

Nuclear Fallout



April 4, 2011

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The next issue of Capitol Journal will be available on April 11th.

Top Story

For the last few years, nuclear power has enjoyed a rising tide of positive sentiment across the U.S. and around the world. The ongoing crisis at a heavily damaged nuclear power plant in Japan may have changed all that.

SNCJ Spotlight

Future of nuclear energy: Renaissance or Dark Age?

In recent years, there has been a great deal of talk about the imminence of a global nuclear renaissance, driven by increasing energy demand and concerns about global climate change and dependence on foreign oil. But despite the continuing optimism of some industry officials, the ongoing crisis at Japan's Fukushima Daiichi nuclear power plant may have ushered in another dark age for nuclear energy in the United States.

In the more than three decades since the partial nuclear meltdown at Three Mile Island in 1979, not a single new nuclear plant has opened in the United



States. But a few years ago, applications for new reactors began streaming into the U.S. Nuclear Regulatory Commission. The applicants had divined a shift in public opinion about nuclear power, borne out by a 2008 CBS News poll showing 58 percent of Americans approved of building new nuclear power plants to provide electricity. A Gallup poll conducted last year placed that approval rate even higher, at 62 percent.

But public support for nuclear power has declined dramatically in the wake of the Fukushima crisis. According to a CBS News poll released last month, only 43 percent of Americans support expanding nuclear power, even fewer than the 46 percent who did after the Three Mile Island accident, although considerably more than the 34 percent who did following the Chernobyl disaster in 1986.

Some members of the nuclear industry see things very differently than the majority of Americans.

“Even with Chernobyl, Three Mile Island and now Fukushima, nuclear still has an impeccable safety record,” said Gerald W. Grandey, chief executive of the Canadian company Cameco, a global leader in uranium mining and processing.

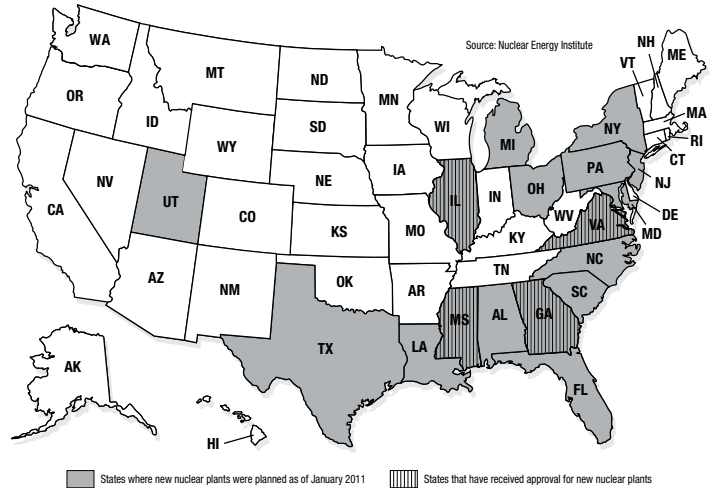
Grandey doesn’t view the ongoing crisis at Fukushima — one of his company’s customers — any differently than the accidents that have befallen other industries.

“I think the public also understands that these are 35- and 40-year-old plants,” he said. “So like airplanes that occasionally fall out of the sky, or like other industrial activities that experience disasters, every industry learns and improves.”

Industry experts also point out that while the world’s worst nuclear disaster, at Chernobyl, may ultimately kill about 10,000 people, with most of the deaths coming from cancer, pollution from coal kills that same number of people in the United States each year.

Grandey is confident that with the unstoppable rise in energy demand of developing countries like China and India, and the inability of fossil fuels to meet

Bird’s eye view



New nuclear plants planned in 17 states before Fukushima crisis

There are currently 104 nuclear power plants operated by 32 companies in 31 states, which provide about 20 percent of the nation’s electricity, according to the Nuclear Energy Institute. As of January of this year, 18 companies had announced their intention to submit applications to the U.S. Nuclear Regulatory Commission for new plants in 17 states, with four proposed for Texas and two apiece for Florida and South Carolina. Four of the 23 total applications were approved between 2007 and 2009.



the world's energy needs due to environmental concerns as well as supply and price uncertainties, his industry will right itself soon enough.

“There will be in time — I’m looking five, seven years — a rapid acceleration of nuclear building putting us back on track to where we would have been, absent Fukushima,” he said.

The NRC has been only slightly less bullish than Grandey. A top NRC official said last week that the Fukushima crisis didn’t warrant any immediate changes at American nuclear plants, although the commission has instructed its inspectors at each site to double check emergency equipment and precautions mandated years ago, and it is also considering a 90-day study of the Japanese accident and its significance for U.S. reactors.

“Every single day, we assess whether or not there is some additional regulatory action that needs to be taken immediately in order to address the information we have to date,” R. William Borchardt, the NRC’s Executive Director of Operations, said in a briefing.

As if to emphasize the point that it hadn’t lost faith in nuclear technology, the NRC issued a 20-year license extension last month to the Vermont Yankee nuclear power plant, a near twin of Fukushima Daiichi, although commission officials maintained they would act promptly if the accident in Japan indicated changes were necessary in Vermont or elsewhere.

Some, including President Obama, have accused the NRC of being too cozy with the industry it is supposed to regulate. But in his own State of the Union address in January, Obama called for “building a new generation of safe, clean nuclear power plants” as a way for the nation to reach the goal of generating 80 percent of its power from “clean energy” sources by 2035.

