

April 18, 2011

Health Care Reform



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The next issue of Capitol Journal will be available on May 2nd.

Top Story

Republican governors are overwhelmingly opposed to the federal Affordable Care Act, but the vast majority of them are also taking steps to implement the law in their states.

SNCJ Spotlight

Republican governors resist 'Obamacare' — and help states make it a reality

Republicans are doing their level best to demolish or transform the expensive public health systems that are among the Democrats' proudest legacies. In Congress, Rep. Paul Ryan (R-Wisconsin), chairman of the House Budget Committee, has proposed converting Medicare into a voucher system for those under 55, changing Medicaid

A Cannon Perspective



With Lou Cannon



of Health and Human Services Kathleen Sebelius has happily observed, 48 states have accepted at least \$1 million each from the federal government to help plan for the insurance exchanges. The HHS secretary has proven adept at enticing state governments to compete for federal favors. In February she announced grants totaling \$241 million to six “early innovator” states and a multi-state consortium led by the University of Massachusetts Medical School for development of the technology infrastructure needed to operate the exchanges. This understandably worries Republicans opposed to the ACA. Gov. Mitch Daniels (R) of Indiana has warned that the federal government is now so much in the driver’s seat on health care that it only needs to “play good defense” to prevail. Speaking to the 2011 Conservative Political Action Conference earlier this year, Daniels predicted: “The health care travesty now on the books will engulf private markets and produce a single-payer system or its equivalent, and it won’t take long to happen.”

Conservatives differ over the strategies and tactics they should use to slow the federal leviathan. Writing in the conservative magazine *National Review*, Michael F. Cannon (no relation) of the Cato Institute chided Republican governors for accepting federal funds to set up the exchanges. He declared that if the exchanges go into effect as scheduled in 2014, millions of newly insured Americans will have vested interests in preserving the federal law, as will the insurance companies who write their policies. Cannon praised Republican governors Rick Scott of Florida and Sean Parnell of Alaska for refusing to set up the exchanges with either state or federal money. They have since been joined by Gov. Nathan Deal of Georgia, who backed down on plans to set up a state exchange after a legislative revolt led by Tea Party activists. The fate of an exchange is up in the air in Oklahoma where the legislature has balked at a proposal from Gov. Mary Fallin. In New Mexico, the legislature favors an exchange but the governor, Susana Martinez, vetoed a bill (SB 38) that would have established one.

With these five exceptions and that of Democrat Brian Schweitzer in Montana, most governors are moving to implement state exchanges. Unless they do so or join with other states in establishing regional marketplaces, the uninsured would be enrolled in a federal exchange in which the governors would have no say. Economist John Cogan of the Hoover Institution, a foe of the ACA and co-author of a book, *Healthy, Wealthy and Wise*, that offers alternatives, says it is nonetheless “prudent” for

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: 611

Number of Intros last week: 2,568

Number of Enacted/Adopted last week: 1,909

Number of 2011 Prefiles to date: 30,176

Number of 2011 Intros to date: 112,453

Number of 2011 Session Enacted/Adopted overall to date: 20,890

Number of Measures currently in State Net Database: 147,778

— Compiled By JAMES ROSS
(measures current as of 4/14/2011)
Source: State Net database



governors to implement the federal law and preserve the greater flexibility they would have with a state exchange. Even outspoken conservative Republican Gov. Sam Brownback of Kansas, who voted against the ACA as a U.S. senator, took a \$32 million federal grant to implement a state exchange. Wisconsin Gov. Scott Walker, a hero to conservatives in the battles over pension reform and collective bargaining, accepted a \$38 million federal grant to start up a state exchange.

As a practical matter, ACA is probably here to stay unless invalidated by the Supreme Court. To repeal the law, Republicans would have to win the White House and both houses of Congress in 2012. Even with this uncertain outcome, Stanford University political scientist Tammy Frisby doubts if Republicans would be able to muster the votes for repeal when the nation's uninsured would be anticipating coverage. The last time the Republicans controlled both the White House and Congress they produced an unfunded drug prescription program for seniors that made Medicare financing more precarious and the budget deficit worse.

Ryan may have given the GOP more backbone this time, but he has also created the potential of voter backlash. "Polling is very clear," political analyst Charlie Cook wrote recently. "Most voters want to see the federal budget balanced and spending cut. However, they don't want Social Security, Medicare, or Medicaid touched and, oh yes, they don't want taxes increased." Cook went on to acknowledge that it is impossible to balance the budget without cutting these three programs that, together with interest on the national debt, account for roughly half of federal spending.

But until the day arrives, as it someday must, when the debt crisis persuades Americans to accept substantive cuts in their pet programs or tax increases, reforms can be made at the margins. In this context Republican resistance to the federal health law may have produced useful byproducts. For starters, the GOP counter-attack has induced the administration to offer a variety of concessions, including a declaration of Obama to the National Governors Association that he is open to allowing states to launch single-payer systems and opt out of the federal bill by 2014 instead of 2017, as the law allows. There is also the matter of waivers. States and private companies have flooded the HHS with requests for exceptions to the federal law. Fast-food giant McDonalds, for instance, has asked to keep a no-frills health care plan that does not meet the coverage standards of the federal bill but is popular with workers because of its low cost.

