

February 2, 2009

The Money Trap



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The next issue of
 Capitol Journal will be
 available on February 9th.

Top Story

States are likely to soon get the fiscal help from Washington they have been clamoring for. But critics say the federal stimulus package could be both a blessing and a curse.

SNCJ Spotlight

Stimulus could be mixed blessing for states

For months governors and other state officials have been lobbying Washington for help with their struggling economies and ailing budgets. It appears they'll get their wish. But that may not be an entirely good thing.

The \$819 billion economic stimulus package engineered by the Obama administration and approved by the U.S. House last week would funnel over \$300 billion to the states. They wouldn't be able to use all of that money to plug their budget holes, however. At least half of the money is designated for

Budget & taxes

OBAMA MAY GREEN-LIGHT CA EMISSIONS RULES: President Barack Obama sent a clear signal last week that there's a new sheriff in Washington. At a White House press conference, Obama directed the Environmental Protection Agency to reconsider its 2007 decision denying CALIFORNIA the authority to impose tougher restrictions on automobile greenhouse gas emissions than those set by the federal government.

"CALIFORNIA has shown bold and bipartisan leadership," Obama said. "But instead of serving as a partner, Washington stood in their way."

In 2005, CALIFORNIA requested a waiver from the EPA allowing the state to boost fuel economy standards for new vehicles to roughly 35 mpg by 2016 and 40 mpg by 2020. (Federal rules set a lower standard of 35 mpg by 2020 and provide credits to ease the burden on U.S. automakers, which the Bush administration estimated would need to spend \$30.5 billion between 2011 and 2015 just to meet interim targets.) After two years of delays, then-EPA administrator Steve Johnson rejected CALIFORNIA's request.

It's likely CALIFORNIA — and the 17 other states that have signaled their desire to adopt tougher vehicle emissions standards — will receive a warmer

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reception from the new EPA administrator, Lisa Jackson. As head of NEW JERSEY's environmental protection agency from 2006 to 2008, Jackson supported an effort to adopt an emissions law modeled on CALIFORNIA's. And she told the Senate committee considering her nomination

two weeks ago that she would “immediately revisit the waiver, looking at the science and the rule of law, and relying on the expert advice of EPA's employees in making a determination.”

Environmental groups welcomed the policy shift.

“What a difference an election makes,” said Bernadette De Chiaro, a lobbyist for Environment California. “For the past eight years, America's engine for ingenuity and progress on the environment was stuck in reverse under the Bush administration. And today, President Obama has taken America from zero to 60 in six days.”

CALIFORNIA's highest profile environmental advocate, Gov. Arnold Schwarzenegger (R), also expressed his pleasure at the turn of events.

“The president’s action is a great victory for CALIFORNIA and for cleaning the air around the nation for generations to come,” the governor said at a news conference. “Soon millions of Americans will be able to breathe easier and drive more fuel-efficient cars.”

Auto manufacturers, however, already struggling with one of the worst sales years in a generation, were less than enthusiastic about the new administration’s stance, fearing it will only lead to a patchwork of state regulations.

“What manufacturers need now more than anything else is certainty and consistency, not complexity and chaos,” said Charles Territo, a spokesman for the Alliance of Automobile Manufacturers, which represents most of the world’s major auto makers.

But the organization indicated the industry was willing to work with the president.

“We are ready to work with the administration on developing a national approach,” said its president and CEO Dave McCurdy.

Schwarzenegger said he supports the idea of a single standard, although he hinted that he wants it to be the one adopted by his state. The governor’s fellow Republicans in CALIFORNIA, however, are threatening to dash that hope. They are demanding that Schwarzenegger weaken the state’s greenhouse gas emissions laws as part of any deal to resolve the state’s ongoing budget crisis.

That action has environmentalists fuming.

“This is fiscal blackmail,” said Bill Magavern, director of the Sierra Club’s CALIFORNIA chapter. “They know they could never achieve these weakenings of environmental protections through the normal process.”

But the Republicans maintain that relieving industry of the costs associated with the emissions laws will spur economic growth, provide jobs and help refill the state’s empty coffers.

Schwarzenegger declined to discuss the issue publicly last week, worried about the impact it might have on budget negotiations.