The faith in nuclear power of some officials in the states where such facilities would be sited, however, has apparently been shaken by the events in Japan.

Democratic U.S. Sens. Barbara Boxer and Dianne Feinstein of California sent a letter to the NRC on March 16 calling for a “thorough inspection” of the two operating plants in their state, San Onofre, north of San Diego, and Diablo Canyon, near San Luis Obispo. Both plants, like Fukushima, are located in seismically active regions along the Pacific coast. Both were also recently determined to be at even higher earthquake risk than previously anticipated.

“New information about the severe seismic risk at the San Onofre Nuclear Generating Station and the Diablo Canyon Power Plant make clear that these two plants require immediate attention in light of the catastrophic events in Japan,” Boxer said in a statement.

NRC spokeswoman Lara Uselding wrote in an email that “U.S. nuclear power plants are built to withstand environmental hazards, including earthquakes and tsunamis.”



passed by both houses earlier this year lifting the state ban on new nuclear plants until the federal government solves the problem of where to store nuclear waste.

As the Fukushima accident has shown, spent nuclear fuel rods pose as much of a problem as the fuel in the reactors. The industry has struggled with how to store them ever since the first nuclear plant was built in the 1950s. As of 2009, there were 218,853 spent fuel rod assemblies stored at various facilities across the country, according to the Congressional Research Service. And the number keeps growing every year.

“There’s a lot of whistling past the graveyard on this,” said Stephen Maloney, a Massachusetts-based risk consultant who works with nuclear power companies.

The industry had been counting on the creation of a long-term waste repository at Yucca Mountain in Nevada, about 100 miles northwest of Las Vegas. But after spending \$10 billion on the project, the Obama administration shelved it last year due largely to opposition from local leaders, including Senate Majority Leader Harry Reid (D-NEVADA).

Such resistance is one reason Steven Cohen, executive director of Columbia University’s Earth Institute stated in an article in the Huffington Post shortly after the Japanese earthquake and tsunami that “nuclear power is politically dead in the United States.”

“The catastrophe in Japan will not soon be forgotten, and it will shape the politics of nuclear power plant siting for decades,” he wrote, adding that the “Not-in-my Backyard” (NIMBY) syndrome is not a passing fad in American politics; it is a central element of land use politics in communities throughout this country.... Most places are happy to allow Wal-Mart, but even before last week, few communities were interested in hosting a nuclear power plant.”

Some evidently still are, however. A statewide poll in Missouri a couple of weeks ago found that 60 percent of residents support building a new nuclear power plant in the state. The poll was conducted by Missourians for a Balanced Energy Future, which is backing SB 321/HB 124, a bill to allow utilities to pass on the cost of applying for a new nuclear plant license to their customers, a measure that is also favored by Gov. Jay Nixon (D) and House Speaker Stephen Tilley (R).

But Chris Lafakis, an energy economist for Moody’s Analytics, agrees with Cohen about the nuclear industry’s prospects. He said it will now be more difficult

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: 490

Number of Intros last week: 2,986

Number of Enacted/Adopted last week: 1,739

Number of 2011 Prefiles to date: 29,046

Number of 2011 Intros to date: 107,397

Number of 2011 Session Enacted/Adopted overall to date: 17,065

Number of Measures currently in State Net Database: 142,726

— Compiled By JAMES ROSS
(measures current as of 3/31/2011)
Source: State Net database



both to get approval for a plant and obtain financing. There may be no “formal moratorium” on new nuclear plants, he said, “but I think there’s an effective one.”

Chris Hansen, Director of Strategy and Initiatives at IHS Cambridge Energy Research Associates, said the nuclear industry was already having difficulty expanding in the United States even before Fukushima, because of the nation’s sluggish economy and a glut of cheap natural gas due to recent shale discoveries.

“Cheap natural gas makes it difficult to pull the trigger on nuclear investment,” he said, adding that he sees the market share for nuclear in America “eroding for the next 10 years.”

“All of the new build will be gas, so nuclear will slip,” he said.

Still, Scotiabank economist Pat Mohr said “the Fukushima-Daiichi event will likely delay rather than derail the ‘nuclear renaissance.’”

“Wind and solar power (alone) are not viable choices for large-scale ‘base-load’ electricity generation,” she said.

(WORLD NUCLEAR ASSOCIATION, ABC NEWS, BBC NEWS, NEW YORK TIMES, CHRISTIAN SCIENCE MONITOR, ASSOCIATED PRESS, STATELINE.ORG. INDIANAPOLIS STAR, MINNEAPOLIS STAR TRIBUNE, POLITICO, NEWS & OBSERVER [RALEIGH], REUTERS, HUFFINGTON POST, POLITICO, KNOWLEDGE @ WHARTON, MINEWEB, KANSAS CITY BUSINESS JOURNAL)

— *Compiled by KOREY CLARK*

Budget & taxes

BUDGET TALKS BREAK DOWN IN CA: Last week, California Gov. Jerry Brown (D) abandoned his effort to reach a bipartisan deal on the state budget, stating in a late-afternoon press release that he was unable to accept all of the Republicans’ many demands.

Earlier in the day, GOP lawmakers who’d been involved in the negotiations with the governor declared the talks hopeless.

“We gave it our best,” said Sen. Bill Emerson (R). “We’re very disappointed. It’s done.”