Meanwhile, states seek flexibility in Medicaid, the federal-state program that provides health services for the poor. Medicaid, in which 68 million Americans were

Upcoming elections

4/14/2011 - 5/5/2011

04/26/2011

District of Columbia Special Election

Council At Large

04/30/2011

Louisiana Special Election

House District 46

Louisiana Special Primary

House District 47

05/03/2011

California Special Election

Assembly District 4

Wisconsin Special Election

Assembly Districts 60, 83 & 94



enrolled at some point in 2010, has become a huge financial burden for states still struggling to balance their budgets with revenues that have yet to reach pre-recession levels. Low income Americans presently are eligible for Medicaid if they are parents of minors, children, have a disability, or are elderly. But under the ACA, low income persons outside these categories, notably single adults, will become eligible for Medicaid in 2014. Cogan points out that states have financial incentives to create insurance exchanges that will siphon off these potential Medicaid enrollees into the yet-to-be-created exchanges where people will purchase health insurance.

The devil, as always, is in the details, Will the federal government allow state exchanges to sell policies with higher deductibles and leaner coverage than the ACA envisions? Will the exchanges produce needed competition among insurance companies and keep policy costs low? How many current Medicaid enrollees can be shifted to the new exchanges and required to pay for their insurance? The answers depend on many factors, including the extent of the economic recovery, the flexibility of the next president and the creativity of the nation's HHS secretary. All we can presently say with confidence is that it makes sense for state governors and legislators who oppose the ACA to take what control they can of their own destiny. State or regional exchanges are preferable to the alternative of leaving all decisions to Washington.

— *By Lou Cannon*

Budget & taxes

FIVE BIG STATES PURSUING FIVE DIFFERENT BUDGET FIXES:

The country's five most populous states — California, Florida, Illinois, New York and Texas — collectively account for about a third of total state spending nationwide, according to a report released in December by the National Association of State Budget Officers. Despite their demographic similarity, however, the states are taking very different approaches to their respective budget problems.

California Gov. Jerry Brown (D) and state lawmakers have already agreed on \$11 billion in spending cuts. Brown wants to address most of the state's remaining \$15.6 billion deficit by seeking voter approval to renew temporary increases in the state sales, income and vehicle tax. But Republican lawmakers — most of whom have signed no-tax pledges — have blocked the majority Democrats' efforts to get a tax extension measure on the ballot legislatively.

So Brown has taken his appeal directly to the voters, including through a YouTube video that emphasizes the damage that further cuts to education, public safety and health care will do to the state.

“I don’t want to do that, and I don’t think it should be done to you without your voice,” the governor says in the video.

Texas lawmakers refuse to even consider taxes as a way to close the \$27 billion hole it’s facing in the next two-year budget cycle, which will run from September 1st to August 31st, 2013. The House has approved budget bills drawing \$3.2 billion from the state’s Rainy Day Fund and cutting \$4 billion from Medicaid, slashing \$8 billion from public education and cutting or eliminating funding for highways, prisons, state

parks and other programs. The Senate wants to restore some of that funding, particularly for schools, possibly by digging deeper into the Rainy Day fund.

“Families sent a pretty clear message with their November votes.”

“Families sent a pretty clear message with their November votes. They want government to be even leaner and more efficient, and they want us to balance the budget without raising taxes on families and employers,” said Gov. Rick Perry (R). “Balancing our budget without raising taxes will certainly set a nice example for the rest of the nation.”

New York has actually done that. Gov. Andrew Cuomo (D), looking more like his Republican peers across the country than his fellow Democrats, managed to get a budget through the state’s infamously dysfunctional Legislature — on time, no less — that addresses the state’s \$10 billion deficit with historic cuts to education, social services and health care, and no tax increases.

“This is about recognizing the new economic reality that government is responsible for management, just like everyone else,” the governor said. “The days where government can just throw money at the problem and raise more taxes...those days are over.”

Evidently, those days aren’t over in Illinois, where Gov. Pat Quinn (D) pushed through a 66 percent increase in the state income tax this year and is now proposing a \$1.7 billion increase in state spending, despite a projected \$15 billion deficit and Republicans’ call for \$6.7 billion in cuts.

“We are not going to jeopardize our economic recovery for their proposal. We have a dynamic economy in Illinois that’s cut unemployment for 12 straight months — frankly, no thanks to them — and I believe that investing in education, health care, human services, public safety, that’s part of an economy that recovers,” Quinn said.

Florida’s Republican Gov. Rick Scott is taking the exact opposite approach. He wants to close his state’s \$3.7 billion budget hole by cutting spending and then make \$1.7 billion in tax cuts, including a gradual phase-out of the corporate income tax and reductions in property taxes and a variety of fees and lesser taxes.

