took in nearly 10 percent less in taxes last year, adjusted for inflation, than they did prior to the start of the recession, the institute found.

Boyd said, "There are still so many things that states and localities need to worry about," including the end of the federal stimulus program that pumped over \$150

billion into the states the last three years and the depletion of a lot of rainy day funds.

In some states, the better-than-expected tax collections may have as much to do with low expectations than economic growth. The overly optimistic projections states made at

the beginning of the recession forced them to make painful spending cuts and tax increases later on. So it wouldn't be too surprising for them to be erring on the side of caution now.

Tax collections can also be highly volatile. California officials, in fact, warned that the windfall that state received this year likely wouldn't last, because much of the increase didn't come from robust job or wage growth but from income growth and capital gains concentrated among the state's highest earners, who pay the highest tax rates.

"While this is to be expected, given the stock market recovery and the good earnings of California's top performing companies," a recent revenue report stated,

"If the question is 'Are we out of the woods?' I think the answer is probably no. We're closer to the edge."

“such recovery rates of growth are not likely to be sustained.”

In some states, including Michigan, Pennsylvania and California (see this week’s *SNCJ Spotlight*: “Andrew Cuomo soars while Jerry Brown struggles”), the higher-than-anticipated tax collections are actually complicating governors’ efforts to enact politically difficult spending cuts or tax extensions.

Still, when states started working on their fiscal year 2012 budgets, 44 of them were projecting deficits totaling about \$112 billion, according to the Center on Budget and Policy Priorities. Most weren’t expecting to be returning to pre-recession revenue levels for several years, said Elizabeth McNichol, a senior fellow at the center.

“What’s happening is, we’ve kind of hit bottom,” she said. “But we have a long way to go before things get back to normal.” (NEW YORK TIMES)

PRISON PRIVATIZATION NOT DELIVERING

ON PROMISE: Over the last decade, states have increasingly relied on privately operated prisons for housing their inmates, believing they would save money. But that conviction may have ended up costing them. Some data suggests private prisons are actually more expensive to operate than state-run prisons, even though the former turn away the costliest inmates.

“There’s a perception that the private sector is always going to do it more efficiently and less costly,” said Russ Van Vleet, former co-director of the University of Utah’s Criminal Justice Center. “But there really isn’t much out there that says that’s correct.”

Data compiled by Arizona shows that many inmates in private prisons cost about the same as those in state-run prisons, and some cost over \$1,600 per year more. The research, by the state’s Department of Corrections, also revealed an aspect of private prisons that can make them appear less costly: They frequently admit only healthy inmates.

“It’s cherry-picking,” said Arizona House Democratic leader Rep. Chad Campbell (D). “They leave the most expensive prisoners with taxpayers and take the easy prisoners.”

Five out of eight private prisons in Arizona don’t accept inmates with “limited physical capacity and stamina,” severe physical illnesses, chronic conditions or “high need” mental health conditions, according to the state’s study, released last month. Some private prison inmates who became sick were actually “returned to state prisons

The week in session

States in Regular Session: AL, CT, DC, IA, IL, LA, MA, ME, MI, MN, NC, NE, NH, NJ, NV, NY, OK, OH, OR, PA, PR, RI, SC, TN, TX, US, WI

States in Recess: DE

States in Special Session: CA “a”, VA “a”, WA “a”, WI “a”

States Projected to Adjourn: MN (05/23), NE (05/26), OK (05/27)

States in Special Session Projected to Adjourn: WA “a” (05/26)

States Adjourned in 2011: AK, AR, AZ, CO, FL, GA, HI, ID, IN, KS, KY, MD, MO, MS, MT, ND, NM, SD, UT, VA, VT, WA, WV, WY

State Special Sessions Adjourned in 2011: AK “a”, AL “a”, AZ “a”, AZ “b”, DE “a”, KY “a”, LA “a”, UT “a”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 5/19/2011)
Source: State Net database

due to an increase of their medical scores that exceeds contractual exclusions,” the study said.

