



Capitol Journal

News & Views from the 50 States

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Supreme Decisions



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● The next issue of
 ● Capitol Journal will be
 ● available on February 6th.

Top Story

Both the White House and Congress have strong agendas in 2012, but the U.S. Supreme Court is poised to rule in several cases that would limit federal power or require more sharing of it with the states.

SNCJ Spotlight

High court may tilt federal-state balance of power on several issues

The eyes of the political world are on the United States as President Obama seeks a second term against the background of a fragile economy. Republicans aim to win the White House and the U.S. Senate while maintaining control of the U.S. House of Representatives and a majority of statehouses. Although economic issues are expected to dominate

A Cannon Perspective



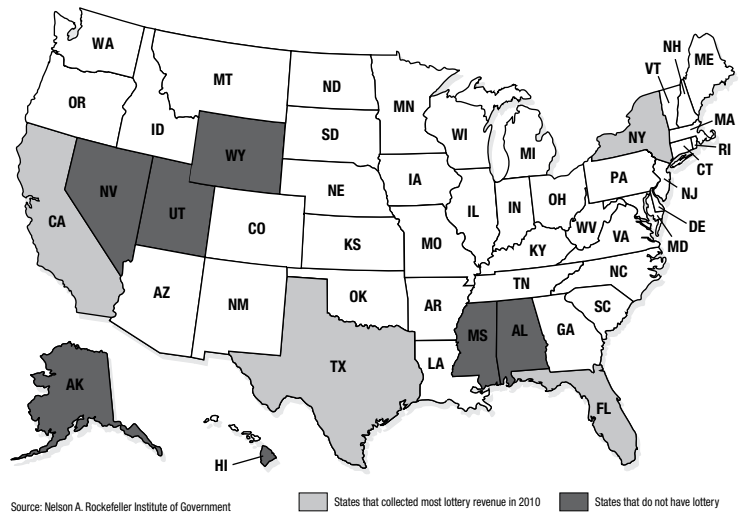
With Lou Cannon

these campaigns, the underlying political debate concerns the role and reach of government, which most Democrats want to maintain — or expand — and most Republicans hope to reduce. Regardless of the verdicts of the voters, both the White House and Congress could have their wings clipped by the U.S. Supreme Court, which is poised to rule in several cases that would limit federal power or require more sharing of it with the states.

Can the federal government require Americans to purchase health insurance, the crucial financing provision of the Affordable Care Act (ACA) that Obama signed into law in 2009? Can states empower local law enforcement to determine the immigrant status of persons they detain? May states require voters to purchase photo identification? Has Texas violated the Voting Rights Act in its congressional redistricting? Pending high court decisions on these issues could, in the words of Tim Storey of the National Conference of State Legislatures, “redefine federalism for years to come.”

“Federalism” is a catch-all phrase denoting the relationship between the federal government and the states. An arcane subject to all but constitutional scholars and political scientists, it is nevertheless a key feature of our governmental system. Federalism’s basic text is the 10th Amendment to the Constitution, which says “the powers not delegated to the United States [government] by the Constitution, nor prohibited to it by the states, are reserved to the states respectively, or to the people.” These straightforward words, often cloaked in the mantra of “states’ rights,” provoked troublesome conflicts in the early days of the republic and continued to do so even after the Civil War bloodily determined the indivisibility of the Union. The most malignant expression of “states’ rights” was an elaborate and repressive system of racial segregation that the South—and numerous outposts in the North—maintained for nearly a century with the blessings of the Supreme Court.

Bird’s eye view



Lotteries biggest gambling revenue generator for states

Lotteries generate far more revenue for states than any other gambling operation, according to a report last year from the Nelson A. Rockefeller Institute of Government. Lotteries provided the 43 states that have them about \$16.4 billion in revenues in 2010, more than double the roughly \$7.5 billion states collected that year from casinos, racinos and pari-mutuel wagering combined. The biggest lottery revenue winner was New York, which took in over \$2.2 billion from its operation. The state also collected more in gambling revenue overall than any other state, at about \$2.7 billion.





But there was always a benign side to states' rights, which freed the creative political energies of Americans to a degree unknown in nations with more centralized authority. This value was thoughtfully elucidated by Supreme Court Justice Louis Brandeis, who said in a 1932 dissenting opinion, that it "is one of the happy incidents of the federal system that a single courageous state, may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the country." States have tried out such ideas as unemployment insurance and bank deposit insurance that subsequently became federal law and pillars of the economic safety net. In 2006, acting at the behest of Republican Gov. Mitt Romney, the Democratic-controlled legislature in Massachusetts passed a law providing health care for state residents, financed by a requirement that everyone purchase medical insurance.