“There’s more than one way to skin a cat, and there’s certainly more than one way to reduce a budget deficit,” said Sean Snaith, director of the Institute for Economic Competitiveness at the University of Central Florida. “It’s reflective of different approaches to governing just in general. Down here, it’s really a fairly strong anti-

government, small-government mentality. It's certainly prevalent and you don't find that, in the big cities at least, in California and Illinois."

The differing approaches taken by each of the five states demonstrates that the priorities of the major decision makers play as much of a role in the budget process as the states' fiscal health. The spin each will inevitably put on the results of their efforts will likely make it difficult to discern which were most effective. (CHICAGO TRIBUNE)

WASHINGTON TURNS TO DEFICIT

REDUCTION: Now that there's a budget in place to keep the federal government running through the end of the current fiscal year in September, Washington has turned its attention to a much bigger problem: the \$14 trillion national debt.

Two weeks ago, House Republicans unveiled an ambitious debt reduction plan, which they're calling the "Path to Prosperity." The plan, drafted by House Budget Committee Chairman Paul Ryan (R-Wisconsin), would eliminate funding for Obama's health care reform initiative and end Medicare as an open-ended entitlement, replacing it for those under age 55 with a system of premium supports to buy insurance in the private market. Medicaid would be cut even more, \$771 billion over the next decade, and the existing state-federal funding partnership would be terminated and a block grant system — giving states less federal money but allowing them more freedom to manage the program as they wish — put in its place.

"People are living longer. The baby boomers are beginning to retire. Health care costs are skyrocketing," the plan states. "These are facts, and they require a better approach to renew the social contract."

On discretionary spending, the plan would maintain funding for defense but cut \$1.6 trillion over the next decade from other programs, including education, transportation, justice and food safety, making good on a GOP campaign pledge to restore domestic spending to 2008 levels. Programs for the poor would be given special attention "to ensure that America's safety net does not become a hammock that lulls able-bodied citizens into lives of complacency and dependency," according to the plan.

The plan would also overhaul the tax code, lowering the top rate for individuals and corporations from 35 percent to 25 percent and eliminating an array of loopholes and deductions.

The week in session

States in Regular Session: AK, AL, AZ, CO, CT, DC, FL, HI, IA, IN, MA, MI, MN, MO, MT, NC, ND, NE, NH, NV, OK, OH, OR, PR, SC, TN, TX, US, VT, WA

States in Recess: AR, CA, DE, IL, KS, ME, NY, OH, PA, RI, US, WI

Special Sessions in Recess: CA "a", VA "a", WI "a"

States in Budget Hearings: NJ

States Currently Prefiling or Drafting for 2011: LA

States Projected to Adjourn: AK

States Adjourned in 2011: ID, GA, KY, MD, MS, NM, SD, UT, VA, WV, WY

State Special Sessions Adjourned in 2011: AL "a", AZ "a", AZ "b", DE "a", KY "a", LA "a", UT "a"

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 4/15/2011)
Source: State Net database

The one thing the plan wouldn't touch is Social Security, although Republicans say they intend to pass legislation to force President Obama to propose changes to "restore balance to the fund," such as raising the retirement age.

Senate Minority Leader Mitch McConnell (R-Kentucky) said the plan "would put us on a path to reducing the national debt. It would strengthen the social safety net so we can keep the promises we've made to America's seniors.... And it will repeal last year's health care law, which will raise health care costs, lead to fewer jobs, and which Americans have rejected."

But House Minority Leader Nancy Pelosi (D-California) blasted the proposal on Twitter, calling it "a path to poverty for America's seniors & children and a road to riches for big oil."

President Obama's response was to release his own deficit reduction plan last week, which would also cut funding for entitlement programs like Medicare and Medicaid but eliminate a number of tax breaks, including the Bush-era tax cuts for individuals who make more than \$250,000 a year, as well.

In a combative speech delivered Wednesday night, Obama also criticized Republicans for backing "tax cuts for millionaires and billionaires" while demanding that seniors, the poor and the middle class make sacrifices.

The speech wasn't well received by Republicans, some of whom said it seemed to be more about re-election than debt reduction. Rep. Ryan said of the president, "Rather than building bridges, he's poisoning wells."

But although jabs were exchanged publicly, top House and Senate leaders have reportedly agreed privately to begin working with senior administration officials on a bipartisan deficit-reduction plan that could clear the way for raising the limit on how much money the federal government can borrow. Treasury officials have estimated the federal government could reach the current debt ceiling of \$14.3 trillion by mid-May. (WASHINGTON POST, WALL STREET JOURNAL)

BUDGETS IN BRIEF: Douglas E. Bruce, the anti-tax activist behind **COLORADO's** Taxpayer Bill of Rights, or TABOR, the 1992 referendum requiring all state and local tax increases to be approved by voters, was arrested last week for allegedly failing to pay his taxes. He faces up to six years in prison and \$500,000 in fines (NEW YORK TIMES). • The Democrat-led **MARYLAND** General Assembly pushed through a tax increase on alcohol in the final hours of its 90-day session. The measure (SB 994) will raise the sales tax on alcohol from 6 percent to 9 percent on July 1 (WASHINGTON POST). • **IOWA** Gov. Terry Branstad (R) made good last week on his promise to veto any one-year state budget bill passed by state lawmakers when he rejected HB 642, a bill appropriating nearly \$351 million in transportation funding solely for the budget year that begins July 1 (DES MOINES REGISTER).

