

August 29, 2005

SNCJ Q&A



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Top Story

With this issue we introduce a new feature — a one-on-one, in-depth interview with a prominent lawmaker, this week featuring OKLAHOMA Rep. John Nance (R). As an added bonus, we also share a few minutes with NCSL Executive Director Bill Pound.

SNCJ Spotlight

In depth with: OKLAHOMA Rep. John Nance

In our August 15 issue, we reported that more than 20 states this year have adopted legislation modeled on OKLAHOMA HB 2176, the landmark 2004 measure that dramatically restricted how pseudoephedrine-based cold and allergy tablets are sold in the Sooner State. The illicit use of those medications to produce the illegal drug methamphetamine — also called ice or crank — has become what many law enforcement officials call their most serious drug-related problem. Since

then, Oklahoma has reported a 90 percent reduction in meth-cooking labs, success that immediately inspired other states to follow suit with their own bills. We sat down at the recent National Conference of State Legislatures meeting with Oklahoma Rep. John Nash (R), the sponsor of HB 2176, to talk about the ripple effect his bill has had on states across the country. Nash has a long history in both federal and state law enforcement, including 28 years as a U.S. Treasury agent and four more as a criminal investigator for the Oklahoma Attorney General's office.

SNCJ: These days, it's hard to get Democrats and Republicans to agree on what time of day it is...

NANCE: Yes it is.

SNCJ: But most of the bills copying HB 2176 have received bipartisan support in statehouses across the nation. Why has this legislation resonated so strongly across party lines?

NANCE: Because these home methamphetamine labs are such a drastic problem in every state. In Oklahoma they were really sapping our law enforcement, which was spending a lot of time finding these labs, arresting the cooks and cleaning up all of the toxic leftovers. We were also removing a lot of young kids from these places, which meant our foster care system was being inundated. This was a significant issue with our constituents because meth labs are also incredibly volatile, and people didn't know if their neighbor's home was going to suddenly explode. So you could say there was strong bipartisan political support because there was strong bipartisan public concern.

SNCJ: Did other states confer with you on their bills?

NANCE: Yes they did. I had calls from lawmakers all over the United States, as did our narcotics division. I was even interviewed by the BBC. Meth is really a problem everywhere because almost anyone can make it if they can get the ingredients.

SNCJ: OREGON Gov. Ted Kulongoski (R) recently signed a measure that requires people to have a doctor's prescription in order to buy pseudoeph-

The Week in Session

States in Regular Session: CA

States in Informal Session: MA

States in Skeleton Session: OH

States in Special Session: CA "a"

States in Recess: DC, IL, MI, NH, NJ, NY, PA, US, WI

Special Sessions in Recess:
DE "a", OK "a"

States Projected to Adjourn: NC

States Adjourned in 2005: AK, AL, AR, AZ, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, ND, NE, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WY

States in Special Session
Adjourned in 2005: AK "a", AL "a", CT "a", KS "a", ME "a", ME "b", MN "a", MS "a", MS "b", MS "c", MS "d", NV "a", TX "a", TX "b", UT "a", VT "a", WI "a", WV "a", WV "b", WV "c"

Letters indicate special/extraordinary sessions

Source: State Net, 8/26/05

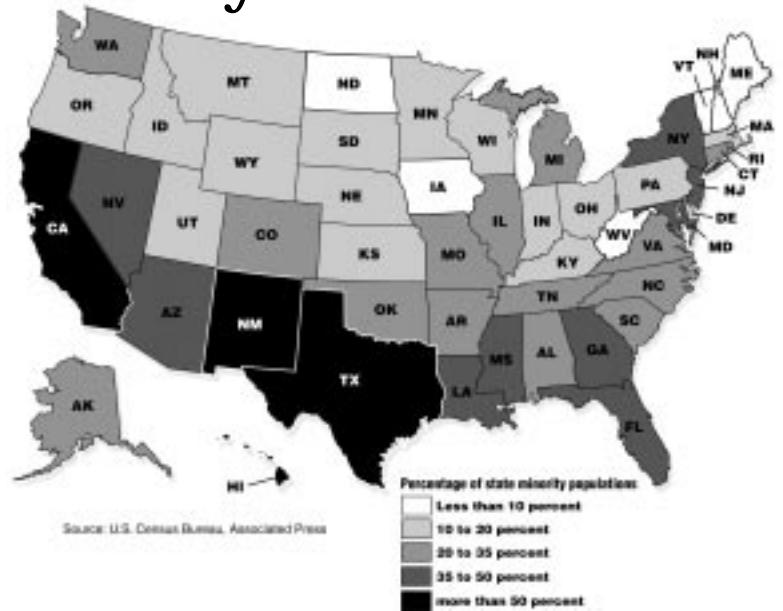
drine-based products. Do you support that step?