Consequently, medical costs for state inmates averaged up to \$2.44 or 30 percent more per day than those for private prison inmates. And that gap can be even wider. Florida officials found that two private prisons in that state spent only about half as much on health care per inmate as comparable state prisons.

Overall, inmates at Arizona’s state-run, minimum-security prisons cost \$1.39 per day or about 3 percent more than those in private prisons, not taking into account costs paid by the state, the study found. Eliminating those, state prisoners cost only three cents per day more. Inmates at state-run, maximum-security prisons cost 4.4 percent less per day before the adjustments and 8.7 percent less afterward, which amounts to more than \$2 million a year at one prison, or \$1,679 per inmate.

Arizona’s findings concur with those of a group of University of Utah researchers that included Van Vleet, who concluded in 2007, after reviewing years of research, that “cost savings from privatizing prisons are not guaranteed and appear minimal.”

But other studies — including some funded by the private prison industry — show private prisons do provide cost savings.

“There is a mixed bag of research out there. It’s not as black and white and cut and dried as we would like,” said Steve Owen, spokesman for the largest private prison operator, Corrections Corporation of America. (NEW YORK TIMES)

BUDGETS IN BRIEF: Sears Holdings Corp. has warned **ILLINOIS** officials it may relocate its headquarters if a package of tax incentives is allowed to expire next year. The Chicago area has been home to the retailer since 1887 (WALL STREET JOURNAL). • **NEW YORK** Attorney General Eric Schneiderman has requested information and documents in recent weeks from Bank of America, Goldman Sachs and Morgan Stanley about their mortgage securities operations during the credit boom. The inquiries indicate the existence of a new investigation into the role the Wall Street banks may have played in the financial crisis (NEW YORK TIMES). • Also in **NEW YORK**, the state court system announced the layoffs of 367 court reporters, clerks and aides last week. The layoffs, which predominantly impact courts in New York City, will take effect June 1 (DEMOCRAT AND CHRONICLE [ROCHESTER]). • **ALABAMA** Supreme Court Chief Justice Sue Bell Cobb said at a news conference last week that the state’s court system will not be able to operate on the \$138.9 million allocated to it in the budgets passed by the House and Senate. She also raised the possibility that the state’s judges might go to court to force lawmakers to increase funding for the judiciary (ASSOCIATED PRESS, BIRMINGHAM NEWS). • The administration of **CALIFORNIA** Gov. Jerry Brown (D) announced last week the state will close 70 state parks to the public as part of \$11 billion in budget cuts that have already been approved (NEW YORK TIMES).

— Compiled by **KOREY CLARK**

Politics & leadership

CA BUDGET BATTLE DERAILS GOP BILLS: Among the bills that haven't made it through the California Legislature this session are SB 115, which would have stripped public pensions from state and local government officials convicted of bribery, embezzlement or other misuse of public funds, and AB 64, which would have provided a way for local governments to keep open debt-ridden parks the state planned to close. The reason the two seemingly sensible measures failed appears to be simply that they were sponsored by Republicans and the state's Legislature is controlled by Democrats.

The truth is actually a little more complicated than that. For years, Republicans have had a hard time getting major bills through the Legislature. But this year, tensions are even higher because of a partisan stalemate over the state budget, with not a single Republican agreeing to Gov. Jerry Brown's (D) plan to extend temporary increases in car, sales and income taxes to help close the state's \$26 billion deficit. At least two Republican votes in each house are needed to pass the proposal.

Assembly Speaker John Pérez (D) denies GOP bills are being targeted over the budget battle.

"The last thing we want to do is punish people who have been engaged" in seeking a budget-tax compromise, he says.

But other Democrats say that's exactly what their party is doing.

"Republicans haven't had as much [legislative success] as they could have if they'd step forward and choose to govern," said Senate President Pro Tem Darrell Steinberg (D).

He explained that "when the minority party forsakes government" by failing to provide it sufficient funds to operate, "I don't think we should reward that."

