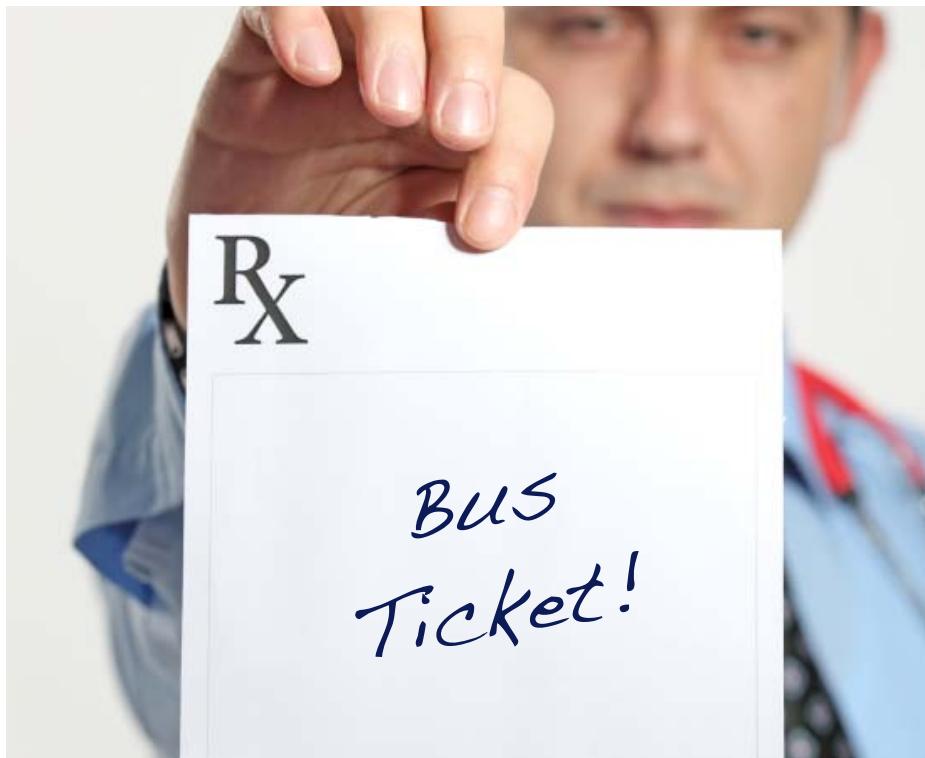


# Capitol Journal

News &amp; Views from the 50 States

## Greyhound Therapy



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May 6, 2013

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The next issue of  
Capitol Journal will be  
available on May 13th.

Top Story

**Significant funding cuts have led one Nevada mental health facility to implement a stunning policy for dealing with some patients: busing them to other states.**

## SNCJ Spotlight

### Nevada mental hospital's discharge policy draws scrutiny

When a severely mentally ill man turned up at a homeless shelter in Sacramento, California two months ago after being bused to the city by a state-run mental hospital in Las Vegas, Nevada, his story became national news. The man turned out to be far from the only patient of that facility to have received the "Greyhound treatment," but health officials in other states say the practice is uncommon.



By Korey Clark

As the *Sacramento Bee* initially reported in March, 48-year-old James Flavy Coy Brown arrived at the Loaves & Fishes shelter on the outskirts of downtown Sacramento with release papers from Rawson-Neal Psychiatric Hospital, Nevada's primary hospital for treating the mentally ill, stating: "Discharge to Greyhound bus station by taxi with 3 day supply of medication...follow up with medical doctor in California."

Staff members at the shelter said Brown, who suffers from several mental disorders including schizophrenia, told them he'd never been to Sacramento and had no relatives there but that staff at Rawson-Neal had given him a bus ticket to the city and advised him to dial 911 when he arrived.

At first, Brown's story appeared to be an egregious but isolated case of interstate "patient dumping," turning away a patient who lacks the ability to pay for treatment. But further investigation by the *Bee* indicated that over the past five years, Rawson-Neal had bused more than 1,500 patients to cities across the country. (See Bird's eye view.) The *Bee* also reported that Southern Nevada Adult Mental Health Services, the agency that oversees Rawson-Neal, has had a contract with Greyhound since July 2009.

Officials in Los Angeles and San Francisco, where many of the bused patients ended up, promptly launched investigations into the *Bee*'s allegations.

"We're prepared to litigate aggressively on behalf of San Francisco and its taxpayers to recover whatever costs or damages we're able to identify," said San Francisco City Attorney Dennis Herrera.

Health officials in several of California's largest counties said they rarely bus patients out-of-state.

"We don't do it, we never will do it, and we haven't done it in recent memory, meaning at least 20 years," said David Wert, public information officer for San Bernardino County.

Officials in Los Angeles County said they hadn't bused a single patient out-of-state in the past year, and when they had in the past there'd always been chaperones. And Sacramento County officials said although they had bought bus tickets for five patients in the past year, facility staff had confirmed that family members or friends would meet them at their destinations and provided referrals for further treatment before the patients' departures.

"Putting someone whose mental illness makes them unable to care for themselves alone on a bus for a long period of time could be absolutely disastrous," said Dorian Kittrell, executive director of the Sacramento County Mental Health Treatment Center.

## The week in session

**States in Regular Session:** AL, AZ, CA, CO, CT, DC, DE, FL, HI, IA, IL, IN, KS, LA, MA, ME, MI, MN, MO, NC, ND, NE, NH, NJ, NV, NY, OH, OK, OR, PA, PR, RI, TX, US, VT, WI, WA "a"

**States in Special Session:** CA "a"

**States in Recess:** AR

**States Adjourned in 2013:** AK, GA, ID, IN, KY, MD, MT, MS, NM, SD, TN, UT, VA, VA "b", WA, WV, WV "a", WY

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO  
(session information current as of 5/1/2013)

Source: State Net database

Even seasoned advocates for the mentally ill were alarmed by the number of Nevada bussings.

“Discharging severely mentally ill patients inappropriately is policy in this country,” said DJ Jaffe, founder of Mental Illness Policy Org. “But getting rid of them altogether by busing them out of state is, I think, rare. I am shocked by these figures. It seems to be almost routine in Nevada.”

