

March 22, 2010



Running Out

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The next issue of Capitol Journal will be available on April 5th.

Top Story

The federal stimulus has arguably been a godsend to states hit hard by the Great Recession. But with the recovery coming along slower than hoped for, cash-strapped states may be looking to Washington for help for a long time.

SNCJ Spotlight

Will stimulus expire before economic recovery arrives?

When White House economic advisor Lawrence Summers testified before Congress last year to urge passage of the American Recovery and Reinvestment Act of 2009, he promised that the \$787 billion stimulus would be “timely, targeted and temporary.” But as David Wyss, chief economist for Standard and Poor’s, observes,

A Cannon Perspective



With Lou Cannon



“the three T’s did not occur.” The Recovery Act was passed late and politics trumped targeting in many states. Of necessity, the federal stimulus has also proven less temporary than Summers and his boss, President Barack Obama, envisioned. In an effort to spur the lagging recovery, Congress has approved and the president signed another stimulus bill, this one to give employers a break on payroll taxes and inject more money into road and bridge construction, one of the many goals of the Recovery Act.

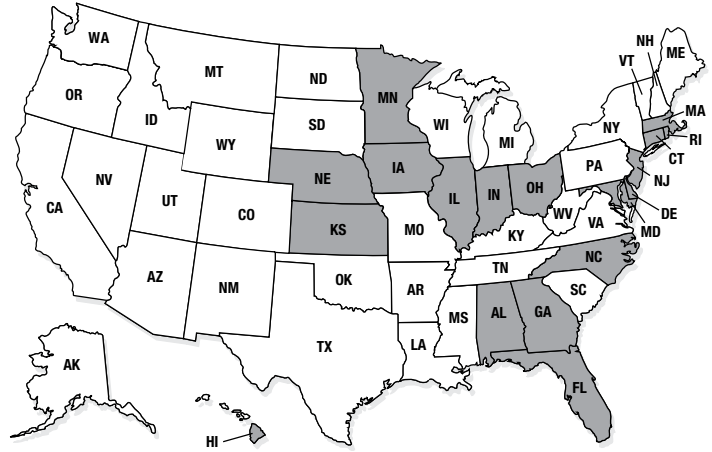
Remember the Recovery Act? Because the media finds it difficult to focus on more than one Big Issue at a time, the health care debate has pushed economics off the stage in what is supposed to be the waning months of the Great Recession. But the Recovery Act, reminiscent of similar initiatives undertaken during

President Franklin D. Roosevelt’s New Deal, remains a big deal to the unemployed, to the working poor, to homeowners under water on their mortgages, and to small business owners of every description who are struggling to make ends meet.

It’s a big deal to the states, too. This week, legislators in NEW YORK were trying to close a \$9 billion budget gap and weighing a proposal by Lt. Gov. Richard Ravitch (D) that would require strict accounting standards and eliminate many of the gimmicks by which the state usually balances its budget. In CALIFORNIA, where hard times are squeezing university enrollments and prison inmates are being released early, legislators nibbled at the latest budget gap — it’s currently about \$20 billion — while Gov. Arnold Schwarzenegger (R) said he would veto a Democratic plan to save money by cutting mass transit. MICHIGAN, meanwhile, was trying to devise an innovative program for reducing home foreclosures that would enable the state to receive an extra \$150 million in federal funds. WASHINGTON state legislators meanwhile were wrapping up debate on a budget package that includes a temporary sales tax and a rebate to the poor. It was just another week in the state capitals of America.

These fiscal battles are the latest chapters in an epic struggle to maintain a constant level of social services during a recession that has sent state revenues

Bird’s eye view



Source: Associated Press, Wall Street Journal, National Conference of State Legislatures

States that have proposed measures to expand gambling revenues

States seek bigger cut of shrinking gambling pot

The Great Recession has cut into gamblers’ pocketbooks. Nationwide, casino revenue is down nearly 10 percent (\$3.3 billion) from 2007, according to the American Gaming Association. But that decline hasn’t stopped states from seeking to expand their gaming operations. At least 18 states have introduced measures this year that would increase the number of slot machines, table games, casinos, lottery games and other forms of wagering within their borders. KANSAS, meanwhile, is considering a measure (HB 2549) that would impose a tax on lottery tickets.



