

June 20, 2011

# Sentencing Reform



© iStockphoto.com/ Henrik5000

<b>Budget &amp; taxes</b> Brown vetoes CA budget	<b>5</b>
<b>Politics &amp; leadership</b> Statehouse educational divide	<b>8</b>
<b>Governors</b> GOP govts push for Medicaid reform	<b>11</b>
<b>Bird's eye view</b>	<b>3</b>
<b>Hot issues</b>	<b>14</b>
<b>Once around the statehouse lightly</b>	<b>18</b>

The next issue of  
Capitol Journal will be  
available on July 4th.

## Top Story

*For years, states have enacted tougher and tougher sentencing guidelines. Now, with budgets still reeling and prison costs out of sight, lawmakers across the country are rethinking those policies.*

## SNCJ Spotlight

**Spiraling prison costs drive sentencing reform in the states**

The poet T.S. Eliot cautioned against doing the right deed for the wrong reason — it was, he famously rhymed, “the greatest treason” — so he might look askance at the motivations for the current wave of sentencing reform. After decades of criminal-sentencing policies best described as “lock ‘em up and

## A Cannon Perspective



With Lou Cannon

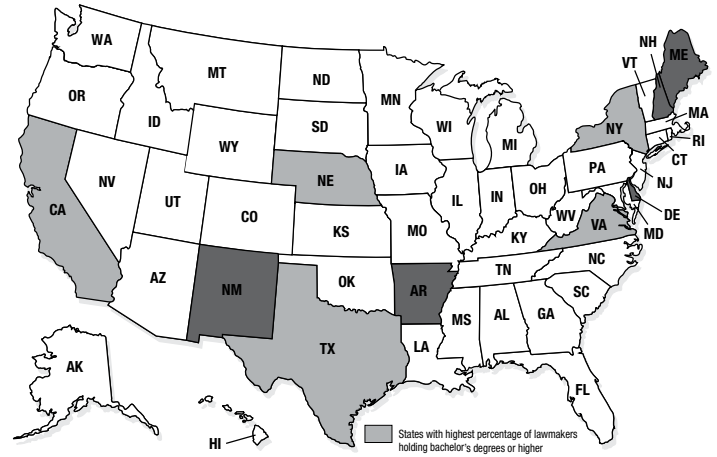




fire nationally until California joined the fray in 1994. That year nearly 59 percent of California voters approved Proposition 184, a broadly worded three strikes law that significantly increased prison terms for repeat offenders. The measure, also approved by the legislature, was sold to the public as a means of taking violent criminals out of circulation, but it allowed prosecutors to count petty theft as one of the three strikes. In the test case under which the Supreme Court in a 5-4 decision written by Justice Sandra Day O'Connor upheld the California law, the third strike was the theft of three golf clubs from a Los Angeles country club. The thief, previously convicted of theft and battery, is serving 25 years to life.

Whether the three strikes law has made California safer is debatable, but there is no doubt that it has contributed to the serious overcrowding of the state's prisons, which with 80,000 inmates are now at 175 percent of capacity. This overcrowding led last month to another 5-4 Supreme Court decision, this one written by Justice Anthony Kennedy, himself a Californian. Kennedy's graphic opinion cited an incident in which an inmate had been held "in a cage for nearly 24 hours, standing in a pool of his own urine, unresponsive and nearly catatonic." The justice called such practices "incompatible with human dignity" and said they were "cruel and unusual punishment" that is prohibited by the Constitution. Kennedy's passionate opinion, which if followed to the letter will require release of 33,000 prisoners over two years, presumably would meet the test of doing the right thing for the right reason. But it will also save money at a time when the state government is engaged in its perennial struggle to make ends meet. Whether it will also add to local jail and parole costs, as critics predict, will be determined by the way in which Gov. Jerry Brown (D) and the Legislature decide to implement the high court's decision.

## Bird's eye view



Source: The Chronicle of Higher Education and Project Vote Smart

### Several states can claim title of most educated legislature

California's Legislature is arguably the most educated in the nation, according to information self reported by legislators in all 50 states to the nonpartisan research group Project Vote Smart. Nearly 90 percent of legislators in the Golden State have bachelor's or higher degrees, compared to a national average of about 75 percent, the group's analysis showed. New Jersey, however, has the highest percentage of lawmakers with master's degrees or higher (59.1 percent), while Nebraska has the highest percentage of legislators with doctorates (10.2 percent). New Hampshire ranked lowest in the bachelor's degree or higher category, although that was at least partly due to the inordinate number of part-time legislators for whom educational information was unavailable.