Two weeks ago, Brown and lawmakers agreed on billions of dollars in cuts. And the governor had hoped to close the rest of the state’s projected \$26 billion budget hole by seeking voter approval to extend temporary income, sales and vehicle tax increases scheduled to expire by July 1. But Brown failed to get the four Republican votes he needed to get the tax measure on the state’s June ballot.



“Each and every Republican legislator I’ve spoken to believes that voters should not have this right to vote unless I agree to an ever-changing list of collateral demands,” he said in his statement.

One of the demands Brown refused to accept was a tax break for California companies that have moved jobs out of the state.

“Republicans demand that out-of-state corporations that keep jobs out of California be given a billion-dollar tax break that will come from our schoolchildren, public safety and our universities. This I am not willing to do,” he said.

One of the other deal breakers among the dozens of demands Republicans delivered to Brown in a seven-page document was a three-year limit on the tax extensions; Brown wanted to extend them for five.

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Sen. Emmerson called Brown a “very honorable adversary” but said he and the other Republican negotiators were unable to bridge the divide between them.

Another of the Republicans, Sen. Anthony Cannella (R), blamed the collapse of the talks on special interest pressure on the Democrats.

“Finding agreement required an equal willingness from the public employee unions, trial attorneys and other stakeholders to join our effort to get California moving again — a willingness that was stunningly absent from our conversations,” he said in a statement.

Republicans also faced pressure. An anti-tax group launched a radio ad in Cannella’s and one of the other Republican’s districts, urging them not to agree to any budget proposal relying on taxes.

“We must hold our legislators accountable,” the ad stated. “They are the only thing standing between us and a new, huge tax increase.”

The governor and Democratic legislative leaders gave few specifics about what they intend to do now. Among their options are launching a citizens’ initiative drive for the tax plan or muscling through an amendment to the 2009 initiative that imposed the tax increases.

Senate President Pro Tem Darrell Steinberg (D) appeared to be more inclined toward the latter course.

“They [Republicans] appear to want to be irrelevant and seem intent on achieving that objective,” he said. “We will use the power of our majority.”(LOS ANGELES TIMES, CHRISTIAN SCIENCE MONITOR, CONTRA COSTA TIMES, SAN FRANCISCO CHRONICLE)

NY LAWMAKERS APPROVE FIRST ON-TIME BUDGET IN YEARS:
New York Gov. Andrew Cuomo (D) had much better luck than his counterpart in



California, getting the Democrat-led Assembly and Republican-controlled Senate to approve the first on-time state budget in five years.

The spending plan closes the state’s \$10 billion budget gap without borrowing or raising taxes.

“If someone had suggested just a few months ago that you would get a budget on time, cut taxes, no new borrowing, get bipartisan support from all over the state, you would have thought it some sort of fantasy. But here we are,” said Senate Minority Leader John Sampson (D).

New York City Mayor Michael Bloomberg was considerably less giddy about the plan, which, among other things, slashes about \$500 million in funding for the city’s schools and doesn’t provide a penny of the \$300 million in unrestricted aid Bloomberg had requested from the state.

“I think that proportionally the cuts that were inflicted on New York City are an outrage,” the mayor said. “We’re the one that’s generating the money.” (WALL STREET JOURNAL, STATELINE.ORG, DEMOCRAT AND CHRONICLE [ROCHESTER], NEW YORK TIMES)

BUDGETS IN BRIEF: State and local governments took in \$1.29 trillion in taxes in 2010, just 2.3 percent less than the \$1.32 trillion peak in 2008 before the recession hit the states, according to Census Bureau data (WALL STREET JOURNAL). • **WISCONSIN** Gov. Scott Walker’s (R) proposed budget would not reduce overall spending over two years as the administration indicated last month but would increase spending by 1 percent, according to a report by the nonpartisan Legislative Fiscal Bureau. The increase would still be the smallest in the state in at least two decades (MILWAUKEE JOURNAL-SENTINEL). • **FLORIDA**’s court system is facing a fiscal emergency, due to a dramatic drop in the number of mortgage foreclosures being filed in the state. The state collects filing fees on foreclosure claims varying from \$400 to \$1,905, depending on the claim amount, and the number of claims has dropped by nearly 20,000 per month (MIAMI HERALD).

— *Compiled by KOREY CLARK*



Politics & leadership

BATTLE OVER UNION POWER IN WI SHIFTS TO COURTS: Days after Wisconsin Gov. Scott Walker (R) signed the bill that had cast Madison into a state of chaos for weeks, the battle over public employee union power shifted to the state’s courts. And the workers won the first skirmish, when Dane County Circuit Judge Maryann Sumi issued a temporary restraining order March

18 barring Secretary of State Doug La Follette from publishing the law — and thereby allowing it to take effect — until she rules on an injunction filed against the law by Dane County District Attorney Ismael Ozanne.

Ozanne, a Democrat, filed that complaint because he and other Democrats believe the Republican legislative committee that approved the bill on March 9, allowing the Legislature to quickly pass it, violated the state’s open records law by, among other things, failing to provide adequate notice of the meeting.

In issuing her order against the law, Sumi, appointed to the bench in 1998 by Republican Gov. Tommy Thompson, indicated she was inclined to rule in Ozanne’s favor.