from sales, income and business taxes plummeting to their lowest levels since the Depression. The plight of the states was a principal focus of the Recovery Act, the signature event of the Obama administration's first year in office. As such, it is primarily a Democratic achievement but it is also true, if contrary to popular belief, that most Republicans in Congress also favored a significant stimulus bill, in the neighborhood of \$420 billion. The size of the stimulus was in fact a compromise; many liberal Democrats wanted a larger package than Obama offered. (The stimulus is also a moving target — the latest estimate by the Congressional Budget Office has moved the long-term cost of the bill from \$787 billion to \$862 billion.) In the end, the bill passed mostly on party lines, with both its size and design controversial, but there has always been bipartisan backing for aid to the states. It was also, with a few exceptions, welcomed on a bipartisan basis in the states, which unlike the

“We were all saying that 2011 was the year states were going to go off the cliff. However, it’s a higher cliff than we thought.”

federal government are required to balance their budgets and needed all the help they could get. For fiscal officials in the states, Republicans and Democrats alike, the stimulus package was “a godsend,” says Scott Pattison, executive director of the National Association of State Budget Officers. There is a rough consensus among economists, including Wyss, that the stimulus, whatever its other limitations, averted fiscal catastrophe in the

states. One measure of the stimulus's impact is that state government employment has held fairly steady, at 5.3 million, despite the high national jobless rates. A survey by Pattison of 50 states in February found aggregate layoffs in state government employment last year totaled only 18,000.

But officials in the hardest-hit states now anticipate that the flow of federal funds will dry up before state sales and income tax collections have reached pre-recession levels. “We were all saying that 2011 was the year states were going to go off the cliff,” said Corina Eckl, a budget expert for the National Conference of State Legislatures. “However, it’s a higher cliff than we thought. States are going to be in trouble in 2012, too, because the recovery is so slow. Medicaid rates will continue to grow.”

Medicaid, the federal-state program that provides health care for the working poor, is a lifeline for 60 million Americans. In the words of the Kaiser Commission on Medicaid and the Uninsured, Medicaid is “important both as a source of coverage for low-income Americans and an economic engine in state economies.” The Recovery Act increased the federal share of funds for Medicaid, but only until December 31, 2010, in the middle of the 2011 fiscal year. Knowing this, more than 40 states are preparing to make cuts in Medicaid. A Senate-passed bill, which is expected to win House approval, would extend the more generous federal contribution for six months, amounting by Pattison's calculations to \$25 billion in additional aid for states.

Some states need this federal assistance much more than others. From an economic point of view, says Wyss, “every place between the MISSISSIPPI and the Rockies received more money than they needed. CALIFORNIA and MICHIGAN didn’t receive enough.” This may overstate it, but not by much. Overall, states in the U.S. midland with energy or commodity revenues fared well. NORTH DAKOTA, with an unemployment rate of 4.2 percent, has been virtually unscathed by the recession. Most of the well-off states are small in population, but the list also includes TEXAS, which used its share of Recovery Act funds to balance the budget and has not looked back. Federal funds have made only a small dent in the structural deficit of CALIFORNIA, which shares with ILLINOIS the dubious distinction of having the lowest bond rating of states.

Which states are the worst off? In terms of unemployment, the list includes MICHIGAN, NEVADA, RHODE ISLAND, SOUTH CAROLINA, and CALIFORNIA, all with a jobless rate of more than 12 percent. Three of these states — MICHIGAN, NEVADA, and CALIFORNIA — are also among the worst five in housing foreclosures, joined by ARIZONA and FLORIDA. LOUISIANA and WEST VIRGINIA don’t make any of the “worst” lists, but they are also struggling. In this struggling category, Pattison would add politically dysfunctional NEW YORK. But these states are not alone. With revenues not projected to reach pre-recession levels, most states have found the Great Recession a Great Challenge. For them, the Recovery Act has indeed been a godsend, but they still need more federal assistance than they are likely to receive.

—Lou Cannon

Budget & taxes

STATES HOOKED ON GAMBLING: State revenues from gambling — like virtually every other government income source — have taken a big hit during the recession. Some states have seen drop-offs of between 5 and 14 percent. The states’ response to gamblers keeping a tighter hold on their pocketbooks has been to expand their gambling operations.