Romney is now doing pretzel-turns explaining why that requirement was a wonderful idea for Massachusetts but a terrible one for the United States. His political contortions aside, there is a genuine and unresolved question of whether Congress can compel people to buy health insurance. Every Republican state attorney general in the nation contends that this requirement is unconstitutional. Lower courts have split on the issue, with a ruling from the Supreme Court expected early this summer. If the mandate is struck down, the costs of the federal health care law would be unsustainable. But because health costs are rising anyway, mandatory insurance is unlikely to go away. Presumably, in the absence of a federal law, some states would scramble to emulate the Massachusetts plan, the template for the federal bill that Republicans call "Obamacare." The Massachusetts law has not been challenged constitutionally.

While the Obama administration is playing defense on the ACA, it is mounting an aggressive legal offense against restrictive state immigration laws. The best-known of these measures is the 2010 Arizona law that sought to identify and deport illegal immigrants and included a provision, since blocked by a federal appeals court, empowering local law enforcement officials to check the immigration status of criminal suspects they detained. Many states have emulated Arizona, notably Alabama, which also allowed schools to check the immigration status of their students. This provision, too, has been blocked by a federal court, as have extensive parts of immigration laws in Georgia, Indiana, South Carolina, and Utah. In the most recent case U.S. District Judge Richard M. Gergel said South Carolina may not set up a "street-level dragnet" to stop and arrest illegal immigrants. Gergel upheld the Obama administration's position that immigration regulation is solely the province of the federal government.

The argument against this position is that when Congress last revised immigration laws in 1996 it said states could "cooperate" with the federal government in "the identification, apprehension, detention or removal of aliens not lawfully present in the United States." States that have passed restrictive immigration laws claim that's what they're doing. Whatever the high court decides, the controversy has called attention to the lack of a comprehensive federal law to secure the nation's borders and address

the status of illegals who have long lived in the United States. Obama promised during his 2008 campaign to introduce such a measure but has not done so.

State efforts to require voter identification as a condition of voting have also come under court scrutiny. Thirty-one states now require voter ID, including eight states that have a strict photo identification requirement. One of the eight is Indiana, whose voter-ID law has been upheld by the Supreme Court. Republicans say such laws are needed to prevent fraud; Democrats contend they are a ruse to discourage minority voting. The problem, as NCSL's Jennie Bowser observed, is that "neither side has been able to assemble much evidence to back up its contentions." Accusations of voter fraud at the polls are rare but so is the evidence that strict voter-ID laws discourage minority voting, which increased in Indiana after its law was passed. But the Justice Department found a sliver of a constitutional argument when it used the Voting Rights Act to block South Carolina's strict voter-ID law. The law requires voters to bear the expense of photo identification; a similar law in Georgia that has been accepted by the courts provides voters with a free copy of a photo ID. Requiring voters to purchase identification, the Justice Department contends, amounts to a poll tax, an unconstitutional device once used in the South to discourage African Americans from voting. The case is expected to reach the Supreme Court.

The high court acted decisively Friday in a tangled Texas congressional redistricting case. Under Section 5 of the Voting Rights Act, Texas is required because of past discriminatory practices to pre-clear redistricting maps with the Justice Department or a federal court in the District of Columbia. Texas received four new U.S. House seats as a result of the 2010 census. Although Latinos accounted for 65 percent of the population gains, none of the new districts mapped by the legislature had a Latino majority. Texas sought pre-clearance of its maps from the D.C. court, which is still conducting hearings on the request, while civil rights activists objecting to them filed challenges in a federal court in San Antonio. Instead of limiting itself to the disputed districts, the San Antonio court redrew redistricting maps for all Texas U.S. House seats and the Legislature. Republicans claimed this was judicial overreach, and in its unanimous decision Friday the Supreme Court implicitly agreed, holding that the San Antonio court had shown insufficient deference to the Legislature.

"A district court should take guidance from the state's recently enacted plan in drafting an interim plan," the Supreme Court said in an unsigned opinion that ordered the lower court to take a fresh look at the redistricting maps.

The New York Times quoted Richard L. Hasen, an election law expert at the University of California Irvine as calling the Supreme Court decision a "big win for Texas" that was likely to favor Republicans over Democrats. But candidates of both parties are up in the air since they do not know the boundaries of the districts in which they will be competing. Texas already has moved its primaries from March 6 to April 3.



The Texas redistricting case starkly demonstrates the judicial role in federalism, and Supreme Court decisions on the health care mandate and state immigration laws could have even greater consequences. The only thing that can be said with reasonable certainty is that no matter what the election results, the last words on federalism are coming from the courts.