Beyond California's borders the wave of sentencing reduction is growing stronger and has yet to crest. More than 20 states followed California's lead in the 1990s, passing three strikes and two strikes measures that extended sentences to greater or lesser degree. Many of these states are now heading in the other direction led by whichever party is in power. In Connecticut, for instance, one of the states that passed a three strikes law in 1994, the majority Democrats pushed through a bill over Republican opposition to reduce sentences for inmates who obtain a high school equivalency diploma while behind bars. Legislatures have been able to take such actions with substantial public support because crime in the United States is plummeting for reasons that defy easy explanation. Robberies are supposed to rise during recessions; instead they fell by 9.5 percent from 2009 to 2010, according to the FBI's Uniform Crime Report. Violent crimes also declined, most of all in the South, which has led the way in sentencing reduction. The murder rate is particularly instructive. Experts consider it the most reliable statistic since homicides are usually reported, unlike some violent crimes, rape for instance, where reporting standards vary. The U.S. murder rate is now the lowest in nearly a half-century. In New York City last year there were 536 murders, shocking by the standards of many countries but almost reassuring in comparison to the 2,200 murders that occurred in the Big Apple in 1991. Across the country in Los Angeles there were 297 murders, down from 1,100 murders two decades ago.

Social scientists who specialize in crime did not foresee this. The most eminent among them, James Wilson, in 1995 forecast an unprecedented proliferation of killing and mugging that never occurred. Wilson's own ideas of crime prevention, known by the short-hand phrase "broken windows," may have helped undermine his prognostication. He believes that suppressing minor, visible crime such as graffiti and vandalism is a key to reducing major crime, and this theory has been put into practice by police forces across the nation. But this alone could not account for the dramatic nature of the crime decrease and the experts now admit to being baffled. A recent and inconclusive article in *The Economist* gave seven possible explanations for the drop in crime rates, ranging from an improvement in police tactics to the speculative possibility that video games and the Internet had kept "people inside, and away from real crime and drugs."

Whatever the reason, this welcome trend has enabled the states to make an overdue examination of their sentencing policies. It is right that they do so because every dollar not spent on incarceration is a dollar that can be spent on education or other embattled priorities. As long as the crime rate continues to decline, it's a safe bet that sentencing reform will continue.

— By Lou Cannon

---

# Budget & taxes

**BROWN VETOES CA BUDGET:** California lawmakers passed a state budget last Wednesday, beating the state's constitutional deadline for the first time in years. But Gov. Jerry Brown (D) wasted little time himself in vetoing the spending plan, SB 69 and AB 98.

In approving the budget, the Democrats who control the state's Legislature were aided by their new authority — bestowed by voters last fall — to pass a budget with only a simple majority vote. They were also spurred by another new voter-approved measure suspending legislators' pay if the budget is late. But they ultimately resorted to some old tricks to balance their plan, such as delaying the payment of bills and penciling in revenue that may never materialize. Among other things the plan relied on an \$815 million bump in revenue over recent estimates, \$700 million in unpromised federal funds and \$1.2 billion from a previously abandoned plan to sell and lease back state buildings.

The Democrats were still celebrating their success in avoiding what Assembly Budget Committee Chairman Bob Blumenfeld (D) called "another Republican hostage crisis," referring to the long budget standoffs of recent years, when the governor announced his veto Thursday.

"Unfortunately, the budget I have received is not a balanced solution," he wrote in his veto message. "It continues big deficits for years to come and adds billions of dollars of new debt. It also contains legally questionable maneuvers, costly borrowing and unrealistic savings."

The veto was reportedly the first of a spending plan since at least 1901, which is as far back as state records go. At a news conference in Los Angeles, Brown said he hoped his action would send "a powerful message that all of us have to do more."

But Republicans have been reluctant to support Brown's plan for a fall referendum on expiring vehicle and sales taxes and even less enthusiastic about his proposal to extend those taxes until an election can be held.

Democrats didn't seem inclined to "do more" either after Brown's move.

"We are deeply dismayed," said Senate President Pro Tem Darrell Steinberg (D). "The governor, I think, is...a little bit confused between total victory...and progress."

The state's new fiscal year begins July 1. (LOS ANGELES TIMES, WALL STREET JOURNAL)

**CHRISTIE TARGETS MEDICAID ROLLS:** Over the last few years, lawmakers across the country have had to face a difficult truth about recessions: they increase demand for public services when governments are least able to pay for them. But New Jersey's plan for dealing with one of the most costly of those services, Medicaid, is drawing particular attention.