An unnamed Senate Democratic advisor put it even more bluntly: "We kill their [stuff] routinely. All of it is subject to resurrection. Those things are on the [negotiating] table. But they're not going to be kept alive without progress on the budget. There are vehicles out there, places we can go. But we're not going there for free."

The pension-stripping bill is one likely candidate for resurrection. The bill was inspired by reports of alleged corruption in Bell, California, where the city manager was receiving nearly double the salary of the President of the United States. The measure has even received tacit endorsement from Gov. Brown, who included a similar proposal in his pension reform plan.

"It's workable," said the Senate advisor.

And the bill's author, Sen. Tony Strickland (R), is trying to "work" it. He's committed to voting against any tax proposal but says failing to pass his bill wouldn't bode well for tougher pension reforms.



“If we can’t even pass this bill, we’re not going to get any pension reform,” he said. “This one’s simple. It’s a no-brainer.”

It doesn’t look like that will happen, however, unless at least four Republicans agree to the tax extensions. Even some Republicans appear to appreciate that fact.

Assemblyman Kevin Jeffries (R), the author of the parks bill, said the Democrats’ treatment of his party “is a little more brutal than usual.”

“It’s more noticeable than in past years,” he said. “They want the taxes.” (LOS ANGELES TIMES)

PARTISAN SPARRING OVER CT UNION DEAL: Connecticut Gov. Dannel Malloy (D) and union officials have reached a comprehensive deal that is projected to save the state \$1.6 billion over the next two fiscal years. One of the agreement’s provisions is the imposition of a \$35 copayment on state employees for non-emergency visits to the emergency room, notable if only because the requirement was possibly spurred by the case of a current state worker who visited a hospital emergency room 150 times in a single year. The deal’s main cost savings, however, would come from a two-year wage freeze that would save a projected \$450 million.

Republicans ripped the deal last week, calling it a giveaway to the unions and a “smoke and mirrors” agreement based on questionable cost-savings assumptions. Some took particular exception to a no-layoff clause included in the deal.

“Unfortunately, the more we see the details, the less there is to like,” said Senate Republican leader John McKinney. “A four-year, no-layoff pledge, which no one in the private sector has, leaves us four years from now, right where we started. Unemployment in the private sector is 9.1 percent. Unemployment in government is zero percent.”

“They’re Republicans.... They’re frustrated that there’s a Democratic governor who is succeeding where two Republicans failed.”

But the governor’s senior adviser and chief spokesman, Roy Occhiogrosso, shot back: “This governor has done more to stabilize the state’s finances in four months on the job than the past two governors did in 15 years on the job,” adding, “They should be applauding what he is doing, but their party label prevents them from doing it. They’re Republicans.... They’re frustrated that there’s

a Democratic governor who is succeeding where two Republicans failed.”

The agreement still has to be ratified by the state’s 15 affected unions and the General Assembly, which the Democrats control. If ratified, the deal’s provisions would take effect September 2nd. (HARTFORD COURANT)

POLITICS IN BRIEF: ARIZONA’s Fiesta Bowl is asking 26 politicians and political action committees, including those of U.S. Sens. John McCain (R-ARIZONA) and Jon Kyl (R-ARIZONA) and Gov. Jan Brewer (R) to reimburse



it nearly \$50,000 for what it says were illegal campaign contributions, dating back to 2000. The move is part of the Bowl's effort to reform its image and protect its non-profit status (ARIZONA REPUBLIC [PHOENIX]). • **FLORIDA's** Judicial Qualifications Commission charged 1st District Court of Appeal Judge Paul M. Hawkes last week with abusing his authority, destroying public records and conduct demonstrating he is unfit to hold office. The charges came in connection with an investigation focusing on the judge's push for a new \$50-million "Taj Mahal" courthouse in the middle of a budget crisis (MIAMI HERALD).