PENNSYLVANIA, which has authorized the installation of 25,000 slot machines over the past few years at its recently legalized casinos, is now going to start allowing table games like blackjack and roulette. CONNECTICUT Gov. M. Jodi Rell (R) wants to allow restaurants to let their patrons play keno while they eat. FLORIDA, which joined the Powerball lottery last year, is considering offering a second multistate game. IOWA Gov. Chet Culver (D), whose state already has 17 casinos, has recommended that the state approve four more. And at least 14 other states have proposed similar



measures this year (see States seek bigger cut of shrinking gambling pot in *Bird's eye view*).

The strategy may just work. The new expansion “makes gambling more enticing, makes people more curious,” said Doug Billingsley, who runs a treatment center for problem gamblers in IOWA. Clyde Barrow, a gambling expert at the University of Massachusetts-Dartmouth, said studies support that view.

“We do know the closer you put casinos to people the greater propensity to gamble,” he said.

And although states don't like the idea of luring to the gaming tables people who now have less money to spare, they say they have little choice.

“There's no appetite in the Legislature for an even modest tax increase,” said Gary Tuma, a spokesman for PENNSYLVANIA Gov. Ed Rendell (D).

“Absolutely, we're addicted to gambling dollars,” said IOWA House GOP leader Kraig Paulsen, who opposes plans to expand gambling in his state. “The current budget couldn't be close to being balanced without that money.” (ASSOCIATED PRESS, WASHINGTON POST)

NEW KEY TO ECONOMIC DEVELOPMENT SUCCESS: In the never-ending race to lure businesses into their borders, states now face competition not just from other states but from other parts of the world like China and Southeast Asia as well. And according to the results of a four-month study by the Rockefeller Institute of Government, the key to the states' success is no longer just the traditional economic development packages of tax breaks, incentives and infrastructure, but the knowledge assets they possess in the form of their educational institutions. In what economists have taken to calling “the knowledge economy,” the Institute said, the most successful businesses will be those that are most dependent on knowledge — research, new ideas, technologies and processes, upgraded skills — which state colleges and universities are increasingly delivering to the commercial sector. Examples include the training North Carolina State University provides entry level employees at pharmaceutical facilities in how to maintain clean-room standards required for biomanufacturing and the seed money public and private universities in GEORGIA provide faculty members to help them start small businesses. (STATELINE.ORG)

BUDGETS IN BRIEF: Before adjourning their 2010 session, INDIANA lawmakers agreed to delay a \$400 million tax increase on the state's businesses. Eleventh-hour negotiations on SB 23 resulted in the delay of the planned insurance

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: 1,452

Number of Intros last week: 3,131

Number of Enacted/Adopted last week: 1,677

Number of 2010 Session Prefiles to date: 16,969

Number of 2010 Intros to date: 65,861

Number of 2010 Session Enacted/Adopted overall to date: 8,694

Number of 2009-10 bills currently in State Net Database: 173,609

— Compiled By JAMES ROSS
(measures current as of 3/18/2010)
Source: State Net database



that Congress and the federal government could not carry out health care reform in the Beehive State without approval of the Legislature (HCR 8); that the state had the authority to take federal lands under the eminent domain process (HB 143); and that UTAH’s sovereignty was “inviolable” under the Tenth Amendment to the U.S. Constitution (HCR 2).

<p style="text-align: center;">Upcoming elections 3/18/2010 - 4/8/2010</p> <p>03/23/2010 Florida Special Primary House District 4</p>

Conservative anxiety about federal authority, which has found a voice in the Tea Party movement, may have fueled most of those actions. But the states’ rights declarations haven’t been confined to conservative states. RHODE ISLAND, VERMONT, and WISCONSIN are all considering bills authorizing their governors to recall or take control of National Guard troops, maintaining that the federal government has exceeded its authority in calling them to active duty.

Some legal scholars said the state efforts probably wouldn’t hold up in court because of Article 6 of the U.S. Constitution, which has been the undoing of such states’ rights arguments for the past two centuries.

“Article 6 says that federal law is supreme and that if there’s a conflict, federal law prevails,” said Ruthann Robson, a professor of constitutional law at the City University of New York School of Law. “It’s pretty difficult to imagine a way in which a state could prevail on many of these.”

“Article 6 says that federal law is supreme and that if there’s a conflict, federal law prevails.”

Some of the efforts, however, are based on the premise that the federal courts have simply misinterpreted the Constitution. For example, a lawsuit filed last year as a test case by the Montana Shooting Sports Association after the state’s “firearms freedom”

law took effect, doesn’t challenge the federal government’s authority to regulate guns, but instead alleges that the courts have misconstrued interstate commerce regulations in the federal government’s favor.