NANCE: No I don't. Requiring a doctor's prescription is going too far. When we started with our bill in Oklahoma, people complained they were being treated like criminals for trying to buy cold medicines. Rural areas in particular thought it was unfair to them because they might not have easy access to a pharmacy to get these products in pill form. So, in the end, our bill allowed the gel caps and liquid forms of those medications (which can't be as easily made into meth) to be placed outside of the pharmacy counter and to be sold at other retailers so that if a person really needed relief, they could get it. I've heard the argument that meth-makers can just smurf it (buy large quantities of pseudoephedrine by making multiple small purchases), but we're working on a card-swiping system that will identify a buyer in real time to our Bureau of Narcotics. That way, even if we can't stop that particular sale, we can at least identify who is buying more than the nine grams allowed within a

30 day period. We know this won't be foolproof, that a group of people working together could probably get around the system, but I still think requiring a prescription is going too far.

SNCJ: This effort seems to be successful so far in your state, but the reality is that it only addresses a small part of the total meth problem. Right now, 80 percent of the meth out there is actually coming from large operations in CALIFORNIA and Mexico. What else can states do to fight this problem?

Bird's eye view



Majority-minority states on the rise

TEXAS last year joined CALIFORNIA, HAWAII and NEW MEXICO as the only states in the nation to have a non-white majority population, according to a recent report from the U.S. Census Bureau. As



of July 1, 2004, 11.3 million people in Texas claimed minority status, comprising 50.2 percent of the Lone Star State's total population. Hawaii (77 percent) has the largest overall minority population, followed by the District of Columbia (70 percent), New Mexico (57 percent) and California (56 percent). Several other states have minority populations in the 40 percent range, including NEW YORK and ARIZONA. That rise is part of an ongoing national trend that has some experts predicting the U.S. minority population will surpass the 50 percent mark by 2050. The accompanying map shows where state minority populations fall as a percentage of each state's total population. Please visit <http://www.census.gov/> to view the full report.

cent over FY '04 levels, with eight states up more than 10 percent. ALASKA experienced the largest increase (31 percent), which was fueled by high oil prices. VIRGINIA's more modest 10.3 percent was partly the result of the record tax increase passed by the state last year.

The glut of tax dollars did slightly reduce state lawmakers' appetite for tax increases this year; they enacted only a net \$2.6 billion increase in taxes this year, far less than the \$4.1 billion net hike in 2004.

Legislators, however, were happy to increase spending, boosting appropriations by 6.8 percent over FY '04 levels. Rising Medicaid costs and a significant reduction in federal aid were the main reasons for the increase, but a number of legislatures also responded to their state's robust revenue growth by restoring funding to programs they had previously cut.

Thirty-seven states reported expenditures at least 5 percent higher than FY '04 levels. Alaska matched its nation-leading revenue performance with nation-leading spending, 31.3 percent over FY '04. Other big spenders included Wyoming (29.4 percent), NEVADA (28.4 percent) and VIRGINIA (16 percent).

Only two states — ILLINOIS and TEXAS — said they spent less in FY '05 than they did in FY '04. Several even managed to save some money; rainy day funds — which have been depleted by the deluge of the last few years — rose nearly 14 percent in FY '05, to an aggregate of \$20.3 billion.

The outlook for FY '06 is a little less rosy. While most states are projecting that they'll end the year in the black again, few are expecting to do as well as they did in FY '05. On an aggregate basis, general fund ending balances are predicted to decline by at least a couple of percentage points. That expected drop is due not only to a projected reduction in the overall rate of revenue growth following the FY '05 surge, as well as the loss of temporary revenue sources in a few states (such as Alaska's inflated energy revenues, which the state expects will decline next year), but also to increased spending, primarily for Medicaid and education. As RHODE ISLAND's deputy Senate fiscal advisor, Kevin Madigan, put it, "We might look good now, but ask us next year if we ended up good. It might be a different situation."

