

November 8, 2010

Pendulum swings right



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The next issue of Capitol Journal will be available on November 15th.

Top Story

Republicans did far better on Election Day than even many pundits predicted. With redistricting on the way, their historic win could change the political landscape for years to come, from statehouses all the way to the White House.

SNCJ Spotlight

Republican's Election Day wave will reshape political landscape

In the realm of state legislative elections, recent history has favored the Democrats. They picked up seats in 2004, 2006 and 2008. And in the last two of those election cycles, they took outright control of 14 legislative chambers that had been led by Republicans and secured split control of two others.

But Republicans changed the course of history last Tuesday. Based on unofficial results, they claimed 18 legislative chambers, including both houses

in six states (see Bird's eye view). Another five chambers — Colorado's House and Senate, New York's Senate, Oregon's House and Washington's Senate — were still undecided last week.

Nowhere was the reversal more dramatic than in New Hampshire. In 2006, Democrats swept every major office in the state, underscoring what appeared to be a generations-long realignment of the Northeast away from the Republicans. But last week, the GOP emphatically won back both houses of New Hampshire's Legislature, netting 100 more seats in the state's 400-member House of Representatives.

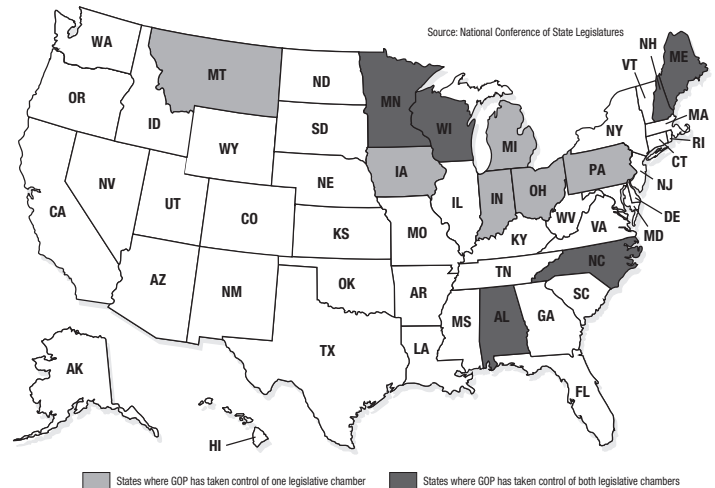
The Republicans also made big gains in the Midwest, claiming Ohio's House, Indiana's House, Michigan's House, Wisconsin's Assembly and Senate, and Minnesota's House and Senate.

And the Party's gains in the South will give it control of a majority of the legislative chambers there for the first time since Reconstruction. As recently as 20 years ago, Democrats held every chamber in the region.

All told, Republicans picked up close to 700 state legislative seats on Election Day, the biggest gain by either party since 1966, bettering even the Democrats' gains in the post-Watergate election of 1974. Republicans will now hold about 3,890, or 53 percent, of the nation's statehouse seats and control at least 54 of the country's 99 state legislative chambers.

As a result of last week's elections, there will be big changes in statehouse leadership next year. According to the National Conference of State Legislatures, there will be at least 17 fewer Democratic House speakers and 13 more Republican ones next session, and at least nine less Democratic and six more Republican Senate presidents. Some sitting Democratic leaders, however, won't have to wait around until then for their colleagues to vote them out of power; eleven, including a speaker, a lieutenant governor, two senate presidents pro tem, six majority leaders and a senate minority leader lost their re-election bids.

Bird's eye view



Republicans make historic gains in state legislatures

Republicans made huge gains in the state legislatures on Election Day, taking over control of 18 chambers in 12 states, including both houses in Alabama, Maine, Minnesota, New Hampshire, North Carolina and Wisconsin, as well as 100 additional seats in the New Hampshire House. Come January, the GOP will lead Alabama's Legislature for the first time since reconstruction, North Carolina's Senate for the first time since 1870 and Minnesota's Senate for the first time in history. And Republicans will hold more legislative seats than they have at any time since 1928.