Acting deputy director for Arizona's Department of Health, Cory Nelson, however, cautioned against drawing conclusions solely from the number of bus tickets Rawson-Neal has issued. He said in many of the reported cases, relatives might have agreed to take over care of patients or made other treatment arrangements.

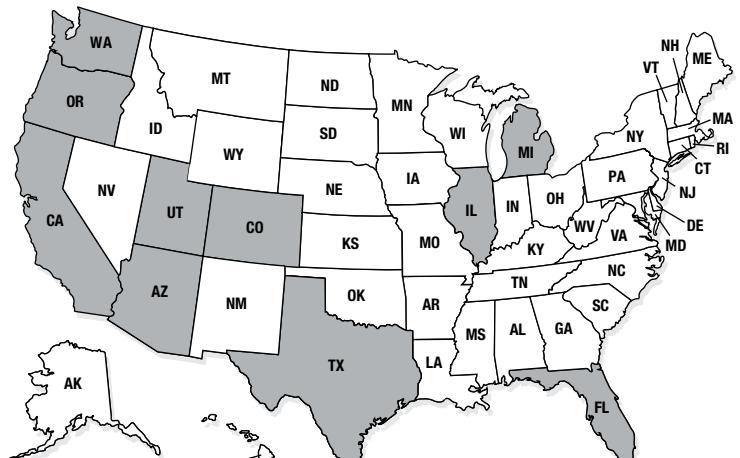
Others suggested the high number of busings might be at least partially explained by the unusual nature of Las Vegas.

“As the whole country no doubt knows, Vegas is a pretty unique place,” said Dr. Lorin Scher, an emergency room psychiatrist with UC Davis Health System in California. “Many bipolar patients impulsively fly across the country to Vegas during their manic phases and go on gambling binges.”

Stuart Ghertner, former director of Southern Nevada Adult Mental Health Services, offered another possible explanation. He said the end of the casino boom and the mortgage meltdown that occurred a few years ago was putting people out of their homes and jobs and increasing demand for mental health services in the Las Vegas area at the same time that spending on mental health services in the state was being slashed to deal with budget deficits. According to data collected by the National Alliance on Mental Illness, Nevada cut mental health spending 28 percent between 2009 and 2012. And even before 2009, the state was spending only \$64 per capita on mental health services, roughly half the national average of \$123 per capita.

"You're looking at a tsunami situation," said Gherchner. "There is more pressure to turn patients over faster, and fewer programs [in which] to place them. Perhaps busing them became the easier solution."

## Bird's eye view



Source: Sacramento Bee, Southern Nevada Adult Mental Health Services

States where most NV mental patients were bused

**Busing patients to other cities routine for NV mental hospital**

Over the past five years, Southern Nevada Adult Mental Health Services in Las Vegas, Nevada has bused over 1,500 patients to other U.S. cities, according to the Sacramento Bee. About a third were sent to California, with more than 200 going to Los Angeles County, about 70 going to San Diego County and 19 going to the city of Sacramento. Last year, the Nevada mental hospital bused out patients at the rate of over one per day, sending nearly 400 to 176 cities and 45 states across the country.



It is undoubtedly the cheaper one. According to the *Bee*'s analysis, Southern Nevada Adult Mental Health Services spent \$205,000 on busing over the past five years. And Ghertner said Rawson-Neal admits about 4,000 patients a year to its inpatient facility, where care runs about \$500 per client per day.

Amidst all the speculation about Nevada's psychiatric discharge policy, the official line from the state, at least initially, was that some of the staff at Rawson-Neal, in the words of state Health and Human Services Director Michael Willden, "blew it" in the handling of Brown — and they were later fired or otherwise disciplined as a result — but that an internal investigation had revealed no systemic problems at the hospital. Last week, however, the state announced that, effective immediately, chaperones would accompany all psychiatric patients discharged out-of-state from Nevada facilities for which the state pays transportation costs. In addition, two physicians instead of one would be required to sign patient discharge orders, and the orders would have to be approved by a hospital administrator.

Mary Woods, spokeswoman for the Department of Health and Human Services, said the policy changes had been prompted by the state's discovery of additional cases where its discharge policy hadn't been followed. But the new policies also came after the Centers for Medicare & Medicaid Services, invoking its authority under the Emergency Medical Treatment and Active Labor Act passed by Congress in 1986, notified the state in a letter that it had 10 days to correct "serious deficiencies" in the discharge policies at Rawson-Neal and, thereby, avoid losing potentially tens of millions of dollars in federal healthcare funding.

"If we do not receive an acceptable, timely submission, or if a resurvey finds that the hospital is not complying with any [conditions of participation], we will notify you that we are initiating action to terminate the facility's Medicare provider agreement," the letter said.

A message issued by Gov. Brian Sandoval's (R) office seemed to be a direct response to that warning.

"Corrective action was taken immediately and the corrective action plan will be submitted to CMS next week," said the email from Sandoval's communications director, Mary-Sarah Kinner.

(SACRAMENTO BEE, NEVADA APPEAL, KAISER HEALTH NEWS, LOS ANGELES TIMES, WASHINGTON POST, REUTERS, ASSOCIATED PRESS, WALL STREET JOURNAL, LAS VEGAS SUN, STATE NET)

— Compiled by KOREY CLARK

# Budget & taxes

**S**TATES COOLING ON RENEWABLE ENERGY: States' recent passion for renewable energy appears to be running out of steam. Sixteen of the 29 states with renewable portfolio standards are considering legislation that would scale back those mandates, according to the North Carolina Solar Center, a partnership between the U.S. Energy Department and North Carolina State University.

"Activity against renewable portfolio standards has been increasing in the past year," said Justin Barnes, a senior policy analyst at the Solar Center. "There haven't been any outright repeals yet, but we've seen some watering-down."

North Carolina legislators began debating a bill in March that would cut the state's current renewable energy target for utilities'— 12.5 percent by 2015 — in half and then eliminate the requirement altogether in 2021. Colorado's senate passed a bill last month that would actually increase the amount of energy utilities have to obtain from renewable sources but also expand the definition of renewable energy to include sources such as methane produced from coal mining. Connecticut, likewise, is considering including large hydroelectric plants in its definition of renewable energy.