— *Compiled by KOREY CLARK*

Governors

MARTINEZ TARGETS LICENSES FOR NM SPECIAL SESSION: New Mexico Gov. Susana Martinez (R) said last week that she wants lawmakers to use an upcoming special session on redistricting to also reconsider overturning a state law that allows illegal immigrants to obtain drivers' licenses.

Martinez made overturning the 2003 law a priority this session, but was rebuffed by lawmakers. A bill to strike down the law (HB 78) cleared both chambers in March,

but later died in conference committee. Martinez had since hinted she would add the issue to the fall special session, which she confirmed last Monday.

"We are going to fight for it during the special session," she said, arguing that having an official license makes it easier for illegal immigrants to falsify other documents.

"It makes New Mexico attractive for people who are also a criminal element."

"It makes New Mexico attractive for people who are also a criminal element," she said.

The decision to add the issue to the special session agenda was no surprise to immigrant advocates who support the current law.

"We've been operating on this assumption" said Marcela Diaz, Executive Director of Somos Un Pueblo Unido, an immigrant-rights group. Diaz doubts, however, that lawmakers will have changed their opinions on the law since the regular session ended.

"It's unfortunate she is fixated on this one issue," Diaz said. "There are so many other issues that are important to New Mexicans."

The special session is not yet scheduled, but is expected to take place in September. (SANTA FE NEW MEXICAN, NEW MEXICO INDEPENDENT)



KITZHABER DOES LESS FUNERAL DUTY:

Oregon Gov. John Kitzhaber (D) said he does not plan to continue former Gov. Ted Kulongoski's (D) policy of attending every military funeral held for Beaver State soldiers killed in Iraq and Afghanistan.

"I doubt if I will be able to attend every single service," Kitzhaber said at a press conference. "It is my intention to attend as many as I possibly can, but there are a variety of responsibilities I need to fulfill as well."

Kulongoski was a former Marine who made being at such services one of his highest priorities, attending around 100 during his eight years in office. He also regularly attended deployment and welcome home ceremonies for Oregon National Guard units.

The change is not sitting well with lawmakers like Rep. Julie Parrish (R), who noted that Kitzhaber is "the commander in chief of the Oregon National Guard" as well as the state's governor.

"It comes with responsibilities," she said.

But Kitzhaber spokesperson Christine Miles said military funerals are still a high priority for the current governor.

"He's made it very clear. If he's unable to attend, other high-ranking officials do. That's the policy. He does not bend on that," she said.

There have been two military funerals in Oregon since Kitzhaber took office. He was unable to attend either service. Jim Willis, head of the Oregon Department of Veterans Affairs attended both in his stead. (OREGONIAN [PORTLAND], IDAHO STATESMAN-JOURNAL [BOISE])

WALKER OPPOSES SAME-SEX REGISTRY: Wisconsin Gov. Scott Walker (R) told a judge he believes the state's domestic partner registry is unconstitutional and he wants to stop defending it in court.

Walker was referencing a lawsuit brought against the registry last year by members of the conservative group Wisconsin Family Action that claimed it violates the state's constitutional ban on gay marriage. Walker's predecessor, Democrat Jim Doyle, who proposed the registry as a means of granting same-sex couples more legal rights, had filed a motion asking Dane County Circuit Judge Daniel Moeser to uphold it.

Walker inherited the case from Doyle when he took office in January. He has since fired the attorney that Doyle hired to defend the case. Walker then asked Moeser last week to be allowed to withdraw the state's defense, citing a previous legal opinion from Attorney General J.B. Van Hollen (R) that concluded the registry violates the Badger State constitution because it mimics marriage.

Upcoming elections

5/19/2011 - 6/9/2011

05/24/2011

Florida Special Primary
House District 110

New York Special Election
US House (District 26)

06/07/2011

New Hampshire Special Primary
House District Strafford 3

New Jersey Primary Election
Assembly (All)
Senate (All)

“The Attorney General has said he believes that this legislation is unconstitutional,” said Walker spokesperson Cullen Werwie. “We don’t believe it is in the best interest of the state and its taxpayers to spend additional time and resources defending the legislation.”

