

October 12, 2009

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● The next issue of
 ● Capitol Journal will be
 ● available on October 19th.
 ●

Top Story

The Blagojevich scandal in ILLINOIS spurred many states to adopt new measures aimed at snuffing out such corruption. But a case in front of the U.S. Supreme Court right now may change the game more than anything states have done.

SNCJ Spotlight

Courts may usher in new era of pay-to-play

Ethics reform is a perennial issue in state legislatures, rising in priority with each new corruption scandal. That certainly appears to be the case in the aftermath of the bombshell dropped in ILLINOIS last year, which led to the historic impeachment of Gov. Rod Blagojevich (D). But it is the nation's judiciary that may actually end up doing more to alter the landscape of pay-to-play in the political realm than the transgressions of any elected official.

The revelation last December that then-Gov. Blagojevich allegedly tried to sell off President Barack Obama's U.S. Senate seat to further his own political ambitions was shocking enough to penetrate even the most jaded citizens' apathy about political corruption. ILLINOIS lawmakers rose to the occasion, announcing — and delivering on much of — an ambitious ethics reform agenda, including laws strengthening the state's Freedom of Information Act and creating an Internet site to make it easier for the public to monitor state spending.

Ethics reform has been on the agenda this session in numerous other states as well. And according to State Net's legislative database, nearly half the states have passed bills relating to pay-to-play out of their house of origin, many of which have gone on to be signed into law. (See *Bird's eye view*.)

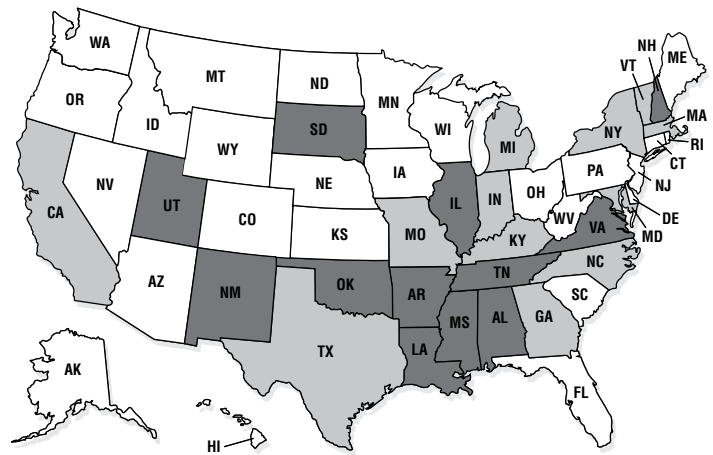
The majority of these measures are aimed at the most frequent target of pay-to-play reform:

cutting the tie between political donations and the awarding of government contracts. Several establish disclosure requirements for campaign contributions. But none seek to actually limit, in any comprehensive way, the amount of money flowing into political campaigns, which some observers consider a much bigger problem — and one they fear may soon become even bigger.

Last month the justices of the U.S. Supreme Court returned early from their summer recess to hear new arguments in a case they considered last term involving a dispute over "Hillary: The Movie," a 2008 film harshly criticizing then-Democratic presidential candidate Hillary Rodham Clinton.

Citizens United, the conservative, non-profit group that produced the movie, wanted to air ads for it in Democratic primary states and distribute it via home video-on-demand. But the Federal Election Commission banned the film's distribution on

Bird's eye view



Source: State Net, Chicago Tribune

Passed pay-to-play measure through 1st house: Enacted pay-to-play measure

Post-Blago session yielding few bold reforms

This year's legislative session, coming on the heels of the Blagojevich U.S. Senate seat scandal, has produced some determined work on pay-to-play. Forty bills relating to the issue have been passed out of their house of origin in 24 states, and 15 of those measures have been enacted. But few of them do much more than impose campaign disclosure requirements. And even in ILLINOIS, the epicenter of the Blago scandal, Gov. Pat Quinn (D) and lawmakers have been unable to agree on a key element of the ethics agenda they announced earlier in the year: legislation limiting political donations to candidates and restricting how legislative leaders use their campaign war chests. The Legislature passed a measure that would have placed limits on campaign contributions, but Quinn vetoed it, arguing it was too weak.





the grounds that it was partly financed by corporate contributions and therefore subject to the restrictions on “electioneering communications” imposed by the Bipartisan Campaign Reform Act of 2002, better known as McCain-Feingold. Citizens United sued the FEC in federal court. The court dismissed that lawsuit, and Citizens United appealed to the Supreme Court.