— By LOU CANNON

Budget & taxes

INTERNET GAMBLING MAY NOT PROVIDE JACKPOT FOR STATES:
The ruling last year by the Department of Justice authorizing New York and Illinois to sell lottery tickets to their residents via the Internet signaled a major shift in the federal government's longstanding opposition to Internet gambling and opened the door for states to legalize, license and tax it.

Nevada immediately seized on that opportunity, adopting rules (AB 258) governing the licensing of poker web sites in the state. New Jersey, where Gov. Chris Christie (R) vetoed an Internet gambling bill last year (SB 490) fearing it would violate federal law, could be the next to act.

"I think New Jersey should be in that business, I think we should be an epicenter for that business," given the Justice Department's ruling, Christie said this month.

California and several other states are also looking at jumping into that business.

And why not? Although the nation's economy is finally showing signs of life, many state governments are still desperate for revenue; California, for instance, is facing a \$9.2 billion budget shortfall. And state lotteries generated over \$16 billion in revenues in 2010. (See *Bird's eye view*.)

But Internet gambling may not provide nearly as big a payoff for states. A recent study by the state of Iowa found that legalizing online poker might net it only \$3 million to \$13 million a year. Supporters of legalizing Internet poker in California estimate it would generate \$100 million to \$250 million in revenue for the state each year, less than a quarter of the \$1.1 billion the state took in from its lottery in 2010.

One reason for the modest revenue projections is that states are focusing mainly on Internet poker, in which the odds aren't stacked against players as much as they are in other forms of gambling, like roulette and slot machines. Supporters also say the projections are based on the number of people who have played poker on illegal Web sites, and legal poker sites would attract more players.

But some say states shouldn't discard a winning hand just because the pot isn't big enough to solve all of their problems.



“Two hundred and fifty million dollars buys you a lot of teachers,” said California Sen. Lou Correa (D), the sponsor of SB 40, a bill seeking to legalize online poker in that state who thinks legalization could actually bring in twice that amount. “Half a billion dollars buys you even more teachers. When we’re cutting social services to the poorest in our state, it buys you a lot of social services. The budget deficit is tremendous, but you take \$500 million here, \$500 million there, and pretty soon you’re talking serious money.” (NEW YORK TIMES)

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CUOMO CALLS FOR PENSION REFORMS: As part of the budget he proposed last week, New York Gov. Andrew Cuomo (D) called for pension reforms that include the creation of a 401k-style defined-contribution plan option for new state and local government employees and benefit cuts, contribution rate increases and a hike in the retirement age, from 62 to 65, for employees who still opt for the traditional defined-benefit plan. The governor’s office maintains the changes will “save state taxpayers and local governments outside New York City \$83 billion, and will save New York City \$30 billion over the next 30 years.”

Public employee union officials say they’ve already sacrificed enough, pointing out they agreed two years ago to a fifth pension tier that is supposed to save \$35 billion over 30 years.

“The Tier 6 proposal is nothing more than a false choice of accepting severely reduced pension benefits or joining an inefficient 401k style pension system,” Ken Brynien, president of the New York State Public Employees Federation, said in a statement.

But the state’s two top legislative leaders, Assembly Speaker Sheldon Silver (D) and Senate President Dean Skelos (R), said the plan could be approved this year. (STATELINE.ORG)

MEDICAID ANTI-SMOKING PROGRAM GENERATED BIG COST SAVINGS — AND FAST: Massachusetts saved \$3 in Medicaid hospitalization costs for every dollar it invested in a smoking cessation program in the first 16 months of that program’s operation, according to a study conducted by George Washington University. Not every Medicaid patient who entered the program managed to quit smoking permanently. But those who did undergo counseling and treatment required enough fewer hospital admissions for cardiovascular problems to save the state \$571 per participant, more than triple the program’s \$183-per-person cost.

“The good news from a state budget perspective is that even if people stop smoking temporarily, there can be immediate savings,” said Leighton Ku, one of the study’s authors.



“From a public health perspective we’d like to help people stop smoking for good,” said Ku. “But the study showed a rapid reduction in the number of people having heart attacks and other cardiovascular problems, and that led to immediate savings.”