Moeser did not indicate when he will rule on Walker’s request, though some observers think it could come as early as next month. But the case will go on even if the state is allowed to withdraw because the gay rights group Fair Wisconsin has joined the suit and will continue defending the registry.

“It wasn’t unanticipated that Gov. Walker would be changing his position,” said Katie Belanger, the group’s executive director. She called Walker’s decision “disappointing” but said her group is “still very confident the registry is legal.” (REUTERS, LACROSS TRIBUNE)

O’MALLEY PLEDGES TRANSGENDER PROTECTIONS: Maryland Gov. Martin O’Malley (D) vowed last week to work with lawmakers to develop greater protections for transgender Old Line State residents. In a statement, O’Malley cited a recent attack on a transgender woman at a Rosedale McDonald’s, which was caught on video and later posted on the internet, as proof the state needs to do more to prevent discrimination against transgender people. O’Malley also praised Baltimore County State’s Attorney Scott D. Shellenberger for pursuing a hate crime charge in the assault.

“As some have noted, out of this awful beating has come a moment to foster a deeper understanding and respect for the dignity of all persons. We should not allow the moment to pass without greater action,” O’Malley said.

Lawmakers rejected legislation this session (HB 235) that would have barred employment and housing discrimination against transgender people. Sen. Richard Madaleno Jr. (D), who plans to introduce a similar bill next session, welcomed the governor’s help.

“Having Gov. O’Malley, who has an unparalleled bully pulpit in the state, stand up and say this is the right thing to do, I think will be enough to move people who have been scared in the past to support the bill,” said Madaleno, the Senate’s only openly gay member.

Shaun Adamec, an O’Malley spokesman, said it is too early in the process to know exactly what the legislation will look like. It is also not yet clear if such a bill will be considered during a special session for congressional redistricting this fall. (BALTIMORE SUN, WASHINGTON POST)

GOVERNORS IN BRIEF: A recent poll shows that 54 percent of those surveyed disapprove of the job MAINE Gov. Paul LePage (R) is doing. The poll, conducted by Critical Insights, shows LePage with a 31 percent approval rating (BANGOR DAILY NEWS). • Polls were also not kind to NEW JERSEY Gov. Chris

Christie (R), with a Monmouth University/NJ Press Media Poll indicating that 49 percent of Garden State residents disapprove of his work, a 9 percent increase since February. The governor's 46 percent approval rating, however, was still vastly better than the 33 percent rating received by the Legislature (NEWJERSEYNEWSROOM.COM). • **SOUTH CAROLINA** Gov. Nikki Haley (R) signed HB 3003, which will require voters to show a photo I.D. before they can cast their ballot. Haley said the bill will "maintain the integrity" of the state's elections (REUTERS). • **ALASKA** Gov. Sean Parnell (R) signed SB 31, which allows state election officials to use discretion in determining voter intent, and specifically to count write-in votes even if the voter misspells a candidate's name. The law was directly inspired by the state's handling of last year's controversial U.S. Senate race between incumbent Republican Lisa Murkowski and challenger Joe Miller, who defeated her in the GOP primary. Murkowski won the election as a write-in candidate (ANCHORAGE DAILY NEWS).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **CALIFORNIA** Assembly endorses SB 104, legislation that would allow Golden State farm workers to unionize if a majority of employees at an operation submit petition cards to the state Agricultural Labor Relations Board. The bill moves to Gov. Jerry Brown (D) for review (SACRAMENTO BEE). • **GEORGIA** Gov. Nathan Deal (R) signs HB 179, which allows billboard owners to clear cut trees in front of their signs. The measure also caps signs at 75 feet in height, requires advertisers to pay to replant trees and increases fines for billboard owners that post obscene messages (ATLANTA BUSINESS JOURNAL). • **INDIANA** Gov. Mitch Daniels (R) signs SB 78, legislation that requires Hoosier State retailers to ask for ID from a carry-out liquor purchaser only if that customer appears to be younger than age 40. It goes into effect in July (EVANSVILLE COURIER & PRESS). • **FLORIDA** Gov. Rick Scott (R) signs SB 408, which, among several things, allows Sunshine State insurance companies to increase rates by up to 15 percent to cover reinsurance costs, limits sinkhole coverage to primary structures, shortens the window for filing windstorm and hurricane claims from five years to three years after a storm hits and permits insurers to hold back replacement-value payments on home damage until after repairs have been made (MIAMI HERALD). • The **TEXAS** Senate and approve HB 1123, which would bar sports agents from offering or providing anything of value to athletes or their families before their academic eligibility is concluded. The measure moves to Gov. Rick Perry (R) for review (AUSTIN AMERICAN-