The justices decided not only to hear another round of arguments in that case, *Citizens United v. Federal Election Commission*, but also to simultaneously reconsider two landmark campaign finance cases. The first, *Austin v. Michigan Chamber of Commerce*, is a 1990 case in which the high court ruled that a MICHIGAN law prohibiting corporations from using company funds to call directly for the election or defeat of a candidate independent of the candidate’s campaign did not violate the First or Fourteenth Amendments. The second case is *McConnell v. FEC*, which upheld McCain-Feingold’s ban on corporate- and union-funded “issue ads” — those mentioning a candidate without recommending how to vote — within 60 days of a general election or 30 days of a primary.

The justices’ surprise move suggests that the opponents of campaign spending restrictions on the court have the votes to break with precedent and loosen the limits on business and labor. Last month’s oral arguments seem to support that view.

“Corporations have lots of knowledge about environment, transportation issues, and you are silencing them during the election,” Justice Anthony Kennedy, a swing

vote on many issues that have come before the court, said to one of the lawyers for the federal government.

And one of the court’s newer members, conservative Justice Samuel Alito, suggested that corporate campaigning wasn’t a problem in the many states that allowed it.

“Have they all been overwhelmed by corruption?” he asked.

Many would probably say yes.

But for some, the concern appears to be less about corruption, although that’s still a concern, than about access.

“Overturning these well-established laws would turn our elections into free-for-all with massive corporate and union spending, and would make officeholders beholden to the deep pockets that promote them,” David Arkush of Public Citizen, a national consumer advocacy organization, said in a press release issued after the Supreme Court declared its intention to revisit *Austin* and *McConnell*. “Corporate influence would likely be strengthened over all policy decisions — on health care reform, climate change, trade — everything. The public would be further shut out of its own government.”

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Public Citizen’s statement went on to say: “In past rulings, the court has recognized that the wealth of corporations and unions, when used to affect candidate elections, could have ‘untoward consequences for the democratic process.’ The court has defended Congress’s efforts to protect the electoral process ‘from what it deemed to be the corroding effect of money employed in elections by aggregated power.’”

Steve Simpson, a senior attorney with the libertarian Institute for Justice, however, sees the high court’s impending decision very differently.

“Corporations have a right to spend their own money and speak out as an organization just like any individual does,” he said. “The First Amendment is not intended to level the playing field of free speech. The government should not be playing favorites with this fundamental right.”

Simpson also said that if the Supreme Court invalidates the McCain-Feingold ban as he expects, “it would most likely lead to all similar state laws being deemed unconstitutional.” He said that wouldn’t happen automatically; state attorneys general would have to look at their laws and determine whether the Supreme Court’s ruling applies. But the state laws could also face legal challenges from various parties.

A study done for the Institute by Duke University political science professor Michael Munger, titled “Locking Up Political Speech: How Electioneering Communications Laws Burden Free Speech and Civic Engagement,” identified 15 states with electioneering communications laws that would potentially be impacted by a curtailment of McCain-Feingold. Those states are ALASKA, CALIFORNIA, COLORADO, CONNECTICUT, FLORIDA, HAWAII, IDAHO, ILLINOIS, LOUISIANA, NORTH CAROLINA, OHIO, OKLAHOMA, VERMONT, WASHINGTON and WEST VIRGINIA.

A federal appeals court decision last month in the District of Columbia may give an indication of which way the judicial winds are blowing on the issue. In the case of *Emily’s List v. FEC*, the U.S. Court of Appeals for the D.C. Circuit ruled that the government can’t restrict political spending by 527 groups like Swift Boat Veterans for Truth or nonprofits like MoveOn.org as long as they don’t coordinate with individual parties or candidates.

