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Top Story

While scientists debate the possibility of a worldwide avian flu pandemic, anxious states already worn down from years of Code Orange terrorist alerts and deadly natural disasters continue to brace for the worst while hoping for the best.

SNCJ Spotlight

Avian flu: experts debate, states prepare

When it comes to the avian flu, many scientists and the federal government have become preoccupied with what U.S. Sect. of Defense Donald Rumsfeld might call “unknown unknowns.” Chief among those is of course whether or not this strain of flu — H5N1 — will develop the human transmissibility that would turn it into a global pandemic with the potential to kill millions of people. But while scientists debate that possibility, anxious states already worn down from

years of Code Orange terrorist alerts and deadly natural disasters continue to brace for the worst while hoping for the best.

According to the State Net database, at least 28 states have introduced approximately 100 bills related to H5N1 or pandemic diseases this session. Almost all of this legislation appropriates state budget dollars for anti-viral drugs like Tamiflu, health crisis preparation and planning, and/or regular monitoring and testing of both wild birds and the consumer poultry industry.

Mandatory quarantines have also been a feature in some bills, such as OKLAHOMA House Bill 2964, authored by Rep. Daniel Sullivan (R). According to Sullivan, that measure allows Sooner State authorities “to take the same preventive and security measures to protect Oklahoma citizens against serious health threats that they currently take against nuclear, chemical and bioterrorist attacks.” INDIANA Gov. Mitch Daniels (R) has already signed legislation granting state and local authorities greater power to impose similar quarantines, saying “there’s not a moment to lose” in preparing for a possible pandemic.

HAWAII and ALASKA are considered to be the front lines for H5N1 defense because they are the first states birds from Asia will reach during their April through November migrations. State and federal scientists there have screened about 10,000 wild birds annually for the disease since 1998, but plan to increase the numbers tested to at least 100,000 this year. In ALASKA, state biologists are also testing water from lakes and ponds used by migrating birds, and bird monitoring stations have been set up everywhere in the state except areas not on the Asian bird migration route. The state is also considering a quarantine measure, HB 380.

HAWAII is also keeping a close eye on human travelers, establishing an airport surveillance program to test visibly ill passengers for H5N1, particularly if they are arriving from a country where the disease has infected humans. State wildlife officials are also aggressively pursuing a regular testing program for the state’s domestic birds, and a new lab capable of testing human mucus samples for H5N1 has opened on Oahu. Those samples would previously have

The Week in Session

States in Regular Session: AK, AL, AZ, CA, CO, CT, DC, DE, FL, HI, IA, KS, KY, LA, MA, MD, ME, MN, MO, NE, NH, NJ, NY, OK, PA, RI, SC, TN, US, VT, WI

States in Informal Session: OH

States in Special Session:
CA "a", VA "a"

States in Recess: MI

Special Sessions in Recess:
OK "a", PA "a"

States Projected to Adjourn:
GA, ID, IL, MS

States Adjourned in 2006: IN, NM, SD, UT, VA, WA, WV, WY

States in Special Session
Adjourned in 2006:
AZ "a", LA "a", TN "a"

Letters indicate special/extraordinary sessions

Source: State Net, 03/31/06

had to be sent to the Centers for Disease Control (CDC) in Atlanta. The CDC is also prepared to set up human screening and quarantine stations at 18 more airports across the mainland in the event the H5N1 virus does cross over into human beings and become a pandemic.

The specter of H5N1 has also convinced states heavy in the poultry industry to step up their testing programs. FLORIDA, which houses about 31 million birds, normally examines about 4,000 a year, a figure that will increase to 15,000 by October of this year, according to Jennifer Jennings-Glover of the FLORIDA Dept. of Agriculture and Consumer Services.

But whether H5N1 will actually turn out to be another Code Orange-type false alarm or the real thing is still the major “unknown unknown” facing every state.