STATESMAN, STATE NET). • **KANSAS** Gov. Sam Brownback (R) signs HB 2119, so-called “crash tax” legislation that bars local municipalities from charging an accident response service fee except in events such as a technical rescue situation or a hazardous material spill (INSURANCE JOURNAL). • The **NEW HAMPSHIRE** House endorses SB 121, which would change state law to allow companies with fewer than 100 workers to close without warning. Current law applies the warning requirement to companies with 75 or more workers. It moves to Gov. John Lynch (D) for review (UNION LEADER [MANCHESTER]).

In case you missed it

Entering this year, many observers believed that a slew of statehouses now dominated by Republican majorities would spread Arizona-style immigration measures around the country. That hasn't happened, but their efforts have once again got the feds focusing on immigration.

In case you missed it, the article can be found on our website at

http://www.statenet.com/capitol_journal/05-1611/html

CRIME & PUNISHMENT: The **KANSAS** Legislature unanimously endorses SB 6, a bill that would require all drivers convicted of driving under the influence to use interlock devices on their vehicles. The measure, which also creates a system to track repeat offenders and strengthens most penalties, moves to Gov. Sam Brownback (R), who is expected to sign it into law (LAWRENCE JOURNAL-WORLD). • **COLORADO** lawmakers endorse SB 85, which would allow prostitutes and johns arrested for a first offense to pay a fine and take a class on the dangers of the sex trade in lieu of conviction. It moves to Gov. John Hickenlooper (D) for review (DENVER POST). • The **OREGON** House gives final approval to HB 2714, which, among other things, would increase fines for purchasing sex from children to \$10,000 for the first offense and \$20,000 for the second time and subsequent offenses. It moves to Gov. John Kitzhaber (D) for review (OREGONIAN [PORTLAND]). • **MARYLAND** Gov. Martin O'Malley (D) announces he will allow HB 302, which gives the Old Line State governor 180 days to either approve or reject parole granted by the state Parole Commission to an inmate serving a life sentence, to become law without his signature. If the governor does not make a decision within that time frame, parole is automatically granted (MARYLAND GOVERNOR'S OFFICE). • The **ILLINOIS** House and Senate each endorse HB 1748, which would require prison officials to test outgoing inmates for HIV unless a prisoner requests them not to. It moves to Gov. Pat Quinn (D) for review (NEWS-GAZETTE [CHAMPAIGN]). • **KANSAS** Gov. Sam Brownback (R) signs HB 2049, a bill that outlaws synthetic drugs commonly sold as “bath salts,” which mimic the effects of marijuana and other illegal drugs (LAWRENCE JOURNAL-WORLD).