**"Connecticut has thrown up the white flag on its ambitious renewable targets, and is now negotiating its terms of surrender."**

"Connecticut has thrown up the white flag on its ambitious renewable targets, and is now negotiating its terms of surrender," said Nick Culver, an analyst at New Energy Finance in New York. "Instead of simply easing back targets, they

intend to widen eligibility criteria to include imported hydropower from Canada that would have been built regardless, which amounts to pretty much the same thing."

The arguments in favor of such proposals tend to be about cost, with the lower price of natural gas brought by the rise of hydraulic fracturing having made more expensive solar and wind power projects less appealing.

"We could never have imagined in 2007 such an abundance of domestic natural gas," said North Carolina General Assembly Majority Whip Mike Hager, who introduced his state's renewable-energy scale-back legislation, which he expects to pass the GOP-controlled Legislature and be signed by Gov. Pat McCrory (R) this year. "We need that Marcellus shale gas to offset the high cost of renewables and prevent electricity prices from rising further. It's like raising children: they need to grow up and learn to live in the real world."

Renewable-energy companies like SolarCity Corp., the San Mateo, California-based rooftop energy developer, see the real world a little differently.

“Whenever you see [an anti-renewable energy] effort, peel the onion and find out who’s behind it,” who’s funding the effort, said SolarCity CEO Lyndon Rive. “It’s very annoying that people can get away with the shell efforts and call it the people’s voice when it’s funded by coal.”

Rive likely counts Hager among that group of annoying people. The North Carolina majority whip’s top campaign donors include utility company Duke Energy and the Charlotte, North Carolina-based utility owner’s Progress Energy (PGN) unit, according to the National Institute on Money in State Politics.

## **“Natural gas is a clean fuel, and regulators and policy makers are seeing how it’s much more affordable than renewable energy.”**

Heartland Institute, prompting Carrie Hitt, vice president of state affairs for the Washington-based Solar Energy Industry Association, to remark: “This is a deliberate campaign by conservative think tanks, the Heartland Institute and Alec to overturn renewable energy policy that threatens the fossil industry.”

But Todd Wynn, task force director for energy at Alec, said: “Natural gas is a clean fuel, and regulators and policy makers are seeing how it’s much more affordable than renewable energy.” And in an April 2 policy statement, the Heartland Institute said North Carolina’s renewable energy requirements will have cost state ratepayers as much as \$1.8 billion by 2021.

“Repealing the North Carolina renewable portfolio standard would help increase disposable income, attract more business investment, and make energy more affordable for consumers,” the statement said. (BLOOMBERG, HEARTLAND INSTITUTE, DSIREUSA.ORG, STATE NET)

**AK GAMBLES ON OIL TAX CUT:** A domestic energy production boom has put the United States on track to become the world’s biggest oil producer by the end of the decade. But Alaska, once the nation’s oil king, is getting left behind in that expansion, due largely to declining production on its North Slope.

In an effort to halt that trend, the state’s Republican-led Legislature approved a major tax cut for oil producers on the last day of the session last month.

Under the plan (SB 21), oil companies will be taxed at a flat rate of 35 percent, with a series of incentives potentially driving that rate effectively as low as 14 percent. The scheme replaces former Gov. Sarah Palin’s progressive tax structure, which began at 25 percent and went up to 50 percent when oil prices were high.

The overhaul was considered a major victory for Gov. Sean Parnell (R), a former ConocoPhillips lobbyist, who'd been trying for years to get the change.

"We are signaling to the world that Alaska is back, ready to compete, and ready to supply more energy once again," the governor said.

Oil producers also welcomed the change.

"This is Alaska's most important decision in the last half of the century," said Dan Donkel, owner of Donkel Oil and Gas.

But critics say the plan is a gift to Alaska's "Big Three" oil producers — Exxon Mobil, ConocoPhillips and BP — which have an outsized influence on the state's citizen Legislature, a governing body that includes two senators who moonlight for ConocoPhillips. The critics also say the tax cut will do little to increase production while starving the state of revenue.

"It effectively gives away Alaska's oil," said Ray Metcalfe, a former Democratic legislator who is leading a campaign to allow Alaskans to vote on the tax break in 2014. (STATELINE.ORG, STATE NET)

### **ACA COULD COST BUSINESSES IN NON-EXPANSION STATES \$1.3B**

**PER YEAR:** The Affordable Care Act requires companies with more than 25 employees to pay a "shared responsibility" fine of \$3,000 for each worker who isn't eligible for Medicaid and who receives a federal tax subsidy because their employer doesn't offer them health insurance. The provision was intended to induce small businesses to provide such insurance.

Analysis by Brian Haile of Jackson Hewitt Tax Service, however, found that for the 22 states that have opted out of the Medicaid expansion prescribed by the ACA — but made optional by the U.S. Supreme Court — the "shared responsibility" bill for small businesses could run as high as \$1.3 billion per year.

Consequently, the National Federation of Independent Businesses is seeking an exemption from the fines from the Internal Revenue Service.

"A business should not face expensive penalties for state and regulatory decisions beyond their control," the organization said in a March statement to the IRS. Without the exemption, "increased penalty liability could cause a more rapid erosion of employer-sponsored health insurance and increased costs to federal taxpayers," the group stated. (STATELINE.ORG)