What is known is that since the modern version of H5N1 re-emerged in Asia in 1996 after years of dormancy, the virus has claimed more than 100 lives across the globe. But it is also clear that virtually all of those people were infected by birds, not other humans. That is primarily because the cells bearing the type of receptor the avian virus is known to favor are clustered in the deepest branches of the human respiratory tract, keeping it from spreading by coughs and sneezes. To become a true pandemic of the variety that killed 20 million people around the world in 1918, H5N1 would have to mutate with another human flu variety that allows us to rapidly spread it to one another. So far, H5N1 shows no signs of that capability.

Some researchers say it is highly unlikely such a mutation will occur because a single mutation would not likely do the trick. According to Yoshihiro Kawaoka, a virologist at the University of Tokyo and the University of WISCONSIN, it would probably take many mutations for that transmissibility to form in humans. That, says Kawaoka, gives everyone “more time to prepare for an eventual pandemic.”

But others in the scientific community are not so confident. Dr. David Nabarro, the chief avian flu coordinator for the United Nations, says the speed at which H5N1 has suddenly spread from Asia to birds in Africa, Europe and India has him “quite scared” about H5N1’s ability to make those eventual mutations to human transmissibility.

“That rampant, explosive spread, and the dramatic way it’s killing poultry so rapidly suggests that we’ve got a very beastly virus in our midst,” he says.

Nabarro says the current situation reminds him of the original AIDS virus outbreak in Africa in the 1980s, which rapidly spread across the world because scientists at first did not understand how it was being transmitted.

Like that early AIDS virus, he said, avian flu has too many unanswered questions, like: Why did the disease, after years of smoldering in poultry, suddenly start hitchhiking in migratory birds? “Bits of the puzzle are missing,” he said. “In

six months, will we be cursing ourselves for missing some key phenomena now?"

That is the same question being asked in the halls of both state government and private industry. Should a worst-case pandemic actually break out, each would face the enormous task of providing essential services in the face of losing up to 40 percent of the workforce to illness at one time. And while government is burning the midnight oil to stay ahead of the curve, business so far is not.

A recent survey of 100 U.S. executives by Deloitte and Touche revealed that two-thirds of their companies are not prepared for a H5N1 outbreak, and few even have anybody in charge of getting them ready. The report not surprisingly concluded that American "business is not prepared for even a moderate flu epidemic."

That reality also has insurance carriers worried. A recent report from Fitch Ratings concluded that a realized H5N1 pandemic could lead to a Katrina-like \$18 billion in life insurance

claims in the U.S. alone, with another \$20 billion in Europe.

Local governments are also keenly aware that in the post-Katrina world, they need to step up their own preparation and not presume the federal government will come to their rescue should the worst case scenario play out. If anyone doubted that, U.S. Health and Human Services Secretary Mike Leavitt made it crystal clear last week, telling a collection of 900 local government, business, education and

Bird's eye view



More states consider in-state tuition for illegals

Last week, NEBRASKA lawmakers approved legislation that would make the Cornhusker State the 10th in the nation to allow illegal immigrants to pay in-state tuition at public universities and colleges. At least 17 other states have considered similar laws in recent years. The Bay State rejected that proposal. Supporters say allowing undocumented immigrants to pay the in-state rate provides them the incentive to stay in school, attend college and be more productive when they obtain citizenship. Opponents claim that such laws undermine federal immigration laws and are unfair to U.S. students from other states who must pay the higher out-of-state costs. The NEBRASKA measure is expected to reach Gov. Dave Heineman (R), who is on record as opposing it. The accompanying map shows the nine states that currently allow illegal immigrants to pay in-state college tuition. Two of these states — CALIFORNIA and KANSAS — have pending legal challenges.

health representatives that “any community that fails to prepare [for avian flu], with the expectation that somehow the federal government will come to the rescue, will be tragically wrong. Not because the federal government lacks the will...but because there is no way to respond to 5,000 communities at the same time.”