EDUCATION: The **MISSOURI** House gives final approval to HB 300, which requires that school-aged athletes suspected of having a concussion remain sidelined until they are cleared to return by a doctor or health care provider with special training. The measure also requires sports, health and school officials to jointly develop concussion and brain injury guidelines for coaches and athletes, and that



parents sign forms acknowledging they have received this information (NEWS TRIBUNE [JEFFERSON CITY]). • **INDIANA** Gov. Mitch Daniels (R) vetoes HB 1177, which would have required all trustees at Indiana and Ball State Universities to be U.S. citizens and a majority of trustees to be Hoosier State residents (INDIANAPOLIS STAR). • **ILLINOIS** lawmakers approve SB 7, a bill that would, among other things, base teacher layoffs on ability and credentials instead of seniority. The measure, which would also limit teachers’ ability to go on strike and make it easier for them to be terminated, is now with Gov. Pat Quinn (D) for review (CHICAGO TRIBUNE). • Still in **ILLINOIS**, the Senate approves HB 1353, a bill that bars lawmakers from giving state-funded legislative scholarships to their relatives. The measure heads to Gov. Quinn for review (QUAD-CITY TIMES [DAVENPORT]). • The **PENNSYLVANIA** Senate approves SB 612, legislation that would allow school districts to lay off teachers and other professional education workers strictly for economic reasons. It moves to the House (PHILADELPHIA INQUIRER). • The **GEORGIA** Supreme Court rules that local Peach State school boards have the sole authority to fund and open public charter schools. The ruling overrides the approval of 16 charter schools endorsed by the state-appointed Georgia Charter School Commission (ATLANTA JOURNAL-CONSTITUTION).

Upcoming stories

Here are some of the topics you may see covered in upcoming issues of the *State Net Capitol Journal*:

- **Education**
- **Health care**
- **Budgets**

ENERGY: The **MISSOURI** Senate allows HB 462, a House-endorsed measure that would have allowed utilities to charge electric customers for the cost of getting a site permit for a possible second nuclear power plant in the Show Me State, to die without a vote (COLUMBIA MISSOURIAN). • **MARYLAND** Gov. Martin O’Malley (D) signs SB 690, a bill that grants financial incentives to facilities that produce power by burning trash. The bill was opposed by environmentalists (BALTIMORE SUN).

ENVIRONMENT: The **CONNECTICUT** House approves HB 6557, legislation that grants limited legal immunity to municipalities that open their undeveloped land to the public for recreational use. The measure, which would still hold municipalities liable if they are found negligent in maintaining recreational facilities such as playgrounds and ball fields, moves to the Senate (HARTFORD COURANT). • **MARYLAND** Gov. Martin O’Malley (D) signs SB 487, legislation that limits the use of most lawn fertilizers, including restrictions on nitrogen use and a ban on most phosphorus. The law also restricts when fertilizers can be applied and establishes a certification program for commercial applicators.

HEALTH & SCIENCE: The **NEW JERSEY** Legislature unanimously approves SB 125, which would create a state commission to study the current and future impact and incidence of Alzheimer’s disease among Garden State residents. It moves to Gov. Chris Christie (R) for review (GLOUCESTER COUNTY TIMES). • **GEORGIA** Gov. Nathan Deal (R) signs HB 47, which allows Peach State sole proprietors and other self-employed business owners to purchase out-of-state health insurance policies (ATLANTA BUSINESS JOURNAL). • **MAINE** Gov. Paul LePage (R) signs HB 979, legislation that will allow residents to purchase individual health insurance from carriers in other New England states with the exception of **VERMONT**. The measure also allows smaller businesses to pool together when purchasing insurance in order to get lower rates (BOSTON GLOBE). • **MONTANA** Gov. Brian Schweitzer (D) vetoes SB 106, which would have compelled the Treasure State to join in a **FLORIDA** lawsuit challenging the federal Affordable Care Act. The governor also vetoes HB 526, which would have directed the governor to create and join a compact with other states to create a separate health care system (BILLINGS GAZETTE). • The **OHIO** House gives final approval to HB 93, which would strengthen use of a state database intended to flag Buckeye State clinics acting as “pill mills.” The measure would also limit prescribers’ ability to provide some pills without going through a pharmacy and improve licensing requirements for pain management clinics. It moves to Gov. John Kasich (R) for review (DAYTON DAILY NEWS). • **VERMONT** Gov. Pete Shumlin (D) signs SB 15, legislation that requires health insurers to cover the cost of midwives who assist in-home births (BURLINGTON FREE PRESS, STATE NET).