Gov. Chris Christie (R) has proposed cutting Medicaid spending by \$540 million in next year's budget. One of the ways he wants to do that is by dropping the income cap for new adult enrollees in the program to about 25 percent of the poverty level. Current enrollees would be able to stay enrolled, but 23,000 people — including small families with a household income over \$103 a week — would be denied coverage next year. And that would be on top of the 70,000 people turned away under a separate reduction this year.

Christie contends the state doesn't have a choice. With about 1 million of its roughly 9 million residents currently enrolled in Medicaid or NJ FamilyCare, the state will spend nearly \$5 billion on the programs in 2012, even with the proposed cuts.

"We must do these things, not only to fill the hole created by the loss of over a billion dollars of federal stimulus money since 2010, but because it is the right thing to do," he said in his budget address. "Medicaid's growth is out of control."

Democrats in the state see things a little differently.

"It is the worst health policy decision I've seen in my 13 years in the Senate," said Sen. Joseph Vitale (D).

Assemblyman Gordon Johnson (D) got more personal.

"No one but this anti-working class governor would propose making it difficult for the poorest of the poor to obtain health care coverage," he said.

That's not entirely true. Arizona Gov. Jan Brewer (R) recently signed a law dropping hundreds of thousands from her state's Medicaid rolls. What is true, however, is that although virtually every governor has sought to rein in the cost of Medicaid, most have opted to cut services, reduce reimbursement rates or expand managed care rather than curb enrollment.

Christie will need a waiver from the federal government to restructure his state's program, just as Brewer did. A provision in the health care reform law prohibits states from turning away residents previously eligible for Medicaid without such a waiver. It's basically a stop-gap measure to tide states over until 2014, when another part of the health care reform law kicks in, expanding Medicaid to anyone earning under 133 percent of the poverty level.

But U.S. Sen. Robert Menendez (D-New Jersey) doesn't find much consolation in that.

## 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:** 467

**Number of Intros last week:** 1,223

**Number of Enacted/Adopted last week:** 1,311

**Number of 2011 Prefiles to date:** 32,522

**Number of 2011 Intros to date:** 128,036

**Number of 2011 Session Enacted/Adopted overall to date:** 33,923

**Number of Measures currently in State Net Database:** 163,359

— Compiled By JAMES ROSS  
(measures current as of 6/16/2011)  
Source: State Net database



“The state is effectively telling these families to wait until 2014 to get coverage again,” he said. “Unfortunately, there is no such thing as a waiver for getting cancer.” (STAR-LEDGER [NEWARK])

**BUDGETS IN BRIEF:** Amazon is terminating its affiliates program in **ARKANSAS** and **CONNECTICUT** over the issue of collecting state taxes. The online retailer has terminated similar agreements in several other states, including **COLORADO**, **ILLINOIS**, **NORTH CAROLINA**, and **RHODE ISLAND**, for the same reason (CNET.COM). • **NORTH CAROLINA**’s GOP-controlled General Assembly voted last week to override Gov. Bev Perdue’s (D) budget (HB 200) veto, handing her the biggest policy loss of her term (NEWS & OBSERVER [RALEIGH]). • Boeing Co. and the National Labor Relations Board squared off at an administrative law hearing last Tuesday in Seattle. The board alleges the aircraft manufacturer illegally shifted work from union plants in **WASHINGTON** to a new non-union facility in **SOUTH CAROLINA** (NEW YORK TIMES, WALL STREET JOURNAL).

• Last Monday, the state of **PENNSYLVANIA** offered Harrisburg a financial rescue plan, which calls for a wage freeze, a property tax hike and the sale of the state-of-the-art trash-burning plant that has left the capital city \$300 million in debt (REUTERS, MORNING CALL [HARRISBURG]). • **NEW JERSEY** Gov. Chris Christie (R) and legislative leaders announced an agreement last week to roll back pension and health benefits for public employees. Christie said the Legislature will vote on the compromise measure (SB 2937) this week (STAR-LEDGER [NEWARK]). • **LOUISIANA** Gov. Bobby Jindal (R) vetoed legislation renewing the four-cent-per-pack state tax on cigarettes (HB 591) last week. The Legislature is expected to attempt an override (TIMES-PICAYUNE [BATON ROUGE]).

