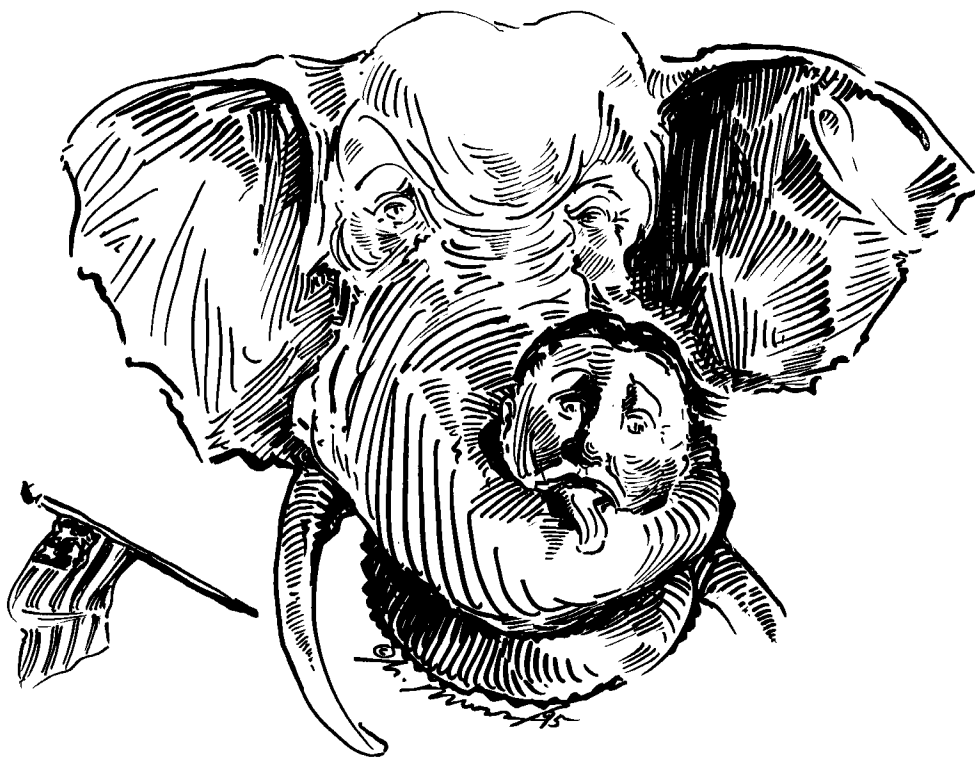


October 25, 2004

## Can Republicans hold their statehouse advantage?



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### Top Story

*Although most voters are understandably focused on what has been a razor thin race for the White House, almost 80 percent of all state legislative seats are also up for grabs this November.*

## SNCJ Spotlight

### *The other national political race*

**T**here's been a lot of talk about red and blue states in the national media over the past few weeks, with most of that discussion in connection with the hotly-contested battle for the White House. But the familiar, bi-color barometer of Democratic and Republican sway is just as applicable to another national political battle that is much less talked about but equally significant: the battle for America's statehouses.

Over 78 percent of the states' 7,382 legislative seats will be contested on Nov. 2. Republicans currently hold 3,689 of those seats, while the Democrats control 3,626, a difference of less than one percent. (Twenty other seats are held by independents or third parties, while all of NEBRASKA's are officially non-partisan.) The division of whole chambers among the two major parties is a bit more one-sided, with the GOP holding a majority in 53, the Dems controlling 44 and one split evenly between them.

The stakes of the upcoming statehouse races are high, particularly those for seats in narrowly divided chambers. Since a chamber's majority party largely dictates its legislative agenda and, consequently, its stand on politically charged issues like gay marriage and tort reform, a shift of control can change things dramatically. State legislative races also have an enormous impact on politics at the national level. As Bill Pound of the National Conference of State Legislatures (NCSL) points out, "most domestic policy initiatives come out of the state legislatures."

And statehouse elections also play a major role in determining which of those initiatives actually become federal law. State legislatures draw the district maps that often decide the partisan composition of the states' representation in the U.S. House of Representatives. That largely explains why the national Democratic party's Legislative Campaign Committee will spend between \$7 million and \$10 million on 400 competitive state legislative races this year, and that entity's Republican counterpart will spend about \$5 million.