**BUDGETS IN BRIEF:** The 43 states with lotteries made more than \$19 billion in profits last year, the bulk of which came from instant scratch-off tickets. Of the \$4 billion in lottery sales in TEXAS, for example, about \$3 billion, or 74 percent, came from instant ticket sales (STATELINE.ORG). • Gaming magnate Steve Wynn told NEVADA Gov. Brian Sandoval (R) and lawmakers last week that the state's gaming industry is not in a "healthy" condition and that future industry growth would likely occur elsewhere. Democratic lawmakers who control the state's Legislature have been

planning legislation to increase a variety of taxes, which is expected to be blocked by Sandoval and his fellow Republicans (LAS VEGAS REVIEW-JOURNAL). • In other negative news, **NEVADA** reclaimed its position as the state with the highest jobless rate in the nation in March, at 9.7 percent. **CALIFORNIA** and **RHODE ISLAND** had bumped the state from that spot in February (STATELINE.ORG). • **FLORIDA** lawmakers agreed last week to give state workers making less than \$40,000 per year a \$1,400 pay raise and those making over \$40,000 a year a \$1,000 raise. The pay hikes are the first for the state's 160,000 public employees in seven years (MIAMI HERALD). • **MISSOURI**'s GOP-controlled Legislature is reportedly poised to pass legislation that would cut the state's income tax and raise the sales tax. But Gov. Jay Nixon (D) said he will veto the bill (STLTODAY.COM). • **INDIANA** Gov. Mike Pence (R) and legislative leaders reached a budget deal last month that will cut the state's personal income tax rate by 5 percent over the next four years while increasing school funding by about \$330 million over the next two years (COURIER-JOURNAL, STATE NET). • **CALIFORNIA** retiree health costs have risen 45 percent over the last half-decade, according to analysis by the non-partisan, non-profit group California Common Sense (CACs.ORG). • Despite last-minute lobbying by eBay Inc. and others, the U.S. Senate voted last week to allow debate on legislation that would permit states to compel out-of-state merchants to collect sales tax from their residents. The proposal still faces obstacles in both the Senate and House, with a final vote in the Senate unlikely until early May, when the chamber reconvenes after a weeklong recess (WALL STREET JOURNAL). • **OHIO** foregoes about \$7.7 billion in revenue each year because of tax breaks, some of which have been in place for decades (COLUMBUS DISPATCH).

— Compiled by KOREY CLARK

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## Politics & leadership

**FERTILIZER PLANT EXPLOSION REVEALS REGULATORY FLAWS:** A week after the explosion at the West Chemical and Fertilizer Company plant in West, Texas killed at least 15 people and destroyed homes and buildings — including a nursing home and a middle school — within a five-block radius, authorities still didn't know exactly what caused the blast. What they did know, however, was that despite being subject to regulation by seven separate agencies — the Occupational Safety and Health Administration, the Environmental Protection Agency, the Department of Homeland Security, the U.S. Pipeline and Hazardous Materials Safety Administration, the Texas Department of State Health Services, the Texas Commission on Environmental Quality and the Texas Feed and

Fertilizer Control Service — the West plant hadn't received a thorough safety inspection since 1985, even though its owners had been fined \$5,250 after the facility's last partial inspection in 2011.

One of the reasons for that lapse is apparently that some of the regulating agencies set their inspection priorities based on what plant operators self-report about potential hazards at their facilities. The West plant filed a "worst-case release scenario" report with the EPA and local officials indicating there was no risk of fire or explosion at the facility, so it wasn't considered a priority.

The owners also evidently failed to notify the Department of Homeland Security that the plant held more than 400 pounds of ammonium nitrate — the same chemical Timothy McVeigh used in the Oklahoma City bombing in 1995 — as required by law. The plant actually held 270 tons of the substance. And although it had filed a report indicating that fact with the Department of State Health Services, the agency didn't pass along that information to Homeland Security because it isn't required to do so.

The EPA and other federal agencies also don't control how close nursing homes, schools or population centers can be to such facilities. In Texas, that decision is up to local zoning authorities. And a 2008 investigation by *The Dallas Morning News* warned that Dallas County residents were "at risk of a toxic disaster because outdated and haphazard zoning has allowed homes, apartments and schools to be built within blocks — in some cases even across the street — from sites that use dangerous chemicals."

The EPA, OSHA and the U.S. Chemical Safety Board are all now investigating the accident. But it could be some time before they come to any conclusions. The CSB has yet to complete its investigation of an explosion that killed seven workers at an oil refinery in the state of Washington three years ago or of the Deepwater Horizon oil rig explosion that killed 11 in the Gulf of Mexico in 2010. (PROPUBLICA)

**GUN-RIGHTS FIGHT MOVING TO BALLOT BOX:** Proponents of background checks on gun sales who have failed to sway lawmakers in their states or in Washington, D.C. are now exploring the idea of taking the issue straight to voters.

Last week the Washington Alliance for Gun Responsibility announced a statewide campaign to gather the 300,000 signatures needed to get a background check initiative on the ballot. Hildy Saizow, president of Arizonans for Gun Safety,

## Upcoming elections

(5/3/2013 - 5/24/2013)

05/07/2013

### **Michigan Special Election**

Senate District 27

### **South Carolina Special Election**

US House (CD 1)

05/14/2013

### **California Special Election**

Senate District 32

05/21/2013

### **Alabama Special Election**

House District 97

### **California Special Primary**

Assembly District 80

Senate District 16

### **Pennsylvania Special Election**

House Districts 42 and 95

• • • •

said her group is also considering an initiative. And an organizer in Oregon said that although the focus there was on the Legislature right now, a ballot measure was a possibility in the future if lawmakers fail to pass proposed legislation.

Washington state Rep. Jamie Pedersen (D) who sponsored unsuccessful background check legislation in his state, said a successful ballot measure would help gun-control advocates' cause.

"It's more powerful if the voters do it — as opposed to our doing it," he said. "And it would make it easier for the Legislature to do even more."

Brian Malte, director of mobilization for the national lobbying group Brady Campaign to Prevent Gun Violence, said passing gun control legislation through Congress was the ideal, to avoid the undermining of states with strong gun laws by nearby states with looser standards. He also said initiative campaigns are costly. But he added that they were still an option worth considering.

"At some point, certainly decisions need to be made about what the right time is to say we take it to the people," he said.

Gun control initiatives have had mixed results at the ballot box in recent years. In 2000 — the year after the Columbine massacre — voters in Colorado and Oregon approved ballot measures requiring background checks for buying weapons at gun shows. But an initiative in 1997 that would have required gun owners to pass a safety course was rejected by more than 70 percent of that state's voters.

Gun control advocates in The Evergreen State believe public opinion has shifted in their favor on the issue. A recent Elway Poll, in fact, found that 79 percent of registered voters in the state supported background checks on all gun sales, including those by private sellers.