— *Compiled by KOREY CLARK*

## The week in session

**States in Regular Session:** DC, DE, IA, LA, MA, ME, MI, NC, NH, NJ, NY, OH, OR, PA, PR, RI, US, WI

**States in Special Session:** AZ “c”, CA “a”, VA “a”, TX “a”, WI “a”

**States Currently Prefiling or Drafting for 2012:** KY

**States Projected to Adjourn:** IA, ME

**States Adjourned in 2011:** AK, AL, AR, AZ, CO, CT, FL, GA, HI, ID, IL, IN, KS, KY, MD, MN, MO, MS, MT, ND, NE, NM, NV, OK, SC, SD, TN, TX, 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”, WA “a”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS  
(session information current as of 6/10/2011)  
Source: State Net database







## WI HIGH COURT REINSTATES UNION

**RIGHTS LAW:** Last week, The Wisconsin Supreme Court spared the state’s Republican lawmakers from having to do what many were hoping to avoid: passing the collective bargaining bill that had touched off weeks of protests in Madison earlier this year a second time.

In a 4-3 decision split along the court’s conservative-liberal line, the justices overturned a lower court’s ruling that the Legislature had violated the state’s opening meetings requirements in passing the union rights bill (AB 11a) by failing to give 24 hours’ notice before taking action on the measure. Citing the importance of the separation of powers, the majority said the Legislature had not violated the state Constitution when it relied on its “interpretation of its own rules of proceeding” and gave just under two hours’ notice before meeting and voting.

One of the justices in the majority was David T. Prosser, who faced a tough re-election fight in April because of his conservative leanings, tying him to the union-unfriendly policies of Gov. Scott Walker (R) and Republican lawmakers. Prosser actually issued his own opinion concurring with the majority.

Chief Justice Shirley S. Abrahamson, generally viewed as the leader of the court’s liberal wing, slammed Prosser’s opinion in her dissent.

“It is long on rhetoric and long on story-telling that appears to have a partisan slant,” she wrote, later adding, “This kind of order seems to open the court unnecessarily to the charge that the majority has reached a pre-determined conclusion not based on the facts and the law, which undermines the majority’s ultimate decision.”

Walker was restrained in victory, issuing only a one-sentence statement.

“The Supreme Court’s ruling provides our state the opportunity to move forward together and focus on getting Wisconsin working again,” he said.

His brevity may have been partly out of relief. Republican legislative leaders had warned that if the Supreme Court didn’t rule on the matter by June 14th, they would probably have to attach the same union rights measure to the state’s budget bill, which was expected to be approved last week.

Democrats seemed resigned to the court’s decision but not ready to give up the fight, knowing the Senate recall elections that grew out of the fight over the collective bargaining bill are less than a month away.

“I guarantee you, some Republicans are breathing a sigh of relief about not having to take this up again,” said Sen. Christopher Larson (D). “On the other hand, these justices just sent a reminder to voters of what has happened here.” (NEW YORK TIMES, POST-CRESCENT [APPLETON])

## Upcoming elections

6/16/2011 - 7/7/2011

06/21/2011

**Georgia Special Election**  
House District 113

06/28/2011

**Florida Special Election**  
House District 110

07/05/2011

**New Hampshire Special Primary**  
House District Rockingham 14



**POLITICS IN BRIEF:** The U.S. Supreme Court has overturned a 2010 NEVADA Supreme Court decision decreeing that laws restricting politicians from voting because of conflicts of interest violate their First Amendment right to free speech. The ruling last Monday is expected to restore the oversight authority of the state’s Ethics Commission, which had been undercut by a series of rulings overturning its decisions (LAS VEGAS SUN). • Election officials in ARIZONA announced last week they’ve received enough valid petitions to hold a recall election for Senate President Russell Pearce (R). Pearce is the driving force behind the state’s recent illegal immigration measures (EAST VALLEY TRIBUNE). • A federal jury found former MASSACHUSETTS House speaker Salvatore F. DiMasi (D) guilty of fraud, conspiracy and extortion for helping software company Cognos win multimillion-dollar state contracts in exchange for kickbacks. The convictions carry a maximum sentence of 20 years, but under sentencing guidelines DiMasi will likely receive a sentence in the 10-year range (BOSTON GLOBE).

— Compiled by KOREY CLARK

---

# Governors

**GOP GOVS PUSH FOR MEDICAID REFORM:** The nation’s GOP governors ramped up their opposition to the federal Affordable Care Act last week, sending a letter to U.S. Sen. Orrin Hatch (R-Utah) and Rep. Fred Upton (R-Michigan) that called for repealing the law and granting them far greater flexibility in how to spend the federal dollars their states receive for Medicaid. Hatch is the Ranking Member of the Senate Committee on Finance, while Upton is the Chairman of the House Committee on Energy and Commerce.

