

Capitol Journal

News & Views from the 50 States

February 16, 2015

The Immigration Paradox



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The next issue of Capitol Journal will be available on March 2nd.

Top Story

With Congress still gridlocked on immigration, the real action has moved to the states. But the path forward isn't really any clearer there.

SNCJ Spotlight

States play conflicted role in immigration debate

With national immigration reform stymied by partisan division, several states have extended privileges associated with U.S. citizenship to millions of unauthorized immigrants. At the same time states are leading the legal charge against President Obama's executive orders protecting up to 5 million immigrants from deportation.

A Cannon Perspective



With Lou Cannon



California is in the forefront of states accommodating unauthorized immigrants. Hundreds of thousands of them flocked to 150 Department of Motor Vehicle offices and four special processing centers last month as the Golden State rolled out a law allowing anyone 18 and over to obtain a driver’s license after passing road knowledge and driving tests. Two of three persons who took the written test in a language other than English failed to pass on the first try. Even so, the DMV licensed 40,000 new drivers in January and is on track to reach a three-year goal of 1.4 million new licenses.

The new law has been largely welcomed by law enforcement officers as a safety issue. Julie Powell, a spokeswoman for the California Highway Patrol, said that requiring unauthorized immigrants already on the road to pass a driving test and obtain insurance will bolster public safety.

California’s liberalized policy on driver’s licenses is the latest in a series of laws that have eased the lives of unauthorized immigrants, called “undocumented” by their advocates and “illegal” by their detractors. California is home to nearly a fourth of all such immigrants in the United States — 2.8 million out of 11.6 million, according to Pew Research figures.

In 2014 California enacted 26 laws on immigration, many removing long-existing barriers. Unauthorized immigrants in California can now receive subsidized health care, student loans and financial aid and licenses to practice law and medicine. Child welfare courts no longer make immigration status a determinant of guardianship.

These laws reflect the liberal political leanings of a state where Democrats hold every statewide office and control the legislature. More fundamentally, they reflect a sea change in public perceptions of Latin American and Asian immigrants, not long ago regarded as a drain on the state. In 1994, California voters approved a ballot initiative intended to deny educational and medical benefits to unauthorized immigrants. Courts found most of this initiative unconstitutional but vestiges remained on the books until 2014, when they were repealed at the behest of Latino legislators.

A recent survey by the *Public Policy Institute of California (PPIC)* found that Californians are more likely to say that immigrants are a benefit to California because of their hard work and job skills (63 percent) than to say that immigrants are a burden to the state because they use public services (32 percent). A solid majority (69 percent) support President Obama’s executive action of Nov. 20, 2014, that could shield as many as five million immigrants from deportation.

It’s not only California where attitudes and laws are changing. Ten states and the District of Columbia now issue driver’s licenses to unauthorized immigrants

The week in session

States in Informal Session: AK, AR, AZ, CA, CO, CT, DC, GA, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, OH, OK, OR, PR, RI, SC, SD, TN, TX, US, UT, VA, VT, WA, WI, WV, WY

States in Recess: AL, DE, IL, NY, PA

States currently prefilng for 2015: FL, LA

Adjourned Sessions: DE “a”, DE “b”, DE “c”, DE “d”, DE “a”, IL “a”, IL “b”, IL “c”, PR “a”, PR “b”, PR “c”, RI, TN “a”, VA “a”

Letters indicate special/extraordinary sessions

— Compiled By DENA BLODGETT
(session information current as of 2/12/2015)
Source: State Net database



unauthorized immigrants commit fewer crimes than the general population. But immigrant advocates also exaggerate. Their claim, for instance, that border security is adequate was exposed as dubious last summer when thousands of frightened Central American children walked freely across Mexico and into the United States.

Obama’s immigration record is problematic. Campaigning for the presidency, he promised to propose immigration reform legislation. Had he done so in 2009 or 2010 when Democrats controlled both congressional chambers, it is conceivable a bill might have passed. But Obama did not put forward an immigration bill until his second term. By this time, Republicans controlled the House and declined to act on a Senate-passed bill.

Before his epiphany last November, Obama had deported more than four million immigrants, in many cases breaking up families for minor offenses. Although the executive orders he announced are welcomed by Latinos, they are clouded by the legal battle over their constitutionality and lack of permanence: the orders will expire when Obama leaves office unless extended by his successor.