Still, Pederson's bill failed to make it through the state's Legislature, reportedly due to pressure placed on lawmakers by the NRA. But Pederson said if lawmakers fail to pass his background check proposal again next year the ballot initiative currently in the works would automatically go to the ballot.

"The public is really with us," he said. "It's the right policy. I think it can be useful for further progress." (SACRAMENTO BEE)

## Upcoming stories

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

- **Prison reform**
- **Fracking**
- **Health care reform**

**WI LAWMAKER WANTS TOUGHER PENALTIES FOR HARASSING LEGISLATORS:** Wisconsin Rep. Garey Bies (R) has introduced legislation to toughen the penalties for intimidating or harming members of the Legislature or their families.

Under current state law, individuals who intentionally harm public officials can be charged with a Class I felony, punishable by a maximum of 3 1/2 years in prison. Bies' measure would add a Class A misdemeanor for acts of repeated intimidation or lingering within 100 yards of a lawmaker's private property, with a maximum punishment of nine months in prison. It would also make acts that cause lawmakers

or their family members to fear for their lives a Class H felony, punishable by up to six years in prison.

Bies said harassment of lawmakers has been a problem in the state for a long time but has worsened since Gov. Scott Walker (R) signed the law in 2011 that effectively ended collective bargaining for most public workers.

Opponents of that proposal “would stand in your face and bump into you,” he said. “They chased you down the hallway and all the way to the office.” (APPLETON POST-CRESCENT)

**POLITICS IN BRIEF:** The **OREGON** House passed legislation that would award all seven of the state’s electoral votes to the winner of the national popular vote in presidential elections, sending the measure to the Senate. So far, nine states with 132 electoral votes have signed on to the national popular vote compact, representing about half of the 270 needed to win the presidency (CORVALLIS GAZETTE-TIMES).

• Hours after two House Republicans unveiled a plan to make **OHIO** a right-to-work state, GOP leadership killed it. Senate President Keith Faber (R) said he didn’t believe there was support for the issue in the General Assembly and pursuing it would only “generate a bunch of breathless fundraising appeals from the Ohio Democratic Party” (CLEVELAND PLAIN DEALER). • **PENNSYLVANIA** transportation and election officials were ordered last week to turn over data on licensed drivers and registered voters to plaintiffs in an ongoing voter-ID case in the hope of settling the longstanding issue of just how many voters in the state don’t already have photo ID cards from PennDot (PHILADELPHIA INQUIRER). • After an hour of impassioned floor speeches, the **NEVADA** Senate voted last week to begin the process of repealing the gay marriage ban from the state’s constitution. If the Assembly passes SJR 13, the full Legislature would have to pass it again in 2015 and voters would have to approve it 2016 before the ban could be lifted (LAS VEGAS SUN).

— Compiled by KOREY CLARK

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## Governors

**O’MALLEY KILLS MD DEATH PENALTY:** Maryland Gov. Martin O’Malley (D) signed over 260 bills last week, including a measure (SB 276) that makes the Old Line State the 18<sup>th</sup> to abolish capital punishment and the sixth in the last six years. The ban takes effect on Oct. 1.

The marathon signing session also addressed numerous other controversial issues, including bills that legalize medical marijuana (HB 1101), allow undocumented immigrants to obtain driver’s licenses (SB 715), force schools to do more to combat

“cyberbullying” (HB 396), allow pharmacists to perform vaccinations (SB 401), broaden the scope of practice for dental hygienists (HB 1121) and physician assistants (SB 460) and bar residents from possessing or selling shark fins (SB 592).

O’Malley had put abolishing the death penalty at the top of his agenda for this session. The measure had come close to passing in previous years but had always stalled before getting to his desk. This time, he fiercely lobbied lawmakers from the outset to ensure its passage. After the bill signing, he predicted that many other states will soon follow suit.

“I don’t know exactly what the timing is, but over the longer arc of history I think you’ll see more and more states repeal the death penalty,” he told reporters. “It’s wasteful. It’s ineffective. It doesn’t work to reduce violent crime.”

The matter may not yet be settled, however. A conservative organization that supports the death penalty is considering a drive to put the matter before voters in 2014. The group, MDPetitions.com, has submitted the initial paperwork to the state, but would still need to gather over 55,000 signatures to get a measure onto the ballot. If it manages to do so, the law would be placed on hold until after the vote.

There is a more immediate matter for O’Malley as well: the five prisoners currently occupying Maryland’s death row. The new law does not apply to them, leaving O’Malley to decide if he will commute their sentences to life in prison without parole. Maryland has not executed a prisoner since 2005. (WASHINGTON POST, WASHINGTON TIMES, MARYLAND GOVERNOR’S OFFICE, STATE NET, POLITICO)

**FBI INVESTIGATING McDONNELL:** The FBI is probing the relationship between Virginia Gov. Bob McDonnell (R) and a donor who has given him and his family more than \$100,000 in political contributions and gifts, including \$15,000 to cover catering expenses at the June 2011 wedding of McDonnell’s daughter. McDonnell has declined to specifically address the probe, but used an appearance on WTOP Radio’s “Ask the Governor” program last week to defend his dealings with Star Scientific CEO Jonnie Williams, saying, “I’ve been blessed to have a lot of friends.”

Controversy over McDonnell’s relationship with Williams has been brewing since his former executive chef, Todd Schneider, told federal officials last year about the gifts from Williams. Schneider has since been charged by Attorney General Ken Cuccinelli (R) with embezzling food from the governor’s mansion, a charge he says is in retaliation for speaking up about Williams and his relationship with McDonnell.

In March, the *Washington Post* reported that Williams had donated \$15,000 to pay for the wedding’s catering bill, \$3,500 more than the actual cost. The catering company then refunded the difference to McDonnell’s wife, which the governor did not disclose as a contribution. McDonnell said he was not required to disclose the cash it went to his wife and not directly to him. He also said he offered no special treatment to Williams or his company, which makes dietary supplements, though

it was later revealed that First Lady Maureen McDonnell spoke on Star Scientific's behalf at an industry event in Florida. She also hosted an event at the Executive Mansion in Richmond to mark the unveiling of its signature product. The governor also spoke at that event.