“I don’t want to get into any of the details of our budget discussions, because it could blow up everything,” he said. (WALL STREET JOURNAL, DETROIT FREE PRESS, SAN DIEGO UNION-TRIBUNE, SAN FRANCISCO CHRONICLE)

BUDGETS IN BRIEF: A CALIFORNIA Superior Court judge gave Gov. Arnold Schwarzenegger (R) the go-ahead to furlough state employees for two days a

The week in session

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

States in Recess: TN, WV

States in Special Session: AZ “a”, CA “b”, CA “c”

States in Budget Hearings: DE

States in Committee Hearings: OH

States Currently Prefiling or Drafting for 2009: FL

States Adjourned in 2009: DC 2007-08, IL 2007-08, MA 2007-08, MI 2007-08, NY 2007-08, OH 2007-08.

State Special Sessions Adjourned in 2009: CA “a”, CT “a”, DE “b”, FL “a”
IL 2007-08 Special Sessions “a”-“z”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 1/30/2009)
Source: State Net database



month as he mandated by executive order in December. Labor unions had challenged the governor's action, arguing that he exceeded his constitutional authority, but the judge said the state's enormous budget deficit justified the move. The unions plan to appeal the ruling, but the furloughs could begin this week (SAN JOSE MERCURY NEWS). • Millions of dollars destined for state corrections projects, ranging from post-conviction DNA testing for prison inmates in **TEXAS** to housing assistance for ex-convicts in **KANSAS**, was lost in the Madoff investment scheme. The money belonged to the **NEW YORK**-based JEHT Foundation, which provides grants to state and local governments, nonprofit organizations and other groups for progressive corrections reforms (STATELINE.ORG). • **ARIZONA**'s Republican legislative leaders agreed on a plan late last Wednesday to close the state's \$1.6 billion budget gap. Final action on the plan, which relies, in part, on \$600 million in cuts and \$500 million in anticipated aid from the federal stimulus bill, was expected late last week (ARIZONA REPUBLIC [PHOENIX]).

— *Compiled by KOREY CLARK*

Politics & leadership

MA HOUSE SPEAKER RESIGNS: Last Tuesday, just three weeks after giving his inaugural speech — and a month after being overwhelmingly re-elected to his third term as speaker of the MASSACHUSETTS House — Salvatore F. DiMasi (D) delivered his farewell address.

“I like to think when I leave that I heeded the words of my father,” DiMasi told his House colleagues. “I hope people remember that I did my job well. I am certainly proud of what I accomplished here in the House of Representatives.”

First elected to the House in 1978 and to the speakership in 2004, DiMasi played a key role in the development of the Bay State's landmark healthcare reform legislation. But he had been under public scrutiny since his friend and former accountant, Richard Vitale, was accused last month of using his relationship with the speaker to push legislation that would benefit his client, the Massachusetts Association of Ticket Brokers. DiMasi is the third consecutive Bay State speaker to leave under the cloud of a scandal.

The day after he stepped down, House members installed Ways and Means Committee Chairman Robert A. DeLeo (D) as speaker with plenty of pomp and ceremony.

“It's a new day,” said Rep. Martin J. Walsh (D). “We've turned the page, and we won't look back.” (BOSTON GLOBE, ASSOCIATED PRESS, WWLP [CHICOPEE])



governor out of office with incomplete or insufficient evidence?”

But Blagojevich’s initial refusal to cooperate with the impeachment proceedings — and to defend himself under oath — ultimately proved too much for most lawmakers to bear.

“Had the governor either himself or through a lawyer challenged the sufficiency of the evidence — because of some of its hearsay nature and some of it was direct evidence — he may have raised questions,” said Senator Kwame Raoul, a Chicago Democrat. “But he didn’t. He had the opportunity, and it’s a lie for him to say that he did not have the opportunity.”