BUDGETS IN BRIEF: The Obama administration has rejected an application for the construction of the \$7 billion TransCanada Keystone XL pipeline, which would carry tar sands oil from western Canada to the Gulf Coast of Texas. The administration said its decision was not based on the merits of the project but on the “arbitrary nature” of the 60-day deadline set by congressional Republicans last December for a decision on the pipeline’s fate (STATELINE.ORG). • **CALIFORNIA** could receive a big boost in its capital gains tax collections next year from the \$10 billion initial public offering Facebook is rumored to be considering for this May. The year after Google Inc.’s \$1.67 billion IPO in August 2004, the state’s capital-gains earnings jumped 49 percent (SAN FRANCISCO CHRONICLE). • **MISSOURI** Gov. Jay Nixon (D) proposed a budget last week that would cut higher education funding by over \$100 million while increasing state aid for K-12 education by \$5 million (KANSAS CITY STAR). • **OHIO** Gov. John Kasich (R) intends to propose a deep-shale well “impact fee” to cover the cost of infrastructure damage caused by oil and gas extraction in the state (COLUMBUS DISPATCH). • **NEBRASKA** Gov. Dave Heineman (R) proposed nearly \$327 million in tax relief over the next three years for middle class residents in his annual State of the State address (LINCOLN JOURNAL STAR).

— 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: 1,337

Number of Intros last week: 5696

Number of Enacted/Adopted last week: 307

Number of 2012 Prefiles to date: 3,625

Number of 2012 Intros to date: 19,501

Number of 2012 Session Enacted/Adopted overall to date: 507

Number of bills currently in State Net Database: 122

— Compiled By OWEN JARNIGAN
(measures current as of 1/19/2012)
Source: State Net database

Politics & leadership

RIGHT TO WORK CONFLICT RATCHETS UP IN INDIANA: Indiana House Democrats avoided the floor of the chamber again last week to block action on the right-to-work bill backed by the Republican majority. The Democrats had returned to the chamber after a four-day walkout in the opening week



of the session to stall progress on HB 1001, which would effectively bar unions from collecting dues from non-union workers at private companies.

Last week’s boycott was spurred by an opinion from the Legislative Services Agency stating that an amendment the Democrats have proposed to HB 1001 calling for a referendum on the bill was likely unconstitutional. That opinion was issued late last Monday, the eve before a floor vote on the amendment was scheduled, blindsiding Democrats, according to House Minority Leader B. Patrick Bauer (D).

“We want them to give us time on 1001 [the right-to-work bill] to fix it so we can have a real vote on that amendment for the people,” Bauer told reporters after the Democrats held an unusual meeting in the Statehouse Rotunda, attended by union protestors chanting “Power to the people.”

House Republicans responded by imposing a fine on the absent Democrats of \$1,000 for every day they stay away.

“It’s become clear that today is the day fines are appropriate,” said House Speaker Brian Bosma (R), who also stated that “this is certainly not where I wanted to be at this point in the session.”

The escalating tensions in Indianapolis echo the bitter standoff between Democrats and Republicans over collective bargaining in Madison last year. Bosma doesn’t appear ready to send state troopers after the absent Democrats as Wisconsin Gov. Scott Walker (R) and Senate Majority Leader Scott Fitzgerald (R) did, however.

“They know the way and we welcome them back to do their work,” Bosma said.

But with the Democrats vowing to challenge Bosma’s fines in court, and Bauer accusing the Republicans of seeking the advisory opinion on the Democrats’ amendment to HB 1001 in order to derail it, it may not be long before the Indiana state police are involved in the proceedings. (JOURNAL AND COURIER [LAFAYETTE])

COURT DECISION ON REDISTRICTING MAY DELAY ID PRIMARY:

Last week, the Idaho Supreme Court threw out the new legislative map created by the state’s citizen redistricting commission, possibly delaying the state’s May primary election.

The justices said the commission’s plan divided more counties than was necessary to meet federal constitutional requirements for equalizing population.

“If one plan that complies with the federal constitution divides eight counties and another that also complies divides nine counties, then the extent that counties must be divided in order to comply with the federal constitution is only eight counties,” Justice Daniel Eismann wrote in the court’s 4-1 decision. “It could not be said that dividing one more county was necessary to comply with the Constitution.”

Upcoming stories

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

- **Redevelopment**
- **Child protection**
- **Online sales tax**

Consequently, the court ordered the redistricting commission back to work. But with the filing period for the state’s May 15 primary scheduled to open Feb. 27, every seat in the Legislature up for election this year, and the Republican Party holding its first-ever closed primary, state lawmakers are considering pushing the primary date back to August.

Idaho Secretary of State Ben Ysursa, however, said if the commission acts quickly and there are no more legal challenges, he thinks the May primary is still doable — and preferable.