According to analysis by State Net, there are 24 chambers in 22 states where a change of just a few seats could shift party control. OREGON's Senate, for example, is tied 15-15, while the majority party in the COLORADO and MAINE Senates holds only a one-seat advantage. The margin is only slightly larger in the lower chambers of INDIANA (2 seats), NORTH CAROLINA (2 seats) and OKLAHOMA (3 seats).

Meanwhile, new redistricting plans have made it possible for Republicans to take control of GEORGIA's House and the Democrats to capture the lower chamber in MONTANA. Decisive battles will also be waged in VERMONT, where a coalition leadership in the House is a possibility due to its high number of third party members, and WASHINGTON, where legislative races have been so competitive in recent years that both houses are considered toss-ups. (For a more detailed look at all of the statehouse races, see "Legislative races a battle for control on p. 7.)

*State Recaps  
available this  
week on the  
State Net Web site*

AK, AL, CA, CO, CT, FL,  
GA, HI, IA, ID, IL, IN, KS,  
KY, LA, MD, ME, MN, MO,  
MS, NC, NE, NH, NM, OK,  
RI, SC, SD, TN, UT, VA, VT,  
WA, WI, WV, WY

2003-04 State Session  
Recaps showcase legislative  
statistics for each state.

Democrats dominated state legislatures in the 1960s, but the decades since have seen the steady rise of Republicans, particularly in the South, where they gradually wrested control of 18 state chambers from the Democrats. Dems stepped up their efforts in the mid-1990s and managed to regain a net of six chambers in the 1996 election cycle. But Republicans have made small net gains in each of the last three election years. The one bright spot for Democrats was their off-year-election victory in NEW JERSEY in the fall of 2003, which gave them control of the Senate.

So, the big question this year, in the words of Tim Storey, senior fellow and elections tracker for NCSL, is: "Will the Democrats reverse a trend that has seen seats drop away steadily for 30 years? Or will the GOP solidify its status as the majority party in legislatures?" (STATELINE.ORG, NCSL.ORG, STATENET.COM)

### HIGH COURT RESURRECTS

**REMAP FIGHTS:** The redistricting battle that began last year in COLORADO was widely thought to be over when the U.S. Supreme Court upheld the state Supreme Court's prescription for resolving the issue. Essentially, the state court had given its blessing to a legislative map drawn by Denver District Judge John Coughlin after lawmakers failed to agree on a plan themselves. But last week, another district judge, Zita Weinshienk, who had stayed a pair of lawsuits over the issue pending other court actions decided to let one of the suits proceed. That is unwelcome news to the state's Democrats; if the suit succeeds, a district map drawn in May 2003 after the Republicans took control of the legislature would supercede Coughlin's map. Regardless of how Weinshienk decides the case, however, the battle still won't be over. Whoever loses will likely file an appeal to the U.S. Supreme Court.

The high court also revived a bitter redistricting feud in TEXAS last week when it vacated the ruling of a lower court approving a controversial mid-decade Congressional redistricting plan drawn by the Texas Legislature's Republican majority last year and subsequently challenged by Democrats on the

## *The Week in Session*

In Regular Session: DC, NJ, PA

In Perfunctory Session: IL (House Only)

In Recess:  
CA "d", CA "e", DE "c", IL (Senate Only), MA, MI, NY, US

In Skeleton Session: OH

Currently Prefiling  
(Drafts for 2005):  
CO, FL, IN, KY, MT, NH, NV, VA

Adjourned:  
AK, AL, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD "2003 session", MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

In Special Session Adjourned:  
AK "a", AR "b", CA "a", CA "b", CA "c", CT "a", CT "b", CT "c", CT "d", DE "a", GA "a", IA "b", IL "a-q", KY "a", LA "a", ME "a", ME "b", MS "a", MS "b", NY "a", OK "a", OR "a", TX "d", UT "a", UT "b", UT "c", VA "a", VA "b", WA "a", WA "b", WA "c", WI "d", WI "e", WI "f", WI "g", WV "a", WV "b", WY "a"

Letters indicate special/extraordinary sessions  
Source: State Net, 10/22/04



grounds that it was an unconstitutional partisan gerrymander. The justices ordered the three-judge federal district court in Austin to reconsider that decision in light of the Supreme Court’s ruling in a redistricting case in PENNSYLVANIA six months ago. Legal experts were a little baffled by that demand, since the justices had ruled in the Pennsylvania case that it was not the business of the federal courts to decide whether a redistricting plan constitutes excessive partisanship. The experts say the justices order suggests they may actually have more to say on the issue.