The plight of these immigrants poses a political danger for Republicans. The GOP took control of the Senate and expanded its House majority in 2014 by winning states and districts with relatively few Latino voters. It will be more difficult to win the presidency on an anti-illegal immigrant platform. Latinos were a key element of the coalition that twice carried Obama to victory. Mitt Romney, the Republican nominee who had called upon illegal immigrants to “self-deport,” received only 27 percent of the Latino vote. Political analyst Larry Sabato estimates the Republican presidential nominee in 2016 will need 40 percent of the Latino vote to win, about what President George W. Bush received when he was re-elected in 2004.

Another Bush — Jeb, a potential presidential candidate — knows from experience that treatment of immigrants is an issue loaded with pitfalls. In 2004, as governor of Florida, Bush proposed issuing driver’s licenses to unauthorized immigrants. Hostile Republican reaction killed the plan. Bush was left to lick his political wounds and warn that “the situation of illegal immigrants won’t go away.”

Twice in the past month the issue has flared along party lines in states likely to be battlegrounds in the 2016 presidential election.

In the Virginia Senate the Democratic minority united to kill a bill that would have repealed a law allowing immigrants to obtain in-state tuition. The bill failed by a single vote because one Republican senator defected and another was absent.

Upcoming elections

(2/13/2015 - 3/06/2015)

02/17/2015

Florida Special Election

House District 13

Texas Special Runoff

House Districts 13, 17 and 123

Senate District 26

02/21/2015

Louisiana Special Primary

House Districts 8, 26, 49 and 66

02/24/2015

Connecticut Special Election

House Districts 107 and 129

Senate District 23

03/03/2015

Kentucky Special Election

Senate District 27

Massachusetts Special Primary

House Districts 1st Suffolk and 11th

Worcester



In Colorado, where Republicans won State Senate control in 2014, a Senate budget committee blocked release of funds for an existing program that provides driver's licenses to unauthorized immigrants. Such licenses are now being issued in a single southwest Denver office where appointments are booked for the rest of 2015.

These actions suggest that treatment of unauthorized immigrants will be a potent issue this year in the states, absent unexpected action on immigration reform in Washington. Republicans and Democrats don't agree on much, but both sides could say with Jeb Bush that the issue isn't going away.

— *By Lou Cannon*

Budget & taxes

SEVERANCE-TAX STATES SUFFER IN OIL-PRICE SLUMP: Motorists across the country have welcomed the more than 50 percent drop in oil prices since last summer, from over \$100 a barrel in June to \$50 this month. But the same can't be said for state governments. The collapse in oil prices is creating major budget concerns for states like Alaska, Louisiana, Montana, New Mexico, North Dakota and Texas that rely heavily on severance taxes levied on oil and gas producers for revenue.

"All of the severance states are watching this very closely," said Brian Sigriz, director of state fiscal studies at the National Association of State Budget Officers. "It's a question of how severe the impact is. States like Alaska, Texas and North Dakota all have built up sizable reserves — rainy day funds. The question is whether they want to turn to those or not."

Although Texas is the nation's biggest oil producer, Alaska, which produces less than a fifth the amount of oil (16 million barrels per month compared to Texas' 104 million), is actually the most at risk. It derives 78 percent of its revenue from severance taxes, the highest percentage of any state by far, according to the Rockefeller Institute of Government.

There's a bright side for such states, however, according to Lucy Dadayan, a senior policy analyst for the Institute.

"The good news for the states with the high reliance on severance taxes is that they had not been hit as hard as other states during the Great Recession," she said. "The bad news," she added, "is that now they need to address the fiscal challenges created by the volatility in severance taxes." (STATELINE.ORG, FORBES)

EXPEDIA COULD OWE HI AND US CITIES AND COUNTIES \$800M:
Online travel website Expedia has run up one hell of a hotel tab, according to



Hawaii and scores of cities and counties across the nation. Dozens of lawsuits filed by the state and local governments allege Expedia has shortchanged them by more than \$800 million over the last decade by paying taxes on the wholesale price it and other travel booking sites paid for hotel rooms instead of the full-room price paid by their customers.

“It’s a fairness issue,” said Owen Clements, a chief trial attorney for the city of San Francisco, which was awarded \$73.5 million in a decision Expedia is appealing. “If we’re not getting tens of millions of dollars from the online-travel companies, then other people will have to pay more.”