Blagojevich still faces a federal trial on charges that he tried to sell President Barack Obama’s vacant Senate seat. Obama also noted the trial’s conclusion, saying Blagojevich’s removal “ends a painful episode for ILLINOIS. For months, the state

“Had the governor either himself or through a lawyer challenged the sufficiency of the evidence — because of some of its hearsay nature and some of it was direct evidence — he may have raised questions.”

had been crippled by a crisis of leadership. Now that cloud has lifted. I wish Governor Quinn the best and pledge my full cooperation as he undertakes his new responsibilities.” Lt. Gov. Pat Quinn (D) was sworn in as the new governor within an hour of Blagojevich’s removal. Quinn, who will serve out the last two years of Blagojevich’s term, called on lawmakers to move on from what had become an international scandal, saying “If all of us are cheerful, earnest, frank and honest, we can achieve great things for the land of Lincoln.” In a news conference later, Quinn expressed the same sentiment for ILLINOIS residents, saying “It’s extremely important that the people of ILLINOIS come together. I’m going to be working on that night and day.” (NEW YORK TIMES, CHICAGO TRIBUNE, ASSOCIATED PRESS)

GOVERNORS IN BRIEF: MARYLAND Gov. Martin O’Malley (D) said he will urge state legislators to raise the minimum age for teen drivers and strengthen penalties for those who repeatedly drive under the influence of alcohol or drugs. The proposals were just two of 20 bills O’Malley said he would sponsor as part of his 2009 legislative agenda (CAPITAL [ANNAPOLIS]). • **ARIZONA** Gov. Jan Brewer (R) said she may rescind the Grand Canyon State’s new “clean-car” regulations to cut greenhouse gases before the law takes effect (AZ 4322 2007). The rules, which were adopted by former Gov. Janet Napolitano (D), require vehicles sold in **ARIZONA**

<p style="text-align: center;">Upcoming elections 1/29/2008 - 2/19/2009</p> <p>02/03/2009 Maine Special Election House District 89 (Mills)</p> <p>02/10/2009 Kentucky Special Election Senate District 32</p> <p>02/17/2009 Pennsylvania Pre-election Senate District 029</p> <p>Wisconsin Primary Election Superintendent of Public Instruction</p>



for the 2012 model year to meet more stringent **CALIFORNIA** emissions standards (ARIZONA DAILY STAR [TUCSON]). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) and state Attorney General Jerry Brown (D) asked a federal judge to end the court’s oversight of healthcare in Golden State prisons and return the inmate medical system to the state’s control.

The two officials accused the federal receivership placed in charge of the prison health system three years ago of exceeding its authority and violating federal law with an \$8 billion plan to renovate healthcare clinics and build seven “holistic” facilities for 10,000 inmates (LOS ANGELES TIMES).

• **NORTH CAROLINA** Gov. Bev Perdue (D) said she wants to retool the Tar Heel State’s public-school leadership by consolidating power with a new Board of Education chairman who would also manage daily operations. Perdue said the system would be more efficient (WINSTON-SALEM JOURNAL).

– *Compiled by RICH EHISEN*

Upcoming stories

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

- **Medical rescissions**
- **Is CALIFORNIA ungovernable?**
- **Credit scoring**

Hot issues

B **BUSINESS:** The **DELAWARE** Senate approves SB 7, which would bar most government agencies from using eminent domain to spur economic development. The bill moves to the House for consideration (NEWS JOURNAL [NEW CASTLE-WILMINGTON]). • An **INDIANA** House committee endorses HB 1207, legislation that would require restaurants with 10 or more locations to provide details such as total calories, fat and carbohydrates on each food item sold, either on a posted menu or printed documents. It moves to the full House (INDIANAPLOIS STAR). • The U.S. Supreme Court rules that workers fired in retaliation for cooperating in sexual discrimination investigations at their workplace may sue their employer. The ruling stems from the case of a **TENNESSEE** woman who was terminated after answering questions during an internal investigation into possible misconduct by a co-worker (NEW YORK TIMES). • The **UTAH** House approves HB 31, which would allow businesses to carry emergency defibrillators for public access. The measure would also remove any civil liability from someone who administers the emergency response, short of gross negligence or willful misconduct. It moves to the Senate (SALT LAKE TRIBUNE).

CRIME & PUNISHMENT: The **VIRGINIA** Senate endorses SB 961, which would extend eligibility for capital punishment to certain accomplices who share “the



same intent” as an actual killer. Old Dominion Senators also approve SB 1069, which would extend death penalty eligibility to those who kill a fire marshal who has law enforcement powers. Both measures move to the House (ROANOKE TIMES). • The **IOWA** Senate approves SF 27, which would prohibit making money from forcing a person of any age to do a live or public act meant to arouse sexual desire. The measure moves to the House (DES MOINES REGISTER). • The **WYOMING** House rejects HB 98, which would have imposed a minimum 15-year prison sentence on anyone convicted of first degree sexual assault against a minor. Opponents said the measure unjustly took sentencing discretion away from judges (CASPER STAR-TRIBUNE).