Texas Attorney General Greg Abbott (R) said the high court’s order was “a routine, procedural step” that was unlikely to change the Austin court’s position on the map. But David R. Richards, a Democratic redistricting lawyer in Austin, called Abbott’s assessment “nonsense,” adding that the Supreme Court justices are “not in the game of wasting judicial energy.” (ROCKY MOUNTAIN NEWS [DENVER], DALLAS MORNING NEWS, NEW YORK TIMES)

**POLITICS IN BRIEF:** A coalition of private citizens and public officials in **NEW JERSEY** filed a lawsuit last Tuesday to block the state from using electronic voting machines in the election that is now just a week away. The suit is one of several that have been brought in the last few weeks by groups challenging the reliability and security of the machines. **MARYLAND**’s Court of Appeals rejected one such suit last month, while another began last week in **FLORIDA** (NEW YORK TIMES). • Lawsuits weren’t **FLORIDA**’s only problem last week. An hour after opening the polls for early voting, several polling places in Broward County lost their computer connection to election headquarters and a computer system crash in Orange County halted voting in Orlando. And as a result of the 2000 election debacle, there were plenty of poll watchers on hand to witness the Sunshine State’s inauspicious preamble to Election Day 2004 (WASHINGTON POST, USA TODAY). • In other election-related news, the U.S Justice Department jumped into a partisan legal battle in **MICHIGAN** last Monday, declaring that Democrats in the state have no right to challenge state rules prohibiting the counting of “provisional ballots” — ballots cast by voters who’s names do not appear on the voting rolls, but who may be later determined to be eligible — if they are cast in the wrong precinct. Democrats have challenged the rule in a number of states on the grounds that it is more likely to affect low-income or minority voters. A federal judge in Michigan wasted no time defying the Justice Department’s proclamation, ruling the very next day that the state must count provisional ballots cast in the wrong precinct as long as they are cast in the right city or township (LOS ANGELES TIMES, WASHINGTON POST).

— *Compiled by KOREY CLARK*

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# Budget & taxes

**K**ENTUCKY PASSES STATE HEALTH PLAN: KENTUCKY lawmakers approved a health insurance plan for the state's teachers and other public employees last week, averting a statewide teachers strike that was scheduled for Oct. 27. Teachers had vowed to strike earlier this month after Gov. Ernie Fletcher (R), responding to budget constraints, proposed a new insurance plan for 2005 that was both more restrictive and more expensive for the 229,000 public employees it covered. After making several modifications to his plan that failed to pacify state employees, Fletcher called a special session to address the issue. The plan lawmakers unanimously agreed on after 15 days of deliberation basically allows public employees to keep the same benefits and premiums next year that they currently have. The plan also adopts the 1 percent raise for employees included in Fletcher's plan and adds a 1.5 percent salary increase for judges. The higher cost of operating the plan next year will be financed through a draw of up to \$172 million from the state's General Fund and \$25 million from the Road Fund, as well as other smaller funds. (COURIER-JOURNAL [LOUISVILLE], LEXINGTON HERALD-LEADER)

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## Quote...

"I am pleased that the General Assembly has worked in a bipartisan manner toward a resolution of this crisis situation."

— **KENTUCKY Gov. Ernie Fletcher (R) after a special legislative session produced a new insurance plan for 229,000 state workers and teachers.**

**EXECUTIVE PRIVILEGE IN NY:** NEW YORK's Legislature is notorious for pork-barrel spending; this year, a whopping \$200 million was doled out for so-called "member items." But the three men who occupy the highest posts in the state's government — Gov. George Pataki (R), Senate Majority Leader

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## ... unquote

"The legislators have cleaned up the governor's health care mess."