That, say local officials, is exactly why they are taking significant steps now to, in essence, gird their own “health levees” before the big one catches them by surprise.

“If you are a bird, this is a pandemic. If you are a human, it is a reason to be aware and to plan,” says ALABAMA state health officer Dr. Don Williamson. (STATE NET, NEW YORK TIMES, INSURANCE JOURNAL, ASSOCIATED PRESS, DECATUR DAILY, INDIANAPOLIS STAR, TAMPA TRIBUNE, WALL STREET JOURNAL, CHICAGO TRIBUNE, CONTRA COSTA TIMES, JUNEAU EMPIRE, SACRAMENTO BEE, REUTERS)

** Please contact us at www.capj.com for a complimentary State Net report on avian flu bills in the 50 states.*

— Compiled by RICH EHISEN

Budget & taxes

SUBSIDIES FOR GATED COMMUNITIES IN OK? The cost of maintaining roads in some gated communities in OKLAHOMA would be shifted from the residents of those neighborhoods to the state’s taxpayers under a bill now moving through the Sooner State Legislature. House Bill 2807, which has already made its way to the Senate, would allow the creation of “semi-public” gated communities that would be open to the public from 6 a.m. to 6 p.m. and would, consequently, be eligible for public funding to maintain their streets. The bill’s author, Rep. Randy Terrill (R), says the move would be a “win-win-win” for developers, homebuyers and cities, enabling developers to create safer neighborhoods that middle-income residents could afford and that would generate local property tax revenue. But not everyone sees it that way. OKLAHOMA City Councilman Pat Ryan says something just “isn’t quite right” about allowing the public access to streets they pay for only at certain times of the day. Terrill counters that public parks close at night, and the House staff attorney said he thinks the bill would stand up in court. What could derail the measure, however, is that, as written, it would not let

existing gated communities become “semipublic.” And any change to allow that to occur would likely draw the ire of local governments. (OKLAHOMAN [OKLAHOMA CITY])

BUDGETS IN BRIEF: An independent arbiter ruled March 28 that big tobacco companies should be allowed to reduce their payments to states under the 1998 Master Settlement Agreement because they have lost market share to producers not included in that settlement (see STATES MAY HAVE TO KICK TOBACCO SETTLEMENT HABIT in March 22 issue of *SNCJ*). State attorneys general are vowing to fight the decision (STATELINE.ORG). • Last week, **CONNECTICUT** Gov. M. Jodi Rell (R) proposed a revised plan to eliminate her state’s car tax. Prompted by outcry from senior citizens who no longer drive, the new proposal would allow taxpayers who are 65 years or older to continue to claim the state’s property tax credit, which would have been eliminated under the governor’s original plan (ASSOCIATED PRESS, NEW HAVEN REGISTER). • **NEW YORK** legislative leaders announced a budget deal last Tuesday that includes billions in new tax cuts and school funding commitments. Observers say the plan — estimated at \$1.5 billion over Gov. George Pataki’s (R) \$110.6 billion budget proposal — is almost sure to draw vetoes (TIMES UNION [ALBANY]). • A week before the scheduled end of **KANSAS’** 2006 session, twenty-two Republicans broke ranks with the leadership of the House and joined the chamber’s 42 Democrats to narrowly pass a school spending plan that supporters say will expand all-day kindergarten and satisfy court rulings mandating changes in the Sunflower State’s school funding system. The Senate was expected to approve its own proposal before adjourning, setting up conference committee negotiations for the state’s wrap up session in late April (LAWRENCE JOURNAL-WORLD). • The **VERMONT** House overwhelmingly approved a \$4.4 billion budget March 24 without a word of debate and no significant revisions. House Appropriations Chairwoman Martha Heath (D) said that in her seven terms in the chamber, she’d “never seen a budget with no substantive amendments or debate.” While Heath attributed the outcome to her committee’s hard work, House Republican Leader Peg Flory offered an alternative explanation. “Everything that was important enough for us to fight over was in other bills,” she said (BURLINGTON FREE PRESS). • **NEW JERSEY** Gov. Jon Corzine’s (D) \$30.9 billion budget proposal for fiscal year 2007 received positive reviews from the three major Wall Street bond rating firms over the last two weeks. The favorable reports came just before the Legislature kicked off public hearings on the budget last Tuesday (STAR-LEDGER [NEWARK]).