Some Democratic losses were always expected in this election. In all but two midterm elections since 1902, the president’s party has lost legislative seats. But the Democrats suffered particularly this year because of the state of the economy and what NCSL’s Tim Storey referred to as the “enthusiasm gap” between Democrats and Republicans. Storey said the Republicans’ enthusiasm advantage didn’t just manifest itself in the higher number of GOP voters who showed up at the polls,

“2010 will go down as a defining political election that will shape the national political landscape for at least the next 10 years.”

but also in the higher number of Republican candidates who appeared on the ballot. There were 50 fewer Democratic candidates for state legislative office this year than in 2008, but 822 more Republican ones.

“They stepped up and challenged every conceivable race that they could,” said Storey.

The impact of the GOP gains could be particularly significant next year. With all but a handful of statehouses expected to be controlled by a single party, in states where Republicans are now that party they’ll be able to move aggressively in a conservative direction. More importantly, the Republicans will be in a position in many states to dictate the legislative and congressional redistricting process, tilting the political playing field in their favor for the next decade. With unilateral control of about 190 U.S. House districts, NCSL’s Storey said the GOP is in the best position for redistricting it has been in since the landmark Supreme Court decision *Baker vs. Carr* in 1962 mandated that districts be redrawn every 10 years.

“2010 will go down as a defining political election that will shape the national political landscape for at least the next 10 years,” said Storey. “The GOP, in dramatic fashion, finds itself now in the best position for both congressional and state legislative line drawing that it has enjoyed in the modern era of redistricting.” (NCSL.ORG, STATELINE.ORG)

— *Compiled by KOREY CLARK*

Budget & taxes

VOTERS GIVE FISCAL BALLOT MEASURES MIXED REVIEW:
Anti-government and anti-tax themes may have been embraced by many candidates this election season, but they received a mixed reception from voters on Election Day.

Anti-tax sentiment was strong in WASHINGTON, where voters rejected a ballot measure backed by Bill Gates Sr. that would have created the state’s first income tax,



though limited to high wage earners (Initiative 1098). The state’s voters also rolled back a new sales tax on candy, bottled water and soda (Initiative 1107), and reinstated the requirement of a two-thirds supermajority or statewide vote for tax increases, which lawmakers suspended in February (Initiative 1053).

Indiana voters, likewise, voted overwhelmingly to enshrine property tax caps in the state constitution (Question 1). The caps will limit homeowners’ bills to 1 percent of their homes’ assessed values.

But voters in other states were less tax-averse. Coloradoans, for instance, resoundingly rejected a trio of tax cut measures (Amendment R, Amendment 60 and Proposition 101). Politicians of both major parties had lobbied against the three measures, warning that together they would have slashed \$2.1 billion from the state’s \$7 billion general fund budget.

Voters in Massachusetts, meanwhile, opted not to roll back a recent sales tax increase that might have doubled the state’s projected budget deficit for next year to \$5 billion (Question 3). But they also approved a measure rolling back a new sales tax on alcohol (Question 1).

Voters were equally fickle in California, choosing not to repeal recently enacted business tax breaks (Prop. 24) and lowering the vote requirement for the state Legislature to pass a budget from a two-thirds supermajority to a simple majority (Prop. 25), while simultaneously rejecting an \$18 increase in the vehicle license fee to fund state parks (Prop. 21), barring lawmakers from using local government or transportation funds to balance the budget (Prop. 22) and requiring a two-thirds vote for the Legislature to increase certain state and local fees (Prop. 26). Voters also opted not to legalize and tax marijuana ((Prop. 19), despite the promise of hundreds of millions of dollars in additional revenue for the state, which still faces a \$21 billion deficit.

“The voters gave with one hand and took with the other,” said California Senate President Pro Tem Darrell Steinberg (D).