— **The reaction of Charles Well, executive director of the Kentucky Association of State Employees.**

Joseph Bruno (R) and Assembly Speaker Sheldon Silver (D) — have taken the art of political patronage to a whole new level. Over the past seven years, the three executives have managed to wrangle over \$1 billion for pet projects. What's more, they borrowed the money to do so — and didn't obtain the approval of voters first, as required by the state constitution. They pulled off this boondoggle by borrowing the money through loosely regulated "public

authorities.” Basically, the scheme works like this: Lawmakers pass legislation creating an unspecified multimillion-dollar program that will be funded with borrowed money. The three leaders then work out the details of the “pro-

gram,” decide who gets the money and direct one of two public authorities to borrow the funds: either the Republicans’ Empire State Development Corp. or the Democrats’ Dormitory Authority of the State of New York. Since 1997, 1,720 such grants, totaling \$1.2 billion, have been made, saddling taxpayers with more than \$100 million a year in debt payments. Among the expenditures were \$4 million in grants in 2002 and 2003 for the National Museum of Catholic Art & History in East Harlem. The museum was founded by a former Playboy bunny with no background in art or museum administration who had previously misspent \$86,000 of the museum’s money on personal expenses, including rent for her apartment and nail and tanning treatments. The museum also happens to be closed to the public, having lost its charter to operate in 2000. Pataki, Bruno and Silver declined to comment directly on the borrowing, but a spokesman for the governor said, “New Yorkers know that Gov. Pataki makes all decisions regarding such projects strictly on the merits.” (ALBANY TIMES UNION)

## *Upcoming Elections*

(10/18/2004 - 11/1/2004)

**There are no elections scheduled during the next two weeks.**

**BUDGETS IN BRIEF:** Democrats in **PENNSYLVANIA**’s Senate are fuming over a proposed change to the state’s 3-month-old gambling law that would remove a provision requiring casinos to purchase slot machines from in-state distributors. The Dems say the change could cost the state a thousand jobs, while Republicans contend the requirement is unconstitutional because it discriminates against out-of-state companies. The revision was part of a package of amendments approved by the Senate two weeks ago, designed primarily to close a loophole in the slots bill allowing public officials to invest in gaming companies (PITTSBURGH POST-GAZETTE). • More than a quarter of the rapid rise in health care spending over the past 15 years is the result of obesity, according to a report by Emory University. The report attributed the jump to both an increase in the number of Americans who are obese and higher costs for treating such individuals (WASHINGTON POST).

— *Compiled by KOREY CLARK*



# Across state lines

## *Legislative races a battle for control*

**W**ith less than a dozen governors up for election this year, November's legislative races promise to be, to steal an oft-used phrase from CALIFORNIA Gov. Arnold Schwarzenegger (R), "where the action is." Only six states — ALABAMA, LOUISIANA, MARYLAND, MISSISSIPPI, NEW JERSEY and VIRGINIA — have no legislative elections. MICHIGAN and MINNESOTA have House races but no Senate elections.

The accompanying charts provide a current partisan breakdown of each state-house, with special notice given to the 24 chambers where party control is at risk. We define "at risk" as those chambers where a shift of three seats or less would wrest power from the current controlling party. Of these, the greatest potential for change could come in the 11 states where Democrats and Republicans split state-house control. In 10 of those 22 legislatures, the party in power has only a slight advantage, while the OREGON Senate is a dead heat at 15-a-piece. Overall, Democrats hold an edge in 17 legislatures while Republicans control 21, with NEBRASKA the nation's only nonpartisan unicameral Legislature. Of these, six Democratic-controlled chambers are at risk, with Republicans at risk in seven chambers.

Although the DELAWARE Senate's current 13/8 composition technically fits our criteria, a closer look reveals why it is not flagged as an at-risk state. Ten of the 21 First State Senate seats are up for election, with five being uncontested, but since only one of the contested seats is now held by a Democrat, it is physically impossible for Republicans to get the three seats they would need to draw ahead.

Democrats would also have to make major gains to grab the lead in WISCONSIN, where seven of the 16 open seats are uncontested. With only two of the contested seats held by a Republican, Democrats will need to grab both to gain the edge. It could happen, but it is a long shot.

Things could be a little more interesting in the ILLINOIS Senate, where 12 of the 23 seats up for election are not being contested. Democrats currently hold eight of the remaining 11 seats, so Republicans will need to maintain all three of their contested seats while claiming only another three of the eight Democratic seats up to take control of the chamber.

The odd amount of mid-decade redistricting is also expected to play a major role in determining how some states vote. Seven states have new districts in at least one house, with redrawn districts for both chambers in MONTANA, GEORGIA, NORTH CAROLINA, and SOUTH DAKOTA.