Expedia and other sites, including Orbitz and Priceline, have argued that local tax ordinances only apply to entities that own or control hotels, not to websites that help them book rooms. Hawaii’s Supreme Court is expected to issue a ruling in the largest of the pending tax cases in the next few weeks. (SEATTLE TIMES)

BUDGETS IN BRIEF: The **ALABAMA** Law Enforcement Agency raised the renewal fee for operational driver’s licenses by 54 percent, from \$23.50 to \$36.25, last week. The increase was made in an effort to increase efficiency in the ALEA, a new agency created as part of an effort to streamline the state’s government (BIRMINGHAM NEWS). • **MONTANA** lawmakers are considering a bill (HB 277) that would grant businesses a tax credit of up to \$1,000 for each worker they enroll in the Montana Registered Apprenticeship Program, run by the state’s Department of Labor and Industry (BILLINGS GAZETTE). • **NORTH CAROLINA** Senate Republicans have proposed cutting the state’s gas tax from 37.5 cents per gallon to 35 cents and making that the state’s new minimum rate. The bill’s sponsors say the plan would make the state’s main source of transportation funding — currently tied to wholesale fuel prices, which have fallen sharply in recent months — less volatile (NEWS OBSERVER [RALEIGH]). • **ARKANSAS** lawmakers passed, and Gov. Asa Hutchinson (R) signed, SB 6, the Middle Class Tax Relief Act of 2015, which will give taxpayers who earn between \$21,000 and \$75,000 a year a 1-percent break on their income taxes (ARKANSAS NEWS BUREAU [LITTLE ROCK], LEXISNEXIS STATE NET).

— *Compiled by KOREY CLARK*



Politics & leadership

IL GOV IMPOSES RIGHT-TO-WORK FOR PUBLIC EMPLOYEES:
 Illinois Gov. Bruce Rauner (R) issued an executive order last week absolving public employees who decline to join a union from having to pay fees that support union activities like collective bargaining. State law currently allows state



workers to opt out of joining a union but they still have to pay so-called “fair share” fees because they benefit from the contracts unions negotiate on their behalf. State law also prohibits unions from using fair share fees for political purposes, but Rauner maintains it’s nearly impossible to draw that line.

“Government union bargaining and government union political activity are inextricably linked,” he said. “As a result, an employee who is forced to pay unfair share dues is being forced to fund political activity with which they disagree. That is a clear violation of First Amendment rights and something that, as governor, I am duty-bound to correct.”

Ratcheting up the level of his rhetoric even higher, the governor has also argued the union fees are a “critical cog in the corrupt bargain that is crushing taxpayers” by helping to secure the wage and pension packages that have contributed to the state’s huge debt.

Not to be outdone, Roberta Lynch, executive director of the American Federation of State, County and Municipal Employees Council 31, the state’s largest public employee union, countered that the governor’s claim is “a paper-thin excuse that can’t hide his real agenda: silencing working people and their unions who stand up for the middle class.”

“Bruce Rauner’s scheme to strip the rights of state workers and weaken their unions by executive order is a blatantly illegal abuse of power.”

Rauner’s executive order effectively imposing right-to-work rules on public employees comes a week after his call for a ban on campaign contributions by private-sector unions and the establishment of “empowerment zones” across the state where voters could decide if workers should be forced to join a union or pay dues. Those measures parallel the actions of other Republican governors like Wisconsin’s Scott Walker, who signed legislation limiting unions’ collective bargaining power in 2011, and Indiana’s Mitch Daniels, who did the same via executive order in 2005.

But Rauner’s proposals are unlikely to receive as favorable a reception from the Democrats who control his state’s General Assembly. They could even vote to overturn his executive order. (CHICAGO TRIBUNE, LEXISNEXIS STATE NET)

STATES PROBING CYBERATTACK AT HEALTH INSURER ANTHEM:

Several states are investigating a major cyberattack on the nation’s No. 2 health insurer, Anthem Inc., which the company disclosed this month. The company said hackers accessed a database and stole personal information about tens of millions of current and former customers and employees.

The attorneys general of Arkansas, Connecticut, Illinois, Massachusetts and North Carolina are looking into the breach.

In case you missed it

Although the general public has barely even heard of it, the so-called Internet of Things has dominated talk in tech circles for years. Now lawmakers in both statehouses and Congress are getting involved, too.

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

http://www.statenet.com/capitol_journal/02-09-2015/html#snclj_spotlight



“We hope and expect to work in close coordination with other attorneys general,” said Jaclyn Falkowski, a spokeswoman for Connecticut Attorney General George Jepsen.

Reuters and *The Wall Street Journal* pointed to China as a possible source of the attack, which the country’s Foreign Ministry spokesman, Hong Lei, denied.

“Such careless identification of the relevant attacker clearly is unreasonable,” Hong said at a news briefing in Beijing.

The FBI said it was also looking into the matter, and Anthem officials were scheduled to appear before the House Energy and Commerce Committee.