— *Compiled by KOREY CLARK*

Politics & leadership

WI DEMS RAISE QUESTIONS ABOUT SUPREME COURT RACE:

Two weeks ago, Wisconsin Democrats were on their way to writing a new chapter in the state's continuing saga of partisan conflict when their candidate in the nonpartisan state Supreme Court race considered a referendum on Gov. Scott Walker's (R) anti-union policies looked to have scored a narrow victory over the Republican-backed incumbent. That was until the clerk of a Republican-leaning county reported she'd found 14,000 unrecorded votes, the majority of which had been cast for the GOP favorite, Justice David Prosser, turning the race decidedly in his favor.

The plot thickened even more when it was revealed that Waukesha County Clerk Kathy Nickolaus had worked for the Republican Party for 13 years, and Prosser had actually been her boss for a brief period of time when he was Speaker of the Assembly in 1995 and 1996. Reports have also surfaced linking Nickolaus to a 2002

corruption probe into state employees believed to have been working on political campaigns on state time, which ultimately resulted in the indictment of five legislative leaders and from which she received immunity from prosecutors.

At a press conference on April 7, Nickolaus apologized for the inaccuracy of her initial tally, which she said was due to "human error."

“Numerous constituents have contacted me expressing serious doubt that this election was a free and fair one.”

But Democrats aren't willing to just let it go at that. U.S. Rep. Tammy Baldwin (D-Wisconsin) has requested that the U.S. Justice Department's Public Integrity Section, which investigates election crime, look into whether votes were mishandled in Waukesha County.

“Numerous constituents have contacted me expressing serious doubt that this election was a free and fair one,” she wrote in a letter to U.S. Attorney General Eric Holder. “They fear, as I do, that political interests are manipulating the results.”

Calls for scrutiny have also come from within the state. Wisconsin state Rep. Peter Barca (D) told reporters that Nickolaus' actions don't “instill confidence in her competence or integrity.” And Scot Ross, executive director of the non-partisan advocacy group One Wisconsin Now, issued a statement saying the state “deserves elections that are fair, clean and transparent,” and “there is a history of secrecy and partisanship surrounding [Nickolaus], and there remain unanswered questions.”

The story took yet another turn last week when Romona Kitzinger, the Democrat on the Waukesha County Board of Canvassers who'd previously endorsed the amended count, said she didn't hear about the 14,000 missing votes in the city of Brookfield until shortly before Nickolaus' news conference announcing them.



When asked by reporters at that press conference how she felt about the dramatic development as a Democrat in the Republican stronghold, Kitzinger said that “all the numbers jibed up, and we’re satisfied they’re correct. I’m not going to stand here and tell you something that’s not true.”

But a statement issued in Kitzinger’s name by the Waukesha County Democratic Party on Monday said: “I am still very, very confused about why the canvass was finalized before I was informed of the Brookfield error, and it wasn’t even until the news conference was happening that I learned it was this enormous mistake that could swing the whole election. I was never shown anything that would verify Kathy’s statement about the missing vote, and with how events unfolded and people citing me as an authority on this now, I feel I must speak up.”

Meanwhile, Wisconsin Assistant Attorney General JoAnne Kloppenburg, the Democrats’ favorite in the race, has announced she will raise money for a recount. Before Nickolaus’ surprise announcement, Kloppenburg held a 200-vote lead over Prosser, according to unofficial counts. As of this writing, three counties still hadn’t completed their official tallies.

Whichever of the two candidates eventually emerges from the partisan scrum will likely help decide the fate of the law that started all the controversy in the state. A legal challenge to that law — AB 11a — on the grounds that Republicans violated legislative procedure in passing it is still pending in a circuit court and is expected to ultimately wind up in the high court. (CHRISTIAN SCIENCE MONITOR, MILWAUKEE JOURNAL-SENTINEL)

ENERGIZED GOP GIVING NEW LIFE TO VOTER ID: In 2008, the U.S. Supreme Court upheld an Indiana law requiring voters to present photo identification at the polls, paving the way for other states to pass similar laws ahead of that year’s presidential election. But few states did.

Now that Republicans control many more statehouses, however, the issue appears to be taking off. More than 30 states, many with new or expanded GOP majorities,

“From a geographic perspective, it’s unlike anything we’ve seen in years.”

including Alabama, Kansas, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Wisconsin, are considering legislation this year that would create or expand photo ID requirements, according to the National Conference of State Legislatures.