But regardless of whether the states’ rights measures prove to have any legal standing, they may very well have a political impact, particularly in some states. UTAH Rep. Chris N. Herrod (R) said the states’ rights crowd would be in attendance at his state’s party caucuses March 23, when the parties will decide, among other things, which candidates will face primary elections.

“Those politicians who don’t understand that things are different are in big trouble because a few people showing up to caucus can have a big influence,” he said. (NEW YORK TIMES)

EXPELLED NY SENATOR FAILS TO REGAIN SEAT — TWICE: Six weeks ago, Hiram Monserrate was ousted from the NEW YORK Senate after being convicted of misdemeanor domestic violence for dragging his girlfriend through an



apartment lobby. The Queens Democrat attempted to block his expulsion in federal court, but last month U.S. District Judge William H. Pauley III rejected that request, saying “expulsion of a sitting legislator is infrequent and the power of a body to determine the fitness of its members is embedded in American democracy.”

Monserate then got on the ballot for a special election last Tuesday to fill his seat, not as a Democrat but as a member of the “Yes We Can” party, which he created. He lost to the Democrat, Jose Peralta, by a wide margin, 65 percent to 27 percent, with Republican Robert Beltrani garnering 8 percent of the vote, according to unofficial returns. (ASSOCIATED PRESS, ALBANY TIMES UNION)

POLITICS IN BRIEF: In the closing moments of UTAH’s 2010 legislative session, House Majority Leader Kevin Garn (R) resigned, after admitting to a nude hot-tubbing incident decades ago with a then-15-year-old girl to whom he paid \$150,000 in 2002 (DESERET MORNING NEWS).

— *Compiled by KOREY CLARK*

Governors

GOVNS PUSH DC ON ENERGY STANDARD: More than half of the states’ governors joined together last week to urge the Obama administration and Congress to develop a national standard for renewable energy, saying such a guideline would spur economic growth and create jobs.

The group of 29 governors submitted a list of recommendations, including setting a minimum requirement for electric utilities to get at least 10 percent of their electricity from sources like solar, wind, and biopower by 2012. The suggestions came via a report generated by the bipartisan Governors’ Wind Energy Coalition, *Great Expectations: U.S. Wind Energy Development, the Governors’ Wind Energy Coalition’s 2010 Recommendations*. Other specific requests included building new transmission lines and infrastructure to transport renewable energy from its production locale — often in the Midwest and West — to urban population zones in other parts of the country; more federal funding for offshore wind technology, such as in the Great Lakes and coastal areas; and streamlining the permitting process for developing wind generation plants.

About half of all states already have some form of a renewable energy portfolio standard of their own, but those requirements often vary greatly from state to state. The governors said that the current jumble of regulations and standards is driving renewable energy investment to Europe and China.



GOVS SEEK MORE ‘RACE TO THE TOP’

TIME: Nine governors signed off on a letter last week requesting that the Obama administration extend the deadline for applying for the second round of federal Race to the Top education grant funding. The governors — Republicans Arnold Schwarzenegger of CALIFORNIA, Mike Rounds of SOUTH DAKOTA, M. Jodi Rell of CONNECTICUT and Robert McDonnell of VIRGINIA, along with Democrats Brad Henry of OKLAHOMA, Joe Manchin of WEST VIRGINIA, John Lynch of NEW HAMPSHIRE, Ted Kulongoski of OREGON and Mark Parkinson of KANSAS — asked U.S. Education Secretary Arne Duncan to extend the June 1 deadline by one month. The nine governors said they will need more time to review the Education Department’s forthcoming explanation for why their efforts in the first round were unsuccessful and to correct areas that need improvement. (SACRAMENTO BEE)

In case you missed it

Lawmakers have taken a softer stance in recent years toward marijuana use for seriously ill people. But with their coffers up in smoke, states are now seriously looking at how pot may help move their budgets off of life support.