“This latest intrusion into patients’ personal information underscores the increasing magnitude and evolving nature of cyber crimes,” U.S. Rep. Fred Upton (R-Michigan), the committee’s chairman, said in a statement. “Every business is at risk and American consumers are anxious.” (REUTERS)

POLITICS IN BRIEF: Six **MARYLAND** House members have announced the formation of the Maryland Latino Legislative Caucus to represent the interests of the state’s fastest-growing demographic group (WASHINGTON POST). • **ARKANSAS**

lawmakers are considering abolishing the state’s independent lottery commission and placing the games under state control. Sen. Jimmy Hickey (R) said the change is necessary to stabilize the lottery, which has been suffering from sluggish ticket sales (ARKANSAS DEMOCRAT-GAZETTE). • **OKLAHOMA** Gov. Mary Fallin (R) issued an executive order last week imposing a hiring and salary freeze at state agencies. The

state faces a \$300 million budget hole that is growing with the decline in the price of oil (NEWSOK.COM). • Racial minorities make up only 3 percent of the 287 district, appellate and Supreme Court judges in **KANSAS**, despite the fact that according to the most recent census estimates, Hispanics and other non-whites make up 23 percent of the state’s population (LAWRENCE JOURNAL-WORLD).

— *Compiled by KOREY CLARK*

“This latest intrusion into patients’ personal information underscores the increasing magnitude and evolving nature of cyber crimes.”

Governors

WOLF SHIFTS PA TO TRADITIONAL MEDICAID EXPANSION: Moving quickly to act on a campaign pledge, Pennsylvania Gov. Tom Wolf (D) began dismantling predecessor Gov. Tom Corbett’s (R) private-



But Chamber leaders also made it clear their support is conditional on the expansion being — and staying — revenue neutral, adding “The Chamber’s support for Medicaid expansion ends when the federal funding ends or falls below its initial promise. Our support also ends if expansion exacerbates the state’s fiscal situation.” (ALASKA JOURNAL OF COMMERCE [ANCHORAGE], KTUU.COM [ANCHORAGE])

Upcoming stories

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

- **Common Core**
- **State worker exodus**
- **Legalizing pot**

MALLOY UNVEILS DRUG LAW REFORM PROPOSAL: Connecticut Gov. Dannel P. Malloy (D) called last week for major drug sentencing reforms, including reclassifying several nonviolent offenses as misdemeanors and eliminating mandatory minimum sentences for narcotics possession. The proposal would also expand the Constitution State’s system for granting pardons to give more ex-felons a chance to clear their criminal records. Malloy further promised to provide funding for job training and housing support for offenders who are trying to re-enter life after prison. The reforms, which must gain legislative approval, are similar to those put forth in other states with governments dominated by Republicans. But Connecticut Senate Republican leader Len Fasano was reserved in evaluating Malloy’s proposal, telling the *Hartford Courant* it “has some good points and some points I disagree with.” But Fasano also said he is willing to work with the governor to see if they can find common ground. (HARTFORD COURANT, CONNECTICUT POST [BRIDGEPORT])

GOVERNORS IN BRIEF: Embattled **OREGON** Gov. John Kitzhaber (D) apparently considered resigning last week before abruptly changing his mind. According to the Associated Press, Kitzhaber informed at least two aids he was going to resign, but then opted not to for reasons which are yet unclear. Kitzhaber has been embroiled in a scandal alleging that his longtime partner Cylvia Hayes leveraged her connections to him to garner clients for her consulting firm, some of which had legislation that eventually made it to his desk. State Attorney General Ellen Rosenblum (D) has opened an investigation into the matter (ASSOCIATED PRESS, FOXNEWS.COM). • **PENNSYLVANIA** Gov. Tom Wolf (D) said he will push lawmakers to raise the state minimum wage to \$10 per hour over the next two years (MORNING CALL [HARRISBURG]). • **UTAH** Gov. Gary Herbert (R) brokered a deal with Rep. Curt Oda (R) that convinced the lawmaker to withdraw a bill (HB 260) that would have let anyone older than 21 carry a concealed firearm without a permit. Herbert vetoed similar legislation two years ago. Oda said he would work with the governor to address Herbert’s concerns over the bill (SALT LAKE TRIBUNE).

— Compiled by RICH EHISEN

Hot issues

B **USINESS:** The **SOUTH DAKOTA** Senate Commerce and Energy Committee rejects SB 156 legislation that would have required business owners to offer workers one hour of paid sick leave for every 30 hours they work. The measure's author said she will consider reintroducing the bill again at a later date (ARGUS LEADER [SIOUX FALLS]).