“The public policy behind effective enforcement of the open meetings law is so strong that it does outweigh the interest, at least at this time, which may exist in favor of sustaining the validity of the (collective bargaining law),” she said, adding: “We in Wisconsin own our government.... We own it in that we are entitled by law to free and open access to governmental meetings, and especially governmental meetings that lead to the resolution of very highly conflicted and controversial matters.”

The state’s Attorney General J.B. Van Hollen, a Republican, strongly disagreed.

“The Legislature and the governor, not a single Dane County Circuit Court judge, are responsible for the enactment of laws,” he said in a statement. “Decisions of the Supreme Court have made it clear that judges may not enjoin the secretary of state from publishing an act.... Decisions of the Supreme Court are equally clear that acts may not be enjoined where the claim is that a rule of legislative procedure, even one as important as the open meetings law, has been violated.”

The state Appeals Court to which the Republicans promptly appealed the decision agreed with both sides, citing two previous state Supreme Court decisions that supported Sumi’s ruling and two others that favored Van Hollen’s position. Because of the conflicting precedents, the appeals panel recommended that the Supreme Court take up the case.

While everyone was waiting for the high court’s response and for court hearings to begin in the Dane County case, the stunning news came that the state’s nonpartisan Legislative Reference Bureau had published the budget-repair law at the center of the controversy.

The week in session

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

States in Recess: MI

States in Special Session: CA “a”, LA “a”, VA “a”, WI “a”

Upcoming Special Sessions:

AL “a” regarding Coastal Insurance convene date TBA.

States in Reconvened Session: VA (Reconvenes on 04/06/2011)

States Currently Prefiling or Drafting for 2011: LA

States Projected to Adjourn: KY “a”

States in Special Session Projected to Adjourn: NM (03/19/2011)

States Adjourned in 2011: KY, NM, UT, VA, WV, WY

State Special Sessions Adjourned in 2011: AL “a”, AZ “a”, AZ “b”, DE “a”, KY “a”, UT “a”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 4/1/2011)
Source: State Net database



Stephen Miller, director of the LRB said Senate Majority Leader Scott Fitzgerald (R) had asked him to publish the law and since the LRB had not been named in Sumi’s restraining order and state law required the agency to publish laws within 10 days of being signed by the governor, he agreed.

Walker’s top cabinet official, Department of Administration Secretary Mike Huebsch, issued a brief statement March 25th reacting to the news.

“Today the administration was notified that the LRB published the budget repair bill as required by law,” the statement said. “The administration will carry out the law as required.”

Sumi expressed her displeasure at the apparent defiance of her order last week, at the end of a day of testimony in the open meetings case.

“Apparently that language was either misunderstood or ignored, but what I said was, ‘the further implementation of 2011 Wisconsin Act 10 is enjoined,’” she said, adding: “Now that I’ve made my earlier order as clear as it possibly can be, I must state that those who act in open and willful defiance of the court order place not

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only themselves at peril of sanctions, they also jeopardize the financial and the governmental stability of the state of Wisconsin.”

Senate Minority Leader Mark Miller (D) seconded the critical view of the Republicans.

“They seem incapable of hearing people who say they are wrong,” he said.

But Assembly Speaker Jeff Fitzgerald (R) seemed disinclined to begin listening.

“It’s disappointing that a Dane County judge wants to keep interjecting herself into the legislative process with no regard to the state constitution,” he said. “Her action today again flies in the face of the separation of powers between the three branches of government.”

Sure enough, days later state officials were still working on implementing the health insurance premium and retirement contribution increases, restrictions on collective bargaining and cancellation of automatic union dues collection mandated by the budget-repair law, despite Judge Sumi’s threat of sanctions.

“It is my duty to administer that law,” said DOA Secretary Huebsch.

He maintained it was still not clear whether Sumi’s order was binding on the DOA, which, like the LRB, was not named in the open meetings lawsuit.

“It is unclear how she can issue an order binding non-parties to a case who have not had their day in court,” he said.

He added that the DOA would “continue to monitor court proceedings” and work with legal counsel to determine its proper course of action. (MILWAUKEE JOURNAL-SENTINEL, WISCONSIN STATE JOURNAL [MADISON])



OH PASSES OWN ANTI-UNION BILL: Following Wisconsin’s lead, Ohio’s Republican-controlled Legislature passed a bill last week curbing the power of public employee unions. The Ohio measure — SB 5 — actually goes further than the one in Wisconsin by not exempting police officers and firefighters from its provisions.

As amended by the House last Tuesday, the bill bans automatic payroll deductions for union political committees and so-called “fair share fees” for non-union employees covered by union-bargained contracts, as well as prohibits strikes, bars unions from negotiating for benefits, does away with binding arbitration in contract disputes, and allows elected officials to choose their own contract offer over a union’s when negotiations break down.

Even some Republicans balked at a few of those provisions. Sen. Bill Seitz, who was behind the state’s ban on same-sex marriage and rules limiting damages in civil cases, and was named “legislator of the year” by the conservative American Legislative Exchange Council in 2008, opposed applying the new restrictions to police and firefighters, who have “ultra-hazardous” jobs. He also said allowing local officials to choose their own contract terms was “the most incomprehensible and unfair thing I have ever heard of.”

Democrats conceded passage of the bill before the final vote and turned their attention toward a referendum campaign to overturn it in November.

“We fought like hell,” Rep. Robert Hagan (D) told a group of union supporters rallying against the bill at the Capitol last week. “We’re taking this to the ballot. Are you with us?”