The court reasoned — much like Simpson of the Institute for Justice — that leveling the playing field isn’t any more legitimate a basis for restricting political spending by nonprofit groups than it is for limiting such spending by rich individuals. The only valid reason for regulating political spending, the court maintained, is to combat corruption, which it did not deem to be a concern in the case of nonprofit groups.

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: 707

Number of Intros last week: 500

Number of Enacted/Adopted last week: 129

Number of Prefiles to date: 34,740

Number of Intros to date: 151,592

Number of 2009 Session Enacted/Adopted overall to date: 38,436

— Compiled By JAMES ROSS
(measures current as of 10/8/2009)
Source: State Net database



The fact that the appeals court’s decision closely followed recent Supreme Court rulings on campaign finance will undoubtedly be encouraging to opponents of the McCain-Feingold ban, like the Institute for Justice. For campaign spending limit supporters like Public Citizen, on the other hand, the outlook is considerably more gloomy.

Reflecting on the *Emily’s List* and *Citizens United* cases, Richard L. Hasen, a professor at Loyola Law School in Los Angeles, who appears to be firmly in the pro-spending limits camp, issued a prediction about the future of federal — and by extension, state — campaign finance on his widely read blog, ElectionLawBlog.org:

“We are moving toward a deregulated federal campaign finance system, where money flows freely and perhaps only disclosure laws remain,” he wrote. “It is a world in which those with more money use their considerable funds to elect candidates of their choice and to have disproportionate influence over public policy. The unlevel playing field awaits.”

—By *KOREY CLARK*

State Net Capitol Journal Editor RICH EHISEN contributed information for this story.

Budget & taxes

CALIFORNIA AVOIDS SOME BUDGET CUTS: When CALIFORNIA lawmakers passed a budget in July that slashed \$16 billion from state programs to close a \$24 billion deficit, critics called it “catastrophic” and “devastating.” But in the months since, the state has managed to blunt the impact of a few of those cuts.

A \$14.2 million cut to the Department of Parks and Recreation was supposed to have meant the closure of 100 of the state’s 279 parks. But the state determined that reducing maintenance, forgoing new equipment and vehicle purchases, and reducing hours of operation at most of the parks would be enough to keep all of them open.

A \$178 million cut from Healthy Families, CALIFORNIA’s version of the federal Children’s Health Insurance Program, threatened to leave more than 700,000 of the state’s children without health coverage. But Assembly Speaker Karen Bass (D) helped broker legislation generating \$97.5 million from the continuation of a 2.35 percent tax on insurance premiums for Medi-Cal managed-care plans. And that sum, combined with an \$81 million grant from a state program that funds health and education for children under 5 and \$17.5 million from a hike in co-pays for doctor visits, allowed the Healthy Families budget to remain intact.

Finally, a \$7 million cut had forced the Department of Forestry and Fire to cancel a contract for a DC-10 airplane to help fight wildfires. Because of the high probability of wildfires this season, however, officials were able to tap a \$182 million emergency Wildland Fire Suppression Fund to reinstate that contract.

“There’s some indication that when the governor had first put forth his proposals, he did the ol’, ‘Take all the policemen off the streets.’”

Those saves had some questioning whether state officials had exaggerated the severity of the state’s fiscal problems to wrangle a budget deal.

“There’s some indication that when the governor had first put forth his proposals, he did the ol’, ‘Take all the policemen off the streets’” routine, said Henry Brady, dean of the

Goldman School of Public Policy at the University of California at Berkeley.

But a spokesman for Schwarzenegger said the fact that funding for most programs hasn’t been restored shows officials weren’t just “crying wolf.” There’s been no reprieve for the college classes cut and faculty furloughed because of a nearly \$2 billion reduction in higher education funding, for instance, or the 1,800 positions eliminated due to a \$1.2 billion cut to the state’s Department of Corrections and Rehabilitation. (WALL STREET JOURNAL)

GOING GREEN NOT LEADING TO GREENER PASTURES IN MI:

