

November 14, 2011

## Mixed Messages



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The next issue of Capitol Journal will be available on November 21st.

### Top Story

*Voters didn't hand either conservatives or liberals an outright victory on Election Day that might have portended things to come in next year's full election slate.*

## SNCJ Spotlight

### Voters send mixed signals in off-year elections

There were wins for liberals and conservatives alike in last Tuesday's smattering of state elections. But voters didn't hand either side an outright victory on the day that might have portended a big shift to the left or the right in next year's full election slate.

In the last off-year election, in 2009, Republicans claimed the governors' mansions and a handful of legislative seats in the two states that held general elections, New Jersey and Virginia, a minor swell that preceded the GOP wave

in 2010, when Republicans took control of 18 state legislative chambers and the U.S. House.

Republicans did just as well last week in a couple of states. In Mississippi they won every statewide office on the ballot except attorney general — which incumbent Democrat Jim Hood retained — and they were close to winning control of the state House for the first time since Reconstruction. They also expanded their number in the Virginia House of Delegates to a two-thirds majority (66-32) and appeared to have at least pulled to a 20-20 tie with the Democrats in the Senate, giving them effective control of that chamber, with Republican Lieutenant Gov. Bill Bolling able to cast tie-breaking votes. If the results in the Virginia

Senate hold and at least one of the two undecided House races in Mississippi go the GOP's way, the Party will control all but two of the 22 legislative chambers in the Deep South, all of which were held by the Democrats just two decades ago. (Only Arkansas' House and Senate would remain under Democratic control.)

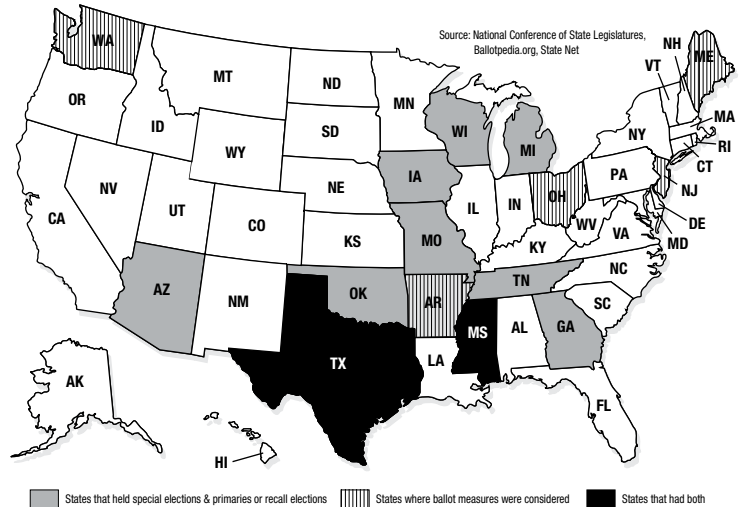
But in Kentucky, Republicans' only statewide win was in the race for agriculture commissioner. They also lost the highest profile race of the day, Arizona's recall election for Senate President Russell Pearce (R), sponsor of the state's controversial anti-immigration law, who seemed resigned to defeat even before the official results were in.

"It doesn't look like the numbers are going my direction on this, and I'm OK with that," he said. "I'm grateful for the friends, families and patriots who have stood by me."

Republicans won the recall race too, however; Pearce's District 18 seat went to a fellow Republican, Jerry Lewis, who said his victory would bring "a fresh voice to Mesa and a civil tone to politics."

But there was no such immediate consolation prize for Republicans in Michigan, where voters recalled GOP state Rep. Paul Scott, who had been targeted by the state's teachers unions for his votes on education funding and teacher benefits as chair of the House Education Committee. A recount is possible, however, although Scott said he

## Bird's eye view



### Legislative races in 12 states, ballot questions in seven

Twelve states held legislative elections last Tuesday. All of Mississippi's, New Jersey's and Virginia's statehouse seats were contested. The races in the other nine states were special elections and primaries, including recalls for two state lawmakers: Arizona Senate President Russell Pearce (R) and Michigan Rep. Paul Scott (R). In addition, voters in seven states considered ballot measures.





does not intend to pursue that option. Unless he changes his mind, a special election to fill his seat for the remainder of his term, which runs through December 2012, will be held on February 28th.

Democrats, meanwhile, in addition to winning virtually every statewide office in Kentucky, picked up a seat in the New Jersey Assembly and won a special election in Iowa — if largely on the name recognition of their candidate, Liz Mathis, a television news anchor — allowing them to hold on to their 26-24 edge in the Senate there.