Ohio Republican Party Chairman Kevin DeWine actually welcomes that idea, believing that a costly referendum campaign this year will only make it that much harder for unions to support Democratic candidates in 2012.

“Any dollar that labor spends on something other than defeating a Republican candidate is a good thing,” he said. “I like them having to spend their money twice.” (WALL STREET JOURNAL, CLEVELAND PLAIN DEALER, USA TODAY)

POLITICS IN BRIEF: The U.S. Supreme Court heard oral arguments last week in a challenge to ARIZONA’s publicly funded Clean Elections program. Opponents allege the program deters privately funded candidates from spending freely out of fear of triggering additional funding for their opponents, thus violating their First Amendment rights. A ruling could come any time before the end of the high court’s session, which is typically in late June (ARIZONA REPUBLIC [PHOENIX], WALL STREET JOURNAL)

— Compiled by KOREY CLARK

Governors

SNYDER WINS BIG, BUT TROUBLE LOOMS: Michigan Gov. Rick Snyder (R) joined with fellow GOP leaders last week to take credit for a variety of legislative accomplishments they said will move the state forward and create jobs. But what was essentially a victory lap may be short-lived.

The list of bills Snyder, Senate Majority Leader Randy Richardville and House Speaker Jase Bolger extolled included: HB 4158, which eliminates the state's item-pricing law; a half dozen measures that collectively bolster the power of city and school district emergency financial managers; SB 20, which eliminates the state's rules mandating proper workplace ergonomics; and HB 4408, which guarantees an extension of federal unemployment benefits this year while slashing the state's maximum number of unemployment benefit weeks from 26 down to 20 beginning in 2012. Michigan is the only state in the nation to limit state-paid unemployment benefits to 20 weeks.

Snyder defended HB 4408, saying it was necessary to guarantee the extended benefits for 20 additional weeks this year. He also noted the \$3.9 billion Michigan owes the federal government for loans the state took out to pay unemployment benefits during the long recession. Michigan has suffered through 27 consecutive months of double digit unemployment, the longest such stretch in the nation.

Snyder, who has signed 15 bills this year, indicated that was just a start. He praised lawmakers for their "spirit of partnership" and promised more to come.

"We have a very full agenda," he said.

Democrats, however, were less enamored of Snyder's accomplishments and with the unemployment bill in particular, which they said would do nothing to help pay the state's debts to the federal government. Sen. Bert Johnson (D), speaking on behalf of Senate Democrats, called those measures an attack on "the values and rights of working families." Dems also claimed that nothing Snyder has done addresses what the state needs most: more jobs.

"We have not seen a focus on job creation, and in fact the governor recently said that jobs can wait until next year," said House Minority Leader Richard Hammel (D). "I would say that the concern we're hearing from residents is very understandable."

State Democratic Party Chair Mark Brewer was more direct.

"He promised to make job creation his top priority, but so far he hasn't created a single job," he said. Dems kept up that theme by releasing a three-minute video attacking Snyder and Republicans that claims the governor "is ruining Michigan."

But the way ahead is also not likely to come with the same level of partisan support Snyder has become accustomed to. He is also at odds with some Republican lawmakers over several parts of his agenda, including his proposals to build a



new public-private bridge across the Detroit River as well as budget measures that would severely cut funding to education and local governments and impose a tax on pensions. Some GOP lawmakers are also not on board with his desire to hand out almost \$2 billion in tax cuts for Wolverine State businesses.

Richardville acknowledged that some of the closed-door negotiations with Snyder on those proposals have been heated, noting the parties have come close to shouting at one another. But he also expressed optimism that the GOP majority will ultimately deliver what the governor wants.

“We’re not in total agreement yet, but we’re working on that; we’ll get there,” he said. (DETROIT NEWS, DETROIT FREE PRESS, BLOOMBERG BUSINESSWEEK, MMDNEWSWIRE.COM)

HERBERT KILLS BID TO END FOUR-DAY WORK WEEK: Utah Gov. Gary Herbert (R) vetoed a quarter of the bills sent to him last week, including a measure that would have ended the state government’s four-day work week. He called the work week measure, HB 328, “disruptive” and “bad policy.” But later he said he would issue an executive order requiring all government agencies to make “critical, public-facing” services available on Fridays. Those services could come either in person or with online or telephone support. The vetoes came on the last day he could take action on the measures and were the only bills Herbert vetoed this session. Since March 23rd, he has signed 259. (DESERET NEWS [SALT LAKE CITY])

SCOTT ORDERS DRUG TESTING: Florida Gov. Rick Scott (R) issued Executive Order 11-58, which would require all potential new state employees under the governor’s purview to submit to pre-employment drug testing. Current employees would also be subject to random drug testing. The order drew immediate criticism from legal scholars, who said it violates the U.S. Constitution’s Fourth Amendment guarantee against unreasonable search and seizure. Most observers expect the order to be challenged in court, where the Sunshine State has in recent years lost challenges at attempts to implement both pre-employment drug screening and random testing for current workers. (MIAMI HERALD)

HICKENLOOPER ORDERS MANAGEMENT SHAKEUP: Colorado Gov. John Hickenlooper (D) has ordered about 96 state government senior managers to reapply for their jobs as part of an ongoing plan to make government more “effective, efficient and elegant.” The employees in question are contract workers with positions across state government. They generally receive up to 25 percent higher pay than other managers, but in exchange surrender protections afforded classified state employees. Their contracts must also be renewed annually. (DENVER POST)