Our charts also show the number of third party or vacant seats in each house as well as each state governor's party affiliation. We will revisit this topic again in the weeks after the Nov. 2 election to update all the changes in each statehouse.

— By RICH EHISEN

<b>Both Houses controlled by Republicans</b>							
<b># Chamber control at risk</b>							
State	Govs. party	House			Senate		
		Dem	Rep	O/V	Dem	Rep	O/V
AK	R	13	27		8 #	12	
AZ	D	20	39	1	13 #	17	
CO	R	28	37		17 #	18	
FL	R	39	81		14	26	
IA	D	46	54		21	29	
ID	R	16	54		7	26	
KS*	D	45	80		10	29	1
MI	D	46	63	1	16	22	
MO	D	73	90		14 #	20	
MT**	R	47 #	53		21	29	
ND	R	28	66		16	31	
NH	R	119	273	8	6	18	
OH	R	37	62		11	22	
PA	D	93	109	1	21	29	
SC	R	50	73	1	20 #	26	
SD**	R	21	49		9	26	
TX	R	62	88		12	19	
UT	R	19	56		7	22	
VA	D	37	61	2	16	24	
WI	D	40	59		15 #	18	
WY	D	15	45		10	20	



# Governors

**N O BUSH III FOR WHITE HOUSE?** Almost from the moment President George W. Bush took the oath of office, political observers, pundits and conspiracy theorists alike have opined that FLORIDA Gov. Jeb Bush (R) was being groomed for his own run at the White House in 2008. Not so, according to the man himself. Gov. Bush told a national television audience last week that he has no plans to run for the presidency in 2008, saying, “That’s not my interest. I’m governor of this state. It’s the best job in the world I have.” Bush made the comments to host George Stephanopoulos on the ABC show *This Week*, adding that he intends to return to Miami after his term ends in 2006, but that he has no firm plans after that. Bush has received wide acclaim for how he has handled the state in the aftermath of being hit with four major hurricanes over the last few months, prompting some to believe he would be a good presidential candidate. Others have questioned whether the country would be willing to put a third Bush into the White House. Given the younger Bush’s statements, that appears to be a moot point...at least for now. (NEW YORK TIMES)

## **LAWMAKERS QUESTION EHRlich LAND DEAL: MARYLAND**

Gov. Robert L. Ehrlich Jr. (R) was out of the country last week, but it did not stop him from drawing intense criticism for personally approving a clandestine land purchase by a politically connected construction company owner. Skeptical members of the Senate Budget and Taxation Committee questioned the deal, which could potentially be worth millions of dollars in tax benefits for the buyer, identified as Willard Hackerman, president and CEO of Whiting-Turner Contracting CO., the country’s 14th-largest builder. The complicated deal would require the state to buy 836 acres of forest in Southern Maryland with the intention of immediately selling it to Hackerman at the same price. In exchange, Hackerman promises to donate some land to the county for schools and to leave the rest mostly undeveloped. The details of the proposal were originally worked out in the state’s Dept. of General Services, according to DGS Sect. Boyd K. Rutherford, but were then relayed to Ehrlich, who gave the go ahead to move forward. The deal must be green lighted by the state’s Dept. Of Public works. Although the deal has not yet been approved, Ehrlich is one of the agency’s three board members.

Rutherford also noted that there is no actual guarantee Hackerman will preserve the land. That really rankled lawmakers, who are already upset because the deal was negotiated in secret.



tures state of the art security measures designed to thwart terrorists and thieves. The license is the first in the nation to feature a two-dimensional “Kinegram,” a partially metallized design that looks similar to widely used holograms but has proven to be more resistant to counterfeiting. Until now, Kinegrams have been used only on banknotes, passports, and national identification cards. The new licenses will begin mass distribution in November (BOSTON GLOBE).

**EDUCATION:** Education officials in **NEW MEXICO** announce plans to build an as yet undetermined number of career-technical vocational centers designed to provide high school juniors and seniors with better preparation for attending college or starting a technical career. The centers will be developed in conjunction with the state’s existing two-year colleges (SANTA FE NEW MEXICAN, ASSOCIATED PRESS).