“I happen to believe May’s a better time for an election than August, in the middle of the summer, just with people on vacation.” (SPOKESMAN-REVIEW [SPOKANE])

POLITICS IN BRIEF: United Wisconsin, the group spearheading the effort to remove **WISCONSIN** Gov. Scott Walker (R) from office over his anti-union policies last year, submitted over 1 million signatures to the Government Accountability Board last week. That number is not only well above the 540,000 signatures needed to force a recall election, but also represents about 46 percent of the Wisconsin electorate and nearly equals the 1.12 million votes Walker received when he was elected governor in 2010 (POST CRESCENT [APPLETON]). • **NEW MEXICO** House Speaker Ben Luján (D) announced he is battling cancer and will not be running for re-election. Luján has served in the House since 1975 (SANTA FE NEW MEXICAN). • **PENNSYLVANIA** Supreme Court Justice Joan Orié Melvin is coming under increasing pressure to resign, with the court facing a number of politically-charged cases this year, including a challenge to the state’s legislative redistricting. Melvin is currently under investigation by the Allegheny County District Attorney’s Office for allegedly using judicial and legislative staff on her statewide election campaigns (PATRIOT-NEWS [HARRISBURG]). • Former **UTAH** Gov. Jon Huntsman Jr. dropped out of the race for the GOP presidential nomination last week — days ahead of the **SOUTH CAROLINA** primary — and endorsed Mitt Romney. A few days later **TEXAS** Gov. Rick Perry (R) ended his presidential campaign and threw his support behind Newt Gingrich (ASSOCIATED PRESS, YAHOO NEWS, DESERET MORNING NEWS [SALT LAKE CITY]).

— *Compiled by KOREY CLARK*

Governors

JINDAL OUTLINES MAJOR LA EDUCATION CHANGES: Louisiana Gov. Bobby Jindal (R) has proposed the most far-reaching overhaul of the Pelican State education system since desegregation. Under the plan Jindal detailed last Tuesday, the state would greatly expand the use of private school vouchers and ease the pathway for creating charter schools statewide.

Jindal's plan, which he presented in an address to the Louisiana Association of Business and Industry, would also significantly weaken the state's teacher tenure laws by eliminating tenure for teachers who earn low marks on the state's new teacher evaluation system. His proposal would also end annual teacher pay raises based on years of classroom instruction and bar basing personnel decisions on seniority. Greater authority over hiring and firing teachers would also be transferred to local school superintendents and away from local school boards.

Proven charter school operators, meanwhile, would be fast-tracked for opening new schools, while parents in many cases would be able to vote to place their child's school under the auspices of the Recovery School District, a state agency that has greatly expanded charter schools in the New Orleans area.

The plan would also grease the wheels for growing private schools. Students attending a school with a "C" grade or worse under the state's recently-adopted letter grade evaluation system would automatically become eligible for a voucher to attend a private school. Currently, over 70 percent of the state's public schools are graded at "C" level or lower. Children from homes with incomes up to 250 percent of the federal poverty level would be eligible, about \$36,000 annually for a single parent with one child or \$46,000 for a two-parent family with two kids. Jindal Communications Director Kyle Plotkin said about 440,000 Louisiana students currently attend low-graded schools, with 380,000 — approximately 86 percent — coming from families eligible under those salary requirements.

More specific details of Jindal's proposal won't be available until lawmakers take on the task of producing what is likely to be a whole slate of bills on the issue later this session. But Jindal made it clear last week he wants lawmakers to make this a priority.

"Our children do not have time to wait," Jindal said. "They only grow up once, and they have one shot to receive a quality education."

But while the state's business community has voiced strong support for the governor's proposal, changes of such enormous proportion are not likely to come without a tremendous battle. Teacher unions have already voiced strong opposition, particularly over the plan's emphasis on using student test scores in evaluating teacher performance. The Jindal administration has also previously tried and failed to get lawmakers to sign off on giving school superintendents more power.



The governor said he wasn't looking for a fight with teachers, insisting instead he wants them to work with his administration on the plan. But Steve Monaghan, president of the Louisiana Federation of Teachers, said Jindal's harsh criticisms of tenure — and his contention that tenure has created teachers that regularly “slough off” — won't help his members embrace the plan.

“That description works contrary to building the kind of cooperation and collaboration required to pass this kind of legislation,” he said.

School districts also oppose Jindal's desire to use public dollars currently going to them to pay for the new voucher system. Others also question whether enough private charter schools exist to handle a huge influx of new students and who will be verifying the quality of new ones built under such a system.

Lawmakers are not expected to take up legislation on the proposal until this spring. (TIMES-PICAYUNE [NEW ORLEANS], MONROE NEWS STAR, OPELOUSAS DAILY WORLD)

BROWN DEFENDS HIGH SPEED RAIL PLAN: Saying that naysayers have been wrong in the past about many of the Golden State's greatest infrastructure projects, California Gov. Jerry Brown (D) emphatically defended the state's beleaguered high-speed rail plan during his annual State of the State speech. Brown compared criticism of the proposed system to aspersions cast upon previous undertakings like the Central Valley Project, the state's globally renowned water transfer system, which moves massive amounts of water from Northern California to Southern California each day.