GOVERNORS IN BRIEF: CALIFORNIA Gov. Jerry Brown (D) issued a 12-point plan to reform government worker pensions in the Golden State. The first seven items revolved around stopping abuse and tightening pension funding rules. The last five were listed as “under development,” without an explanation of what that means (SACRAMENTO BEE). • **ARIZONA** Gov. Jan Brewer (R) was one of 23 Grand Canyon State politicians and office seekers who were identified as having received donations and other perks from Fiesta Bowl officials, who then were illegally reimbursed by the organization’s CEO. The revelations came as part of a 276-page report from the Bowl’s executive committee. The report indicated there was no evidence that any of the state officials named, including Brewer and Senate President Russell Pearce (R), knew about the reimbursements (EAST VALLEY TRIBUNE [TEMPE]). • **TENNESSEE** Gov. Bill Haslam (R) offered a compromise to his proposal to cap noneconomic lawsuit damages at \$750,000 and punitive damages at \$500,000. The governor proposed drafting a change to the bill that would exempt catastrophic cases from those caps (TENNESSEAN [NASHVILLE]).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **NORTH DAKOTA** Senate rejects HB 1307, legislation that would have allowed minors to eat in bars (FORUM [FARGO-MOORHEAD]). • The **MARYLAND** Senate gives final approval to SB 248, which would allow Old Line State wineries to ship their products directly to state residents. It goes to Gov. Martin O’Malley (D), who is expected to sign it into law (BALTIMORE SUN). • Still in **MARYLAND**, Senate lawmakers endorse SB 718, legislation that would end mandatory delivery of residential white pages to home phone company customers. The House passed a companion measure, HB 529, last month. The bills are now in the opposite chambers (BALTIMORE SUN). • Also in **MARYLAND**, the House approves HB 87, a measure that would bar employers from accessing a job applicant’s credit history unless duties associated with that position meet certain criteria, such as the handling of money. It is now in the Senate (CAPITAL GAZETTE [ANNAPOLIS]). • And still in **MARYLAND**, the House endorses HB 4, which would ban the sale of infant sippy cups and other products that contain the chemical bisphenol A, or BPA. Supporters say the chemical has been linked to a number of negative health conditions. It moves to the Senate (WASHINGTON POST). • The **ARKANSAS** House approves HB 2103, which would provide a tax credit to an employer who hires a person who has been receiving



unemployment benefits for at least eight consecutive weeks. It moves to the Senate (ARKANSAS NEWS [LITTLE ROCK]).

CRIME & PUNISHMENT: The MICHIGAN

Supreme Court rules it is legal for citizens to film law enforcement officers in the performance of their duties.

The decision, which overturned a lower court’s ruling, determined that police do not have a right to privacy while on the job (DETROIT FREE PRESS). • **VIRGINIA** Gov. Robert McDonnell (R) signs SB 745, which makes it a felony to sell synthetic marijuana, often sold in retail outlets as incense under brand names like K2 and Spice. The measure also criminalizes the sale of “bath salts,” another product sold in retail stores that gives users an effect similar to cocaine. The law goes into effect immediately (RICHMOND TIMES-DISPATCH).

• Still in **VIRGINIA**, McDonnell signs HB 1476/SB 1145, legislation that allows victims of childhood sexual abuse to file a lawsuit up to 20 years after the incident, after the victim turns 18 years old, or after the abuse has come to light, such as through a recovered memory. The current statute of limitations sets a two-year limit (WASHINGTON POST). • The **ARKANSAS** House endorses SB 214, which makes cyberbullying a misdemeanor. It goes to Gov. Mike Beebe (D) for review (ARKANSAS NEWS [LITTLE ROCK]). • **MISSISSIPPI** lawmakers give final approval to SB 2821, which would make a second offense of animal cruelty a felony punishable by a \$5,000 fine and up to five years in prison. The bill is now with Gov. Haley Barbour (R) for review (CLARION LEDGER [BILOXI]).

EDUCATION: An IDAHO Senate committee rejects HB 222, which would

have allowed students to carry guns on college campuses (SPOKESMAN-REVIEW [SPOKANE]). • **FLORIDA** Gov. Rick Scott (R) signs SB 736, which will, beginning in 2014, eliminate teacher tenure in the Sunshine State in favor of requiring educators to work under annual one-year contracts. The measure also creates a merit pay system that requires at least half of a teacher’s pay to be based on student performance (MIAMI HERALD). • **VIRGINIA** Gov. Robert McDonnell (R) vetoes SB 966, which would have required all Old Dominion elementary and middle school students to participate in 150 minutes of physical activity every week. He called the measure an “unfunded mandate” on the state’s schools (RICHMOND TIMES-DISPATCH). • The **ARKANSAS** House approves HB 1032, which would allow the non-sectarian, non-religious academic study of the Bible in public schools. It moves to the Senate (ARKANSAS NEWS [LITTLE ROCK]). • **COLORADO** Gov. John Hickenlooper (D) signs SB 40, which bars athletes who have suffered a concussion from returning to their sport unless they have been cleared by a doctor. The measure also requires school athletic coaches to receive annual training in how to recognize the symptoms

Upcoming stories

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

- **Education reform**
- **Greenhouse gas reduction**
- **Immigration**



of a concussion (BOULDER DAILY CAMERA).