The letter outlined seven principles the governors said were critical to reforming the state-federal program that provides medical care to the poor. Those principles included changing federal funding into a block grant that gives states more authority to craft programs that fit their respective needs, enforcing “reasonable cost sharing” for Medicaid recipients and obtaining “greater flexibility, eligibility, financing and service delivery for those recipients.”

But most important, the governors said, is “the full repeal of the Patient Protection and Affordable Care Act (“PPACA”), which it called “the first step for a successful Medicaid transformation.”

The letter was signed by 29 GOP governors, all but Michigan’s Rick Snyder, who said he declined because he was “focused on Michigan” and not national issues.

“As I have said many, many times, my role is not to be a large advocate on the national scale. I was hired to be governor of Michigan,” Snyder told reporters.



Snyder’s reluctance to join his GOP colleagues is not new. Since taking office he has consistently avoided comparisons — both his own and others’ — to high profile Republican governors in other states like Ohio, New Jersey and Wisconsin. But he also may have another reason for breaking with his colleagues: he doesn’t see Medicaid as the major priority that other governors do. In a separate letter to Rep.

**“As I have said many, many times, my role is not to be a large advocate on the national scale.”**

Upton, Snyder said the Wolverine State was able to balance its budget this year without cutting Medicaid eligibility, optional services or provider payments. He also noted he intends to deliver a major address on health and wellness in September.

In the meantime, Snyder said, he prefers to keep his attention on other priorities.

“The focus right now is education, government reform, all the other good activities we’re working in partnership with the Legislature,” he said. (DETROIT NEWS, MLIVE.COM, WZZM.COM [GRAND RAPIDS])

**CUOMO ISSUES RENT CONTROL ULTIMATUM:** New York Gov. Andrew Cuomo (D) has warned Empire State lawmakers that he won’t let them leave Albany when the session ends if they have not reached an agreement on extending the state’s rent control laws, which expired last Wednesday. As of last Thursday lawmakers did not appear close to a deal on the statutes, which regulate how much landlords can charge for more than a million apartments in New York City and its suburbs. Lawmakers also rejected a proposal to extend the controls for two days while they negotiate a long-term settlement. The governor sharply criticized the Legislature for rejecting the measure, calling it “unacceptable and a betrayal” of the tenants living in the regulated apartments. The session is scheduled to end this week. (NEW YORK TIMES)

**DEAL SAYS EX-CONS SHOULD REPLACE IMMIGRANT AG LABOR:** Georgia Gov. Nathan Deal (R) said last week that Peach State farmers should consider hiring people on probation to work fields once tended by immigrants. His suggestion was in reaction to farmers’ complaints that the state’s strict new law targeting illegal immigrants was scaring away workers. Growers say they rely on those workers to harvest labor-intensive crops like peaches and berries, which are easily damaged by machines, but can find few U.S. citizens willing to work in hot, dusty fields. Probation officials say the state has around 15,000 unemployed people on probation. Deal declined to answer questions on the issue at a recent news conference on an unrelated matter, but he issued a written statement that called the possible use of the probation labor pool “a great partial solution to our current status as we continue to move towards sustainable results with the legal options available.” (BLOOMBERG BUSINESSWEEK)



**LEPAGE LAUDS REGULATORY**

**COMPROMISE:** Maine Gov. Paul LePage (R) lauded lawmakers last week for reaching a bipartisan compromise on a regulatory reform package that was a cornerstone of his gubernatorial campaign. LePage called the package a “down payment” on reforms he said are needed to improve the state’s business climate, saying, “When we work to pass common sense legislation that effectively assists more jobs to be created, it’s a no-brainer.”

Pine Tree State Democrats were quick to credit their Republican counterparts, who hold majorities in both legislative chambers, for not shutting them out of the process after they resisted what they saw as the governor’s more extreme regulatory change requests. House Minority Leader Emily Cain (D) said that willingness by the GOP to engage with Democrats produced a better end product.