The FBI is also looking into the relationship between Williams and Cuccinelli, who is seeking to replace McDonnell in the governor's office. The attorney general is reported to have accepted more than \$5,000 in contributions from Williams, including travel and other gifts. Last Thursday, Cuccinelli was granted permission to withdraw from prosecuting Schneider. (WASHINGTON POST, U.S. NEWS & WORLD REPORT, BLOOMBERG BUSINESSWEEK)

#### **TOMBLIN ENDORSES MEDICAID EXPANSION:**

West Virginia Gov. Earl Ray Tomblin (D) announced last week that his state will expand its Medicaid program in line with the Affordable Care Act, adding about 92,000 people to the rolls. Tomblin said that while he does not agree with every aspect of the ACA, he believes the expansion "is the best choice for West Virginia."

West Virginia is expected to garner approximately \$5 billion in new federal Medicaid funding over the next decade, though it is also estimated to see its own costs increase by \$375 million over that time. The federal government will pay 100 percent of the cost of newly-eligible Medicaid patients for the first three years and 90 percent thereafter.

Tomblin was the last Democratic governor to determine whether his or her state would endorse the Medicaid expansion. (BLOOMBERG BUSINESSWEEK, CHARLESTON GAZETTE, BECKLEY REGISTER-HERALD)

**BRANSTAD MEDICAID ALTERNATIVE HITS SNAG:** Iowa Gov. Terry Branstad's (R) alternative proposal to Medicaid expansion met with equal parts success and failure last week: the GOP-controlled House endorsed it while the Democrat-controlled Senate rejected it. Branstad has proposed a non-Medicaid plan to cover approximately 89,000 Iowans with incomes less than \$11,000 annually. Democrats, however, prefer to expand Medicaid to cover about 150,000 residents who make up to \$15,000 a year. The proposal will now go to a joint conference committee to see if a compromise can be reached. (THE GAZETTE [CEDAR RAPIDS], DAILY IOWAN [UNIVERSITY OF IOWA])

## 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 Profiles last week:** 417

**Number of Intros last week:** 2,691

**Number of Enacted/Adopted last week:**  
1,596

**Number of 2013 Profiles to date:** 24,400

**Number of 2013 Intros to date:** 109,880

**Number of 2013 Session Enacted/  
Adopted overall to date:** 16,420

**Number of bills currently in State Net  
Database:** 155,802

— Compiled By FELICIA CARILLO  
(measures current as of 4/17/2013)

Source: State Net database

**GOVERNORS IN BRIEF:** Six months after initially vetoing it, **NEW JERSEY** Gov. Chris Christie (R) signed legislation last week (SB 2082) that allows people to call 911 to report someone has overdosed on drugs without the caller being subjected to arrest for drug possession. Christie opposed the measure at first because he said it did not focus enough on prevention and deterrence, but changed his mind after pleas from families of drug overdose victims (**NEWARK STAR-LEDGER**). • **HAWAII** Gov. Neal Abercrombie (D) announced he will seek a second term (**PACIFIC BUSINESS NEWS**). • **CALIFORNIA** Gov. Jerry Brown (D) signed AB 113, which appropriates \$1.6 million to the Secretary of State's office to fund the alleviation of a severe backlog of business filings. More than 120,000 such filings had piled up amidst complaints from Sect. of State Debra Bowen (D) that her agency did not have the resources to expedite processing the backlog (**SACRAMENTO BEE**). • **NEW MEXICO** Gov. Susana Martinez (R) issued an executive order that bars state and local governments from collecting state funds unless they have completed annual financial audits. As of last Thursday, 59 Land of Enchantment cities, counties, school districts and state agencies did not have up-to-date financial audits in place (**ALBUQUERQUE JOURNAL**). • **MINNESOTA** Gov. Mark Dayton (D) lobbied Gopher State lawmakers last week to approve legislation legalizing same-sex marriage. Dayton addressed House Democrats directly and also sent out notices to supporters urging them to contact their legislators directly (**MINNEAPOLIS STAR TRIBUNE**).

— Compiled by RICH EHISEN

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## Hot issues

**B**USINESS: The **ARIZONA** House gives final approval to HB 2262, which would require scrap metal dealers to register with the Arizona Department of Public Safety and would increase penalties for dealers who knowingly purchase stolen materials. It is now with Gov. Jan Brewer (R) for review (**ARIZONA CAPITOL TIMES [PHOENIX]**). • Also in **ARIZONA**, the Senate gives final approval to SB 1439, a bill that would make gold and silver coins and bullion legal tender in the Grand Canyon State. It moves to Gov. Jan Brewer (R) for review (**REUTERS, STATE NET**). • The **COLORADO** Court of Appeals rules that employers may fire workers who use medical marijuana during their off hours even if it does not impact them on the job. The court said that since marijuana is still illegal under federal law, Centennial State workers have no protection to use it at any time or for any purpose. Lawyers for the plaintiff say they will appeal (**DENVER POST**). • The **MAINE** House rejects two so-called “right-to-work” bills: HB 537, which would have repealed a state law that allows unions to deduct the equivalent

of union wages from non-union workers who benefit from collectively-bargained wages and benefits, and HB 582, which would have made it illegal to require workers to join a union or pay union dues as a condition of employment (BANGOR DAILY NEWS). • The **HAWAII** House gives final approval to HB 672, which bars retailers from selling electronic tobacco smoking devices to anyone under 18. The bill moves to Gov. Neal Abercrombie (D) for review (STATE NET, HAWAII REPORTER [HONOLULU]). • **WASHINGTON** Gov. Jay Inslee (D) signs HB 1009, legislation that requires self-checkout machines at supermarkets to freeze transactions involving alcohol sales until a worker verifies the buyer is at least 21 years old (PORTLAND OREGONIAN). • **MARYLAND** Gov. Martin O’Malley (D) signs SB 446, legislation that bars insurers from denying or canceling a homeowner’s or renter’s policy solely because the consumer does not also have their car insured with that company, or vice versa (MARYLAND GOVERNOR’S OFFICE). • The **CALIFORNIA** Assembly approves AB 1309, which would limit worker’s compensation claims for professional athletes that spent most of their career playing for teams based outside of the Golden State. Under the bill, which now moves to the Senate, former pro athletes seeking workers compensation payments would have to have spent at least 80 percent of their careers playing for California-based teams (SACRAMENTO BEE).