The mixed results carried over to ballot measures as well. Ohioans, for instance, voted 61 percent to 39 percent to overturn the state’s restrictive new collective

bargaining law, SB 5, a sharp rebuke to first-year Gov. John Kasich (R), who championed the measure (Issue 2).

“It’s clear the people have spoken,” the chastened governor said after the vote. “I heard their voices. I understand their decision. And frankly, I respect what the people have to say in an effort like this.

**“I heard their voices. I understand their decision. And frankly, I respect what the people have to say in an effort like this.”**

And as a result of that, it requires me to take a deep breath and to spend some time to reflect on what happened here.”

But Ohio voters also approved Issue 3, exempting residents of the state from federal health insurance mandates, a repudiation of President Obama’s health reform law.

Voters in Mississippi, likewise, passed a measure requiring voters to show photo ID at the polls (Initiative 27), but they also rejected Initiative 26, the so-called “personhood” amendment, which would have prohibited abortion “from the moment of fertilization,” a direct challenge to *Roe v. Wade*. Many had actually expected the abortion measure to pass, and although personhood backers working to get similar initiatives on the ballot in California, Florida, Montana, Nevada, Ohio and Oregon next year said that even in defeat the measure generated considerable support for their cause, they clearly didn’t get the lift in Mississippi they were likely anticipating.

If any conclusions about national voter sentiment can be drawn from last week’s results — a dicey proposition in any election year given the dictum “all politics is local,” but even more so in an off year when there are so few races — one may be that voters don’t have a clear preference for either major party. The broad disapproval ratings of both Republican and Democratic members of Congress in national polls would tend to support that view.

The elections also appear to suggest voters aren’t in the mood for major policy changes, especially those that seem particularly partisan, such as Ohio’s SB 5, Mississippi’s Initiative 26 and Arizona’s SB 1070, although the phantom Democratic candidate fielded in the latter state’s resulting recall race may have contributed to Sen. Pearce’s ultimate defeat along with his hard-line stance on immigration (see SHENANIGANS UNCOVERED IN AZ RECALL RACE in October 17th issue of



SNCJ). Another state where that sentiment seems to have prevailed is Maine, where voters overturned a law ending same-day voter registration, which had been allowed there since 1973.

But there were at least a couple of notable exceptions to the trend among last week's voters toward opposing big policy shifts. In Washington voters opted to pull their state out of the liquor business and turn over the sale of alcohol to grocery stores and wholesalers (Initiative 1183). The \$22.5 million Costco poured into the race was undoubtedly a factor in the measure's convincing 60 percent approval rate, which could give momentum to privatization efforts elsewhere.

"The whole idea of privatization will be discussed in Oregon this next year," said Paul Romain, a lobbyist for the Oregon Beer and Wine Distributors Association. "The issue is going to be very much alive."

New Jersey voters also supported a major policy shift, overwhelmingly approving Public Question 1, allowing sports betting in the state, the first step in an attempt to overturn the federal ban on such betting in every state but Delaware, Montana, Nevada and Oregon.

"The voters beat the over-under," said state Sen. Raymond Lesniak (D), who is spearheading the sports wagering effort. "It was a bigger win than we expected. There's a strong momentum to fight the federal ban in New Jersey."

Still, Alan Abramowitz, a political scientist at Emory University in Atlanta, said there may be a lesson in Election Day 2011 for conservatives going into next year's presidential race.

"Ultimately, these results don't tell us very much," he said, "but there is a hint here that if the Republicans nominate a [presidential] candidate seen as too extreme, too far to the right, that could be damaging."

There may be a lesson for both liberals and conservatives too: next year's battle for control of the nation's statehouses, Congress and the presidency could be a close contest.

(STATELINE.ORG, SEATTLE TIMES, OREGONIAN [PORTLAND], DES MOINES REGISTER, CLEVELAND PLAIN DEALER, HATTIESBURG AMERICAN, BANGOR DAILY NEWS, STAR-LEDGER [NEWARK], COUNCIL OF STATE GOVERNMENTS, BALLOTPEDIA.ORG, CHRISTIAN SCIENCE MONITOR)

— *Compiled by Korey Clark*

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# Budget & taxes

**SUPPORT GROWS FOR ABOLISHING INCOME TAXES:** On September 24th, 1980 then-Alaska Gov. Jay Hammond (R) signed a bill into law abolishing the state’s personal income tax. In the 31 years since, not a single governor has duplicated that action. But that trend could soon be coming to an end.