— Compiled by *KOREY CLARK*



Politics & Leadership

ELECTION GLITCHES FUEL FEARS: On March 21, ILLINOIS held its 2006 primary election, which state officials had billed as a transition to “more modern elections.” In compliance with the federal Help America Vote Act of 2002, the Prairie State had replaced all of its old punch-card voting machines — the type that produced the infamous “hanging chads” in FLORIDA in the 2000 presidential election — with electronic touch-screen machines and optical scanners.

But the new technology created problems of its own. Election officials had trouble transmitting results from some precincts in Chicago and surrounding Cook County, where final results weren’t available even by the weekend after election day. There were also problems with the optical scanners at some locations. The executive director of the ILLINOIS Board of Elections, Daniel W. White, said that while there were isolated cases of equipment failure, most of the difficulties were caused by unfamiliarity with the new equipment.

The snafus in ILLINOIS came just two weeks after a primary election in TEXAS marred by computer problems — including one that resulted in an over-count in one county by about 100,000 votes — reinforcing fears that this year’s elections will be plagued by glitches. “There’s a lot of evidence that some of those fears are coming to pass,” said Doug Chapin, president of the non-partisan election research group Electionline.org.

With more than 30 million Americans expected to be voting on new equipment this year, there will be plenty of opportunity for those fears to be realized. The next test will be in May, when 10 more states will hold primaries. One of those states, PENNSYLVANIA, has been called “a disaster waiting to happen” by John Gideon, director of VotersUnite.org, a group that opposes paperless voting. And the comment of a representative of one of the companies whose voting machines will be used in PENNSYLVANIA and 19 other states don’t inspire a great deal of confidence either. “We have seen this coming and have ramped up as best we can,” said Michelle Shafer of Sequoia Voting Systems. (STATELINE.ORG, USA TODAY)

NH LEGISLATORS TARGET ‘ACTIVIST’ JUDGE: On April 10, a joint committee of the NEW HAMPSHIRE House and Senate will hold a hearing to determine whether to remove a state superior court justice from office. An obscure constitutional procedure in the Granite State known as a “Bill of Address” allows the Legislature to unseat judges without a trial and with lower standards of proof



grow to.” He said such a deluge could prompt him to call the General Assembly into emergency session to seek more funding. He also left open the possibility of a new tax on tobacco to help pay for the program after its initial three-year funding cycle is up. (TENNESSEAN [NASHVILLE])

BLANCO RENEWS THREAT TO BLOCK GULF OIL LEASES: LOUISIANA Gov. Kathleen Blanco (D) reiterated her earlier threat to block federal oil drilling leases off the LOUISIANA coast unless the Pelican State receives more of the money generated from those agreements. Blanco said that Gulf Coast states should receive at least 50 percent of the oil-drilling revenues, noting that the federal government currently keeps almost 100 percent of those funds. She also claimed that much of the devastation caused by Hurricanes Katrina and Rita last fall could have been avoided if the federal government had heeded her previous calls to fund the restoration of deteriorating wetlands that had long buffered inhabited lands from severe storms. (TIMES-PICAYUNE [NEW ORELANS])

SCHWARZENEGGER: FEDS NEED TO “GET THEIR ACT TOGETHER” CALIFORNIA Gov. Arnold Schwarzenegger (R) last week laid the blame for the current heated national debate over illegal immigration on the federal government, saying the lawmakers need “to get their act together.” The governor, who immigrated to the U.S. from Austria, said years of lax border control and partisan bickering over reform have turned the long-standing problem into a crisis. Schwarzenegger did laud current Congressional efforts to improve border patrol and to expand the nation’s guest-worker program, but took a strong stance against granting millions of illegals amnesty in order to achieve citizenship, saying that would create “anarchy.” The governor also criticized a current House-approved proposal to charge illegal immigrants with a felony, saying that “criminalizing immigrants for coming here is a slogan, not a solution.” (LOS ANGELES TIMES, SAN JOSE MERCURY NEWS)