“The regulatory reform law is proof positive that we do our best work together,” she said. “We came together to find moderate compromise to support our business community and our environment.” (BLOOMBERG BUSINESSWEEK, KENNEBEC JOURNAL)

**GOVERNORS IN BRIEF:** Calling it the “right time” to move on, **WASHINGTON** Gov. Christine Gregoire (D) said last week she will not seek a third term. Gregoire said she has urged Democratic Rep. Jay Inslee to run for the job. Her term expires next year (SEATTLE TIMES). • A new Quinnipiac University poll shows **CONNECTICUT** Gov. Dannel Malloy (D) with only a 38 percent approval rating, with 44 percent disapproving of his job performance (CONNECTICUT MIRROR [HARTFORD]). • The **LOUISIANA** Senate initially rejected SB 57, a bill that would have required the administration of Gov. Bobby Jindal (R) to make public a category of records that was closed three years ago. Jindal lobbied hard against the measure, which won unanimous endorsement in the Senate Committee on Senate and Governmental Affairs before heading to the Senate floor. It would have made public all fiscal and budgetary records in the governor’s office, including communications with the legislative auditor as they relate to fiscal matters. The Senate, however, later granted the measure reconsideration (TIMES-PICAYUNE [NEW ORLEANS]).

— *Compiled by RICH EHISEN*

**In case you missed it**

Lawmakers have faced historically difficult challenges in recent years. Even so, they have definitely made time to take up matters of a far less serious bent.

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

[http://www.statenet.com/capitol\\_journal/06-13-2311/html](http://www.statenet.com/capitol_journal/06-13-2311/html)

---

# Hot issues

**B**USINESS: The **OREGON** House and Senate give final approval to SB 376, which would make it illegal to knowingly sell a product intended to help another person commit suicide. It goes to Gov. John Kitzhaber (D) for review (**OREGONIAN** [PORTLAND]). • **NEW HAMPSHIRE** Gov. John Lynch (D) vetoes HB 133, which would have eliminated the Granite State’s minimum wage law and aligned the state wage with the federal standard (**CONCORD MONITOR**). • **NEVADA** Gov. Brian Sandoval (R) vetoes SB 233, which would have increased fines for employers who misclassify employees as independent contractors (**RENO GAZETTE-JOURNAL**). • Still in **NEVADA**, Sandoval vetoes SB 360, which would have required developers working in redevelopment areas to submit an employment plan that included preferences for hiring people who live in the redevelopment area in order to be eligible for tax incentives (**LAS VEGAS REVIEW-JOURNAL**). • Also in **NEVADA**, Sandoval signs two gaming measures: AB 258, which directs state gaming officials to adopt regulations and to grant licenses to casinos to offer online poker if and when the federal government legalizes the practice; and AB 294, which allows the use of mobile gaming devices in hotel rooms or sleeping areas (**LAS VEGAS REVIEW-JOURNAL**). • Again in **NEVADA**, Sandoval signs SB 267, which bars businesses and governments that collect people’s personal data from transferring that information to another entity or using a portable transfer device for that information unless the data is encrypted (**LAS VEGAS REVIEW-JOURNAL**). • Still in **NEVADA**, Sandoval signs SB 299, which requires dog and cat breeders to obtain permits from local jurisdictions, authorizes animal control officers to inspect facilities, bars breeding of dogs younger than 18 months and requires all sold cats and dogs to be micro-chipped (**LAS VEGAS REVIEW-JOURNAL**). • The **WASHINGTON** Supreme Court rules that medical marijuana patients can be fired from their jobs even if they only use the drug outside the workplace. The court said Evergreen State law does not provide employment protections for medical marijuana users and does not require companies to accommodate those patients (**OLYMPIAN**).

**CRIME & PUNISHMENT:** The **PENNSYLVANIA** House and Senate give final approval to SB 1006, legislation making it illegal to sell or possess synthetically produced drugs sold in retail outlets as “bath salts.” The measure, which would also bar the sale or possession of synthetic marijuana sold as incense under brand names like K2 and Spice, goes to Gov. Tom Corbett (R) for review (**PATRIOT NEW** [HARRISBURG]). • **NEVADA** Gov. Brian Sandoval (R) signs SB 233, which makes certain acts of animal cruelty a felony punishable by up to a year in prison. The measure also makes it a misdemeanor to separate a dog or cat from its mother before



it is at least eight weeks old (NEVADA GOVERNOR’S OFFICE). • Also in **NEVADA**, Sandoval signs SB 257, which allows people whose property has been defaced by graffiti to sue the parents of minors who committed the crime for triple damages. Taggers can also be ordered to perform community service and to clean up the property they have damaged. Applying graffiti to a state “protected site” also becomes a felony (LAS VEGAS REVIEW-JOURNAL). • The **MAINE** House and Senate reject HP 1067 [LD 1453], a bill that would have legalized the possession and cultivation of marijuana for personal use and would have affixed its sale with a 7 percent tax (BANGOR DAILY NEWS).