Arizona lawmakers are in a similar predicament, facing a \$450 million budget gap, since voters rejected two measures they were counting on to balance the state’s books. Those measures would have redirected money from a land-conservation fund and an early childhood development program to the state’s General Fund (Props. 301 and 302).

Florida lawmakers will also be denied money they were hoping for, thanks to voters’ rejection of Amendment 8, which would have saved the state money by relaxing limits on public school class sizes. The measure actually received 54 percent of the vote, but that was short of the 60 percent required for approval. (STATELINE.ORG, SAN FRANCISCO CHRONICLE)

“The voters gave with one hand and took with the other.”



VOTERS MOSTLY OPEN TO

BORROWING: Bond measures on the ballot in several states posed the question of whether state governments are piling up too much debt in an uncertain economy. The answer that came on Election Day was, for the most part, “no.”

Colorado voters overwhelmingly rejected a constitutional amendment that would have barred state and local governments from issuing any debt whatsoever (Amendment 61). Alaska voters approved the largest education bond measure since the state joined the Union in 1959 (Bond Proposition B). And New Mexico voters approved a trio of bond issues for senior citizens centers, libraries and Pre-K and K-12 education facilities (Bond Questions A, B and C), although they narrowly rejected — 50.2 percent to 49.8 percent — a forth for higher education facilities (Bond Question D).

Voters in Washington, however, rejected a \$505 million statewide bond measure to make improvements to public schools and higher education buildings (Referred Bill 52) by a fairly wide margin, 57 percent to 43 percent.

Some analysts attributed that result to circumstances specific to the state, namely a deep voter backlash towards spending and borrowing, evidenced in the outcome of other fiscal-related ballot measures.

“It all goes back to the cliché, ‘all politics is local,’” said Gene Rose, communications director for the National Conference of State Legislatures in Denver. “These measures were viewed in that perspective. People look at how it affects them directly in their state.” (STATELINE.ORG)

— *Compiled by KOREY CLARK*

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: 61

Number of Intros last week: 109

Number of Enacted/Adopted last week: 29

Number of 2010 Session Prefiles to date: 22,446

Number of 2010 Intros to date: 92,015

Number of 2010 Session Enacted/Adopted overall to date: 30,017

Number of 2009-10 bills currently in State Net Database: 191,369

— Compiled By JAMES ROSS
(measures current as of 11/3/2010)
Source: State Net database

Politics & leadership

VOTERS WEIGH IN ON KEY BALLOT ISSUES: While fiscal rather than social issues dominated the 161 ballot measures voters considered on Election Day, a number of key ballot questions not pertaining specifically to fiscal matters were also settled. (For analysis of the fiscal measures see Budget & taxes.)





The highest profile of these measures was California’s Proposition 19, which sought to legalize marijuana for recreational use and which voters rejected 54 percent to 46 percent, according to semi-official election results.

A major factor in that outcome may have been U.S. Attorney General Eric Holder’s declaration that he would “vigorously enforce” federal drug laws in California if voters passed the measure, which undercut claims by proponents that legalization would generate billions of dollars in tax revenues for the state.

“When the U.S. Attorney General talked about the conflict with federal law, that gave people pause,” said Roger Salazar, spokesman for Public Safety First, the No on 19 campaign.

One of Prop. 19’s key backers, Richard Lee, an Oakland marijuana entrepreneur, however, said he will push for another legalization vote in 2012.

“The fact that millions of Californians voted to legalize marijuana is a tremendous victory,” he said in a statement. “Proposition 19 has changed the terms of the debate.... Millions now understand it’s time to develop an exit strategy for the failed war on marijuana.”

California voters also rejected Prop 23, a move to suspend the state’s landmark 2006 law mandating reductions in greenhouse gases until the state’s unemployment rate drops to 5.5 percent for four consecutive quarters. And they took another step toward removing politics from the redistricting process by expanding 2008’s voter-approved Prop. 11, providing for the redrawing of legislative districts by a committee, to include Congressional districts (Prop. 20), while simultaneously denying an effort to repeal Prop. 11 and turn the task of legislative redistricting back over to the state lawmakers (Prop. 27).