IMMIGRATION: The **OKLAHOMA** House tables HB 1446, which would have authorized state and local law enforcement officers to recommend illegal immigrants for certain types of three-year visas if they report and aid in the investigation of illegal criminal activity (OKLAHOMAN [OKLAHOMA CITY]). • The **TENNESSEE** Legislature shelves HB 1380, a bill that would have allowed police to check the legal status of any detainee they suspect of being an illegal alien. Lawmakers say they will likely bring the bill back next year (KNOXVILLE NEWS). • **GEORGIA** Gov. Nathan Deal (R) signs HB 87, legislation that, among many things, allows police to arrest illegal immigrants, requires employers to use the federal E-Verify database to ensure their workers are in the country legally and bars undocumented residents from receiving state and local public benefits like food stamps. The bill begins taking effect in July (ATLANTA JOURNAL-CONSTITUTION). • **MONTANA** Gov. Brian Schweitzer (D) vetoes HB 492, which would have barred Treasure State municipalities from becoming so-called “sanctuary cities” that do not enforce federal immigration laws. Schweitzer called the measure “frivolous” (MONTANA GOVERNOR’S OFFICE).



SOCIAL POLICY: The **MINNESOTA** Senate approves HF 936, which would bar abortions after the 20th week of pregnancy. The Senate also endorses HF 201, which would bar public funding for abortions. The measure must now be reconciled with Senate versions of both bills before being sent to Gov. Mark Dayton (D) for review (MINNEAPOLIS STAR TRIBUNE). • The **LOUISIANA** House passes HB 636, which would require abortion providers to post additional information in public spaces, compel the state health agency to develop a new website on termination procedures and make it easier for health care professionals to cite the state’s conscience clause to opt out of certain tasks. It moves to the Senate (TIMES-PICAYUNE [NEW ORLEANS]). • The **MISSOURI** House endorses HB 213, a bill that would require doctors to determine whether a fetus is viable before performing an abortion after the 20th week of pregnancy. If the fetus is found to be viable, the doctor would not be allowed to perform the abortion, except in a medical emergency. It is now with Gov. Jay Nixon (D) for review (KANSAS CITY STAR). • **KANSAS** Gov. Sam Brownback (R) signs SB 36, legislation that will require the state to perform annual, unannounced inspections of abortion clinics, imposes new health and safety rules specifically for those facilities and prevents them from using telemedicine systems to dispense pregnancy-terminating drugs. The law takes effect July 1st (KANSAS CITY STAR). • **MONTANA** Gov. Brian Schweitzer (D) vetoes SB 97, which would have required girls younger than 16 seeking an abortion to first obtain parental approval. He called the measure unconstitutional (BILLINGS GAZETTE). • The **NEW JERSEY** Assembly gives final approval to SB 799, which would allow adults who were adopted as infants to obtain a copy of their birth certificate with the names of their biological parents. It moves to Gov. Chris Christie (R) for review (STAR-LEDGER [NEWARK]).

POTPOURRI: The **CALIFORNIA** Assembly approves AB 144, which would bar the carrying of unloaded handguns in public places. It moves to the Senate (SACRAMENTO BEE).

– Compiled by *RICH EHISEN*

Once around the statehouse lightly

A **RNOLD AND JEN NOT ON THE MEND:** With all the noise over President Obama’s birthplace, it is hard to fathom that only a few short years ago there was a push from some quarters to change the U.S.



less, well, horrid, but it won't be easy. Kasich admitted later that his comment was mostly tongue in cheek, but that he might look into making the change anyway.

— By RICH EHISEN

Editor: Rich Ehsen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Virginia Nelson, Art Zimmerman
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA), Bruce McKeeman (CA), James Ross (CA), Linda Mendenhall (IL), Lauren Davis (MA) and Ben Livingood (PA)
Graphic Design: Vanessa Perez
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