NCSL will release its final budget report for the year this winter.
(NATIONAL CONFERENCE OF STATE LEGISLATURES, STATE-LINE.ORG)

BUDGETS IN BRIEF: Internal polling by opponents of COLORADO's November Referendum C, which would temporarily suspend the state spending limits imposed by the Taxpayer's Bill of Rights (TABOR), suggests that they may be fighting a losing battle. Between January and May, support for the mea-

Politics & Leadership

STATE LEGISLATORS TALK OVER ISSUES AT NCSL: State lawmakers from all over the country gathered in Seattle last week to exchange ideas about the policy issues they are contending with.

Unquestionably, the most pressing concerns of the legislators attending the National Conference of State Legislatures' 2005 Annual Meeting were budget-related, particularly the rising cost of Medicaid and the growing demands of compliance with the federal No Child Left Behind Act.

But another issue closely tied to those fiscal challenges was given just as much play at the conference: states' rights. During the meeting, NCSL released a report identifying \$51 billion in costs shifted to the states under federal rules adopted in 2004 and 2005, and cataloging nearly 30 bills currently before Congress that the group contends would limit states' regulatory authority in the areas of health care, land use and technology, among others. "There is an effort within the halls of Congress to centralize public policy decision-making within the Washington beltway," said MARYLAND Del. John A. Hurson (D), NCSL's outgoing president, at a press conference to address the issue. Hurson went on to say that Congress' "one-size-fits-all approach" to policy fails "to recognize the individualism and uniqueness of each state, threatening the collective strength of the states."

Other lawmakers singled out a pair of recent Congressional actions that illustrate the problem: the REAL ID Act, which they claim treads on states' traditional authority over the issuance of drivers' licenses by establishing uniform national standards, and Congress' consideration of legislation, in the wake of the U.S. Supreme Court's recent decision affirming the right of state and local governments to use eminent domain for private development, effecting a federal fix that they say would preempt states from determining their own course of action.

But the conference attendees didn't spend all of their time griping about their problems; they also shared their policy triumphs. NEW HAMPSHIRE Rep. Patricia Dowling (R), for instance, talked about an innovative program in her state allowing poor elderly residents to receive health care in their homes, instead of having to go to nursing-care facilities. IOWA Rep. Dawn Pettingill (D) touted a pilot program in her state allowing 35,000 lower-middle income residents to be added to its Medicaid rolls. HAWAII Sen. Norman Sakamoto (D) discussed the Aloha State's new academy for training school principals that is a key element of its recent education reforms. And OKLAHOMA Sen. Jim Reynolds (R) talked

about the Sooner State's trend-setting efforts to combat the growth of methamphetamine use. (STATELINE.ORG)

POLITICS IN BRIEF: A citizen initiative seeking to strip the **FLORIDA** Legislature of its redistricting authority and turn that job over to an independent commission may be disqualified from the November ballot because it exceeds the state's 75-word limit by six words. The measure's fate will be decided by the state Supreme Court. The situation parallels recent events in **CALIFORNIA**, where a similar November ballot initiative was disallowed due to discrepancies between the version of the measure filed with the state and the one circulated on voter petitions (ST. PETERSBURG TIMES). • Last Monday, the 9th U.S. Circuit Court of Appeals granted an expedited review of a U.S. district court ruling striking down the "Top Two" primary system approved by **WASHINGTON** voters last fall. The litigants in the case, Secretary of State Same Reed, Attorney General Rob McKenna and the Washington State Grange on one side, and the political parties on the other, will have until Sept. 16th and Oct. 17th, respectively, to file their briefs (ASSOCIATED PRESS, SEATTLE POST-INTELLIGENCER). • Libertarians lost their status as an official political party in **NORTH CAROLINA** last week because they did not garner at least 10 percent of the vote in last year's election and failed to meet the alternative requirement of gathering 70,000 signatures. The party is considering a lawsuit challenging the state's ballot-access laws, which are considered some of the toughest in the nation (ASSOCIATED PRESS, WINSTON-SALEM JOURNAL).