Florida voters also approved ballot measures directed at taking politics out of redistricting (Amendments 5 and 6). The Legislature will still have the job of redrawing the districts but lawmakers will now have new standards to follow, such as making districts contiguous and observing existing geographical boundaries where possible.

Voters in Arizona and Oklahoma approved measures aimed at blocking the new federal health care law (Prop. 106 and Question 756, respectively), while voters in Colorado appear to have rejected a similar measure (Amendment 63). Colorado was also the only state with an abortion-related measure on the ballot — Amendment 62, changing the state constitution to define “personhood” as beginning at conception — which voters overwhelmingly rejected. Arizona voters, meanwhile, approved the first affirmative action measure to be placed on a statewide ballot by legislative action rather than a citizens’ initiative: Prop. 107, banning preferential treatment in public employment, education and contracting.

At Issue in the States

Want to learn more about State Net, our legislative experts or the Capitol Journal staff? Visit our blog, <http://statenet.typepad.com/at-issue-in-the-states/>. It’s a great way to find out in a flash what’s going on in statehouses across the country...like yours!

Other notable ballot actions include Maryland's approval of a constitutional convention (Question 1), which no state has held since Rhode Island in 1985 and 1986; Oklahoma's passage of measures making English the state's official language (Question 751) and barring the state's courts from using Sharia or other international law in making decisions (Question 755); Illinois' approval of a process for recalling the governor (Governor Recall Amendment); Vermont's authorization of 17-year-olds to vote in primaries if they turn 18 by the general election (Proposal 5); and Michigan's and North Carolina's passage of measures restricting felons from holding public office (Proposal 2 and the No Felons for Sheriff Amendment). (STATELINE.ORG, NCSL.ORG, SACRAMENTO BEE, BALLOTPEDIA.ORG)

GOP RETAKES U.S. HOUSE BUT NOT

SENATE: Just four years after relinquishing control of Congress, Republicans reclaimed the U.S. House last Tuesday. The GOP crossed the threshold of 39 seats it needed to win the majority in the chamber before midnight and by the next morning had claimed 60 seats, wiping out all the gains Democrats made in 2006 and 2008 and surpassing the 54 seats Republicans won in their 1994 landslide.

But Democratic control of the Senate was also assured late last Tuesday night, when U.S. Sen. Barbara Boxer (D-California) was declared the winner of her bitter contest with former Hewlett-Packard chief executive Carly Fiorina. That result, which blocked Republicans from claiming the 10 seats they needed to take the chamber, meant that for the first time in eighty years, the U.S. House will change hands without the Senate following suit.

The final partisan tally in the Senate remained in doubt late last week, with races too close to call in Washington, where incumbent Sen. Patty Murray (D) narrowly led Republican Dino Rossi, and Alaska, where Sen. Lisa Murkowski (R), waging a write-in campaign, appeared to be leading over tea party favorite Joe Miller, who had defeated her in the GOP primary.

The outcome of other high profile races, however, was clear on Election Day, including tea party favorite Rand Paul's (R) decisive victory over state Attorney General Jack Conway (D) in Kentucky; tea party candidate Marco Rubio's (R) win

The week in session

States in Regular Session: DC, MI, NJ, NY, PA, PR

States in Recess: CA, US

Special Sessions in Recess: CT "a", CT "b", DE "b", NY "w", PA "a"

Upcoming Special Sessions: NY "x" Regarding Education Budget to convene 11/15/2010.