Four years ago MICHIGAN Gov. Jennifer M. Granholm (D) set out to rebuild her state’s economy, battered by the decline of the auto industry. Employing all the tools available to her — tax credits, loans, foreign travel, even Super Bowl tickets — the governor has helped create more than 163,000 jobs, many in environmentally friendly fields like electric car batteries and solar and wind energy, since taking office in 2003. But during her tenure, as the auto industry has continued to shrink, the state has lost about 632,000 jobs, which has some critics faulting Granholm’s “green” focus. “The green economy is not going to replace jobs of an industrial era,” said Genesee County Treasurer and fellow Democrat Daniel T. Kildee. “It is an important part of the new economy. But it is not the next GM.” (WASHINGTON POST)

BUDGETS IN BRIEF: ARKANSAS’ new lottery racked up an estimated \$9.8 million in sales in its first week. The lottery kicked off Sept. 28 with sales of scratch-off tickets at roughly 1,500 locations (ARKANSAS NEWS BUREAU). • Despite all of its tax increases, spending cuts and raids on savings accounts, **FLORIDA** could have a deficit of as much as \$2.6 billion next year. The main cost driver appears to be the Medicaid program, which has grown as the economy has shrunk (ST. PETERSBURG TIMES). • County stress scores fell slightly on average, and fewer counties qualified as distressed, in the Associated Press’ monthly analysis of economic stress in more than 3,100 U.S. counties. The AP calculates each county’s score from 1 to 100 based on the



county’s unemployment, foreclosure and bankruptcy rates, with a county generally considered stressed when its score tops 11. The average score dipped to 10.3 in August, from 10.54 the previous month, and about 39 percent of counties had a score of 11 or higher in August, compared to 41 percent in July (ASSOCIATED PRESS, NEW YORK TIMES). • **PENNSYLVANIA**’s budget impasse reached its 100th day last Thursday (PHILADELPHIA INQUIRER). • **NEBRASKA** Gov. Dave Heineman (R) called a special session to revise the Cornhusker State budget. Heineman cited declining state tax receipts, which through Sept. 30, the end of the first quarter of the two-year budget, are \$56.8 million below projections (JOURNAL-STAR [LINCOLN]).

— *Compiled by KOREY CLARK*

Politics & leadership

FEDERAL HEALTH REFORM COULD EMPOWER STATES: For the past few months, Washington has been the battleground for the fight over health care reform. But that conflict may soon shift to the states. The version of legislation considered most likely to reach President Obama’s desk would leave

much of the job of implementing the reforms — including one of the most controversial — to state governments.

Under the reform package proposed by U.S. Senate Finance Committee Chairman Max Baucus (D), states would not only be

“To leave a lot of these responsibilities to the states will create a patchwork mess. It’s a way of punting on crucial structural elements.”

responsible for figuring out how to cover a major expansion of Medicaid, but also for setting up “exchanges” — Web-accessible marketplaces where consumers could comparison shop for private insurance — and even creating nonprofit health insurance cooperatives, state and multi-state versions of the so-called “public option.”

Some observers have a problem with that approach.

“To leave a lot of these responsibilities to the states will create a patchwork mess,” said Jacob Hacker, a political science professor and health policy expert at Yale University. “It’s a way of punting on crucial structural elements.”

Alan Weil, executive director of the National Academy for State Health Policy, questioned whether states are equipped to handle the tasks Baucus’ bill would assign them.



“An insurance exchange could just be a website that posts products, and you could do that with two people and an IT person. But if the purpose of an exchange is to negotiate, assure capacity of insurance plans and collect information — that’s a big new function that most states would not be set up to do.”

Some states are better positioned than others. MASSACHUSETTS, having enacted universal health care reform three years ago, would be one of them. WASHINGTON, which already pools low income residents not eligible for Medicaid into lower cost managed care plans, would be another. And RHODE ISLAND already requires insurance companies to accept all applicants and strictly limits insurers’ ability to set premium rates based on health status.

“Changing the underwriting laws will be relatively easy for us,” says RHODE ISLAND insurance commissioner Chris Koller.

But states that haven’t adopted such bold reforms would probably have a harder time adapting to the new responsibilities. And some policy experts believe state legislators are too beholden to local interests like small insurers and health systems.

“There’s no question that lobbyists win cheaper on the state level. With a set of [ARKANSAS] Razorbacks tickets for one weekend and they’ve got it.”