• The **OREGON** Senate approves SB 742, which would allow undocumented students with five years in the country and at least three living in the Beaver State to pay resident tuition at the state’s seven public universities. It graduates to the House (OREGONIAN [PORTLAND]). • **UTAH** Gov. Gary Herbert signs SB 59, which requires Beehive State schools to receive letter grades based on students’ proficiency and progress in language arts, math, science and writing and, in high schools, their graduation rates and measures of college and career readiness. Herbert also signs SB 73, a bill that prohibits schools from considering seniority when laying off teachers. Layoffs will now be based only on performance evaluations and a school’s staffing needs (SALT LAKE TRIBUNE).

In case you missed it

Estimates of the combined shortfall in state pension liabilities range as high as \$3 trillion. To many state budget observers, those obligations are a ticking time bomb.

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

http://www.statenet.com/capitol_journal/03-21-2011/html

ENERGY: The **ARKANSAS** Senate approves HB 1895, which would, among other things, allow state regulators to determine a public utility’s need for additional energy supply in a proceeding separate from other proceedings on a proposed plant. The measure, which now heads to Gov. Mike Beebe (D), would also limit the ability of state courts to review regulators’ findings (ARKANSAS NEWS [LITTLE ROCK]). • The **CALIFORNIA** Assembly approves SB 2a, which would require Golden State public and private utilities to obtain 33 percent of their electricity from renewable energy sources by 2020, a sharp increase over the current standard of 20 percent. It moves to Gov. Jerry Brown (D) for review (SACRAMENTO BEE).

ENVIRONMENT: A **CALIFORNIA** court halts the state’s efforts to begin implementing a cap-and-trade program designed to curb greenhouse gas (GHG) emissions. The court said the state Air Resources Board violated the California Environmental Quality Act by not fully considering options to the cap-and-trade plan. The court must still determine if the ruling will apply only to the cap-and-trade portion of the state’s overall GHG-reduction plan (CA AB 32 2005) or will halt implementation of the entire program (STATE NET). • Still in **CALIFORNIA**, Gov. Jerry Brown (D) declares an end to the Golden State’s almost-three-year drought. The proclamation rescinds an executive order (EO S-06-08) issued by former Gov. Arnold Schwarzenegger (R) in 2008 (SACRAMENTO BEE). • The **NEW HAMPSHIRE** House approves HB 519, which would end the state’s participation in the Regional Greenhouse Gas Initiative, a 10-state cap-and-trade program aimed at reducing carbon emissions. The measure moves to the Senate (CONCORD MONITOR).

HEALTH & SCIENCE: The **MONTANA** House approves HB 175, which would allow voters in 2012 to determine whether or not to repeal a Treasure State law authorizing the medicinal use of marijuana. It is now in the Senate (BILLINGS

GAZETTE). • The **IDAHO** Senate approves HB 165, legislation that would allow pregnant women on Medicaid the option of using a licensed midwife for delivering their children. The bill moves now to Gov. C.L. “Butch” Otter (R) for review (SPOKESMAN-REVIEW [SPOKANE]). • The **SOUTH CAROLINA** House approves HB 3408, legislation that would allow health insurance companies to cover abortion procedures only if the policy holder pays a separate premium for that coverage. It moves to the Senate (SPARTANBURG HERALD-JOURNAL). • **VIRGINIA** Gov. Robert McDonnell (R) vetoes SB 771, which would have raised medical malpractice caps by \$50,000 a year until reaching \$3 million in 2031. The Old Dominion caps medical malpractice awards at \$2 million (VIRGINIAN-PILOT [NORFOLK]).

IMMIGRATION: A **MISSISSIPPI** joint legislative conference committee kills SB 2179, a bill that would have required law enforcement officers to check the immigration status of people they suspect are in the country illegally. The measure passed both chambers but lawmakers could not agree on changes made in the House (CLARION LEDGER [BILOXI]).

SOCIAL POLICY: The **ARKANSAS** House approves HB 1855, which would require a medical facility that performs 10 or more abortions each month to be licensed by the state Department of Health. The bill goes to the Senate (ARKANSAS NEWS [LITTLE ROCK]). • **SOUTH DAKOTA** Gov. Dennis Daugaard (R) signs HB 1217, legislation that requires women seeking an abortion to wait 72 hours and consult with a counselor at a pregnancy help center before having the procedure (ARGUS LEADER [SIOUX FALLS]). • **VIRGINIA** Gov. Robert McDonnell (R) signs SB 924, a bill that requires abortion clinics that perform five or more first trimester abortions a month to be categorized as hospitals (WASHINGTON POST). • The **IDAHO** House approves SB 1070, which would bar assisted suicide in the Gem State. It moves to Gov. C.L. “Butch” Otter for review (IDAHO STATESMAN). • **ARIZONA** Gov. Jan Brewer (R) signs HB 2443, legislation that makes it a felony to perform or provide financing for an abortion sought because of the fetus’ race, sex or a parent’s race (ARIZONA CAPITAL TIMES [PHOENIX]). • Still in **ARIZONA**, lawmakers endorse HB 2416, which among other things prohibits nurse practitioners from administering RU 486, which chemically induces a woman to miscarry. It is now with Gov. Brewer, who is expected to sign it into law (ARIZONA DAILY STAR [TUCSON]). • The **INDIANA** Senate approves HJR 6, which would codify into the Hoosier State constitution a state law that limits marriage to one man and one woman. The amendment would also bar civil unions. It must still be approved by the next elected Legislature in 2012 and then by voters before it can become law (INDIANAPOLIS STAR). • The **KANSAS** House gives final approval to HB 2218, which bars abortions after 22 weeks of pregnancy unless the woman’s life or health is in imminent danger, and HB 2035, which requires minors to obtain parental consent