**ENVIRONMENT:** Automated cameras capture pictures of at least two jaguars in Southern **ARIZONA**, leading some environmental groups to call for new habitat protection regulations along the Arizona-Mexico border. Wildlife officials, however, believe the big cats are actually wandering in from Mexico. Officials also note that none of the jaguars caught on film is female, which would be a better indication of a breeding population. No female jag has been officially documented in the Grand Canyon State since 1963 (ARIZONA DAILY STAR). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) endorses a comprehensive plan designed to protect and restore the state’s ocean resources. The plan requires the Golden State to proceed on several measures, including pressuring the federal government to improve national ocean policies, completing a coastal sediment management plan and establishing a high-level ocean council to coordinate state policies (SACRAMENTO BEE).

**HEALTH:** Health officials in **INDIANA** decide not to cut Medicaid reimbursement for in-patient psychiatric care after a study showed it would force at least 10 adult and five pediatric mental health centers to reduce or close their psychiatric units. The planned cut would have lowered the reimbursement to about 60 percent of the actual average cost of care (INDIANAPOLIS STAR). • **KENTUCKY** Gov. Ernie Fletcher (R) signs legislation creating a new health insurance plan for all Bluegrass State school employees, state workers, retirees and dependants. Fletcher called a special session last week to hammer out the new plan, which the Legislature approved on a 132-0 vote. Teachers had threatened a statewide strike if no accord were reached (COURIER JOURNAL [LEXING-



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# Once around the statehouse lightly

**I** T TOLLS [NOT] FOR THEE. That would be ILLINOIS' brand-spanking new ethics law, passed by the Legislature late last year in an attempt to reduce the influence of well-heeled special interests. But as the *Chicago Tribune* reports, a group of lawmakers slipped through a loophole the size of an IMAX screen in order to party hardy at a Puerto Rican resort — with the shindig paid for by 50 Prairie State companies, many of which sent their lobbyists along as party favors. The loophole allows lawmakers to attend “educational missions.” That’s legislator-speak for “junket.”

**IT MAY BE YOU.** Then again, it may not. If the picture on your TEXAS driver’s license doesn’t look quite right, fear not. It isn’t a picture of your past life. According to *The Dallas Morning News*, the Dept. of Public Safety mailed 800 licenses to the wrong address, blaming the error on a mail-sorting machine gone awry. With identity theft a leading cause of heartburn among law-enforcement agencies, a gaffe like this — from the state, of all people — was less than appreciated. To date, about half the errant licenses have been returned.

**KNOCKOUT.** It has all the trappings of a Marx Brothers’ comedy, but Randal Wagner isn’t laughing. Wagner, a COLORADO Republican activist, recently was cited for stealing Democratic lawn signs. Did the police catch him red-handed? More red-faced, notes the *Rocky Mountain News*. Seems Wagner was scampering back to his pick-up truck after snatching a sign when he tripped on a low-hanging driveway chain. The stolen sign apparently wasn’t enough to cushion Wagner’s face when it smacked into the concrete driveway and knocked him unconscious. A 9-1-1 call later, Wagner was loaded into an ambulance and whisked to a hospital, where he was revived, treated, released — and issued a summons.

**IF YOU CAN’T TAKE CARE OF YOUR OWN ...** Budget cuts are the rage these days in cash-strapped state capitals all over the country. Even in Albany, NEW YORK. But one Albany locale seems to have escaped the axe — the Office of Alcoholism and Substance Abuse Services. Specifically, no cuts can



be seen in the office of Deputy Commissioner Robert Bruno. That's because most observers are blinded by the sight of Bruno's décor — which cost the Empire State \$54,000. As detailed by the *Albany Times Union*, the office included a chandelier, potted plants, two candelabra, custom window treatments, two marble statues, a bronze fish, \$9,000 worth of furniture and a partridge in a pear tree. Bruno, by the way, is the brother of Joseph Bruno, the Republican majority leader of the state Senate. But that had nothing to do with the matter.

**DEBT REPAYED.** A bit late, perhaps, but OKLAHOMA Gov. Brad Henry finally paid the debt he owed to KANSAS Gov. Kathleen Sebelius after Kansas State defeated Oklahoma in the 2003 Big 12 championship football game. Never fear. The task assigned to Henry was painless; he had to read a book to students at an elementary school in Manhattan, Kansas. But as the *Lawrence World-Journal* notes, Henry was not allowed to read the book he brought with him to class because Sebelius vetoed "S is for Sooner." Henry read "Duck for President" instead.



— By A.G. BLOCK



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