“The elections in November made a huge difference on this issue,” said Tova Wang, senior fellow at New York-based advocacy organization Demos, which opposes the photo ID proposals. “From a geographic perspective, it’s unlike anything we’ve seen in years.... It’s moving quickly and seriously in so many places.”

If approved, the new voting rules will take effect in time for next year’s presidential race (STATELINE.ORG).



POLITICS IN BRIEF: Nine-time Olympic gold medalist Carl Lewis has announced his candidacy for the state Senate as a Democrat in **NEW JERSEY**'s Republican-leaning 8th District. Forty Senate seats and 80 Assembly seats will be contested in November, under a new legislative district map that has forced some incumbents to retire and created opportunities for political hopefuls (STAR-LEDGER [NEWARK]). • Also in **NEW JERSEY**, Gov. Chris Christie (R) is considering moving the state's presidential primary — which was shifted to February in 2008 — back to June. His rationale is that in a presidential cycle in which there is no clear Republican frontrunner, the Garden State could play a major role in a down-to-the-wire primary season (STAR-LEDGER [NEWARK]). • In the final hours of a special session on redistricting, **LOUISIANA** lawmakers agreed on a plan to shrink the Pelican State's seven congressional districts to six and sent the measure (HB 6a) to Gov. Bobby Jindal (R), who said he will sign it into law. A plan for legislative districts was approved earlier in the week (TIMES-PICAYUNE [NEW ORLEANS]). • **ARKANSAS** Gov. Mike Beebe (D) signed two bills, HB 1836 and SB 972, that will redraw the state's four congressional boundaries. The plan splits five counties — Crawford, Jefferson, Newton, Searcy and Sebastian — into separate congressional districts and splits the city of Alma between the 3rd and 4th districts (ARKANSAS NEWS BUREAU [LITTLE ROCK]). • The **VIRGINIA** Redistricting Coalition is urging Gov. Robert McDonnell (R) to veto or amend the legislative redistricting plan (HB 5001a) approved by the General Assembly. The coalition claims the plan — which would help Republicans in the House of Delegates and Democrats in the Senate, and which Senate Democrats created by combining separate House and Senate proposals to make it harder for McDonnell to veto — would “make legislative districts less compact, split more counties and cities and separate common-sense communities of interest even more than the maps currently in place” (RICHMOND TIMES-DISPATCH). • **MISSOURI** Attorney General Chris Koster (D) broke ranks with his party last Monday and urged a federal judge to invalidate the central provision of the new federal health care law. Koster is a former Republican state legislator who switched to the Democratic Party in 2007 (NEW YORK TIMES)

— *Compiled by KOREY CLARK*



Governors

O'MALLEY GETS MOST, NOT ALL OF HIS WISH LIST: Maryland lawmakers endorsed most of Gov. Martin O'Malley's (D) fairly ambitious agenda as they wrapped up their session last week. But close was little consolation to the governor, who complained that the General Assembly “choked” on some of his major legislative priorities.

At the top of the list was a pair of bills that will make the Old Line State the third in the country to create a health care exchange in line with the requirements of the federal Affordable Care Act (ACA). Maryland follows California and West Virginia in creating the exchanges, which are intended to offer consumers a one-stop marketplace from which to access a number of health insurance options. O'Malley waited barely 12 hours after the session wrapped up on Monday to ink his name to the two measures: SB 182/HB 166, which establishes the exchange as a public corporation and lays out its basic governance framework, and SB 183/HB 170, which aligns several state laws with ACA requirements, including allowing young adults to stay on their parents' health coverage until age 26 and barring insurers from denying coverage for pre-existing conditions.

Lawmakers also gave O'Malley what he wanted on two other controversial bills as the session wound down last Monday: SB 994, which raises the state tax on alcohol from 6 percent to 9 percent, and SB 167, which allows undocumented immigrants that have graduated from a Maryland high school to pay in-state tuition at a state college. Those bills, however, were not ready for him to address last week. O'Malley is expected to sign them both at his next bill-signing ceremony on April 25th.

The ceremony last Tuesday marked a busy day for O'Malley, who signed 163 bills into law. A smattering of other notable measures included HB 227/SB 115, which allows a court to bar someone convicted of animal abuse or neglect from having an animal for a designated period of time, and SB 132/HB 87, which bars employers from using a job applicant's credit history in the hiring or promotion process. Credit reports are also now off the table for assessing a current employee's compensation or other employment privileges. The law makes exceptions for certain positions, such as those requiring the handling of money.

O'Malley also signed a pair of human trafficking bills: HB 345/SB 299, which gives police broader powers to use wiretaps to investigate suspected trafficking operations, and HB 674, which requires the Department of Education to provide teachers with training and materials on trafficking identification and prevention.