States in Informal Session: MA

States in Skeleton Session: OH

In Pro Forma Session: US Senate

States in Perfunctory Session: IL

States in Veto Session: IL (11/16/2010 - 12/02/2010)

States Currently Prefiling or Drafting for 2011: FL, KY, MT, ND, NH, NV, VA

States Adjourned in 2010: AK, AL, AR, AZ, CO, CT, DE, 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

State Special Sessions Adjourned in 2010: AZ "a", AZ "b", AZ "c", AZ "d", CA "e", CA "f", CA "h", FL "a", HI "d", HI "e", KY "a", MN "a", MN "b", MO "a", MS "a", MS "b", NH "a", NJ "a", NM "a", NV "b", NY "w", OR "a", TN "a", WA "a", WI "b", WV "a", WV "b"

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 11/5/2010)
Source: State Net database



over U.S. Rep. Kendrick Meek (D) and Republican-turned independent Gov. Charlie Crist in Florida; tea party favorite Christine O’Donnell’s (R) loss to Democrat Chris Coons in Delaware in the contest for the seat once occupied by Vice President Biden; and U.S. Rep. Mark Steven Kirk’s (R) win over Alexi Giannoulias (D) in the nasty battle for the seat previously held by President Obama.

Upcoming stories

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

- **2011 Preview**
- **Workforce bullying**
- **Synthetic pot**

One of the few bright spots for Democrats on Election Day was U.S. Senate Majority Leader Harry Reid’s victory over Republican Sharron Angle, whom tea party conservatives across the country had hoped would be able to take down the Senate’s most powerful Democrat. Reid made the rounds on morning TV shows the following day, calling on both parties to try to bridge their differences.

“What we need to do is stop using words like ‘chastened,’ and recognize that all of us who are going to be in the U.S. Senate have to work together,” he told MSNBC.

But U.S. House Speaker-to-be John Boehner (R-OHIO) didn’t sound particularly predisposed to compromise at a Republican victory party in the nation’s capital last Tuesday night.

“Across the country right now, we are witnessing a repudiation of Washington, a repudiation of big government and a repudiation of politicians who refuse to listen to the people,” he said. (WASHINGTON POST)

POLITICS IN BRIEF: As of last Thursday, it appeared **OREGON** Republicans had gained enough legislative seats on Election Day to split the House of Representatives 30-30 and the Senate 15-15 with the Democrats. The state’s Senate was tied as recently as 2003, but both of its chambers have never been tied (STATESMAN JOURNAL [SALEM]). • Conservative activists succeeded in removing three **IOWA** Supreme Court Justices last Tuesday over their 2009 decision allowing same-sex couples to marry. The failure of Chief Justice Marsha Ternus and Justices David Baker and Michael Streit to receive simple majority votes last week marks the first time an **IOWA** Supreme Court justice has not been retained since 1962, when the retention system was adopted (DES MOINES REGISTER).

— *Compiled by KOREY CLARK*

Governors

NEW GOVS FACE SAME OLD MONEY TROUBLES: The faces will soon change...a lot. But as the nation’s more than two dozen new governors will quickly learn, the same deep financial troubles that turned voters



against their predecessors haven't gotten any better, and in fact may soon get much worse.

It is too early to know exactly how much red ink states will face next year, but most of the incoming governors will inherit what some believe will be the most fiscally challenging year states have ever faced.

The National Conference of State Legislatures, for one, estimates a collective budget shortfall for FY 2012 of approximately \$72 billion. The Washington D.C.-based Center on Budget and Policy Priorities places the figure at between \$112 billion and \$140 billion.

That is in the same ballpark as last year, when 46 states had to close a cumulative gap of almost \$125 billion. But while states were able to access significant federal stimulus funds to help ease budget shortfalls for FY 2010, the CBPP notes that stimulus money is rapidly running out, with only about \$60 billion available for 2011 and \$6 billion for 2012.

States of course didn't just rely on federal handouts to keep their ships afloat. Almost all made huge — critics say Draconian — spending cuts, and many raised taxes. But at least half the new governors coming into office have already taken the latter option off the table by signing a “no tax hikes” pledge championed by anti-tax crusader Grover Norquist of the Americans for Tax Reform. Several have in fact gone the other direction, as governors-elect Tom Corbett of Pennsylvania, Nathan Deal of Georgia, and Terry Branstad of Iowa, all Republicans, have proposed cutting their states' corporate taxes by 30-50 percent. Others, such as South Carolina's Nikki Haley, Florida's Rick Scott and Wisconsin's Scott Walker, also all Republicans, want to eliminate them completely.