In case you missed it

All politics may be local, but the current economic meltdown that began in America has spread to all corners of the globe. In the Jan 19 issue of SNCJ, Lou Cannon reports how European leaders are looking to America for examples of how to revive their own flagging economies.

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

http://www.statenet.com/capitol_journal/01-19-2009/html

EDUCATION: A federal judge in **ILLINOIS** overturns a Prairie State law that required students to observe a moment of silence at the start of each day, ruling it amounted to an unconstitutional endorsement of religion aimed at introducing prayer in public schools. State officials are considering an appeal (CHICAGO TRIBUNE). • The **MISSISSIPPI** Senate endorses SB 2664, a proposal that would create two types of charter schools in the Magnolia State: a public school that converts to operating under a charter granted by state or local education officials and another that could draw students from across school district lines after receiving a charter from either board. The bill moves to the House (CLARION LEDGER [JACKSON]). • A **CALIFORNIA** court rules that private religious schools are not businesses, and therefore do not have to comply with a Golden State law that prohibits businesses from discriminating on the basis of sexual orientation. The ruling came in the case of a private Lutheran school that expelled two girls in 2005 for exhibiting behavior that was “characteristic of a lesbian relationship.” Lawyers for the plaintiff said they will appeal to the state Supreme Court (LOS ANGELES TIMES).

ENVIRONMENT: A **MONTANA** Senate committee tables SB 66, legislation that would have created ground rules for underground storage of carbon dioxide emitted by future Treasure State coal-burning power plants. Gov. Brian Schweitzer (D), who supported the measure, said he will encourage the committee to revive the bill (BILLINGS GAZETTE). • President Barack Obama orders the Environmental Protection Agency to reconsider **CALIFORNIA**’s application for a federal waiver to implement stricter auto emissions standards. The Bush administration officially rejected the waiver request in 2007 (LOS ANGELES TIMES).

HEALTH & SCIENCE: A **NEW JERSEY** Senate panel endorses SB 2471, legislation that would require state health officials to reveal the identity of Garden State hospitals responsible for committing what the federal government deems the



14 most egregious mistakes. Such errors, often dubbed “never events,” include performing incorrect surgery, leaving foreign objects inside a patient or allowing patients to contract infections during such procedures. The measure moves to the full Senate (STAR-LEDGER [NEWARK]).

SOCIAL POLICY: A NEW JERSEY Senate committee approves AB 2844, which would establish a statewide Silver Alert system to inform the public when an elderly person goes missing. The measure moves to the full Senate (STAR-LEDGER [NEWARK]).

POTPOURRI: The **PENNSYLVANIA** Supreme Court rules that autopsy results are public records, and may not be blocked from public viewing by the coroners who perform them. The ruling does allow judges to block some autopsy information, such as graphic pictures, if they see fit (MORNING CALL).

- The **ARKANSAS** House approves HB 1013, a proposal to ban drivers from sending or receiving text messages while behind the wheel. Violators would face a \$100 fine. It moves to the Senate for review (DAILY CITIZEN [SEARCY]).
- A **NEW JERSEY** Assembly committee endorses AB 3358, a measure that would bar mass transit operators from text messaging or sending e-mails while their vehicles are moving. It moves to the full Assembly (PHILADELPHIA INQUIRER).
- Texting while driving is also the issue in **WYOMING**, where the Senate gives preliminary endorsement to SF 63, legislation that would bar the practice. Violators would face a \$200 fine, 20 days in jail, or both, for a first offense. The bill faces another vote before it can move to the House (CASPER STAR-TRIBUNE).
- A **VIRGINIA** Senate committee approves SB 1257, which would require most purchasers at Old Dominion gun shows to undergo criminal-background checks before buying a firearm. The bill moves to the full Senate (RICHMOND TIMES-DISPATCH).
- The **UTAH** House endorses HB51, legislation that would allow home brewers in the Beehive State to make up to 100 gallons of beer or wine if one person over age 21 lives in a residence. Brewers would be able to produce up to 200 gallons if there are two or more residents over 21. The measure moves now to the Senate (SALT LAKE TRIBUNE).