While O'Malley claimed victory on much of his agenda, lawmakers did not go along with his push for the development of an offshore wind farm (HB 1054/SB 861) and an effort to prohibit the installation of septic systems at most large new developments (HB 1107/SB 846). Lawmakers argued that many rural counties don't have the sewer line infrastructure to handle the septic ban. They also questioned the fiscal viability of the proposed wind farm, with Senate President Thomas V. Mike Miller Jr. (D) not including it among bills he says legislative leaders considered to be "prime time" issues. Critics never warmed up to the proposal, which would have required power companies to enter into a 25-year energy purchasing contract with an alternative-energy company, complaining it would have increased utility bills statewide.

The failure to push those bills through spurred the governor's "choke" comment, which did not sit well with Miller. Referring to O'Malley, Miller claimed lawmakers



“bailed him out big-time and insisted the Assembly had passed “everything the governor put forward that was capable of passing.” O’Malley said he plans to work with lawmakers on getting the measures approved next year. (WASHINGTON POST, BALTIMORE SUN, WASHINGTON BUSINESS JOURNAL, WASHINGTON TIMES, STATE NET, DAILY RECORD [BALTIMORE])

OTTER SIGNS JOBS BILL: Idaho Gov. C.L. “Butch” Otter (R) signed a bill (HB 297) last week that allows for-profit employers who hire new workers to be eligible for a tax credit if those jobs meet certain criteria: The position must include health benefits and it must pay at least \$12 an hour in counties where unemployment is above 10 percent or \$15 an hour in counties where it’s below 10 percent. Employers will not receive the credit until their new hires have been on the job for at least nine months.

The new law has a few other caveats as well: The amount of the credit varies from 2 percent to 6 percent of the new worker’s gross wages, based on the employer’s rating in the state unemployment insurance program. Lawmakers wanted to ensure that employers that laid off workers during the recession and are now hiring them back don’t receive the same break as those that kept their workers on and are now expanding their businesses. Otter said the bill will be expensive in the short term, but the state expects it to pay off in the future.

“We know it’s going to cost the state a little over \$7.5 million, but we think the result of that is going to be about a \$25 million income to the state” in taxes paid by the new workers, he said.

The law, which went into effect last Wednesday, expires on January 1st, 2014. (SPOKESMAN-REVIEW [SPOKANE])

NC SENATE PARDONS ANTI-KLAN GOV: The North Carolina Senate endorsed SB 256, a pardon for former Gov. William Holden last week, 140 years after he became the only governor in Tar Heel State history to be impeached. Holden, a Reconstruction Republican, was targeted by Democrats — then known as the Conservatives — for his efforts to clamp down on the Ku Klux Klan. Holden, a former Democrat, had earned their wrath after switching parties prior to the 1868 election and earning victory via the votes of a large number of emancipated slaves. In 1870, he used the state militia to make mass arrests of suspected Klan members, and then denied them habeas corpus rights. He was impeached after the Democrats took control of the Legislature that year. Senate Republican leader Phil Berger of Eden, lauded the proposal saying, “The Senate in 1871 is the body that took that action. The Senate in 2011 is the body that will undo that action.” The measure now moves to the House. (BELLINGHAM HERALD)



GOVERNORS IN BRIEF: The **MAINE** Senate and House each rejected a proposed constitutional amendment that would have required a candidate to receive at least 50 percent of the vote in order to be elected governor. The last three Pine Tree State governors have failed to obtain 50 percent of the vote (BANGOR DAILY NEWS). • **FLORIDA** Gov. Rick Scott (R) issued EO 11-72, which requires all state agencies under his control to do a comprehensive review of their rules and regulations to find those that can be eliminated. The agencies have until May 1st to submit their suggestions (ORLANDO SENTINEL). • Still in **FLORIDA**, the Department of Health announces it will implement a new prescription drug monitoring system intended to stop “pill mills” that sell painkillers and other medications to drug dealers and addicts. Gov. Scott had ordered the program stopped, but Surgeon General Frank Farmer Jr. gave the program the go ahead last week (ORLANDO SENTINEL). • The **NEW MEXICO** Supreme Court unanimously ruled that Gov. Susana Martinez (R) lacked authority to arbitrarily remove two members of the state Public Employee Labor Relations Board. The Court ordered Martinez to immediately reinstate the two members (SANTA FE NEW MEXICAN). • **VERMONT** Gov. Pete Shumlin (D) proposed using the state’s Clean Energy Development Fund to offer renewable energy companies up-front cash payments rather than just tax incentives. Currently, 23 companies are eligible to receive \$8.5 million in credits over the next five years. Shumlin says enough companies are interested in taking the cash to save the state approximately \$3 million and avoid implementing a proposed 55-cent electric bill surcharge (BURLINGTON FREE PRESS).

In case you missed it

Last November, California voters soundly rejected an oil-industry backed effort to squash the state’s law mandating a large reduction in greenhouse gas emissions. Now, a lawsuit from a handful of environmental justice groups may accomplish what Big Oil could not.