Last month, backers of a constitutional amendment to eliminate Missouri’s personal income tax began collecting signatures to place an initiative on next year’s ballot. In Oklahoma, a legislative task force studying taxes is expected to announce its recommendations by January, but its co-chairs have already said they’d like to eliminate the state’s income tax. And Kansas Gov. Sam Brownback (R) is expected to propose cutting income taxes — perhaps with the intent of eventually getting rid of them altogether — within weeks.

Forty-one states currently impose broad taxes on personal income. (The nine states that don’t are Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington and Wyoming.) With those taxes accounting for about 40 percent of states’ general fund revenue, lawmakers have rarely given serious thought to getting rid of them. Alaska abolished its income tax only after the Trans-Alaska Pipeline began pumping billions of dollars of new revenue into state coffers.

With conservative majorities having taken over many state legislatures in recent years, however, the idea has gained in popularity. Missouri’s House voted to eliminate both personal and corporate income taxes in 2009. And this year Kansas’ House voted to gradually phase out its personal income tax (SB 1).

The argument in these states has been that if other states can get by without an income tax, why can’t they?

“If you look over the last 50 years there have been 10 states that implemented income taxes and it’s been just destructive to their economic growth,” said Missouri state Rep. Andrew Koenig (R). “The no income tax states are winning.”

The thing that has derailed the income tax elimination efforts, however, is the need to address the resulting loss of revenue by drastically cutting state services or increasing other levies such as sales or corporate taxes, either of which tend to draw powerful opposition.

The constitutional amendment being circulated in Missouri relies on the latter approach, proposing to phase out the personal income tax by 2016 and increase sales taxes. One of its main opponents is the Missouri Association of Realtors, whose members’ transactions are currently exempt from taxation.

“When the legislature is confronted with what we believe would be a \$2.5 billion revenue shortfall in this economy,” said Scott Charton, a spokesman for Missourians for Fair Taxation, another opponent of the initiative, “nobody’s exemption is safe.”



Oklahoma lawmakers have raised concerns in that state’s business community by suggesting they might try to balance an income tax cut by eliminating favorable treatment of businesses in the tax code.

“You can’t keep giving away the store and stay open,” said Oklahoma Rep. David Dank (R), co-chair of the state’s tax reform task force.

Others are worried about the effect eliminating the income tax would have on the poor. Like most state’s income tax, Oklahoma’s is progressive, while sales taxes are regressive, hitting the poor hardest.

Kansas’ Gov. Brownback seems to be seeking an alternate path that avoids those pitfalls. He is reportedly finalizing a plan that relies on revenue growth to slowly reduce income tax rates over time.

“I know he’s a smart man and I know he realizes it’s not going to be an easy quick fix,” said Sen. Les Donovan (R), who has consulted with the governor on his proposal. “It’s going to be a long, slow slog in that direction.”

Donovan isn’t alone in recognizing the challenge facing tax reform supporters.

“What we have to do is approach this taxation discussion responsibly and analytically and not ideologically,” said Oklahoma State Treasurer Ken Miller. “We’ve been talking about this for years. Now we can actually accomplish it. It’s that, ‘Be careful what you wish for, you might get it.’” (STATELINE.ORG)

**AL COUNTY FILES \$4B BANKRUPTCY:** Last week Jefferson County, Alabama claimed the dubious distinction of being the locus of the largest municipal bankruptcy in U.S. history. The county’s \$4 billion filing was more than double

that of previous record holder Orange County, California’s \$1.7 billion filing in 1994.

Jefferson County’s crushing debt stemmed from ill-conceived efforts to finance a court-ordered overhaul of its sewer system that relied

on complicated debt instruments and derivatives, which failed in 2008. The County Commission’s president, David Carrington, said bankruptcy was the county’s only option.