Upcoming Elections (08/25/2005 - 09/15/2005)

08/30/2005
Massachusetts Primary Election
Senate 2nd Middlesex

08/30/2005
Mississippi Special Election
House 028, 086, 096

09/13/2005
California Special Election
Assembly 053

09/13/2005
Mississippi runoff (if needed)
House 028, 086, 096

09/13/2005
Oklahoma Special Election
Senate 048

09/13/2005
Oklahoma Special Primary
Senate 048

09/13/2005
Pennsylvania Special Election
House 200

09/15/2005
Tennessee Special General
House 087
Senate 029

— Compiled by KOREY CLARK

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Governors

O **HIO DEMS NOT SEEKING TAFT IMPEACHMENT...YET:** Buckeye State Democrats say they will probably not attempt to impeach embattled Gov. Bob Taft (R), but they have drafted articles of impeachment just in case further evidence against him comes to light. Taft recently pleaded guilty to four misdemeanor counts of filing false financial disclosure statements in connection with his accepting numerous free golf outings and other undeclared gifts this year. A newspaper investigation revealed that Taft's golfing partners included numerous business executives whose companies held lucrative state contracts, or which faced state regulation. The list also included campaign contributors that collectively gave more than \$230,000 to the governor's campaigns. Taft agreed to pay a \$4,000 fine and issue a written apology to Ohio residents but has so far stuck firm to his refusal to step down from office. Dems considered the impeachment option, but concluded that Taft's offenses don't reach that level of malfeasance. They did, however, call for a bipartisan, Watergate-style committee to investigate corruption in his administration. Critics also continue to question Taft's connection to Tom Noe, another golf partner and a GOP fundraiser currently under state investigation in connection with \$13 million in missing funds from a state rare-coin investment account he managed. Taft has been trying publicly to distance himself from Noe, who is also under federal investigation for allegedly laundering money into the

... unquote

"Look, there may be some scandals associated with the current administration, [but Democrats are] the party that made (talk-show host) Jerry Springer man of the year last year."

— **OHIO State Sen. Jim Jordan (R)**
on where the scandal leaves the state GOP.
(DAYTON DAILY NEWS)

Quote...

"The opening looks pretty big ... I think (Republicans) have got a big problem and no amount of spinning will make the problem go away."

— **John Green, director of the Ray C. Bliss Institute for Applied Politics at the University of Akron, on how the ethics scandal surrounding OHIO Gov. Bob Taft (R) might influence the next gubernatorial election.**

Bush re-election campaign. Taft last week denied knowing that Noe was in charge of the investment fund until he read about it in the newspaper, claiming that Noe "made a great effort to conceal" his involvement with the fund. Noe disputed that and immediately called on Taft to issue a public retraction. Noe's lawyer later released advertisements and artwork to reporters in Columbus showing that Noe actually boasted in several newspapers about profits earned under his management of the state's coin fund. A Taft spokesman said the governor has

no plans to issue a retraction. (CLEVELAND PLAIN DEALER, TOLEDO BLADE, USA TODAY, DAYTON DAILY NEWS, ASSOCIATED PRESS)

SOUTHWESTERN GOVS GET IMMIGRATION RELIEF: Homeland Security Sect. Michael Chertoff has promised ARIZONA Gov. Janet Napolitano (D) and NEW MEXICO Gov. Bill Richardson (D) that their states will soon be getting more federal help in their battle against illegal immigration. Chertoff sent a letter to Napolitano last week accepting her earlier offer to use state police to help federal immigration officers rapidly deport undocumented immigrants. He later called Richardson to assure him that the Bush administration would do more to help his state as well, including pushing Congress to add 1,000 new Border Patrol agents. Chertoff said the bulk of those agents would be sent to patrol the New Mexico border. Both governors have recently declared states of emergency for counties along their borders with Mexico, allowing them to commit millions of state dollars to border security. (LOS ANGELES TIMES, ARIZONA REPUBLIC [PHOENIX])