In case you missed it, the article can be found on our website at http://www.statenet.com/capitol_journal/04-11-2011/html

— *Compiled by RICH EHISEN*

Hot issues

B **USINESS:** The **MARYLAND** Senate approves HB 1175, which will allow wine makers to ship up to 18 cases of their product directly to Old Line State consumers each year. It is now with Gov. Martin O’Malley (D), who is expected to sign it into law (STATE NET). • **WISCONSIN** Gov. Scott Walker (R) signs AB 4, which overturns a 2009 law that significantly raised the Badger State’s mandatory minimum auto insurance liability limits (MILWAUKEE JOURNAL-SENTINEL). • **COLORADO** Gov. John Hickenlooper (D) signs HB 1130, which requires sellers of copper, aluminum and other scrap metals to show photo IDs. Buyers will also now have to set these metals aside for five days to give police more



time to track metals reported as stolen (TRIBUNE [GREELEY]). • Still in **COLORADO**, the House kills HB 1284, which would have allowed convenience stores and groceries to sell full-strength beer (DENVER POST). • The **GEORGIA** House approves SB 10, which would allow Peach State city councils and county commissions to call for referendums on Sunday alcohol sales at stores as early as November. It goes to Gov. Nathan Deal (R), who is expected to sign it (ATLANTA JOURNAL-CONSTITUTION). • The **MAINE** Senate approves HP 330, which would prohibit the use of the chemical BPA in reusable food and beverage containers. It goes to Gov. Paul LePage (R) for review (BANGOR DAILY NEWS). • The **MISSOURI** House approves SB 113, which would overturn most tenets of a voter-approved measure that, among many things, limits dog breeding operations to no more than 50 canines at a time. It moves to Gov. Jay Nixon (D) for review (KANSAS CITY STAR). • Still in **MISSOURI**, the House approves SB 188, which would require Show Me State workers who claim they were terminated due to discrimination to show that it was a “motivating” factor in the firing. It goes to Gov. Nixon (NEWS TRIBUNE [JEFFERSON CITY]). • The **OHIO** Senate approves SB 17, a bill that would allow people with concealed-carry permits to take their guns into bars, restaurants, arenas, museums and other areas where alcohol is served as long as they don’t drink. It moves to the House (COLUMBUS DISPATCH). • **MONTANA** Gov. Brian Schweitzer (D) signs HB 334, which, among several things, limits benefits for injured workers to five years from the time of injury, followed by a possible two-year extension (GREAT FALLS TRIBUNE).

Upcoming stories

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

- **Education**
- **Health care**
- **Immigration**

CRIME & PUNISHMENT: The **PENNSYLVANIA** House approves HB 40, so-called “Castle Doctrine” legislation that removes the obligation to first seek a reasonable attempt to get away before using lethal force in self-defense. The measure would also allow a person to use deadly force outside their home if an assailant displays a gun or other deadly weapon. The bill now moves to the Senate (PITTSBURGH POST-GAZETTE). • **MICHIGAN** Gov. Rick Snyder (R) signs SB 189, legislation that allows teenagers convicted of consensual sex with one another to avoid being placed on the Wolverine State’s sex registry list. Those convicted as minors will be allowed to begin petitioning the court for removal from the list on July 1st (DETROIT FREE PRESS). • **MARYLAND** Gov. Martin O’Malley (D) signs HB 345/SB 299, which gives Old Line State police greater authority to use wiretaps to investigate suspected human trafficking operations (BALTIMORE SUN).

EDUCATION: The **NORTH CAROLINA** House approves SB 8, a bill that would remove the Tar Heel State’s cap on charter schools. It has moved to a conference committee (NEWS & OBSERVER [RALEIGH]). • **TENNESSEE**

Gov. Bill Haslam (R) signs SB 1528, which changes a Volunteer State teacher's probationary period before becoming eligible for tenure from three to five years. The bill, which goes into effect July 1st, also requires new teachers to be granted tenure only if they fall within the top two ranks of a five-tiered evaluation system built primarily on student test scores (TIMES FREE PRESS [CHATTANOOGA]).

- **MARYLAND** Gov. Martin O'Malley (D) signs HB 674, which requires state education officials to provide teachers with training and materials on human trafficking identification and prevention (BALTIMORE SUN).
- Still in **MARYLAND**, O'Malley signs SB 167, which will allow undocumented immigrants that have graduated from a **MARYLAND** high school to pay in-state tuition at a state college (WASHINGTON POST).
- The **INDIANA** Senate approves HB 1002, which among many things, creates a state board to start charter schools and allows parents to use publicly-funded vouchers to send their kids to those schools. It returns to the House (INDIANAPOLIS STAR).
- The **WASHINGTON** Senate approves a bill that would put teachers who score lowest on performance evaluations first in line for layoffs. It goes to the House (SEATTLE TIMES).
- **NORTH CAROLINA** Gov. Bev Perdue (D) vetoes HB 7, a bill that would have given community colleges the option of opting out of federal financial student loan programs (NEWS & OBSERVER [RALEIGH]).
- The **ARIZONA** Senate approves SB 1453, a bill that would allow parents to pull their kids out of classes and lessons they find "harmful," defined as relating to sexual or violent content, or containing profane or vulgar language. It has moved to Gov. Jan Brewer (R) for review (EAST VALLEY TRIBUNE [MESA]).