“The county has negotiated extensively and in good faith with its creditors,” he said. “Those negotiations have not produced a deal that fairly treats the county and its citizens, and there is no reason to believe that further out-of-court negotiations will lead to a fair, acceptable result.” (NEW YORK TIMES)

## 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: 162**

**Number of Intros last week: 479**

**Number of Enacted/Adopted last week: 161**

**Number of 2011 Prefiles to date: 38,367**

**Number of 2011 Intros to date: 136,337**

**Number of 2011 Session Enacted/Adopted overall to date: 46,862**

**Number of Measures currently in State Net Database: 155,976**

— Compiled By OWEN JARNIGAN  
(measures current as of 11/9/2011)  
Source: State Net database

**“You can’t keep giving away the store and stay open.”**

State Net Capitol Journal®



**BUDGETS IN BRIEF:** Another stand-alone piece of President Obama’s \$447 billion jobs bill fell by the wayside this month, when the U.S. Senate failed to advance a proposal (SB 1436) to spend \$50 billion on transit improvements and \$10 billion on an infrastructure bank to spur private construction investment. The vote was actually 51 to 49 in favor of the measure, but that was short of the 60 votes needed to move the proposal on to a full debate in the chamber (WASHINGTON POST). • **IOWA** Gov. Terry Branstad (R) said last week he is dropping plans to seek a gas tax increase in the 2012 legislative session. He said he will instead ask Iowa Department of Transportation Director Paul Trombino to look for nearly \$50 million in cost-savings over the next year (DES MOINES REGISTER). • More than half of the states have cut their mental health budgets since the start of the recession while the economic slump has only increased demand for such services, according to a report by the National Alliance on Mental Illness. Four states — **ALABAMA, ALASKA, ILLINOIS** and **SOUTH CAROLINA** — have cut their mental health budgets by over 30 percent (KAISER HEALTH NEWS).

## Upcoming stories

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

- **Online sales tax**
- **Health care**
- **The economy**

— *Compiled by KOREY CLARK*

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# Politics & leadership

**OREGONIANS IVOTE IN SPECIAL ELECTION:** Last Tuesday, Oregon — the first state to allow all of its residents to vote by mail — became the first to allow residents to vote by iPad. A pilot program enabled 89 disabled residents to cast their votes in the state’s November 8th special election with the Apple tablet computers, which unlike traditional paper ballots offered them the ability to enlarge the font or simply tap on their chosen candidate.

Secretary of State Kate Brown said the state was going to move full speed ahead with using the iPads in the January special general election. And the state’s elections director, Steve Trout, said his office had received “calls and inquiries from throughout the country” asking for information about Oregon’s program and how to institute it.

But the two election officials said there were still a few glitches to work out with the program. One is internet connectivity on Election Day.

“We obviously want to make it available to all Oregonians, and we have some very rural areas,” said Brown. “We need to make sure we have the ballots downloaded on the iPads to make sure we don’t need Internet connectivity.”

Other issues include figuring out how to physically bring the iPads and voters together and how to wirelessly print out ballots that are compatible with the state's vote tallying machines. Last week election workers had to duplicate wirelessly printed ballots so they could be counted properly.

Before January, election officials also intend to tackle the minor issue of resetting the default date of birth on the devices from 2011 to somewhere between 1920 and 1930, since most voters using the service are 60 and over.

"They had to scroll quite a ways to their birth year," Trout said.

And on an ongoing basis, he and Brown will have to figure out how to come up with \$36,000 for the 72 iPads they estimate they'll need. The iPads they're currently using are loaners from Apple that have to go back after the January election. (POLITICO, ASSOCIATED PRESS)

**NY UNION VOTE AVERTS LAYOFFS:** Five weeks ago, New York's second largest union of public workers, the Public Employees Federation, rejected a package of wage and benefit concessions sought by Gov. Andrew M. Cuomo (D), prompting the administration to begin issuing layoff notices to 3,500 workers. This month the union voted overwhelmingly to accept virtually the same deal, averting those job cuts.

"Cooler heads prevailed," Cuomo said at a news conference shortly after the vote.

The fact that the governor agreed to shorten the length of the labor contract from five years to four and to change how workers are compensated for furlough days may have helped cool heads. So too might the aggressive public relations effort mounted by union leaders. But what may have had the biggest impact on union members is seeing their colleagues receive pink slips, instead of just hearing the number 3,500 in the abstract.

"We had names and faces and agencies and work locations to put with that number," said Tom Comanzo, a vice president and contract chairman for the federation. (NEW YORK TIMES)

**POLITICS IN BRIEF:** A federal jury acquitted MARYLAND state Sen. Ulysses Currie (D) of all charges for accepting over \$245,000 in payments from a

## The week in session

**States in Regular Session:** DC, MA, MI, PR, US

**States in Recess:** CT, NC, NH, NJ, NY, OH, PA, RI

**States in Special Session:** ND "a", NE "a", WI "c", WV "c"

**Special Sessions in Recess:** DE "b", VA "a"

**States Currently Prefiling or Drafting for 2012:** AL, FL, KS, KY, ME, MT, OK, TN

**States Adjourned in 2011:** AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, ND, NE, NM, NV, OK, OR, PR, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY

**State Special Sessions Adjourned in 2011:** AK "a", AK "b", AL "a", AZ "a", AZ "b", AZ "c", CA "a", CT "a", DE "a", GA "a", KY "a", LA "a", MD "a", ME "a", MN "a", MO "a", MS "a", NM "a", SD "a", TX "a", UT "a", UT "b", UT "c", WA "a", WI "a", WI "b", WV "a", WV "b"

Letters indicate special/extraordinary sessions

— Compiled By OWEN JARNIGAN  
(session information current as of 11/10/2011)  
Source: State Net database



grocery store chain while chair of the powerful Budget and Taxation Committee. Currie and two executives of Shoppers Food Warehouse were indicted last year on charges that included bribery, extortion, conspiracy and making false statements to the FBI. Currie still faces ethics proceedings in the General Assembly that could lead to his expulsion (CAPITAL [ANNAPOLIS], WASHINGTON POST). • Democrats in the U.S. House sent a letter to secretaries of state in all 50 states this month asking them to oppose new voter ID laws because they threaten many Americans' right to vote. "Today we are witnessing a concerted effort by Republican lawmakers across several states to place a new obstacle in front of minorities, low-income families and young people who seek to exercise their right to vote," Steny Hoyer, the No. 2 Democrat in the House, said at a news conference (WASHINGTON POST).

— *Compiled by KOREY CLARK*

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# Governors

**B**ESHEAR, BRYANT FACE BIG CHALLENGES: Kentucky Gov. Steve Beshear (D) and Mississippi Lt. Gov. Phil Bryant (R) kept their governors' offices from switching party control last week. With the rigors of their campaigns now over, each must now face the challenge of leading states suffering from high unemployment and facing pending budget shortfalls.

Beshear easily defeated his GOP challenger, Senate President David Williams, garnering 56 percent of the vote. Independent Gatewood Galbraith tallied 9 percent. Bryant also coasted to victory, defeating Hattiesburg Mayor Johnny Dupree 59 percent to 41 percent. He will replace termed-out Gov. Haley Barbour (R).

The Mississippi race was notable for multiple reasons: no Magnolia State Republican governor had succeeded another Republican in 125 years, while Dupree was the first black candidate in Mississippi to win nomination for statewide office for one of the major parties.

Bryant has made adopting a performance-based budget a top priority. He wasted little time in announcing his agenda, revealing his "Smart Budget Act" proposal just one day after the election. Under that plan, budgets for state agencies would be dictated according to how well they meet their mission and goals. Bryant said he will also introduce education legislation called "Learn to Earn," which would allow students to enroll in both high schools and community colleges. He additionally vowed to create a regulatory review committee to improve business laws.

Beshear promised throughout his campaign to expand gaming in the Bluegrass State, saying it would spur job growth and generate more revenue for the state General Fund.



The election wins for Bryant and Beshear came barely a week after Louisiana Gov. Bobby Jindal (R) rolled to victory in the Pelican State, defeating his nearest challenger, Democrat Tara Hollis, by a 66 percent to 18 percent margin. Jindal ended his re-election bid with over \$4 million left in his campaign account, sparking speculation he would seek a third term somewhere down the road. Louisiana law allows a governor to serve only two consecutive terms; after that, he or she must take a four-year break before running again.

Voters last month also retained West Virginia Gov. Earl Ray Tomblin (D), who had succeeded former Gov. Joe Manchin (D) after he was elected to the U.S. Senate. Bryant and Beshear's victories last week ensured that no governorship changed party hands in 2011. (NECN.COM [BOSTON], HATTIESBURG AMERICAN, COURIER-JOURNAL [LEXINGTON], WLBT.COM [JACKSON], NEW YORK TIMES, USA TODAY, NATIONAL JOURNAL, TIMES-PICAYUNE [NEW ORLEANS], CLARION-LEDGER [JACKSON])

**CORBETT MAJOR PLAYER IN PSU OUSTERS:** People involved in the ongoing child abuse scandal at Penn State University say Pennsylvania Gov. Tom Corbett (R) played a key role in the removal of the school's legendary head football coach Joe Paterno and university President Graham Spanier last week. The PSU campus had been rocked by charges that former assistant football coach Jerry Sandusky had molested a number of young boys, with some of those attacks alleged to have taken place on the campus grounds.