In case you missed it, the article can be found on our Web site at http://www.statenet.com/capitol_journal/03-15-2010/html

GOVERNORS IN BRIEF: Faced with intense pushback from arts aficionados, **RHODE ISLAND** Gov. Donald Carcieri (R) abandoned plans to eliminate a popular but controversial requirement that some state-funded projects devote 1 percent of construction budgets to public art. A gubernatorial spokesperson credited lobbying from State Council on the Arts Executive Director Randall Rosenbaum for Carcieri’s decision to leave the levy in place (PROVIDENCE JOURNAL). • The **ALASKA** Senate approved SB 244, legislation that would designate Juneau as the governor’s official “duty station.” The measure would not necessarily force the governor to live in the governor’s mansion in Juneau, but it would remove the housing allowance currently granted to governors who choose to work and live from homes in other locations (JUNEAU EMPIRE). • **INDIANA** Gov. Mitch Daniels (R) signed HB 1001, which among other things bars the governor from raising campaign funds during the long, budget-writing session of the legislature and blocks other state officeholders from using publicly appropriated funds for ads that include their names or faces. The measure will also force former lawmakers to wait at least one year after leaving office before becoming a lobbyist (INDIANAPOLIS STAR TRIBUNE). • **NEW YORK** Gov. David Paterson (D) said he was the one who told the media he’d had a conversation with a woman who was seeking a restraining order against one of his top aides. Paterson says he outed himself as the previously unidentified source cited in the *New York Times* article to show the public he has nothing to hide in the investigation of his conduct. Paterson had been under pressure to resign his office over the matter (WASHINGTON POST).

— Compiled by RICH EHISEN

Hot issues

B **BUSINESS:** The **OHIO** House unanimously endorses HB 276, which relieves Buckeye State land line telephone providers from providing state utility officials with detailed financial data. The measure also makes it easier for those companies to raise rates. It now goes to the Senate (**CLEVELAND PLAIN DEALER**). • **WISCONSIN** Gov. Jim Doyle (D) signs AB 471, which requires Badger State mortgage brokers to act in the best interest of borrowers and to disclose all material facts relating to a loan (**WISCONSIN GOVERNOR'S OFFICE**). • Still in **WISCONSIN**, Doyle signs SB 439, legislation that allows residents who earn more than \$100,000 annually to convert their standard IRAs to Roth IRAs without paying a penalty. The law brings the state in line with federal guidelines adopted in January. **WISCONSIN** is the last state in the nation to drop the conversion fees (**MILWAUKEE JOURNAL SENTINEL**). • **MISSISSIPPI** Gov. Haley Barbour (R) signs HB 170, which gives local governments the power to regulate strip clubs in their area. The bill goes into effect July 1 (**HATTIESBURG AMERICAN**). • **IOWA** Gov. Chet Culver (D) signs HF 2110, legislation that allows military spouses to receive unemployment benefits if they voluntarily leave a job in order to follow their husband or wife on a military assignment (**IOWA GOVERNOR'S OFFICE**). • Still in **IOWA**, Culver signs HF 2449, which requires state agencies to assist disabled veterans with small businesses to obtain state contracts (**SIOUX CITY JOURNAL**).

CRIME & PUNISHMENT: The **GEORGIA** Supreme Court upholds a Peach State law requiring anyone convicted of kidnapping or false imprisonment of a minor to register as a sex offender regardless of whether a sexual act was committed. The Court rejected an argument that the law was unconstitutional (**ATLANTA JOURNAL CONSTITUTION**). • **WISCONSIN** Gov. Jim Doyle (D) signs SB 303, which requires drivers involved in an accident that causes death or serious injury to submit to a blood alcohol test (**WISCONSIN GOVERNOR'S OFFICE**). • The **IDAHO** Senate unanimously endorses SB 1385, a bill that would allow men who have consensual sex with a 16- or 17-year old girl to avoid being charged with statutory rape as long as they are within three years of the girl's age. It moves to the House (**IDAHO STATESMAN [BOISE]**). • The **PENNSYLVANIA** Senate approves SB 1044, legislation that would allow Keystone State prisons to return their unopened prescription medications to the pharmacies where they received them. The measure would also allow pharmacies to redistribute those medications to other prison facilities. The bill moves to the House (**PITTSBURGH TRIBUNE-REVIEW**).

EDUCATION: The **TENNESSEE** House endorses SB 3512, legislation that would allow private, nonprofit institutions to purchase materials, supplies, equipment



and services through the state Department of General Services. The bill moves to Gov. Phil Bredesen (D), who is expected to sign it into law (CHATTANOOGA TIMES FREE PRESS). • **WISCONSIN** Gov. Jim Doyle (D) signs SB 414, which grants registered school nurses immunity from civil damages and requires public and private schools to develop written policies for the administration of drugs (WISCONSIN GOVERNOR’S OFFICE). • **NEBRASKA** lawmakers give initial approval to LB 800, legislation that would require Cornhusker State schools to report truancy cases monthly to the state and to collaborate with county attorneys on how to deal with truants. It faces at least one more vote in the Legislature before it can move on (OMAHA WORLD-HERALD). • The **PENNSYLVANIA** House approves HB 2026, a bill that would require Keystone State middle schools and high schools to include information in each year of their curriculums about the warning signs for dating violence. It moves to the Senate (PITTSBURGH POST-GAZETTE).