“There’s no question that lobbyists win cheaper on the state level,” says Len Nichols, a health economist at the New America Foundation. “With a set of [ARKANSAS] Razorbacks tickets for one weekend and they’ve got it.”

But Nichols and other policy experts still believe states, which already regulate health insurance

in the individual and small group market, would be able to handle any new federal regulations put into place. And some think states are also better at innovating.

“It’s very hard for the feds to experiment,” said RHODE ISLAND’s Koller. “What we can do much better is work with providers and work with the delivery system.” (TIME)

POLITICS IN BRIEF: The TENNESSEE chapter of Common Cause has filed a lawsuit against the state, seeking to compel it to deploy paper ballots and scan-voting systems statewide by the November 2010 elections. In 2008 the Legislature approved the TENNESSEE Voter Confidence Act, requiring the replacement of paperless voting systems with paper ballots and optical scan systems, but the state has done little to implement the law, contending that scanning machines haven’t been certified yet (COMMERCIAL APPEAL [MEMPHIS]).

— *Compiled by KOREY CLARK*

Upcoming stories

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

- **Elections**
- **National education standards**
- **Budget updates**

Governors

STRICKLAND MULLS CHANGING OH EXECUTION POLICY:
OHIO Gov. Ted Strickland (D) and state prisons director Terry Collins are considering major changes to the Buckeye State’s execution policies, including trying new drugs and bringing in a more experienced lethal injection team to administer them. Strickland began exploring those possibilities last month after he was forced to halt an execution that was already in process because executioners were unable to find a usable vein on the condemned man’s arm. It was the first time since the United States resumed using capital punishment in the 1970s that an execution had to be stopped after it was started.

Officials are reviewing a number of options, including injecting the lethal drugs directly into the prisoner’s muscle and bone, using a single, more powerful drug, or using an entirely different combination of drugs.

If adopted, OHIO would become the first state to radically defer from using a three-drug execution process, which was first used in OKLAHOMA in 1977 and later copied by 35 other states.

Julie Walburn, spokeswoman for the OHIO Department of Rehabilitation and Correction, said, “We’re considering all options at this

time,” noting that moving to more invasive methods could necessitate a new lethal injection team more qualified to conduct such a procedure.

“It worked 32 of 33 times,” Walburn added, referencing the state’s previous executions going back to 1999. “We want to ensure we can deal with these rare and unusual circumstances when it doesn’t work.”

Strickland has also ordered that the state’s next two pending executions be delayed until the new protocol is ironed out, saying “more research and evaluation of back-up or alternative procedures is necessary before one or more can be selected.” A third execution, still scheduled for December, may also be moved back if the new protocol is not in place.

The 6th U.S. Circuit Court of Appeals issued a stay of execution for one of the condemned prisoners, saying the failed execution, coupled with the troubled executions of two other inmates since 2006, raised questions about the state’s protocols and its ability to carry them out effectively. OHIO Attorney General Richard Cordray immediately appealed that decision to the U.S. Supreme Court. (ASSOCIATED PRESS, NEW YORK TIMES, COLUMBUS DISPATCH)

JUDGE TELLS GA TO STOP WATER LITIGATION: Senior U.S. District Judge Paul Magnuson rejected a call from GEORGIA officials to make his July

“It worked 32 of 33 times. We want to ensure we can deal with these rare and unusual circumstances when it doesn’t work.”



ruling against the Peach State in its 20-year war with ALABAMA and FLORIDA over access to water from Lake Lanier a final judgment. Magnuson's July ruling stayed a final verdict for three years to give the three states time to work out a mutually acceptable agreement for sharing Lanier's water. But GEORGIA Gov. Sonny Perdue (R) wanted the judge to make that ruling permanent so the state could then appeal the decision to the 11th U.S. Circuit Court of Appeals. Magnuson's refusal to do so did not dissuade Perdue from pursuing the appeal anyway. Perdue spokesperson Bert Brantley said the state will still file the appeal and let the court decide if it would hear the case, something Magnuson said "will only delay and further complicate the resolution of the important claims at issue." The decision to continue seeking the appeal also annoyed ALABAMA Gov. Bob Riley (R). Todd Stacy, a Riley spokesman, said, "It's time for everyone to stop playing games and get back to the negotiating table." (ATLANTA JOURNAL-CONSTITUTION)