HEALTH & SCIENCE: The University of **CALIFORNIA** announces it will now require all students to be vaccinated for measles, mumps, chicken pox, rubella, tetanus, meningococcus and whooping cough. The program will be phased in over three years before taking full effect in 2017 (LOS ANGELES TIMES). • The **UTAH** House Health and Human Services Committee approves HB 94, which would allow doctors to prescribe terminally ill patients experimental drugs that have not been approved by the U.S. Food and Drug Administration. It moves to the full House (SALT LAKE TRIBUNE).

SOCIAL POLICY: The **WEST VIRGINIA** House approves HB 2153, which would bar doctors from performing an abortion after a woman's pregnancy has reached 20 weeks. The bill, which contains no exceptions for cases of rape or incest, moves to the Senate (WASHINGTON POST). • The **SOUTH CAROLINA** House approves HB 3114, which would also bar abortions after the 20th week of pregnancy. The measure, which also contains no exception for rape or incest, moves to the Senate (THE STATE [COLUMBIA]). • **KANSAS** Gov. Sam Brownback (R) issues Executive Order 07-21, which rescinds a 2007 EO from then-Gov. Kathleen Sebelius (D) that prohibited discrimination against public employees based on sexual orientation or gender identity.

POTPOURRI: The **NORTH DAKOTA** House Judiciary Committee rejects HB 1435, a bill that would have imposed a \$500 fine on repeat violators of North Dakota's open records and open meetings laws (GRAND FORKS HERALD).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

ALTERNATE UNIVERSE: In every state in America it is the responsibility of the governor to present lawmakers with a balanced budget proposal, after which said pols spend weeks or months in their own legislative cage match parrying and thrusting until enough of them agree on the final numbers and everyone important or self-important gathers for a photo-op with the gov as he or she finally signs the darned thing into law. Whew. But now some Nevada officials are trying to change the rules. As the *Las Vegas Review-Journal* reports, state Treasurer Dan Schwartz and Controller Ron Knecht decided they didn't like Gov. Brian Sandoval's recent budget offering. They do, however, like attention, so the two fiscally conservative wonks have released their own budget proposal with which they hope to prod the gov to drop his call for some new business tax hikes. Sandoval's response has so far basically been, "Dan and Ron who?"

ETHICS FOR YOU, NOT FOR ME: While it might sound like an oxymoron to some, political ethics remains one of the top issues in many statehouses this year. For instance, as the Missouri political blog *PoliticMO.com* reports, the Missouri Senate last week endorsed a bill that would require lawmakers to wait two years after leaving the Legislature before becoming a lobbyist. All good, right? Well, except that the bill they signed off on would not actually apply to them. As written, it would only impact lawmakers who come to the Legislature for the first time in 2017 or beyond. And so it goes.

PAYMENT PENDING...WE THINK: Speaking of fiscal responsibility, somebody in the North Carolina Legislature has some explaining to do. As the *Fayetteville Observer* reports, the General Assembly website went offline last week, creating a fair amount of havoc for the lobbyists, reporters and others who rely on it daily to keep up with the goings on in the Tar Heel State government. And why did such a calamitous thing happen? Turns out someone simply didn't bother to pay the bill to renew the site's domain name. Embarrassed officials got right on that, though it took more than a day to make things normal again. Fortunately for them, nobody swooped in and bought that domain name while it was temporarily a free agent.

BAN THE BUNS! If you're one of them public nudie types, or even just a woman who likes the comfort of going about her business in form-fitting yoga pants, Montana Rep. David Moore is coming after you. As the *Billings Gazette* reports,



Moore has introduced a bill that primarily would make it illegal for folks to be out in public sans clothing. Ah, but there is more. The bill would also make it illegal to wear clothes that too closely show off a person's backside or other, uh, attributes. Ladies, if that sounds like yoga pants you win the prize! Says Moore, "Yoga pants should be illegal in public anyway." For the moment, it appears the yoga pants ban would apply only to those in beige, which he says come too close to making someone look nekkid. Hmmm...There are clearly not a lot of women of color in his district.

Correction

Last week in our Bird's eye view section we incorrectly identified Illinois as a state that had introduced new motor vehicle event data recorder or so-called "black box" legislation in 2015. The EDR legislation in IL was actually introduced last year and has since died. We regret the error.

— By *RICH EHISEN*

Editor: Rich Ehsen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Mary Peck
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA), James Ross (CA), Lauren Davis (MA), Ben Livingood (PA), Cathy Santsche (CA) and Felicia Carrillo (CA)

Graphic Design: Vanessa Perez
 State Net ISSN: 1521-8449

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