ENERGY: CALIFORNIA Gov. Jerry Brown signs SB 2a, a bill that requires the Golden State to obtain 33 percent of its electricity from renewable resources by 2020 (LOS ANGELES TIMES). • **OKLAHOMA** Gov. Mary Fallin (R) signs HB 1909, which changes the state's oil and natural gas laws to account for technological advances in the industry (OKLAHOMAN [OKLAHOMA CITY]).

ENVIRONMENT: The **ALASKA** Board of Game issues a statewide rule prohibiting the use of stun guns when hunting game or posing with it. Officials said they wanted to avoid the advent of "catch and release" hunting (ANCHORAGE DAILY NEWS). • The U.S. House of Representatives and Senate each endorse a budget bill that would also remove Rocky Mountain gray wolves from federal protection under the Endangered Species Act (NEW YORK TIMES).

HEALTH & SCIENCE: The **ILLINOIS** House approves HB 1271, legislation that would pull the license of any health care worker convicted of a forcible felony. It goes to the Senate (CHICAGO TRIBUNE). • **MARYLAND** Gov. Martin O'Malley (D) signs SB 182/HB 166, which makes the Old Line State the third in the nation to create a health insurance exchange in line with the federal health care reform law.

snowboarders 17 and under to wear a helmet when on the slopes. Violators face fines up to \$100 (STAR-LEDGER [NEWARK]). • The ARIZONA House and Senate give final approval to SB 1201, legislation that would let people take guns into government buildings unless the site has armed guards and metal detectors. It goes to Gov. Jan Brewer (R) for review (ARIZONA DAILY STAR [PHOENIX]).

— Compiled by RICH EHISEN

Once around the statehouse lightly

TAKE THE TEAM, LEAVE THE CASH: Once upon a time, the north-south rivalry between the NBA's Los Angeles Lakers and Sacramento Kings was one of the best in sports. But as the NBA regular season wrapped up last week, so it appears did the reign of the Kings franchise in Sacramento. Short of cash, team owners are looking to horn in on the Lakers' massive Southern California market by relocating the Kings to Anaheim. But wait! The Kings have unfinished business with the capital city: an outstanding loan of \$77 million. As the *Sacramento Bee* reports, Senate pro Tem Darrell Steinberg, a former Sacramento city councilman, is pushing legislation (SB 652) that would bar a team located in California from relocating within the state without first paying off any outstanding debts. Steinberg's Assembly counterpart, Speaker John Perez of Los Angeles, has not offered up a comment on the bill's chances in his chamber.

A MASTER SHOWMAN: Let there be no doubt that Montana Gov. Brian Schweitzer is more than adept at the finer points of over-the-top political theater. Schweitzer, who once tossed \$47,000 in cash around the Capitol floor to show how much his opponent had received in donations from tobacco companies, was at his showman's best last week. As the *Billings Gazette* reports, the governor, who moonlights as a rancher, used a red hot branding iron to burn his veto message onto a slew of GOP-backed bills he didn't like, much to the delight of a cheering crowd. The stunt didn't sit well with Republicans, who vowed to seek overrides. But perhaps they should be happy that Schweitzer only used his branding iron. As the governor told the crowd, "at an actual branding party, there's some castration, but we're not doing any of that today."

NO MORE DROOPY DRAWERS: At least, that's the goal of Florida Sen. Gary Siplin. The Orlando Democrat has for years been on a crusade to get young



men — and even some women — to stop wearing their pants slung down below their backside, exposing their skivvies of the day. Siplin is clearly not satisfied that most Sunshine State schools already bar students from such fashion statements. As the *Orlando Sentinel* reports, his measure (SB 228) would codify that policy into state law. But students who prefer the booty-exposing low-slung look should take heart. Siplin’s first attempt to rid the world of droopy drawers in 2005 would have made it a misdemeanor punishable by a \$50 fine and up to 10 days in jail...where the practice is said to have started as an outcrop of prisoners being forced to wear pants that didn’t fit. Oh, the irony.

A REAL CLOSE SHAVE: During his days as the federal budget director, Gov. Mitch Daniels was known as “The Blade,” a moniker that comes from his penchant for cutting spending. But Daniels recently gave his nickname a whole new twist. As the *Indianapolis Star* reports, Daniels played barber on Hoosier State lawmaker Milo Smith. The gov’s stint with the scissor was for a good cause: to help raise money for two legislative staffers who are battling cancer. On that scale it was a grand success, garnering over \$5,000 in contributions from folks bidding to see Daniels take his whacks at Smith’s beard. Daniels actual handiwork, however, was less of a hit, eliciting a few yowls of pain and leaving Smith’s mustache a little offset. Smith accepted the trim in good humor, but noted that Daniels should “run for president and not be a shaver.”

— *By RICH EHISEN*

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