“The Central Valley Water Project was called a ‘fantastic dream’ that ‘will not work,’” he said. “The master plan for the interstate highway system in 1939 was derided as ‘New Deal jitterbug economics.’ In 1966, then-Mayor (Wallace) Johnson of Berkeley called BART [Bay Area Rapid Transit, the region's subway system] a ‘billion-dollar potential fiasco.’

“Similarly, the Panama Canal was for years thought to be impractical, and Benjamin Disraeli himself said of the Suez Canal: ‘Totally impossible to be carried out,’” he added. “The critics were wrong then, and they're wrong now.”

Observers noted Brown is investing a significant amount of political capital in the troubled project, which has seen its total cost estimate rise from \$33 billion to \$98 billion while also enduring a series of public relations gaffs and personnel upheavals,

“The critics were wrong then, and they're wrong now.”

The week in session

States in Regular Session: AK, AZ, CA, CO, DC, DE, FL, GA, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NE, NJ, NM, NY, OH, PA, PR, RI, SC, SD, TN, US, UT, VA, VT, WA, WI, WV

States in Recess: NH

States in Perfunctory Session: IL

States Currently Prefiling or Drafting for 2012: AL, OK

States in Special Session Projected to Adjourn: DE “b”, VA “a”

Letters indicate special/extraordinary sessions

— Compiled By OWEN JARNIGAN
(session information current as of 1/19/2012)
Source: State Net database

including the recent resignation of Roelof van Ark, CEO of the California High-Speed Rail Authority.

Those ongoing problems have prompted many Republicans and even some Democrats to urge Brown to halt the project. But Brown instead made it clear he intends to pursue the funds to begin construction on the system's first phase. To do so, he will need lawmakers to approve \$2.7 billion in bonds later this spring. (LOS ANGELES TIMES, SAN JOSE MERCURY NEWS, SACRAMENTO BEE)

Upcoming elections

1/19/2012 - 2/9/2012

01/31/2012

Oregon Special Election
US House District 1

02/07/2012

Georgia Special Election
House Districts 60 and 107

BRYANT OK WITH CUTTING GOV CLEMENCY POWERS: Faced with the ongoing fallout of former Mississippi Gov. Haley Barbour (R) granting clemency to over 200 Magnolia State prisoners on his last day in office, newly-sworn in Gov. Phil Bryant (R) said he supports a constitutional amendment to reduce gubernatorial clemency powers "to very narrow guidelines" on which the public would vote.

"I say have a constitutional amendment — let the people vote on it," Bryant said. "I'm a big proponent of letting the people decide things."

Such an amendment would require a three-fifths majority vote from lawmakers as well as approval from voters. Bryant said he has met with legislative leaders to discuss the proposed amendment, and they have begun drafting language for such a measure.

"My request is that we restrict to very narrow guidelines the ability to provide pardons or clemency," he said last week. "My standard will be that it's only for cases where there is clear and convincing evidence that someone has been wrongly convicted." (BILOXI SUN-HERALD, CLARION-LEDGER [JACKSON])

GOVERNORS IN BRIEF: Prompted by a report that showed one in five multimillion dollar purchases made by governments in **NEW JERSEY** broke the law, Gov. Chris Christie (R) has ordered a complete review of the Garden State's purchasing laws and the public contracting processes (STAR-LEDGER [NEWARK]). • **ARIZONA** Gov. Jan Brewer (R) announced she will not pursue further litigation seeking to clarify whether state employees who process medical marijuana dispensary applications can be prosecuted under federal drug laws. A suit Brewer had filed seeking the clarification was tossed out in December, but the court said the governor could re-file the case if she fixed legal problems it had with the filing (EAST VALLEY TRIBUNE [MESA]). • **MARYLAND** Gov. Martin O'Malley (D) proposed spending nearly \$23 million to renovate the Old Line State's state parks. Highly visible projects at the state's most used parks would get priority. The funding would be included as part of the governor's annual capital budget (BALTIMORE SUN). • **CONNECTICUT** Gov. Dannel P. Malloy (D) proposed allowing Sunday liquor sales

licensed professionals from contacting victims for at least 30 days after an accident (NEWJERSEYNEWSROOM.COM, STAR-LEDGER [NEWARK]).