Many new governors and their supporters point to New Jersey Gov. Chris Christie (R) as the model of governing in the age of record deficits. The confrontational and often bombastic Christie has reveled in taking on teacher unions and Democrats alike, pushing lawmakers to endorse \$800 million in cuts to education and eliminating or dramatically cutting dozens of Garden State programs and agencies. Most important to his acolytes, he has successfully rejected all attempts at raising taxes. The governor's “take no prisoners” style and resistance to tax hikes has earned him both praise and condemnation: the New Jersey press has dubbed him “Governor Wrecking Ball” while ecstatic Republicans are prompting him to challenge Obama for the White House in 2012.

“The governors who ran on no-tax pledges would be well-advised to follow (Christie's) example,” says Curtis Dubay, a tax policy analyst at the conservative Heritage Foundation. “States have been so profligate in their spending for so long that this correction was inevitable.”

But the promises and platitudes of the campaign trail often fade in the reality of governing, and whether any of the incoming Class of 2010 can follow Christie's lead

Upcoming elections

11/04/2010 - 11/25/2010

There are no elections scheduled during the next three weeks.

is yet to be seen. Nevada Gov.-elect Brian Sandoval (R), for instance, will inherit a budget hole that could reach \$3 billion, or approximately 55 percent of the Silver State's two-year budget. Incoming Ohio Gov.-elect John Kasich (R) and New York Gov. Elect Andrew Cuomo (D) will each face budget gaps around \$8 billion, while California Gov.-elect Jerry Brown (D) will deal with a shortfall estimated to be at least \$21 billion next year and \$23 billion the year after. Even Texas, which has heretofore sidestepped much of the national downturn, will face a gap of \$18 billion to \$24 billion in its next two-year budget. With federal money drying up and no end to the economic malaise in sight, it could get even worse. As such, governors and lawmakers may have to consider all of their options, like it or not.

“States have used up the easier solutions to their budget problems. It will certainly be harder than the typical campaign ad might make one think.”

“States have used up the easier solutions to their budget problems,” says Robert Ward, Deputy Director of the Rockefeller Institute of Government at the University at Albany. “It will certainly be harder than the typical campaign ad might make one think.”

Not all governors have sworn off raising taxes, however. California's Brown has been deliberately noncommittal other than to say any tax hikes would have to be voter-approved. No such vagaries exist with Illinois Gov. Pat Quinn (D), who eked out a narrow victory over Republican Bill Brady (R) in spite of pushing a proposal to hike the Prairie State income tax by 33 percent. Illinois faces a budget gap of approximately \$15 billion.

It was a risky move on Quinn's part, given that Brady had vowed to flatly reject any tax hike proposals. But Quinn's message clearly resonated with enough voters to give Dems one of their few bright spots on Election Day.

“He was honest about actually having to increase taxes,” says Chicago resident Derek Rank, who says he voted for Quinn because he felt the governor was being honest about the state's fiscal situation. “If you're saying you can eliminate the hole we're in without raising taxes, you're lying.” (ASSOCIATED PRESS, CHICAGO TRIBUNE, WALL STREET JOURNAL, STATELINE.ORG, CENTER ON BUDGET AND POLICY PRIORITIES, STAR-LEDGER [NEWARK], POLITICO.COM, PHILADELPHIA INQUIRER, RENO GAZETTE-JOURNAL, SAN ANTONIO NEWS, CA INDEPENDENT VOTER NETWORK)

NEW GOVS MAY DERAIL TRAIN PROJECTS: Wisconsin Gov.-elect Scott Walker and Ohio Gov.-elect John Kasich, both Republicans, reiterated their opposition to high speed rail projects in their states, casting doubt on whether the multi-billion dollar projects will get done. Both men have complained that the projects cost too much and are inefficient. Florida Gov.-elect Rick Scott (R) has also questioned the validity of a high speed rail project in his state, which recently



received a \$1.25 billion federal grant for that purpose. Scott says the project will cost twice that much to build.