Corbett's involvement in the case actually began in 2009, when as the state attorney general he began an investigation into allegations not only of the attacks but that the university was acting to cover them up. Corbett had to keep his intimate knowledge of that query to himself during his gubernatorial campaign, and again after charges were filed on November 4<sup>th</sup>.

Once the case became public, pressure immediately began to build to remove Spanier and Paterno, who had ran the school's highly successful -- and lucrative -- football program since 1966. As one of the school's 32-member Board of Trustees, Corbett kept his public comments to a minimum. But behind the scenes, observers say he made his feelings clear. According to those observers, Corbett called multiple members, including Vice Chairman John P. Surma, the chief executive of U.S. Steel, and told them that the country was watching and that the issue was about more than a football program. He insisted that a change at the top was necessary, including the iconic Paterno. He also announced he would attend the Board's next scheduled meeting, something he had not previously done.

## Upcoming elections

11/10/2011 - 12/1/2011

11/19/2011

### **Louisiana General Election**

House (All)

Senate (All)

Constitutional Officers: Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General, Commissioner of Agriculture and Forestry, Commissioner of Insurance

11/29/2011

### **Alabama Special Election**

House District 45



Corbett addressed the media a few days later, but declined to offer many specifics about the closed-door discussion. He did make clear, however, that he had wanted Paterno and Spanier to be gone.

“I support the board’s decision,” Corbett said. “Their (Paterno and Spanier) actions caused me to not have confidence in their ability to continue to lead.” (NEW YORK TIMES, PITTBURGH TRIBUNE-REVIEW)

**BENTLEY WANTS AL IMMIGRATION LAW CHANGES:** Alabama Gov. Robert Bentley (R) said the state’s tough new immigration law is too complicated and lawmakers should make an effort to simplify it when they return in February. Addressing a group of hundreds of elected officials and Heart of Dixie business leaders, Bentley did not say what portion of the law he will ask lawmakers to address, but he indicated the basic aspects of the measure won’t change.

“We’re going to keep the essence of this bill that has already been upheld in federal court,” he said. Bentley spokesperson Rebekah Mason later reiterated the

governor’s stance, saying “If you are going to live and work in Alabama, and if you are going to hire workers, they must be legal. He feels like the bill was complicated from the beginning.”

**“We’re going to keep the essence of this bill that has already been upheld in federal court.”**

Sen. Scott Beason, (R), one of the sponsors of the law, said he had spoken with

the governor and considered the changes to be “housekeeping” measures.

As signed by Bentley, the law made it a crime to be in the state unlawfully and required immigrants to carry documentation with them at all times. Among many things, the law also allowed law enforcement officers to detain those they had “reasonable suspicion” of being in the country unlawfully, nullified contracts made with undocumented residents and required schools to collect information on the immigration status of students. The federal government and others sued to block the law, but a federal court has allowed most of it to go into effect. (BIRMINGHAM NEWS, MONTGOMERY ADVERTISER)

**HICKENLOOPER PUSHES CHANGES IN CO PERSONNEL SYSTEM:** Colorado Gov. John Hickenlooper (D) is considering a push for major reforms in how the Centennial state hires and fires public employees. Hickenlooper says major changes are needed to help the state attract and retain good employees.

“Our effort is to make sure that we take advantage of the experience and talent of our workforce, but at the same time, we create the flexibility within agencies that we can manage the enterprise — whatever it is — for maximum success,” he said. “I think there’s a sweet spot in there someplace where we can get the interests of the workforce and the interests of the state aligned.”



The governor did not lay out any specific proposals, but said “everything is in discussion.” He is thought to be looking at issues ranging from existing limitations on the number of candidates that can be considered for a job to “bumping rights” that guarantee senior employees who get laid off can push less-senior workers out of their positions.

Several attempts have been made to change the state’s current system, which came into being in 1918. Designed to overcome political cronyism and patronage, much of the system’s rules were encoded in the state constitution. That has made changing things particularly tough, with the last revision coming in 1970. A 2004 ballot measure that would have overhauled the system failed miserably, with 60.2 percent of voters rejecting it. (DENVER POST)

## In case you missed it

Almost two years after the Affordable Care Act became law, the Supreme Court is expected to decide this week if it will indeed be the final arbiter of the most sweeping and controversial health law in a generation.