Upcoming Elections (03/30/06 - 04/20/06)

- 04/04/2006
Alabama special general if needed
House 031
- 04/04/2006 Missouri Special Election
Senate 002
- 04/04/2006 Oklahoma Special Primary
Senate 038
- 04/11/2006 California Special Election
Senate 035
US House (CA 50)
- 04/11/2006
Pennsylvania Special Election
House 030
- 04/11/2006 Texas Primary Run off
Senate 1, 2, 3, 5, 7, 8, 12, 13, 14, 17, 18, 19,
22, 25, 29
House (All)
Constitutional Officers:
Governor, Lieutenant Governor, Secretary of
State, Attorney General, Comptroller of Public
Accounts; Commissioners of
General Land Office, Agriculture and Railroad

from entering the market, keeping prices higher. **WEST VIRGINIA** previously settled its own separate Paxil claims with Glaxo and was not part of the new settlement (ARKANSAS NEWS BUREAU [LITTLE ROCK]).

CRIME & PUNISHMENT: The **GEORGIA** House approves legislation that would force convicted sex offenders sentenced to life in prison to serve a minimum of 30 years before being eligible for parole. It goes now to the Senate (ATLANTA JOURNAL-CONSTITUTION). • The **OHIO** Senate approves a proposal that mandates a prison term of 25 years to life for the rape of a child under the age of 13, and 15 years to life for the attempted rape of a minor. It moves to the House (CLEVELAND PLAIN DEALER). • The **SOUTH CAROLINA** Senate approves a bill that would make the Palmetto State only the second in the nation to allow a person with two or more convictions of raping a child younger than 11 to receive the death penalty. **LOUISIANA** is the other state with such a statute. The measure now moves to the House (POST & COURIER [CHARLESTON]). • **TENNESSEE** corrections officials ban large jars of peanut butter in all state prisons after an investigation revealed that prisoners have been using the 18 ounce containers to hide drugs, weapons and other contraband (TENNESSEAN [NASHVILLE]).

EDUCATION: The **MARYLAND** Legislature introduces legislation that would prevent the Old Line State from becoming the first in the nation to invoke the federal No Child Left Behind law to take control of public schools deemed to be failing. The measure came after the state school board voted to take over four Baltimore high schools and to strip the city of direct control of seven more middle schools. All of the affected high schools have failed to show academic improvement for nine years. Gov. Robert Ehrlich (R) has vowed to veto the measure if it gets to his desk (BALTIMORE SUN, WASHINGTON POST, NEW YORK TIMES). • The **MISSISSIPPI** Legislature approves House Bill 308, which requires public schools to provide surplus textbooks upon request to parents who homeschool their children. It goes to Gov. Haley Barbour (R) for consideration (COMMERCIAL APPEAL [MEMPHIS]). • The **NEBRASKA** Legislature approves a proposal to allow illegal immigrants who have lived in the Cornhusker State for at least three years to pay in-state tuition

Quoteable

"This political [expletive] is eroding our ability to educate the children of our city."