Although federal dollars will pay for the entire Wisconsin project, Walker says the state cannot afford the \$7 million to \$10 million he believes it will take annually to maintain the system. He wants the Obama administration to let him keep the \$810 million it has already given the state for the rail project but redirect it to use on other transportation infrastructure projects. That may not happen, however, as incumbent Gov. Jim Doyle (D) recently signed an agreement with the feds that requires the state to spend the full allotment of funds on the rail line.

Other newly-elected governors, including Republicans Terry Branstad in Iowa, Rick Snyder of Michigan and Democrat Pat Quinn in Illinois, heartily support rail projects planned or underway in their states. In Minnesota, Democrat Mark Dayton, who holds a narrow lead over Republican Tom Emmer in a race that likely will be determined by recounts and lawsuits, also supports a planned rail project that would connect Minneapolis and St. Paul to Milwaukee and other Wisconsin cities. Emmer opposes the plan. (WALL STREET JOURNAL, NEW YORK TIMES, MINNEAPOLIS STAR TRIBUNE)

WOMEN MAKE GUBERNATORIAL STRIDES: Oklahoma, South Carolina and New Mexico each elected their first female governors last week. Two of the three — New Mexico Gov.-elect Susana Martinez and South Carolina Gov. Nikki Haley — also established cultural firsts, becoming the first women of Hispanic and Indian-American heritage, respectively, to win the governor’s office. All three are Republicans. Both candidates in Oklahoma and New Mexico were women, only the third and fourth times that has happened. Ironically, the nation’s highest profile female gubernatorial candidate, California GOP nominee Meg Whitman, lost decisively in spite of spending more of her own money, \$161 million, than any other predominantly self-funded candidate in U.S. history. (LOS ANGELES TIMES)

GOVERNORS IN BRIEF: Fresh off a lopsided re-election win and the release of a new book that bashes all things federal government-related, **TEXAS** Gov. Rick Perry (R) emphatically denied he has plans to run for president in 2012. Perry said he has “the greatest job” in the world already (FORT WORTH STAR-TELEGRAM). • **ALABAMA** Gov.-elect Robert Bentley (R) said his top priorities include dissolving current Gov. Bob Riley’s (R) task force on illegal gambling and passing ethics legislation to rein in lobbyists and make sure voters know where candidates are getting their campaign money (MONTGOMERY ADVERTISER). • **WEST VIRGINIA** Joe Manchin (D) easily won election to the U.S. Senate last week. He will be replaced on a temporary basis by state Senate President Earl Ray Tomblin (D).

In case you missed it

Pollsters and pundits were correct: Republicans enjoyed historically major gains across the nation on Election Day. But with voters angry and demanding results long after the races are over, giddy Republicans should be careful what they wish for.

In case you missed it, the article can be found on our Web site at http://www.statenet.com/capitol_journal/11-01-2010/html



Legislative leaders say either they or the courts will now have to quickly determine how long Tomblin can be in the position. Under the current system, he would serve simultaneously both in the Legislature and as acting-governor (CHARLESTON GAZETTE).

— *Compiled by RICH EHISEN*

Hot issues

B **USINESS:** The Obama administration announces winners for \$1 billion in federal biotechnology tax credits and grants. The awards, which are part of the American Reinvestment and Recovery Act, will be distributed to almost 3,000 companies nationwide (NASDAQ.COM).

HEALTH & SCIENCE: Two federal courts rule that the Obama administration is using overly strict standards to determine whether Medicare will cover nursing home care and home health care for older recipients. The two courts, one in **CONNECTICUT** and another in **VERMONT**, determined that Medicare will pay for those services if they are needed to maintain a person’s ability to perform routine daily activities or to prevent deterioration of a person’s condition. Medicare beneficiaries also do not have to prove that their condition will improve, as government officials often demand in order to approve coverage. Federal officials are weighing an appeal (NEW YORK TIMES).