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

[http://www.statenet.com/capitol\\_journal/11-07-2011/html#sncj](http://www.statenet.com/capitol_journal/11-07-2011/html#sncj)

**GOVERNORS IN BRIEF:** The governors of **COLORADO, OKLAHOMA, WYOMING** and **PENNSYLVANIA** signed a memorandum of understanding last week that pledges to replace some of their aging gasoline-powered vehicle fleets with those running on compressed natural gas. The MOU also calls for an expansion of natural gas fueling infrastructure as well ensuring the final cost of adding natural gas vehicles to the states’ fleets is economically equivalent to gasoline powered vehicles (DENVER POST). • The U.S. Army Corps of Engineers announced it will change its approach to managing the Missouri River, including getting as much water out of the river basin’s reservoir system as possible before spring and aggressively releasing more water in the spring, if needed. The Corps plan came in response to calls from governors in **IOWA, MISSOURI, NEBRASKA, KANSAS** and **NORTH DAKOTA** to lower levels to help prevent future floods similar to those last summer that caused billions of dollars in damage in their states. **MONTANA** Gov. Brian Schweitzer (D) had voiced opposition to lowering the reservoirs, saying it would harm his state’s ability to manage droughts (NEWS-TRIBUNE [JEFFERSON CITY]). • **ARIZONA** Gov. Jan Brewer (R) has set up a federal political action committee, dubbed Jan PAC, with the intention of supporting GOP candidates for Congress (EAST VALLEY TRIBUNE [MESA]). • **NEW HAMPSHIRE** Gov. John Lynch (D) turned down an invitation to pitch his proposed constitutional amendment on school funding to the state House of Representatives on November 30th. Speaker of the House William O’Brien (R) said he would offer Lynch an opportunity to address the House about the plan, but Lynch said he wants to present his plan to the entire Legislature during his State of the State address in January (UNION LEADER [MANCHESTER]). • **CALIFORNIA** Gov. Jerry Brown (D) said he would officially ask the Legislature to approve \$2.7 billion in bonds to begin construction of the first leg of what will be a statewide high-speed rail line. The project’s first phase would also tap into \$3.3 billion in federal matching funds. The state’s High-Speed Rail Authority recently





estimated the line will cost \$98 billion to complete (LOS ANGELES TIMES). • **MINNESOTA** Gov. Mark Dayton (D) proposed giving all Gopher State veterans access to job training programs through the GI Bill. Under current state law, only veterans who served after the September 11th attacks and the families of deceased or certain disabled veterans are eligible for state job training grants that range up to \$10,000 (BRAINERD DISPATCH).

— *Compiled by RICH EHISEN*

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## Hot issues

**B** **USINESS: WISCONSIN** Gov. Scott Walker (R) signs nine transportation bills that collectively eliminate a wide range of regulation for large trucks operating on Badger State roads. The bills include AB 253, which allows trucks to carry utility poles, pipes and girders up to 65 feet in length for a single vehicle and 120 feet for a two-vehicle combination without obtaining a special load permit; AB 254, which increases the maximum length of single vehicles without a permit from 40 to 45 feet; AB 267, which allows for certain three-vehicle combinations on highways without a permit; and SB 223, which allows the state Department of Transportation to issue overweight permits for vehicles with six or more axles transporting certain agricultural products (POST-CRESCENT [APPLETON]).

**CRIME & PUNISHMENT:** The **WISCONSIN** Legislature gives final approval to AB 69, so-called “castle doctrine” legislation that would require courts in most criminal and civil matters to presume that property owners using deadly force had acted reasonably against anyone unlawfully inside their residence, business or vehicle, whether they were armed or not. Lawmakers amended language to clarify that immunity would not apply to a person who shoots someone they should have known was a police officer. The bill is now with Gov. Scott Walker (R) for review (MILWAUKEE JOURNAL-SENTINEL).

**EDUCATION:** The **COLORADO** State Board of Education endorses rules that create a four-tier grading system for teachers and principals. Under the new system, educators would be rated “highly effective,” “effective,” “partially effective” and “ineffective.” Those rated “ineffective” for two consecutive years would lose tenure and new teachers would need three consecutive years of “effective” ratings to make tenure. The standards will first be tested at pilot schools, and state lawmakers must sign off on them next year (DENVER POST). • **NORTH DAKOTA** Gov. Jack Dalrymple (R) signs SB 2370 a, legislation that repeals a law mandating the

University of North Dakota to use the Fighting Sioux nickname. The move was made in an effort to get the National Collegiate Athletic Association to lift sanctions against the school. The NCAA has barred member schools from using Native American names, imagery and mascots for their sports teams (BISMARCK TRIBUNE). • The **MICHIGAN** House approves HB 4163, which would require all Wolverine State school districts to adopt anti-bullying policies. The measure moves to the Senate, which approved its own version of the bill last week. That measure included language that would allow exceptions to anti-bullying policies for students who claim religious or moral grounds for their actions (DETROIT FREE PRESS). • **NEW JERSEY** Gov. Chris Christie (R) signs AB 2806, legislation that allows high-performing private schools to apply to become charter schools. Under the law, parochial schools making the transition will be barred from religious instruction or displaying religious symbols (STAR-LEDGER [NEWARK]).