## 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**

**EDUCATION:** The **GEORGIA** Supreme Court declines to reconsider a recent decision that declared the state’s charter school law unconstitutional. In May, the court ruled a 2007 law that created the state Charter Schools Commission was unconstitutional, saying it unlawfully granted the state authority to approve and fund charter schools over the objection of local school boards (ATLANTA JOURNAL-CONSTITUTION). • **NEVADA** Gov. Brian Sandoval (R) signs SB 276, which requires the state Department of Education to create an anti-bullying training program for use in Silver State schools. The measure also requires school principals to set up school safety teams to point out and prevent bullying and to investigate reports of bullying and recommend punishment within 10 days (LAS VEGAS REVIEW-JOURNAL). • Also in **NEVADA**, Sandoval signs AB 225, which allows teachers who have achieved tenure to be returned to probationary status after two consecutive unsatisfactory evaluations (LAS VEGAS REVIEW-JOURNAL). • Still in **NEVADA**, Sandoval signs AB 117, which would allow school districts to petition the state to shorten the school year by up to five days during times “of economic hardship” as a means of avoiding layoffs (NEVADA GOVERNOR’S OFFICE). • **ILLINOIS** Gov. Pat Quinn (D) signs SB 7, legislation that, among other things, requires teacher layoffs and hiring to be based on performance rather than tenure. The measure also requires professional training for school board members and a regularly administered survey of classroom conditions in school districts statewide (ILLINOIS GOVERNOR’S OFFICE). • The **OREGON** Senate unanimously endorses SB 290, which requires state education officials to create core teacher and administrative standards by January 1st, 2012 and directs school districts to adopt those standards by 2013. It moves to the House (OREGONIAN [PORTLAND]). • Still in **OREGON**, the House approves SB 405, which would allow state universities to establish their own police departments. It moves to Gov. John Kitzhaber (D) for review (OREGONIAN [PORTLAND]). • **VIRGINIA** Gov. Robert McDonnell (R) signs HB 2026, which bars registered sex offenders from working as a school bus driver.

McDonnell also signs HB 2066, which bars sex offenders from being passengers on a school bus (RICHMOND TIMES-DISPATCH).

**ENERGY: VIRGINIA** Gov. Robert McDonnell (R) signs an eight-bill package to promote “clean energy” in the Old Dominion. The bills include: HB 1983, which raises the amount of electricity a homeowner or business can generate with its own installation from 10 kilowatts to 20 kilowatts; HB 2316, which creates a program that provides financial incentives to companies that manufacture or assemble equipment, systems, or products used to produce renewable or nuclear energy, or products used for energy conservation, storage, or grid efficiency purposes; and SB 862, which requires local ordinances for renewable energy projects to line up with the state’s energy policy (VIRGINIA GOVERNOR’S OFFICE).

**ENVIRONMENT:** The **OHIO** Senate approves HB 133, which would allow oil drilling in state parks and other public lands in the Buckeye State. It returns to the House (CINCINNATI ENQUIRER). • **MAINE** Gov. Paul LePage (R) signs SB 10 [LD 1], which among other things loosens environmental regulations to allow beneficial reuse of hazardous materials and creates incentives for businesses to report their own environmental violations and clean them up (KENNEBEC JOURNAL). • **OREGON** Gov. John Kitzhaber (D) signs HB 3145, which expands the state’s bottle recycling law to include all containers except those that hold milk, wine or liquor. The measure also encourages a shift from in-store collection to off-site redemption centers and increases the current nickel deposit to a dime if redemption rates fall below 80 percent two years in a row (OREGONIAN [PORTLAND]).

**HEALTH & SCIENCE: NEVADA** Gov. Brian Sandoval (R) signs SB 43, which requires state health officials to set up a health insurance exchange as called for in the federal Affordable Care Act (LAS VEGAS REVIEW-JOURNAL). • Still in **NEVADA**, Sandoval vetoes AB 309, legislation that would have compelled some health insurance companies to publish premiums, projected losses and coverage details (RENO GAZETTE-JOURNAL).