CRIME & PUNISHMENT: U.S. District Judge Thelton Henderson orders **CALIFORNIA** prison officials to begin preparing for the end of federal oversight of the Golden State prison system. Henderson created the receivership almost six years ago to correct problems in the system's health care program that critics argued was the cause of an average of one inmate per week dying of malpractice or neglect. Henderson gave current receiver J. Clark Kelso and state prison officials until April 30 to report on when the receivership should end and whether the federal government should continue in a limited oversight role (SACRAMENTO BEE). • The **NEBRASKA** Legislature gives first-round approval to LB 415, which would bar jail visitors from bringing unauthorized items, such as cigarettes and cell phones, into county jails. Current Cornhusker State law makes it illegal for inmates to possess such items but does not punish those who bring them in. The measure, which would impose penalties of up to one year in jail or a \$1,000 fine, faces additional votes before it can become law (OMAHA WORLD-HERALD). • The **INDIANA** Senate Committee on Corrections, Criminal and Civil Matters approves SB 1, which permits a person to use force to prevent a police officer's unlawful entry unless the officer believes someone in the home is at risk of physical harm, is invited in, is chasing a fleeing suspect or escapee or has a warrant. It moves to the full Senate (NORTHWEST INDIANA TIMES [MUNSTER]). • **NEW JERSEY** Gov. Chris Christie (R) signs AB 4403, which eliminates the term "mentally defective" from the Garden State criminal code (NEWJERSEYNEWSROOM.COM).

EDUCATION: The **KENTUCKY** House approves HB 91, which would require Bluegrass State schools to adopt policies for school personnel's use of technology. The measure, which is now in the Senate, would also require districts to regulate student behavior regarding Internet usage (BOWLING GREEN DAILY NEWS). • Also in **KENTUCKY**, the House approves HB 30, which would allow school districts to sell advertising on the sides of school buses. It moves to the Senate (BOWLING GREEN DAILY NEWS). • **NEW JERSEY** Gov. Chris Christie (R) signs SB 3148, which moves school board elections from April to November and ends the public's right to vote on school district budgets unless they exceed the Garden State's 2 percent property tax cap (STAR-LEDGER [NEWARK]). • Still in **NEW JERSEY**, Gov. Christie pocket vetoes SB 834, which would have implemented random steroid testing for Garden State scholastic athletes (STATE NET). • The **WASHINGTON** House approves HB 1221, which requires Evergreen State colleges and universities to let military reservist students who are called to active duty or training for up to 30 days to make up missed exams. It has moved to the Senate (NEWS TRIBUNE [TACOMA]). • The **OHIO** Senate approves HB 116,



which adds cyberbullying to anti-bullying training that is already required for Buckeye State teachers. It also adds school buses as places where bullying can be disciplined, requires schools to set up a process to allow for anonymous reporting of harassment and requires parents to be notified of these policies. It returns to the House (COLUMBUS DISPATCH).

In case you missed it

With legislative sessions beginning in earnest, governors across the country are preparing to goad lawmakers into implementing their vision of where their states should go in 2012.

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

http://www.statenet.com/capitol_journal/01-16-2012/html.

ENVIRONMENT: The **CALIFORNIA** Assembly Water, Parks and Wildlife Committee rejects AB 550, which would have required lawmakers to approve any new water conveyance system that would move water from Northern California through the Sacramento San Joaquin Delta to Southern California (SACRAMENTO BEE). • **NEW JERSEY** Gov. Chris Christie (R) signs SB 3156, which would allow sewer extensions into much of the Garden State’s 300,000 acres of open space, regardless of whether existing sewage treatment capacity can handle the additional sewage flow. Supporters contend the law will kick start the state’s economy (STAR-LEDGER [NEWARK]). • Also in **NEW JERSEY**, Gov. Christie signs SB 2576, which bars for one year the natural gas drilling process hydraulic fracturing, or fracking, in the Garden State (NEWJERSEYNEWSROOM.COM)

HEALTH & SCIENCE: **NEW JERSEY** Gov. Chris Christie (R) signs AB 1120, which will require insurance companies to cover treatment for sickle cell anemia, a blood-borne illness that predominantly affects African-Americans. The bill affects only those companies regulated by the state (STAR-LEDGER [NEWARK]). • Still in **NEW JERSEY**, Gov. Christie (R) signs SB 1834, which will require health insurers to cover oral cancer treatments (STAR-LEDGER [NEWARK]).

SOCIAL POLICY: **NEW JERSEY** Gov. Chris Christie (R) pocket vetoes SB 1570, which would have expanded the definition of child abuse to allow investigators to label claims as “not substantiated” in instances lacking sufficient evidence but when a child was still “placed at substantial risk of harm” (STAR-LEDGER [NEWARK]).