GOVERNORS IN BRIEF: Record-high gas prices prompted MICHIGAN, Gov. Jennifer Granholm (D) to order the immediate hiring of 10 new gas pump inspectors to ensure motorists are not being gouged by incorrectly calibrated pumps. The Wolverine State plans to hire 16 more inspectors in the coming months (DETROIT FREE PRESS). • A new poll from the Public Policy Institute of CALIFORNIA shows Gov. Arnold Schwarzenegger's (R) approval rating has fallen to 34 percent. The poll also indicated that a large majority of people do not support the reform measures he has placed on the Nov. 8 special election ballot. Schwarzenegger did, however, come out ahead of the Legislature in the PPIC poll, which showed that only 27 percent of the public approves of the job lawmakers are doing (LOS ANGELES TIMES). • KENTUCKY Gov. Ernie Fletcher (R) hired former Watergate prosecutor James Neal to represent him when he faces the grand jury this week. Nine members of Fletcher's administration are accused of violating state merit laws by hiring political cronies and friends for state jobs over more qualified candidates (COURIER-JOURNAL [LOUISVILLE]). • OKLAHOMA Gov. Brad Henry (D) approved legislation that will allow Sooner State residents to buy "Patriot License Plates." The special plates will cost \$35, with \$20 going into a revolving fund used to purchase combat and training gear for soldiers (SHAWNEE NEWS-STAR). • TEXAS Gov. Rick Perry (R) issued an executive order requiring school districts to limit their spending on non-classroom expenses to no more than 35 percent of their budgets. Perry issued the order after two earlier special Legislative sessions failed to produce reform measures for the Lone Star State's school system (HOUSTON CHRONICLE).

— *Compiled by RICH EHISEN*

Hot issues

B **USINESS:** The U.S. Supreme Court refuses to reconsider an earlier decision giving local governments greater power to use eminent domain laws to seize private property to facilitate private development. That ruling has prompted lawmakers across the nation to consider changing state laws to ban such seizures (CONCORD MONITOR). • **HAWAII** enacts the nation's only government-imposed cap on wholesale gasoline prices. The maximum pre-tax price wholesalers may charge is \$2.16, which equates to about \$2.74 per gallon with taxes. The cap does not apply to retail mark-up, which experts project to remain at about 12 percent. If accurate, those experts expect consumer prices to rise from their current level (HONOLULU ADVERTISER).

CRIME & PUNISHMENT: The **NORTH CAROLINA** Legislature endorses a measure that raises the minimum amount of jail time for shooting a gun into an occupied home or car from just under four years to as many as 10 years. The measure moves to Gov. Mike Easley (D), who has said he will sign it (CHARLOTTE OBSERVER). • **NEBRASKA** corrections officials adopt the “seven-seven-seven” test for repeat drunk drivers seeking an early end to a 15-year license suspension. That standard means applicants must be seven years removed from their last conviction, have made it through seven years of sobriety and seven years with no criminal convictions. More than 5,000 Cornhusker State residents are serving 15-year driver's license suspensions because of multiple drunk driving offenses (LINCOLN JOURNAL STAR). • **MICHIGAN** corrections officials announce they will soon begin removing male staff currently working in female prisons. The removal action comes six years after the state adopted a single-sex staff policy for women's correctional facilities, which was enacted after complaints that male staff had sexually abused female prisoners (DETROIT FREE PRESS).

EDUCATION: **CONNECTICUT** becomes the first state in the nation to sue the federal government over the No Child Left Behind Act, arguing that the state is not being sufficiently reimbursed for the cost of the additional student testing the statute requires. The National Education Association, the nation's largest teacher union, is also challenging NCLB in court (ASSOCIATED PRESS, NEW YORK TIMES). • **ILLINOIS** Gov. Rod Blagojevich (D) also takes aim at NCLB by signing a measure that requires special education students to be tested at the grade level they have reached in their individualized education plans. Those students are cur-

rently being given the same tests as their peers, even if they are being taught at lower grade levels. More than 230 Prairie State schools did not meet NCLB standards last year because of test results from students with disabilities (PEORIA JOURNAL STAR).

• **NEW JERSEY** Gov. Richard Codey (D) signs legislation barring smoking in dorms at all Garden State public and private universities. The law goes into effect in 60 days (PHILADELPHIA INQUIRER). • The National Collegiate Athletic Association (NCAA) removes **FLORIDA** State University from its list of schools in danger of being barred from post-season athletics over the use of Native American mascots and nicknames. The university, whose nickname is the Seminoles, convinced NCAA officials that the Seminole Tribe of South Florida endorses both the school's nickname and its mascot, Chief Osceola, named after a famous tribal leader (MIAMI HERALD).

ENVIRONMENT: A federal judge in **CALIFORNIA** rejects a Bush administration request to toss out a lawsuit seeking to force federal agencies to fund more alternative energy projects and conservation measures. The suit also alleges that the federal government is funding overseas oil and gas development projects without considering their impact on global warming (SAN FRANCISCO CHRONICLE). • Nine Northeastern states — **CONNECTICUT, DELAWARE, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, RHODE ISLAND** and **VERMONT** — reach a preliminary agreement to reduce power plant emissions by 10 percent by 2020. Any final agreement must be ratified in each state's legislature to be enacted. The agreement comes at the same time as three Western states — **CALIFORNIA, OREGON** and **WASHINGTON** — announce plans to negotiate a similar pact. The three states will begin working on details of their plan in mid-September (NEW YORK TIMES, WASHINGTON POST).