**CRIME & PUNISHMENT:** The **FLORIDA** House and Senate approve HB 7083, which would create a system to determine which inmates on death row have exhausted their post-conviction appeals and requires the governor to sign a death warrant within 30 days, after a Supreme Court review. The execution would then have to take place within 180 days. It is now with Gov. Rick Scott (R) for review (MIAMI HERALD). • Still in **FLORIDA**, Gov. Scott signs SB 92, legislation that requires law enforcement agencies to obtain a warrant before using drone aircraft to conduct surveillance in a criminal case (MIAMI HERALD). • **MARYLAND** Gov. Martin O’Malley (D) signs SB 276, legislation that makes the Old Line State the 18<sup>th</sup> to abolish capital punishment. The District of Columbia also bans executions (BALTIMORE SUN). • The **INDIANA** General Assembly gives final approval to HB 1006, which changes the parameters for the Hoosier State’s four classes of felony offenses and gives judges more flexibility to send fewer low-level offenders to prison and serve their punishment in other ways, such as work-release or at-home detention. It moves to Gov. Mike Pence (R) for review (INDIANAPOLIS STAR). • **MISSISSIPPI** Gov. Phil Bryant (R) signs SB 2223, which adds acts of terrorism to the list of crimes that can earn offenders the death penalty (HATTIESBURG AMERICAN). • **MONTANA** Gov. Steve Bullock (D) signed HB 355, a measure that will allow judges to look back 10 years to add penalties for drivers who have multiple drunken-driving convictions. The bill goes into effect immediately (STATE NET, BILLINGS GAZETTE). • **NORTH DAKOTA** Gov. Jack Dalrymple (R) signs HB 1302, which increases the fines related to drunken driving offenses as well as

the jail time for second and subsequent convictions (BISMARCK TRIBUNE).

**EDUCATION:** The **MISSOURI** House approves HB 675, which would require state education officials to develop guidelines for the training of school employees in the care needed for students with diabetes. It moves to the Senate (STATE NET).

- **MAINE** Gov. Paul LePage (R) signs HB 428, which requires all Pine Tree State teachers to be trained to recognize the warning signs of a student contemplating suicide (BANGOR DAILY NEWS).
- **MONTANA** Gov. Steve Bullock (D) vetoes HB 239, a bill that would have required parental permission before students could attend sex-education classes in public schools. Bullock said the bill intruded on local autonomy (BILLINGS GAZETTE).
- **ARIZONA** Gov. Jan Brewer (R) signs HB 2500, a bill that allows experienced teachers to be placed on probation if they received the lowest rating on one yearly performance review, a status that allows districts to fire them with little notice (ARIZONA CAPITOL TIMES [PHOENIX]).
- The **FLORIDA** Senate fails to approve legislation that would have let parents demand major changes at failing public schools, including having the school transformed into a charter school. The measure, HB 867, drew an unexpected 20-20 tie, not enough to send it back to the House (MIAMI HERALD).
- The **TEXAS** Senate approves SB 1907, which would allow college students age 21 or older with a concealed weapons permit to keep their guns locked in their cars when on campus. It moves to the House (HOUSTON CHRONICLE).

**ENVIRONMENT:** The **DELAWARE** House approves HB 41, which would ban the sale, trade or possession of shark fins. The bill is now in the Senate (NEWS JOURNAL [WILMINGTON]).

- **MONTANA** Gov. Steve Bullock (D) signs legislation that creates a state board to oversee the Treasure State's 54 state parks. The parks have previously been under the control of the state Department of Fish and Game (MISSOULIAN).
- The **OREGON** House approves HB 2595, which would create the crime of interference with state forestland management, a measure aimed at barring environmental protesters who camp out in trees targeted for logging. The House also endorses HB 2596, which would allow private contractors to sue environmental protestors for the cost of damaged equipment, employee wages, attorney fees and similar costs. Both bills head to the Senate (PORTLAND OREGONIAN).

**HEALTH & SCIENCE:** The **NEW JERSEY** Assembly approves AB 945, which would allow Garden State residents to voluntarily indicate in their driving records that they suffer from diabetes. It moves to the Senate (NEWARK STAR-LEDGER).

- The **CALIFORNIA** Assembly gives final approval to AB 1X2, a bill that would bar health insurers from rejecting policy applicants based on pre-

## In case you missed it

Long the "laboratories of democracy," states in the first quarter of this year have been experimenting avidly in all directions.

In case you missed it, the article can be found on our website at  
[http://www.statenet.com/capitol\\_journal/04-22-2013/html#sncj\\_spotlight](http://www.statenet.com/capitol_journal/04-22-2013/html#sncj_spotlight).

existing health conditions and limit rate increases to those allowed under the federal Affordable Care Act. It moves to Gov. Jerry Brown (D) for review (STATE NET). • The **HAWAII** Senate gives final approval to SB 44, which streamlines the process by which severely mentally ill people can be forced to obtain outpatient psychiatric care. It moves to Gov. Neal Abercrombie (D) for review (STATE NET). • **MONTANA** Gov. Steve Bullock signs SB 55, which prohibits insurance companies from denying coverage for cancer patients participating in clinical trials (MISSOULIAN). • **TENNESSEE** Gov. Bill Haslam (R) signs SB 582, legislation that eliminates a requirement that Volunteer State pharmacists have a patient-specific prescription before dispensing a specially compounded drug (NASHVILLE TENNESSEAN). • **MARYLAND** Gov. Martin O’Malley (D) signs legislation that requires sterile compounding pharmacies to be licensed and permitted by the state (MARYLAND GOVERNOR’S OFFICE).