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| <p style="text-align: center;">Upcoming elections 10/8/2009 - 10/29/2009</p> <p>10/13/2009 Arkansas Special Primary Senate District 4</p> <p>Oklahoma Special Election House District 55</p> <p>Tennessee Special Election House District 62</p> <p>10/15/2009 Tennessee Special Primary Senate District 31</p> |
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GOP GOVS DIFFER ON HEALTH OVERHAUL: CALIFORNIA Gov. Arnold Schwarzenegger (R) last week announced his support for a federal overhaul of the nation's health care system. Although he did not endorse any specific proposal, Schwarzenegger lauded the federal government's efforts to work with states on health care reform and urged "our colleagues on both sides of the political aisle at the national level to move forward and accomplish these vital goals for the American people." Former WISCONSIN Gov. Tommy Thompson, a Republican who also served as Health and Human Services Secretary under President George W. Bush, and New York City mayor Michael Bloomberg, a former Republican who is now an independent, also voiced their support for health care reform. Meanwhile, ALABAMA Gov. Bob Riley (R) sent letters to his state's Congressional contingent urging them to oppose such an overhaul. Riley said the bills currently under consideration possess "serious flaws that will have a dire budgetary impact" on the Heart of Dixie. ARIZONA Gov. Jan Brewer (R) expressed similar reservations, saying the proposals will be fiscally "devastating" to her state and others already facing significant budget shortfalls (PRESS REGISTER [MOBILE], LOS ANGELES TIMES, WASHINGTON POST, NEW YORK TIMES, ARIZONA REPUBLIC [PHOENIX]).

GOVERNORS IN BRIEF: MINNESOTA Gov. Tim Pawlenty (R) said last week he is open to discussing public funding of a new stadium for the MINNESOTA Vikings NFL franchise. The team has said it will not renew the lease on its current home, the Hubert H. Humphrey Metrodome in Minneapolis, when the agreement

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expires in 2011. Pawlenty, who has previously called the matter a “back burner” issue, said officials need to find a way to keep the team, noting “they’re exciting. They bring a lot of joy to a lot of people in our state” (PIONEER PRESS [ST. PAUL]). • The FBI is investigating a claim by **TEXAS** Gov. Rick Perry (R) that technical problems with a recent webcast to kick off his re-election campaign were an act of political sabotage. Perry says someone intentionally hacked into the webcast, causing many of those trying to log into the event to receive only an error message (DALLAS MORNING NEWS). • **NEW JERSEY** Gov. Jon Corzine (D) signed SB 930, legislation that requires local political party committees to adopt constitutions and bylaws, calls for specific information concerning committee members to be filed with the county clerk, and eliminates fixed terms for committee members and chairs. Corzine called it a step toward creating more transparency in Garden State government (NEWJERSEYNEWSROOM.COM). • **ALASKA** Gov. Sean Parnell (R) proposed last week that the state pay the entire in-state college or job training tuition for every high school student who graduates with an A average and takes four years of math, science and language arts. Students who graduate with a B could get 75 percent of their tuition covered under the plan, while C-plus students could receive half of their tuition costs. Last Frontier State lawmakers must approve the program (ANCHORAGE DAILY NEWS). • Polls in **NORTH CAROLINA** show Gov. Bev Perdue’s (D) approval rating has dropped below 30 percent. A recent survey from Public Policy Polling, a Democratic polling firm, showed Perdue with just a 24 percent approval rating. A poll from the right-leaning Civitas Institute gave Perdue a 29 percent approval mark (NEWS & OBSERVER [RALEIGH]).