HEALTH & SCIENCE: **CALIFORNIA** officials announce plans to add 39 U.S. pharmaceutical companies to a 2003 lawsuit that alleges they fraudulently inflated the cost of drugs billed to the state's Medi-Cal program by hundreds of millions of dollars. The original complaint says some drug prices were inflated by as much as 1,000 percent. The expanded suit is expected to be folded into an existing federal case involving 16 other states (SAN DIEGO UNION TRIBUNE, LOS ANGELES TIMES).

Upcoming Stories

Here are some of the stories you will see in upcoming issues of the State Net Capitol Journal:

Intelligent design: how will states evolve?

Bear of a problem: de-listing the grizzly

The real story on REAL ID

TEXAS' gives telcos get free pass into cable; will other states follow suit?

And many more...



SOCIAL POLICY: The **CALIFORNIA** Supreme Court rules that a lesbian mother cannot be relieved from paying child support for her partner’s biological children if those children were conceived during their relationship. The decision places lesbian couples on the same footing as heterosexual unmarried couples who conceive children (LOS ANGELES TIMES). • A **MINNESOTA** court rules that homosexuals fired from their jobs with faith-based organizations cannot sue that institution for civil rights violations. The court ruled that religious organizations are exempt from the statute when hiring employees for faith-based assignments (ST. PAUL PIONEER PRESS).

POTPOURRI: The **CALIFORNIA** Assembly endorses SB 861, which would allow local governments to require the owners of certain dog breeds — most often pit bulls or Rottweilers — to have those animals spayed or neutered. The bill, however, would not allow those municipalities to ban any specific breeds. The bill, which now moves to the Senate, comes on the heels of a litter of fatal dog attacks in the Golden State (SACRAMENTO BEE). • Still in **CALIFORNIA**, the state Fish and Game Commission approves a ban on hunting and fishing via the Internet. California is one of eight states — **MAINE, MINNESOTA, NORTH CAROLINA, TENNESSEE, VIRGINIA, WEST VIRGINIA** and **VERMONT** are the others — to ban hunting on the Web. It is believed to be the first state to extend that ban to include fishing (SACRAMENTO BEE).

— *Compiled by RICH EHISEN*

A few minutes with ...

NCSL Executive Director Bill Pound

SNCJ: Is the state/federal relationship really as bad as it seems?

POUND: There has always been tension in that relationship, but I do think there is probably more today than there has been in the past, caused in great part by the federal government wanting to do a lot more than it wants to pay for. In that way, there are two things that are really affecting the current relationship. One is Medicaid and its rapidly escalating expenditures and the other is No Child Left Behind. I think particularly with [NCLB], a lot of lawmakers felt we were already doing education pretty well, but now we have to change everything and that just doesn’t make sense.



in the room, including carpets, light fixtures, seats and stalls, is pinkly toned. The only exceptions are a pair of water fountains. A *Register* columnist described the room as “Barbie’s Dream House on acid,” which is what Hawkeye officials likely had in mind.

IT’S SO “RETRO” If the Hawkeyes tried to tame the savage football beast, promoters of one ILLINOIS high school team took a different approach, much to the chagrin of the local school board. As the *Chicago Sun-Times* notes, boosters produced a poster depicting members of the Batavia High School squad holding knives, sledgehammers, axes and crowbars — a “harmless gesture” meant to instill fear in opponents. But the picture — plastered on business windows throughout this Chicago suburb — ginned up another kind of fear in the school board: the national trend toward increased school violence. The board stopped production of the poster.

IT’S SO “DUMB” Well, at least you can say the e-mail wasn’t some formula pabulum spewed out by a computer and signed with an autopen. As the *Harrisburg Patriot-News* reports, Sen. Robert Mellow personalized his reply to a constituent who wrote to express disapproval with a recent legislative pay raise. “Why don’t you get a life?” the Lackawana Democrat wrote to 72-year-old Bill McIntyre. “Please do not mail my office another e-mail.” And they complain that modern politicians don’t know how to cultivate the electorate.

— *By A.G. BLOCK*