— **Brian D. Morris, chairman of the Baltimore school board reacting to the MARYLAND decision to use the federal No Child Left Behind law to take over 11 failing city schools. (BALTIMORE SUN)**

because gay marriage is currently prohibited in those states. The court, however, did not rule on the claims of couples from **NEW YORK** and **RHODE ISLAND** because it is unclear whether state laws there also bar same-sex marriage (**BOSTON GLOBE**). • The **MARYLAND** Assembly rejects a proposal to allow pharmacists to dispense emergency birth control, commonly known as the “morning-after” pill or Plan B, without a prescription. Opponents cited the lack of a minimum age requirement for purchases as their primary objection (**WASHINGTON POST**). • Conversely, the **COLORADO** Senate endorses HB 1212, a measure that would allow pharmacists to dispense Plan B without a prescription. It goes to Gov. Bill Owens (R), who is expected to veto it (**DENVER POST**). • The **MONTANA** attorney general decrees that insurance carriers must include coverage for birth control pills and other contraceptives in their prescription drug plans. The Treasure State’s “unisexual” insurance law forbids any discrimination based on gender in insurance policies (**BILLINGS GAZETTE**).

POTPOURRI: The **ILLINOIS** Senate approves a measure that would require all minors to have 50 hours of driving time, including 10 at night, to be eligible for their driver’s license. Prairie State minors currently need only 25 hours of driving time to acquire their license. It speeds off to Gov. Rod Blagojevich (D) for review (**QUAD-CITY TIMES [DAVENPORT]**). • The **MISSISSIPPI** Senate approves legislation that would deny public access to hunting incident reports while an investigation is ongoing. Currently, only boating and motor vehicle accident reports are exempted from the Magnolia State’s public records law. It shoots off to Gov. Haley Barbour (R) for review (**COMMERCIAL APPEAL [MEMPHIS]**).

In the Hopper

State Net’s database tracks tens of thousands of bills in all 50 states at any given time. Here’s a snapshot of what’s in the legislative works:

Number of 2006 prefiles last week: 158

Number of 2006 Intros last week: 4,023

Number of bills enacted/adopted last week: 1,766

Number of 2006 prefiles to date: 16,868

Number of 2006 Intros to date: 76,926

Number of enacted/adopted overall in 2006: 11,048

— Compiled By JAMES ROSS
(Measures current as of 03/30/06
Source: State Net)

— Compiled by RICH EHIEN

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Once around the statehouse lightly

YOW! WAS *THIS* A WRONG NUMBER: Commuters in Chicago are bracing themselves for a long, long summer thanks to major repairs soon to begin on the Dan Ryan Expressway — the mega-lane freeway into the city from the south. ILLINOIS officials wanted to help ease the angst, so the Dept. of Transportation created a telephone hotline that motorists could call for information on alternative routes into the Loop. And they posted the number on billboards displayed along the Dan Ryan. But as the *Chicago Sun-Times* reports, callers to the hotline were greeted with the following message: “Hey there, sexy guy, welcome to an exciting new way to go live one-on-one with hot horny girls waiting to talk to you.” Seems the IDOT posted the wrong number, and no one complained for three months. The billboards have now been corrected.

PAYBACK BILLS: It’s an honored tradition in MARYLAND — introducing bills not really designed to create new laws but to exact revenge on other lawmakers. Since dueling is no longer in vogue, notes the *Baltimore Sun*, legislators have few opportunities to get back at colleagues who sponsor legislation harmful to someone else’s constituents. Case in point: a bill kicked into the hopper by Delegate George Edwards of rural Garrett County. Edwards was upset with an urban delegate who sponsored a ban on the hunting of black bears, which are a nuisance to Edwards’ constituents. His remedy: He’s introduced a bill to import bears into every jurisdiction in the state — including the Baltimore rowhouse district represented by Delegate Barbara Frush, sponsor of the hunting ban.

A STARBUCKS MOMENT: A NEW YORK state senator, who has brushed against the law on several occasions, last week was issued a summons to appear in criminal court in Albany on the charge that she tossed hot coffee at a staff member. According to the *New York Times*, Sen. Ada Smith, a Queens Democrat, also is charged with roughing up the aide — a third degree assault and a misdemeanor. Smith characterized the charges as politically motivated lies. In years past, Smith has been convicted of speeding past a security checkpoint (2004) and accused of biting a police officer (1998). She’s due in court next month.



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