

News From The States

EVENING WRAP

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By [Kate Queram](#)

Do you have questions about politics, elections, lawmakers, esoteric constitutional amendments that may determine the fate of the republic, and/or our collective slow descent into madness? Send them over to askkate@statesnewsroom.com, and I may answer them in an upcoming newsletter!

I used to play [The Sims](#), a video game where you create little people and build them little houses and then tend to the boring details of their daily existence in hopes of climbing the corporate ladder* so you can achieve your dreams of building bigger homes and filling them with better stuff. (Basically it is American capitalism, but slightly more fun, and also proof that we exist in a simulation.) My Sims had some amount of free will, but ultimately I had all the power, which I mostly used to force them to exercise, play chess and extinguish the fires they periodically set all over their homes.

I'm not saying this proves I would be a benevolent leader, but I *am* saying that I did not use my overlord capabilities for evil stupidity. I did not, for example, foment [any political violence](#). I did not impede their ability to be [whoever they were](#). I *definitely* did not force them to learn about cultural Marxism at the tender age of 5. Because even in a computer game, that would have been weird. And dumb. And a waste of time. You know?

*until you give up and use a cheat code, because succeeding takes *way too long*

otherwise



The Big Takeaway

A federal appeals court on Tuesday ruled that Donald Trump can be prosecuted for his efforts to overturn the 2020 election, sharply rejecting his claims of absolute immunity and moving the case one step closer to a jury trial, [our D.C. bureau reported](#).



If only.

(Photo by Ross Williams/Georgia Recorder)

“We cannot accept former President Trump’s claim that a President has unbounded authority to commit crimes that would neutralize the most fundamental check on executive power — the recognition and implementation of election results,” a three-judge panel from the D.C. Circuit Court of Appeals wrote [in a unanimous opinion](#). “Nor can we sanction his apparent contention that the Executive has carte blanche to violate the rights of individual citizens to vote and to have their votes count.”

The ruling is a blow for Trump, whose attorneys had argued that he (and, by

extension, every other former president) could not be charged for actions taken in office as long as they related to official duties, unless first impeached *and* convicted by Congress. Absent that broad-ranging, blanket, magical immunity, “EVERY SITTING PRESIDENT THAT LEAVES OFFICE WILL BE IMMEDIATELY INDICTED BY THE OPPOSING PARTY,” Trump said (yelled?) Tuesday on Truth Social (lol).

“WITHOUT COMPLETE IMMUNITY, A PRESIDENT OF THE UNITED STATES WOULD NOT BE ABLE TO PROPERLY FUNCTION!” he added, seemingly unaware that 44 other presidents (that’s all of them) functioned just fine, enjoying indictment-free lives despite their lack of complete immunity.



*"AND SO I SAID NO, MY IMMUNITY IS NOT ONLY *THIS* BIG, IT IS COMPLETE IMMUNITY. HUGE IMMUNITY. GREATEST IMMUNITY EVER."*

(Photo by Joe Raedle/Getty Images)

This is a ludicrous legal argument based on the Trumpiest interpretation of a longstanding Department of Justice policy that a sitting president cannot be charged with a crime. Key word: *Sitting*. Once you’re an ex-president, you — and your [various crimes](#) — are fair game.

“For the purpose of this criminal case, former President Trump has become

citizen Trump, with all of the defenses of any other criminal defendant,” Tuesday’s unsigned opinion said. “But any executive immunity that may have protected him while he served as President no longer protects him against this prosecution.”

The decision is a first for the American legal system, which had never had to contend with the concept of post-presidency immunity. (RIP, our two-century streak of electing people who did not dabble in treason.) It’s also a key victory for special counsel Jack Smith, whose [case against Trump](#) had ground to a standstill as the court considered his appeal. But it’s probably not the last we’ll hear of the case. Trump’s team has vowed to appeal the decision, either to the full U.S. Court of Appeals for the D.C. Circuit or directly to the U.S. Supreme Court, where it will inevitably end up anyway.

Neither court is required, or [expected](#), to take the case, which is, for Trump, mostly beside the point. His sole goal is to delay the proceedings, ideally past Election Day, giving him a shot at retaking the presidency and then using it to scuttle the prosecution entirely. And so far, it’s working. The trial — one of four on Trump’s calendar this year — had originally been scheduled for March 4 but [was postponed](#) last week amid the pending court decision. A subsequent appeal could take weeks or months, depending on which court, if any, agrees to hear arguments. The circuit court panel appeared to anticipate that Tuesday, saying it would stay its own ruling until Feb. 12 to allow time for Trump to appeal to the Supreme Court but would not wait for the full D.C. Circuit.