from both parents before having an abortion unless the parents were separated or a judge signed a waiver. The bills move to Gov. Sam Brownback (R), who is expected to sign them into law (KANSAS CITY STAR). • The **INDIANA** House approves HB 1210, which would bar abortions after the 20th week of pregnancy and require that women seeking the procedure be told it carries a risk of breast cancer. The bill moves to the Senate, which passed similar legislation (SB 328) in February (INDIANAPOLIS STAR). • The **MARYLAND** House approves HB 778, a bill that would make Old Line State women who are at or below 200 percent of the poverty level eligible for Medicaid family planning services. It is now in the Senate, which passed its own version of the bill, SB 743. That bill is now in the House (WASHINGTON POST). • Still in **MARYLAND**, the House endorses HB 235, which would bar discrimination against transgender residents. The policy would apply to areas of housing, employment, licensing and commercial leasing. It moves to the Senate (THE CAPITAL [ANNAPOLIS]). • The **WASHINGTON** Senate approves HB 1649, which would recognize same-sex marriages from other states as domestic partnerships in the Evergreen State. It moves to Gov. Christine Gregoire (D), who is expected to sign it into law (SEATTLE TIMES).

POTPOURRI: The **ARKANSAS** House approves SB 1004, a bill that would ban smoking in a car if there is a child under 14 present. The bill moves to Gov. Mike Beebe (D) for review (ARKANSAS NEWS [LITTLE ROCK]). • Still in **ARKANSAS**, the House endorses HB 1958, a bill that would allow Razorback State churches to designate people who could carry a handgun in church if they have a concealed-carry permit. It is now in the Senate (ARKANSAS NEWS [LITTLE ROCK]).

— Compiled by RICH EHISEN

Once around the statehouse lightly

A DOG'S LIFE: California is going to the dogs, or at least a single dog: Gov. Jerry Brown's Pembroke Welsh Corgi, Sutter. As the *Los Angeles Times* reports, the Golden State's "First Dog" has taken the Capitol by storm, becoming the most popular mammal under the dome. Democrats and Republicans alike have taken to the furry critter that Brown has called "half a rat," and who has become a fixture at budget negotiations. The popular pooch — who has his own popular Twitter and Facebook accounts — has even won over the building's most hardened and cynical denizens: the Capitol press corps, who have



reveled in writing about the hound, if only to have something positive to write about in yet another year of dreary budget woes. It doesn't hurt that Sutter is credited with occasionally softening his owner's often-caustic personality. Now that's worth howling about.

WHOOPIE WARS: Pride over a gooey sweet dessert is causing some bitter feelings these days. As the *USA Today* reports, Pennsylvanians are miffed at Maine state Rep. Paul Davis, who last January introduced legislation to make the whoopie pie — a wondrous combination of creamy vanilla filling sandwiched between two rounds of chocolate cake — the Pine Tree State's official dessert. That irked folks in the Keystone State, who insist the sinfully delicious snack was originally developed right there in good old PA, a product of generations of Amish kitchens. Poppycock — or something to that effect — say Mainers, who regularly attend the state Whoopie Pie Festival by the thousands. The kerfuffle has inspired the Lancaster Mennonite Historical Society to seek the truth: it is now offering the princely sum of two dozen freshly-made whoopie pies to the person who can prove the decadent treats originated in Pennsylvania. Stay tuned.

NOT A PRETTY PICTURE: A picture may be worth a thousand words, but one particular mural apparently isn't worth much to Maine Gov. Paul LePage. The gov, a Tea Party favorite who has made his disdain for public employee unions well known, has ordered the removal of a 36-foot-wide mural from the state Department of Labor building. As the *New York Times* reports, the gov believes the mural glorifies labor unions at the expense of employers, so he wants it gone. LePage has also taken offense at the Labor Department's seven conference rooms, some of which are named after labor leaders like Cesar Chavez, Rose Schneiderman and Francis Perkins, the nation's first female labor secretary. He has ordered all seven rooms to be renamed. As far as we know, he has no plans to rename the Department of Labor itself.

NO THANKS TO YOU: Lawmakers have never been shy of stepping up to slap their name on just about any public building, park or bridge in sight. Taxpayers, conversely, are usually left out of said notoriety, a fact that New Mexico Sen. Mark Boitano was eager to rectify. As the *Farmington Daily Times* reports, Boitano authored a bill this year that would have required plaques adorning newly built or renovated buildings to specifically note the input to taxpayers before acknowledging lawmakers. State law already requires such plaques on publicly funded buildings to note the input of the taxpayers, but Boitano's bill would have required that notice come first. Alas, the bill cleared the Senate but died in the House when the session ended. Lawmakers did, however, endorse a bill barring restaurants and retailers from billing chili peppers as authentic New Mexico chilis if they were grown somewhere else.

— By RICH EHISEN

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Graphic Design: Vanessa Perez
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