ENVIRONMENT: The **COLORADO** Senate approves HB 1107, which would prohibit agricultural land from being declared “blighted” as part of an urban-renewal area. It returns to the House (DENVER POST). • The **ILLINOIS** Senate approves SB 3388, a bill that would end the Prairie State’s moratorium on building new nuclear power plants. It is now in the House (CHICAGO TRIBUNE). • The **MAINE** House endorses HB 557, which would require drug companies to develop programs to collect, manage and dispose of old and unused medications in order to prevent them from being flushed into the state water system. It moves to the Senate (BUSINESS WEEK).

HEALTH & SCIENCE: The **COLORADO** Senate gives initial approval to HB 1008, a measure that would bar health insurance companies from charging women more for individual health plans than they do men. The measure faces another vote before it can move on (DENVER POST). • The **TEXAS** Supreme Court upholds a state law that says patients cannot sue for medical errors after the 10-year statute of limitations even if the error is not discovered until then (FT. WORTH STAR-TELEGRAM). • **IDAHO** Gov. C.L. “Butch” Otter (R) signs HB 391, which would require the Gem State attorney general to sue the federal government to block any federal mandate that people buy health insurance. Similar measures have been introduced in about three dozen states (IDAHO STATESMAN [BOISE]).

SOCIAL POLICY: The **SOUTH CAROLINA** House adopts HB 4657, an amendment to the state budget that includes state funding for abortion in cases of rape or incest, but which requires the procedure to be “incidental” in cases where it is used to save a mother’s life. Doctors in those situations would also be required to attempt to also save the fetus (THE STATE [COLUMBIA]). • **NEW YORK** Gov. David Paterson (D) signs AB 7729, which establishes a protocol for health care practitioners to determine whether a patient in a general hospital or nursing home has decision-



making capacity. If the patient is deemed not capable, the legislation requires the selection of a surrogate from a list of individuals ranked in order of priority, including family members, domestic partners and close friends (NEW YORK GOVERNOR’S OFFICE). • The **KANSAS** Senate approves SB 447, a bill that would require all Sunflower State day care centers to be licensed by the state. The measure, which would also require state officials to conduct annual inspections of those centers, moves to the House for concurrence (LAWRENCE JOURNAL WORLD).

POTPOURRI: The **COLORADO** Senate approves SB 110, which would require all children younger than 8 to be in booster seats when riding in an automobile. It moves to the House (DENVER POST). • The **GEORGIA** House approves HB 788, a bill that would bar Peach State animal shelters from using gas chambers to euthanize unwanted dogs and cats. It is now in the Senate (ATLANTA JOURNAL-CONSTITUTION). • Also in **GEORGIA**, House lawmakers endorse HB 1106, which would require animal shelters to scan an animal for an owner-identification RFID chip before it can be adopted or euthanized. It moves to the Senate (ATLANTA JOURNAL-CONSTITUTION). • The **NEBRASKA** Legislature gives initial endorsement to LB 945, which would bar Cornhusker State drivers from sending text messages or e-mails while behind the wheel. It faces another vote before it can move on (OMAHA WORLD-HERALD).

— *Compiled by RICH EHISEN*

Once around the statehouse lightly

DEFINE ‘UNATTAINABLE’: Rarely a day goes by anymore without some state legislative body calling on Congress to either get with the program or to knock it off, whatever “it” may be. Even more rarely do any of these official urgings do more than give frustrated lawmakers a way to vent their feelings or get some media attention. But one **SOUTH CAROLINA** lawmaker appears as fed up with that process as many states are with Washington D.C. itself. As State Net reports, Palmetto State Rep. Michael Thompson has introduced HB 4754, a bill that urges his fellow lawmakers to lay off the Congressional resolutions, or at least those that are “seeking arguably unattainable results.” Thompson contends that the “proliferation of these memorializations” might start to sound like just so much blah, blah, blah to their Congressional colleagues. Odds are good Rep. Thompson is already far too late with this one.

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