*M is for Marxism. N is for Necessary. O is for OhmygodFloridawhy.
(Photo by Getty Images)*

Florida Republicans were focused on more important things, like requiring kindergarteners to learn about “cultural Marxism,” even if they themselves can’t quite define what that means beyond, you know, some type of communism, [the Florida Phoenix reported](#).

Under Florida’s current [education standards](#), communism instruction begins in the seventh grade with the evaluation of economic systems and continues in high school, where students learn to identify “political ideologies that conflict with the principles of freedom and democracy (e.g., communism and totalitarianism).” A [proposed House bill](#) would expand those lessons, requiring all K-12 students to learn the history of communism, with lessons specifically focused on “the philosophy and lineages of Communist thought, including cultural Marxism.”

Specific curriculum and academic standards would be devised by a governor-appointed task force, with final policies in place ahead of the 2026-27 school year. The panel would also be required to “make recommendations to the Legislature regarding the creation of a Florida Museum of Communist History,” per an analysis of the proposal.



Tourists will flock!
(Photo by tktktk/Adobe Stock)

Like so many Republican education policies, this is mostly right-wing red meat. “Cultural Marxism” is a dog whistle for a host of far-right fever dreams, from antisemitic conspiracy theories to [general distaste](#) for feminism, globalism, LGBTQ+ rights, and multiculturalism, among other things. (In Florida, it’s also [a stand-in](#) for “wokeness.”) Several [terrorist manifestos](#) have [denounced](#) the effects of cultural Marxism or blamed Jews for creating it, and domestic groups like the Proud Boys have invoked the term as a catchall for anyone they perceive as an enemy, said Jon Lewis, a research fellow at the Program on Extremism at George Washington University.

“What we’ve seen in recent years has been an intentional effort, by far-right extremists to launder antisemitism, launder white supremacy, launder anti-LGBTQ narratives and hate speech against everyone who’s not effectively in this in-group, which is largely white, largely Christian,” he said.

Republicans had no good answers for those criticisms during a committee hearing last week, beyond a general insistence that students aren’t learning enough about communism. Meanwhile, they’re sure learning plenty about *other* atrocities, like *slavery* and the *Holocaust*, according to state Rep. Alex Rizo, a

Republican and chair of the unfortunately named Choice and Innovation Subcommittee.

“I love that this bill will come up with some sort of curriculum to start teaching what communism really does other than an economic theory that was brought up by Marx and Engels, two philosophers — and I use that term very loosely — in the 19th century,” he said. “Because we do have curriculum in almost every single grade level K through 12 that talks about the sins of slavery, that talks about the horrors of the Holocaust, but does not yet really address the over 100 million people who were victimized, murdered, displaced in about 100 years’ worth of communism in our society.”



Developing!
(Photo by Getty Images)

GOP lawmakers in Missouri are spending their time advocating for the best interests of embryos — specifically, those that become the subject of a custody dispute during divorce proceedings. Under a bill filed last month, judges would be required to resolve those battles in favor of whoever “intends to develop the embryo to birth,” presumed to be the “best interests of the embryo,” [per the Missouri Independent](#).

The proposal was inspired by Jalesia Kuenzel, who petitioned the court for

custody of unused embryos after her divorce. She wanted more children; her ex-husband didn't. A representative of the anti-abortion Thomas More Society argued at the time that the embryos were "living beings" rather than property, requiring judges to consider their "best interest." The courts rejected that argument in 2015, designating the embryos as marital property that belonged to both Kuenzel and her ex-husband and could only be used if they both agreed. Last year, Kuenzel relayed her story to Republican state Rep. Adam Schwadron, who agreed to file a bill codifying into law the "best interest" requirement.

The proposal could have ramifications far beyond Missouri. There are an estimated one million embryos frozen in storage facilities nationwide — a number that grows as couples turn to in vitro fertilization after [struggling to conceive](#). The bill could create a chilling effect on that process, making people second-guess whether to create embryos that could later be used to conceive children over the objections of one of their parents, said Mary Beck, a law professor at the University of Missouri. (The legislation allows for the termination of parental rights, which would free the unwilling parent from paying child support.)