SOCIAL POLICY: Welfare officials in **CALIFORNIA** set strict new limits on where state-issued welfare debit cards may be used. Officials said ATMs and point-of-sale card readers will be removed from medical marijuana shops, race tracks, bars, psychics, massage parlors and numerous other businesses whose services have been deemed “inconsistent” with the goals of the program. In June, officials removed in-state card rooms and casinos from the list. That was followed last month by the removal of out-of-state casinos (LOS ANGELES TIMES). • Still in **CALIFORNIA**, the Ninth U.S. Circuit Court of Appeals allows the U.S. military services to continue discharging openly gay and lesbian troops until at least next spring while the court reviews a challenge to the “don’t ask, don’t tell” law. The ruling extends a temporary stay that the court granted Oct. 20 after a federal judge declared the law unconstitutional (SAN FRANCISCO CHRONICLE).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

GARBAGE IN, GARBAGE OUT: Times are tough and workers everywhere are being asked to do more with less. Case in point, reports the *Wall Street Journal*, is the number of government entities that now ask their workers to empty their own office trash baskets. As the *WSJ* notes, by getting its 20,000 state workers to haul away their own garbage, Texas has sliced \$825,000 off its annual labor costs. While that is only a sliver of the Lone Star State's two-year \$182 billion budget, officials hope the policy will convince workers to generate less trash to begin with, and to recycle more as well. The program is even expected to make an additional \$35,000 a year in recycling returns and save another \$45K by diverting those items from the trash. But don't pat lawmakers on the back too hard. The Legislature and governor's office are not included in the new plan.

JUMPING THE GUN: When the Texas Rangers and San Francisco Giants met in the World Series last week, Texas Gov. Rick Perry wasted no time in making a wager with his California counterpart in on the series' outcome. Well, except that the bet wasn't actually made with Gov. Arnold Schwarzenegger, but with Republican gubernatorial candidate Meg Whitman, who was seeking to replace the termed-out "Governator." The somewhat odd wager has roots in two circumstances: Perry's friendly relationship with Whitman and his disharmonious one with Schwarzenegger. Whitman of course won the bet — the Giants took the Series in five games, earning her a pair of authentic Texas cowboy boots — but in spite of spending over \$160 million of her own money, she lost the election.

CAN SHE CALL BARBIE AS A CHARACTER WITNESS? Tort reform has long been a hot issue for lawmakers, particularly those of the GOP persuasion. With Republicans set to enter statehouses in record numbers after Tuesday's landslide elections, odds are pretty good a case now underway in New York will get some play in the upcoming session. As Reuters reports, a New York Supreme Court Justice has ruled that a wrongful death suit may go forward against Ms. Juliet Breitman, who is accused of negligence for running her bicycle into an elderly woman two years ago. The 87-year-old victim broke a hip and eventually passed away. The judge recently rejected a request to dismiss the case, even though Ms. Breitman was just 4 years old at the time of the accident. Breitman, now 6, had no comment.



THE GHOST OF LEBRON: Professional sports can be ruthless, but the play-for-pay crowd has nothing on the political arena. Case in point comes from Ohio, where the *Cleveland Plain Dealer* notes an anti-gun group's use of former Cleveland Cavaliers star LeBron James in a mailer attacking Attorney General Richard Cordray. The group, Americans United for Safe Streets, was hacked off at Cordray for accepting Florida concealed carry gun permits in Ohio, arguing that the Sunshine State is far more lax in who it allows to carry firearms. To wit, their flyer featured a cover photo of James — who became persona non grata in the Buckeye State after leaving the Cavs to sign with the Miami Heat — with the question, “Florida took LeBron. What did we get in return?” The answer: illegal guns and criminals! All of which was of course blamed on Cordray...who lost his re-election bid. Slam dunk!

— By *RICH EHISEN*

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©2008 State Net ISSN: 1521-8449



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