— Compiled by RICH EHISEN

Hot issues

BUSINESS: A federal judge dismisses a lawsuit seeking to block construction of the TransCanada Keystone Pipeline, which will carry crude oil from Alberta, Canada, through **NORTH DAKOTA, SOUTH DAKOTA, NEBRASKA** and **MISSOURI** and on to refineries in **KANSAS, OKLAHOMA** and **ILLINOIS**. The court rejected an argument from four Native American tribes that treaties and federal laws and regulations were broken during the environmental assessment of the permit process (RAPID CITY JOURNAL). • A **KENTUCKY** court upholds the constitutionality of a Bluegrass State law that bars businesses from price gouging during a declared state of emergency. The ruling allows a suit to move forward against three oil companies the state says charged excessive prices for their products in the wholesale and retail petroleum-distribution sectors following hurricanes Katrina and Rita in 2005 (BUSINESS COURIER [CINCINNATI]).



CRIME & PUNISHMENT: The **CONNECTICUT** Supreme Court upholds a Constitution State law that allows justices who have reached the mandatory retirement age of 70 to complete work on cases they began hearing before their required retirement. The court narrowly rejected a claim that the law violates the state constitution (THE DAY [NEW LONDON]).

EDUCATION: The U.S. Supreme Court declines to hear a challenge to a **FLORIDA** law that requires all public-school students in grades K-12 to stand and repeat the Pledge of Allegiance unless excused in writing by a parent. The court did not give a reason for the denial (CHRISTIAN SCIENCE MONITOR).

• The high court also refuses to hear a challenge to a **TENNESSEE** law that allows schools to ban the Confederate flag as part of their dress codes. A federal appeals court had previously upheld the law. The challenge was one of 2,000 cases the court declined to hear (NEW YORK TIMES). • **WISCONSIN** Gov. Jim Doyle (D) signs AB 119, which requires Badger State children to complete kindergarten before starting first grade. The law allows exemptions for kids that are home-schooled or who attend charter schools (LACROSSE TRIBUNE).

ENVIRONMENT: Federal officials propose a plan to move thousands of wild horses and burros from 10 Western states to new preserves in the Midwest and the East. Interior Secretary Ken Salazar said the goal is to reduce the total number of wild horses on those lands from the current estimate of about 37,000 down to 17,500. The proposed plan includes “aggressive” use of contraceptives, changing the sex ratio of wild herds and possibly having gelding herds. Officials did not say how many horses could ultimately be transferred to the new preserves (VIRGINIAN-PILOT [NORFOLK], DENVER POST). • **VIRGINIA** officials announce new stormwater regulations that would, among other things, require an analysis of alternatives for new or increased wastewater discharges that could potentially impact clam and oyster production in Eastern shore waters. The new rules now face a public comment period, with a final decision set for December (DAILY PRESS [NEWPORT NEWS]).

The week in session

States in Regular Session: DC, MA, MI, OH, PA, PR, US

States in Recess: NJ, NY, WI

States in Special Session: CA “c”, CA “e”, CA “f”, NM “a” (10/17/2009)

Special Sessions in Recess: CT “b”, CT “d”, DE “a”

Upcoming Special Sessions: TBA: FL “b”, NE “a”, OK “a”

States in Veto Session: IL

States Currently Prefiling or Drafting for 2010: AL, FL, IA, KS, KY, ME, ND, NH, OK

States Adjourned in 2009: AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, NC, ND, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WY

State Special Sessions Adjourned in 2009: AK “a”, AL “a”, AZ “a”, AZ “b”, AZ “c”, CA “a”, CA “b”, CA “d”, CT “a”, CT “c”, FL “a”, HI “a”, HI “b”, IL “a”, IL “b”, IN “a”, KY “a”, MS “a”, MS “b”, MS “c”, NV “a”, NY “a-o”, TX “a”, UT “a”, VA “c”, VT “a”, WI “a”, WV “a”, WV “b”, WV “c”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 10/9/2009)
Source: State Net database



SOCIAL POLICY: The **KENTUCKY** Supreme Court rules that the surviving spouse in a wrongful death case may sue for loss of companionship. The ruling overturns a previous law that said spouses could only seek such damages for the time between when their loved one was seriously hurt and their death (**KENTUCKY POST [COVINGTON]**). • The U.S. Supreme Court refuses to hear a request from an anti-abortion group to force **ILLINOIS** to issue “Choose Life” license plates. The court’s refusal leaves intact a federal appeals ruling that state officials were within their rights in trying to keep viewpoints on abortion off Prairie State license plates (**CHICAGO SUN-TIMES**). • The **MONTANA** Supreme Court upholds a Treasure State law that allows a non-parent to seek a “parenting interest” in a child if the person has established a child-parent relationship. The ruling upheld parental rights for a woman who had been part of a same-sex couple that cared for two adopted children (**THE MISSOULIAN**).