*Benjamin Franklin frankly can not even.
(Photo by Getty Images)*

The proposal also appears to grant personhood to embryos, a prospect with

the potential to once again upend the landscape of abortion-related litigation post- *Roe*. Anti-abortion groups have made no secret of their desire to establish fetal personhood, which would confer legal rights at the moment of conception. The concept is codified in at least one [state-level ban](#) and was mentioned in Kuenzel's lawsuit via a friend-of-the-court brief arguing that embryos are humans, because life begins at conception. Rita Gutchell, the anti-abortion attorney behind that document, is now repeating the argument in Missouri.

"Human beings should have more protected rights than property rights," she said. "We're not fighting over property, we're fighting over human beings."

Except ... we aren't, though, according to Sean Tipton, chief advocacy and policy officer for American Society for Reproductive Medicine.

"What we're seeing is anti-choice legislators who have run out of things to do," he said. "There are people who have a political interest in equating a fertilized egg in a laboratory with an existing child. We think that comparison is invalid scientifically, constitutionally and legally."

Other priority projects

- [Contractor for West Virginia public employees system pays itself way more for some drugs than necessary](#)
- [Idaho bill that would require children to opt in to vaccine registry heads to House floor](#)
- [Nebraska lawmaker seeks to allow offsite religious electives for public K-12 students](#)



Caught Our Eye

Nebraska will no longer attempt to lure tourists to the state with the slogan, "Honestly, it's not for everyone," tourism officials told lawmakers on Monday.

"It's a thing of the past," said John Ricks, director of the Nebraska Tourism Commission.

"Times change. Everything has a shelf life," added David Fudge, executive director of North Platte's Nebraskaland Days festival.



*On the shelf with nothing to do.
(Photo via the Nebraska Examiner)*

The slogan was, weirdly, pretty successful, [the Nebraska Examiner reported](#). Officials launched it five years ago after tourists ranked Nebraska dead last among states they'd like to visit, citing its reputation as flat, boring and too big to drive across. Agreeing with them and then flipping their presumptions was the easiest way to attract new visitors, Ricks said. The campaign included billboards of hikers hopping rock formations with the line, "Famous our flat, boring landscape," or photos of people riding a livestock tank down a stream under the tagline, "Lucky for you there's nothing to do here." The exposure caught people's attention, according to surveys of tourists in target markets.

But not everyone liked it. Some lawmakers recently soured [on the slogan](#), as did Gov. Jim Pillen, who described it as "nonsense" that highlighted the downsides of flyover country and hampered efforts to recruit new residents. In the end it was, honestly, not for everyone.



From The Newsrooms

Gov & Politics

- [North Dakota Legislature's conflict](#)
- [U.S. Sen. Bob Menendez \(D-N.J.\)](#)

- [rules span decades of controversy](#)
- [Are Americans really committed to democracy in the 2024 election?](#)
- [not protected from prosecution, authorities argue](#)
- [With absentee voting underway in Maine, Trump remains on ballot pending high court ruling](#)

Kids

- [Legislation would stop Maine DHHS from using a child's federal benefits to pay for foster care](#)
- [Mother of shooter found guilty of involuntary manslaughter in Michigan high school shooting](#)
- [\(Arizona\) Should drunk drivers who kill someone be forced to pay child support for orphaned kids?](#)
- [New Hampshire bill aims to prevent more 'horrifying' treatment of children in state placement](#)

Environment

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- [Milwaukee officials, climate advocates praise clean energy, efficiency investments](#)
- [Democrats split on charging public or timber industry for more of Oregon's wildfire protection](#)
- [Shoreline access in the Rhode Island Constitution? Dennis Nixon was in the room where it happened](#)



One Last Thing

Taylor Swift is [threatening legal action](#) against a 21-year-old college student who uses publicly available data to track her (and other celebrities') use of private jets. In a letter, Swift's attorney said the posts are "a life-and-death matter" for Swift; a spokeswoman for the pop star later alleged that "the timing of stalkers" appearing outside her home "suggests a connection" to the account.

"His posts tell you exactly when and where she would be," she added.

Jack Sweeney, a junior at the University of Central Florida and the owner of the accounts, said his posts offer an incomplete picture of the cities where Swift

might be, similar to the public schedules for her concerts or the NFL games she attends. The letter, he added, came amid criticism over the environmental impact of her plane usage.

“This information is already out there,” he said. “Her team thinks they can control the world.”

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