**ENVIRONMENT:** The **NORTH DAKOTA** House and Senate approve HCR 3053 a, which urges the U.S. Congress to limit federal Environmental Protection Agency regulation of hydraulic fracturing to well stimulation treatments that use hydraulic fracturing fluid containing more than 50 percent diesel fuel by volume (STATE NET).

**HEALTH & SCIENCE:** A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit upholds the constitutionality of the Affordable Care Act, rejecting a challenge that claimed the law violated the Constitution's Commerce Clause. The plaintiff, the American Center for Law and Justice, a conservative litigation group, is considering an appeal (SAN FRANCISCO CHRONICLE). • The **NORTH DAKOTA** House rejects legislation that would have authorized the Flickertail State to begin creating a health insurance exchange to provide consumers with a single online site to purchase health coverage. Under the Affordable Care Act, each state is required to develop and run its own exchange or risk having the federal government do so for them (BISMARCK TRIBUNE).

**SOCIAL POLICY:** A **NEW JERSEY** court allows a case seeking to legalize same-sex marriage in the Garden State to move forward. Superior Court Assignment Judge Linda Feinberg ruled that same-sex couples do not have a fundamental right to marry, but they should have a chance to receive the same legal benefits as heterosexual married couples. State Attorney General Paula Dow had asked the court to toss the suit (STAR-LEDGER [NEWARK]).

**POTPOURRI:** The **CALIFORNIA** State Board of Forestry and Fire Protection enacts a \$150-per-structure fire fee for rural property owners. The fee is expected to impact over 800,000 buildings located in rural areas (SACRAMENTO BEE).





**NO MORE FREE LUNCH:** Long hours often force lawmakers to do a lot of snacking at their desk — and in California, taxpayers are footing the bill. According to the *Los Angeles Times*, the California Senate has spent over \$111,000 in taxpayer dollars feeding itself this year, including over \$23,000 gobbled up during this spring’s 115-day budget standoff. The hefty price tag has good government groups and the public eating their hearts out. It also has spurred Senate action. As the *Times* reports, the Senate Rules Committee last week voted to charge each of their colleagues \$2,000 a year to pay for stocking the break rooms with snacks and other goodies lawmakers rely on during those late nights. Senate pro Tem Darrell Steinberg noted the free food had been a longstanding tradition, but conceded that “times and circumstances change.” It could be worse: there could be 80 of them instead of 40.

**HE WHO LAUGHS LAST:** Indiana Gov. Mitch Daniels went in for knee surgery last week. The gov decided to joke a bit with his doctor beforehand, writing “this one dummy” on his right leg to ensure the doc operated on the correct knee. Doctors are not always known for their sense of humor, but Dr. Sandy Kunkel, who also worked on the gov’s rotator cuff earlier in the year, took the jab with a smile. As the *Fort Wayne Gazette* reports, Kunkel not only worked on the correct knee, he left the gov with a little memento: he painted the gov’s toenails bright pink. Daniels came through fine and is now recuperating at home. Presumably while wearing socks.

**A HIGHWAY BY ANY OTHER NAME:** If you’re driving through Florida, you might find yourself on U.S. 19. It’s also possible you’ll spend time on the Blue Star Memorial Highway, the Nature Coast Trail or even the Claude Pepper Memorial Highway. That’s because they are all the same road. In fact, U.S. 19 is known by many names as it winds through the Sunshine State. Lawmakers in fact set a record in 2010 by dishing out 61 new highway names and adding 158 new signs, at a cost of \$400 each. That has some lawmakers driven to distraction. As the *St. Petersburg Times* reports, the Senate Transportation Committee is pondering legislation to restrict the name game a bit, though lawmakers have already ditched a proposal requiring honorees to be dead for two years. And not a moment too soon: over two dozen naming proposals are already on file for the next session, which doesn’t start for two months.

— By RICH EHISEN



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