In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here's a snapshot of what's in the legislative works:

Number of Prefiles last week: 1,688

Number of Intros last week: 11,865

Number of 2008 Session Enacted/Adopted last week: 26

Number of 2009 Session Enacted/Adopted last week: 469

Number of Prefiles to date: 17,441

Number of Intros to date: 40,006

Number of 2008 Session Enacted/Adopted overall to date: 29,222

Number of 2009 Session Enacted/Adopted overall to date: 1,075

— Compiled By JAMES ROSS
(measures current as of 1/29/2009)
Source: State Net database

— Compiled by RICH EHISEN

Once around the statehouse lightly

A TAXING SOLUTION: The only thing harder to imagine than a business asking to be taxed is the idea that any government would turn down such a request. But, as the *New York Times* reports, that is exactly the situation in NEVADA, where the Silver State's 25 legal brothels want lawmakers to hit them with a tax on each, uh, transaction. Although the state is grappling with a \$2 billion budget shortfall, lawmakers have rejected the idea. Prostitution is currently legal in only two rural counties, and although those local governments collect big tax dollars from the \$50 million-a-year industry, lawmakers fear that the state following suit might lead to legalizing prostitution statewide. And why would the brothels want to be taxed? As the industry's chief lobbyist explains, taking tax money means "the state's not going to view you as a relic of a past time and put you out of business."

SLEEPY IN SANTA FE: Live webcasting of legislative business has become fairly common in statehouses across the country these days. Just don't ask NEW MEXICO Rep. Ray Begaye to be happy about it. Spurred by Rep. Janice Arnold-Jones' decision to webcast committees she sits on, the House Rules Committee last week took up a proposal to allow committee chairman the discretion to similarly webcast their own meetings if they so choose. As the *New Mexico Independent* reports, however, Begaye was less than thrilled with the plan, complaining that letting the public see the nitty gritty intensity of legislative service could cause trouble next election cycle. "If I am sleeping and I am being recorded," Begaye lamented, "That can be used as political gain." Yes, that could be a problem.

CRAZY TALK: Recently deposed ILLINOIS Gov. Rod Blagojevich certainly didn't make many friends in Springfield prior to his ouster last week, but some of his most vocal critics have made some enemies as well. As Blagojevich's behavior became increasingly bizarre, many in the media and around the statehouse branded the soon-to-be-ex-governor with monikers like sociopathic, delusional, narcissistic, and psychotic, or more colloquial terms like cuckoo, crazy and wacko. As the *Chicago Tribune* reports, mental health advocates took offense to the name-calling, which they contend insinuates Blagojevich's behavior was due to mental illness rather than plain old greed and poor ethics. "No one should be slinging around pejorative terms, let alone diagnosing someone they have never met," said Ann Raney, CEO for Turning Point Behavioral Health Care Center in Skokie. Raney didn't rule out that Blagojevich is mentally ill, but added that if he is, he needs treatment rather than jail time.



PET PROJECT: When WASHINGTON Sen. Ken Jacobsen dies and is laid to rest, he knows who he wants with him. No, not a beloved wife or child, but his deceased cat, Sam. Of course, the problem is that only one state allows such eternal pairings, and the Evergreen State isn't it. So, Jacobsen has introduced SB 5063, legislation to allow pet owners to be buried alongside Fido of Fluffy, as long as the dearly departed pet has been cremated and the human casket occupant has put the request in writing. The bill has cleared one Senate committee so far — much to the dismay of cemetery operators, who oppose the measure — but only after Jacobsen amended the original version, which didn't have the cremation mandate. For the record, FLORIDA is the only state that currently allows pet-human burial cohabitation.

Corrections

In our January 19th issue, we reported that MICHIGAN Gov. Jennifer Granholm (D) signed SB 1134, a measure that would “require drivers convicted of operating a vehicle with a blood alcohol level of .25 or above to have an ignition lock installed on their vehicles.” The statute actually imposes that penalty on drivers with a blood alcohol content of .17 or higher. We regret the error and appreciate John Lazet, Chief of Staff for Sen. Alan Cropsey (R,) for bringing it to our attention.

— *By RICH EHISEN*



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