**IMMIGRATION:** The **CALIFORNIA** Assembly approves AB 1401, which would make the Golden State the first in the nation to allow non-citizens who are in the country legally to serve jury duty. It moves to the Senate (SAN FRANCISCO CHRONICLE). • **COLORADO** Gov. John Hickenlooper (D) signs SB 33, which allows undocumented immigrant students who have graduated from Centennial state high schools to pay in-state tuition when attending an in-state college (DENVER POST). • The U.S. Supreme Court rejects a request from **ALABAMA** officials for the high court to grant oral arguments over a part of the state’s immigration law that made it a crime to harbor an illegal immigrant. The decision upholds an earlier ruling by the 11<sup>th</sup> U.S. Circuit Court of Appeals that invalidated that portion of the law (BIRMINGHAM NEWS). • **OREGON** Gov. John Kitzhaber (D) signs SB 833, which allows undocumented immigrants to obtain Beaver State driver’s licenses. Applicants must show proof of their identity and in-state residence for at least a year. The licenses will be valid for four years (PORTLAND OREGONIAN).

**SOCIAL POLICY:** The **FLORIDA** House approves SB 142, legislation that would replace the words “mental retardation” with “intellectual disability” in all Sunshine State statutes. It moves to Gov. Rick Scott (R) for review (TAMPA BAY TIMES). • Also in **FLORIDA**, the House passes SB 1036, which would allow young adults to stay in foster care until age 21. The measure moves to Gov. Scott for review (MIAMI HERALD). • Still in **FLORIDA**, Gov. Scott vetoes SB 718, a bill that would have ended permanent alimony awards in divorce cases (MIAMI HERALD). • **MONTANA** Gov. Steve Bullock (D) allows HB 391, a bill that requires minor girls to obtain parental permission before having an abortion, to become law without his signature (MISSOULIAN). • **RHODE ISLAND** Gov. Lincoln Chafee (I) signs HB 5015/SB 38, legislation that makes the Ocean State the 10<sup>th</sup> to legalize same-sex marriage (PROVIDENCE JOURNAL). • **INDIANA** Gov. Mike Pence (R) signs SB 371, which requires Hoosier

State clinics prescribing abortion-inducing drugs to meet the same building and equipment standards as surgical clinics, even if they perform no surgeries (**LAFAYETTE JOURNAL AND COURIER**). • The **MICHIGAN** House approves HB 4118, legislation that would require welfare recipients suspected of drug use to undergo drug screening. The House also endorses HB 4338, which would allow families receiving welfare to become ineligible for the program if a child within the family does not meet school attendance requirements. Both measures move to the Senate (**DETROIT FREE PRESS**).

**POTPOURRI:** The **ILLINOIS** Senate approves SB 1639, which would allow consumers who purchase an animal that turns out to be sick to return the animal to the pet store for a full refund, exchange it for another of comparable value, or keep the animal and be reimbursed for reasonable veterinary fees, not to exceed two times the purchase price. The bill moves to the House (**QUAD-CITY TIMES [DAVENPORT]**). • **IOWA** Gov. Terry Branstad (R) vetoes SF 204, a bill that would have allowed gambling addicts who have voluntarily banned themselves from casinos to resume casino gambling after five years (**DES MOINES REGISTER**). • **ARIZONA** Gov. Jan Brewer (R) signs HB 2455, a bill that would require local communities that hold gun buyback events to resell those weapons to federally licensed gun dealers instead of destroying them (**ARIZONA CAPITOL TIMES [PHOENIX]**).

— Compiled by *RICH EHISEN*

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## Once around the statehouse lightly

**H**AIL TO...UH...THOSE GUYS: Efforts to convince the NFL's Washington Redskins to change the team name have been around for a long time, with supporters contending it is racist and disrespectful of Native Americans. The latest comes via Washington D.C. Councilman David Grasso, who the *Washington Post* reports will soon introduce a resolution calling for team owners to change the name to the Redtails, the nickname of the famed Tuskegee Airmen fighter squadron that broke the color barrier for pilots in World War II. The team, however, has shown zero inclination to adopt any new name for any reason. When asked at the National Press Club last fall if the team would change its name, general manager Bruce Allen — son of former team head coach George Sr. and brother of former Virginia Gov. George Jr. — simply but emphatically replied, "no." Alas, with a lawsuit pending, the final gun hasn't sounded on this one yet.

**HOP TO IT:** It's springtime in California, which means it's time for the frogs to come out to play. As the *Sacramento Bee* reports, last Tuesday marked the annual Capitol Frog Jump day at the statehouse in Sacramento, an event honoring the legacy of Mark Twain's "The Celebrated Jumping Frog of Calaveras County." Around noon last Tuesday, lawmakers, staffers and media types converged on the East Lawn to root their respective amphibians on to victory, primarily by dancing and stomping around behind said frogs until they leaped as far from all that racket as they could get. This year's champ, an emerald croaker named "Notorious H.O.P.," launched itself almost 10 and half feet. Sen. Tom Berryhill, who represents Calaveras County these days, noted that the competitors — the green ones, anyway — have a lot on the line. "If they lose they could end up in the frying pan," he said.

**SILVER? WHAT SILVER?** The battleship New Jersey has seen a lot of action since hitting the water in 1943, including duty in World War II, Korea and Vietnam. These days, the ship is a floating museum docked at the Camden Shipyards, where thousands of tourists visit it each year. But while it has been lovingly restored, it is missing something: a 59-piece sterling silver Tiffany service, first presented to the original version of the ship by then-Gov. Edward H. Stokes in 1907. The service, which was later transferred to the new ship upon its commission, is stored at the governor's mansion in Princeton. Now, the ship's current operators would like it back. But Gov. Chris Christie isn't going for it. As *PhillyBurbs.com* reports, Christie questions whether the foundation that oversees the ship actually owns the service, and until he knows for sure the service is staying docked at the gov's digs.

**SIGN OF THE TIMES:** Former Gov. Mark Sanford undoubtedly knew that the extramarital affair that very publicly drove him from office and destroyed his marriage would follow him for the rest of his life. And if he didn't know that, well, he got reminded of it last week. Now running for Congress, Sanford ended up on billboards for a Web site that serves as a connector for husbands and wives wishing to cheat on their spouses. As the *Augusta Chronicle* reports, the billboard features a huge picture of Sanford with a pitch urging viewers to use the site the next time they are looking for a new "running mate." Ouch.

— By RICH EHISEN

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