POTPOURRI: The **ARIZONA** Senate Committee on Public Safety and Human Services endorses SB 1056, which would make it illegal for youngsters with a learner’s permit to use a cell phone for any reason except an emergency. The measure now goes before the full Senate (EAST VALLEY TRIBUNE [MESA]). • The **VIRGINIA** Senate Transportation Committee endorses SB 219, which would make texting while driving a primary offense, allowing police officers to pull drivers over without another offense being committed first. It moves to the full Senate (RICHMOND TIMES-DISPATCH).

– Compiled by RICH EHISEN



Once around the statehouse lightly

ALL **TEBOW, ALL THE TIME:** Denver Broncos quarterback Tim Tebow is out of the NFL playoffs, but he's definitely still in the game for ambitious politicians. As the *Denver Post* reports, in his State of the State speech last week Colorado Gov. John Hickenlooper urged the QB to "beat those New England Patriots" in their upcoming playoff game. But Hickenlooper isn't the only pol drooling to get some Tebow time. Another Centennial State lawmaker wants Tebow to lead the House in prayer, while still another wants him to take lawmakers through a rousing rendition of the Pledge of Allegiance. Why all the pandering? For one, a survey from the website *Poll Position* shows that 20 percent of Americans who plan to vote in the GOP presidential primary say they would be influenced by Tebow's endorsement of a candidate. That was clearly on the mind of Texas Gov. Rick Perry, who compared himself to Tebow prior to the Iowa caucuses. Sadly for him, the results in Iowa — and the rest of his campaign — were about the same as for the Broncos in their matchup with the Patriots: New England won the game 45-10.

BEARS IN SPACE: Each year, lawmakers introduce tens of thousands of bills theoretically intended to solve serious problems. They also put forth a plethora of measures that inspire serious head shaking. This year's best bad examples begin in Virginia, where the *Richmond Times-Dispatch* reports a recently introduced measure to give someone up to six months in jail for allowing their cell phone to ring "with intent to annoy." Another Old Dominion proposal would grant up to \$8,000 in tax breaks for people who have their remains shot into lunar orbit after they die. Still another would make it illegal to even pretend to be married to someone while actually being married to someone different. Perhaps best of all: a bill to allow dog owners to train bear-hunting dogs into the wee hours during bear season. No word on whether bears could also legally practice eluding them.

SOMETHING SMELLS FUNNY ALRIGHT: Virginia is not the only state with goofy legislation pending this year. As *SeacoastOnline.com* reports, New Hampshire lawmakers will also consider HB 1444, a bill that would bar state workers who deal with the public from using perfume, cologne or other fragrances. The measure was apparently inspired by the case of a woman who had a seizure after dealing with a state worker who had apparently dabbed on a bit too much of their favorite scent that day. While bill co-author Rep. Michele Peckham says it is a public health issue, a House committee is exploring the bill's possible First Amendment troubles.



WHAT DOES THIS BUTTON DO? California has long been a birthplace for technological innovation, but this new fangled Internet thingy is apparently a bit too much for folks in either political party to master. Case in point came a few weeks back when a confused state worker unintentionally posted Gov. Jerry Brown’s 2012 budget proposal online several days before it was scheduled for release, sending reporters and the gov’s people into a simultaneous tizzy trying to manage the whole affair. Reeps were not to be outdone, however. As the *Los Angeles Times* reports, Republican leaders posted online a videotaped response to Brown’s proposal, which he gave last Wednesday in his annual State of the State address. The thing is, they did so one full day before he actually gave the speech. A spokesperson for Assembly Minority Leader Connie Conway called the release “a technical error.” At least none of this came with a wardrobe malfunction.

DID I SAY THAT? Kansas Speaker of the House Mike O’Neal has his own issues with technology. As the *Kansas City Star* reports, O’Neal recently forwarded an email with a biblical quote some observers say calls for President Obama’s death. The quote, from the Psalm, 109:8, says, “May his days be few; may another take his place of leadership,” which O’Neal says refers only to the president’s possible defeat in November. But critics are up in arms over the Psalm’s next line — not included in the email — which says “May his children be fatherless and his wife a widow” as proof of his ill intent. O’Neal also recently came under fire for sending another email mocking First Lady Michelle Obama. A religious group has collected 25,000 signatures asking O’Neal to resign. He refused, but has apologized and vows to be more “respectful and vigilant” in his future communications.

— By RICH EHISEN



Editor: Rich Ehisen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Virginia Nelson, Art Zimmerman
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA), James Ross (CA), Linda Mendenhall (IL), Lauren Davis (MA) and Ben Livingood (PA)
Graphic Design: Vanessa Perez
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