In case you missed it

CALIFORNIA is immersed in an historic struggle to overhaul its outdated water supply and delivery system. But the Golden State is far from the only one with major water problems.

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

http://www.statenet.com/capitol_journal/10-05-2009/html

POTPOURRI: A **MICHIGAN** Senate committee endorses SB 276, a bill that would end the Wolverine State ban on hanging objects from a car’s rear view mirror. The measure, which would still bar hanging objects that obviously obstruct the driver’s vision, is now under consideration in the full Senate (**DETROIT FREE PRESS**).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

A **WEIGHTY ELECTION ISSUE:** The gubernatorial race in **NEW JERSEY** has been a downright nasty affair, with each candidate taking and absorbing numerous negative jabs from the other. But as the *New York Times* reports, Gov. Jon Corzine has taken the campaign old school — as in school yard — with ads that all but call challenger Chris Christie a big fat fatty. Corzine is running both TV and Internet ads that prominently focus on Christie’s ample girth, often in slow motion to enhance the effect. One even features a voiceover telling viewers how Christie once “threw his weight around” to get out of a ticket. The governor, a noted fitness buff, denies he is intentionally making fun of his challenger’s physique. Christie, who says he has battled weight problems his whole adult life, claims he is not surprised it came up in the campaign. He also called the ads “silly” and “stupid.”

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ONE-MAN CAPITOL CLEAN UP CREW: Back in April, ESPN columnist Rick Reilly thought so little of the COLORADO Rockies’ chances of making the Major League Baseball playoffs that he vowed to “tongue bathe the Capitol dome” if the Rockies found their way into the post season. It seemed like a safe bet at the time: the Rockies were 12 games under .500 and had just fired their manager. Ah, but baseball is a funny game. The Rockies caught fire, starting a winning trend that landed them a spot in the playoffs. Fast forward to last week where, as *KCBS Channel 4* in Denver reports, Reilly was on hand at the Capitol to pay up on his failed wager. Under the watchful eye of Gov. Bill Ritter, a chastened Reilly took his tongue to the dome’s golden hide. But not before, however, asking Ritter if it would “taste like pork.”

A REAL LAMBEAU LEAP: Last week, WISCONSIN Gov. Jim Doyle signed AB 308, a measure that allows Badger State police to give an official escort to visiting celebrities, dignitaries and the like, complete with sirens, flashing lights and blocked intersections. Fair enough. Of course, as the *Janseville Gazette* reports, while the possibility of visiting royalty always exists, the measure’s real intent is to allow police to resume a long standing practice of giving the full VIP escort treatment to NFL teams that are in Green Bay to play the Packers. Police started the escort services for Packer opponents back in the 1980s, but had to stop in 2007 over concerns about traffic accident liability. Given the Pack’s porous defense this season, opponents probably feel like they have the same escort on their way to the end zone.

MISS MANNERS WOULD NOT BE PROUD: CALIFORNIA Democrats gathered for a gala fundraiser in San Francisco last week were treated to a surprise speaker — the Golden State’s very Republican Gov. Arnold Schwarzenegger. It turns out the Governor was attending another event being held in the flash hotel the Dems were using for their get together when he ran into an old friend, former Assembly Speaker Willie Brown. The one-time “Ayatollah of the Assembly” asked Schwarzenegger to say a few words to the assembled Dems about bipartisan cooperation. But as the *San Francisco Chronicle* reports, some members greeted the gov with anything but open arms. One, Assemblyman Tom Ammiano even replicated SOUTH CAROLINA Rep. Joe Wilson’s now-infamous Congressional outburst, shouting “You lie!” at Schwarzenegger. That infuriated Brown, who called it utter stupidity. Ammiano defended himself, saying “It’s our house, it’s our event.” Well, so much for being a guest in his house.

— By RICH EHISEN

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