**IMMIGRATION:** The **LOUISIANA** House unanimously approves SB 66, which would prohibit any public body from awarding a contract to a business that does not agree to monitor its work force for illegal immigrants. The measure has moved to a conference committee (TIMES-PICAYUNE [NEW ORLEANS]). • The **OKLAHOMA** Supreme Court rules that the Sooner State’s omnibus immigration law is constitutional. That law makes it illegal to knowingly transport illegal immigrants, requires employers to verify their workers are legal and requires proof of citizenship before a person can receive government benefits (OKLAHOMAN [OKLAHOMA CITY]).



---

# Once around the statehouse lightly

**B**UT CAN WE STILL MAKE FUN OF THEM? Lawmakers often bear the brunt of the public's wrath, but usually no worse than by enduring the mostly moronic comments people post after reading a news story online. But anyone in New York who uses physical violence to express their anger with an elected official, beware Sen. Eric Adams. As the *Wall Street Journal* reports, Adams has introduced SB 5642, legislation to create the crime of assaulting an elected official, with a penalty of up to five and a half years in the pokey. That's more than twice the normal sentence for a Class C felony. As Adams sees it, if we're going to hold lawmakers to a higher behavioral standard, then so should we to anyone who takes a swipe at them. Ironically, the only known cases of violence involving Empire State lawmakers in recent years have been carried out by the lawmakers themselves, including one who tossed hot coffee into a staffer's eyes. That's known among us adult types as setting a really bad example.

**SPEAKING OF BAD EXAMPLES**, Democratic Wisconsin Rep. Fred Clark may not be the best person to take up Adams' cause. As the *Baraboo News Republic* reports, Clark recently got all riled up at a constituent who hung up on him. Clark, who was understandably affronted by the rudeness, then told a staffer he felt like calling the woman back and "smackin' her around." Bad move. To his chagrin, Clark soon learned that the woman's phone recorder was on, catching his outburst for posterity, not a good thing given his current effort to unseat Republican Sen. Luther Olsen in a recall election. Needless to say, the Badger State GOP has made all kinds of hay with this one, forcing Clark to call back and apologize. In yet another burst of irony, he had to leave a message.

**HOW DO I BECOME A NEVADA BILL?** It's not unusual for legislation to travel quite a bit in its reach, but the Nevada Legislature recently took that to extremes. As the *Las Vegas Review-Journal* reports, with this year's legislative session in the books, Assembly Speaker John Oceguera headed off to Hawaii for a vacation. Unfortunately, he did so without signing a large stack of bills that needed to go to the governor for signing, including one necessary to help fund the Silver State government for the next two years. With the signing deadline coming well before Oceguera was due to return, aides packed the measures up, about five dozen in all, and shipped them to him. The state Legislative Counsel Bureau has taken the blame for the mix up, saying they didn't get the Speaker all of the bills before he left.



**THE KING IS DEAD TO ME:** Miami Heat revilers — just about everyone not living in South Florida — have been in heaven since the team took one on the chin in the NBA finals last week against the Dallas Mavericks. Heat-hater and Ohio Gov. John Kasich (R) used the event to take a healthy jab at former Cleveland Cavalier star LeBron “King” James, whose messy departure last year came in the form of a cheesy ESPN special that all but flipped the bird to his native Buckeye State. Playing on James’s infamous announcement that he would “take his talents” to Miami, Kasich issued a proclamation honoring Mavericks star Dirk Nowitzki, whom he lauded for “forgoing free agency and keeping his talents in Dallas, thus remaining loyal to the team, city and fans for whom he played his entire career.” His resolution also made the Mavs honorary Ohioans for the day. Oh, snap!

— 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), James Ross (CA), Linda Mendenhall (IL), Lauren Davis (MA) and Ben Livingood (PA)  
**Graphic Design:** Vanessa Perez  
 ©2008 State Net ISSN: 1521-8449



You've just read **State Net Capitol Journal**, the insider's source for political and legislative news in the 50 states.

**State Net Capitol Journal** is published 40 times annually and delivered over the Web or email.

**For a FREE subscription, visit our Website at [www.statenet.com](http://www.statenet.com) and click on the "Register Now" icon. Or call us at 916.444.0840**

**A publication of State Net — *the leader in legislative and regulatory intelligence.***

**Who relies on State Net?**

- Five of the nation's ten largest companies
- Major information services like WestLaw
- Companies representing every major industry in the U.S.

**State Net: the service you can trust when you need to be right.**

Learn more about our issue-based reporting solutions today:  
[info@statenet.com](mailto:info@statenet.com) or [www.statenet.com](http://www.statenet.com) • (800) 726-4566