

August 9, 2010

Trouble Ahead



©iStockphoto.com/vicnt

Budget & taxes	3
States seeking savings by keeping workers on job longer	
Politics & leadership	7
Campaign finance bill stalls in Congress	
Governors	9
Paterson won't face criminal charges	
Bird's eye view	2
Hot issues	11
Once around the statehouse lightly	15

● The next issue of
 ● Capitol Journal will be
 ● available on August 16th.
 ●

Top Story

States have done a Herculean job of closing historic budget gaps for FY 2011, but the calm may be only a short respite from what most observers say could be a perfect storm in 2010.

SNCJ Spotlight

FY 2011 could be calm before next state fiscal storm

Going into the 2011 fiscal year, states faced budget gaps totaling \$84 billion. Nearly all of those holes have since been filled through a combination of budget cuts and tax hikes. What's more, for the first time in years, most states are expecting their year-over-year tax collections to grow. But fiscal trouble still lies ahead for states, and the recent uptick in revenues isn't expected to be nearly enough to prevent new holes from opening up in their budgets this year as well as in FY 2012 and beyond.

“For the first time in a long time we’re seeing some slight improvement in the state revenue situation,” said Corina Eckl, fiscal program director for the National Conference of State Legislatures. “But glimmers of improvement are tarnished by looming problems.”

One of those glimmers of improvement is that states appear to have hit the bottom of their revenue trough, according to a report released by NCSL last month. The “State Budget Update: July 2010 (Preliminary Report)” indicated that revenues have started to pick up, or at least slowed their rate of decline, in numerous states. FY 2010 personal income tax collections exceeded the most recent forecasts in five states, for instance, and sales and corporate tax collections beat expectations in 15 states apiece.

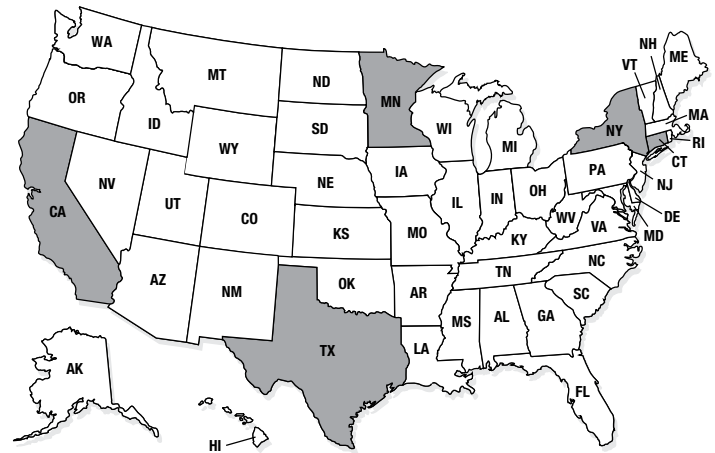
Most states also expect their tax collections to improve in FY 2011. A dozen are actually projecting growth of between 5 and 10 percent.

But one looming problem tarnishing those encouraging signs, according to the NSCL report, is Congress’ failure to extend enhanced Medicaid payments that were part of the 2009 American Recovery and Reinvestment Act. The act raised the Federal Medical Assistance Percentages used to determine the amount of federal matching funds for state Medicaid expenditures through Dec. 31, 2010, or the first six months of FY 2011 for most states. Believing that Congress would extend the augmented FMAPs through the end of the fiscal year, many states built that funding into their budgets. But the extension has been held up in Congress for months.

Legislation extending the enhanced FMAPs finally cleared the U.S. Senate last week, after two moderate Republicans joined all 57 of the chamber’s Democrats and two independents to block a threatened GOP filibuster. And U.S. House Speaker Nancy Pelosi (D-CALIFORNIA) has called her chamber back from its August recess for a vote Tuesday (Aug. 10) on the Senate bill.

Without the enhanced FMAP extension, budget gaps — at least \$12 billion worth — will likely open up in 25 states, the NCSL report said. Twenty-one of those states

Bird’s eye view



Source: National Conference of State Legislatures

States with largest projected aggregate budget deficits through FY 2013

More budget gaps ahead for states

Forty-one states faced \$83.9 billion in budget gaps heading into FY 2011, according to a report released last month by the National Conference of State Legislatures. All but CALIFORNIA’s \$19.1 billion chasm have since been closed. But states could face \$12.3 billion in new deficits by the end of the year, if Congress fails to extend enhanced Medicaid payments that were part of the 2009 federal economic stimulus act. And so far 33 states are projecting \$72.1 billion in deficits for FY 2012, and 23 states are projecting \$64.3 billion in shortfalls for FY 2013.





were projecting shortfalls in excess of \$100 million, with several predicting gaps over \$500 million, and CALIFORNIA, NEW YORK, NORTH CAROLINA and TEXAS projecting deficits topping \$1 billion.

“States are in a tenuous fiscal position, teetering between delicate revenue improvement and the end of the federal stimulus funds,” said NCSL’s Eckl. “If Congress decides not to extend enhanced FMAP rates for six months, it will be another blow to the states’ fragile fiscal recovery.”

Even if the extension is approved, however, states won’t be receiving checks quite as big as they were expecting, because the state aid package has been scaled down somewhat from what was originally proposed. PENNSYLVANIA, for example, will get \$600 million in additional Medicaid funding, \$250 million less than lawmakers had budgeted. So more spending cuts are still ahead for states that figured FMAP money into their budgets.

The outlook for states is even worse beyond the end of the current fiscal year. With federal stimulus funds drying up, the national economic recovery far from a certainty and state spending pressures continuing to mount, 33 states are forecasting budget gaps for FY 2012, and 23 of the states that have completed forecasts for FY 2013 are projecting shortfalls as well. The cumulative projected deficits total over \$136 billion.

Consequently, the NCSL report concluded, “FY 2011 may turn out to be the calm before the next fiscal tempest.” (WALL STREET JOURNAL, NCSL.ORG, STATELINE.ORG, LOS ANGELES TIMES, ASSOCIATED PRESS)

— *Compiled by KOREY CLARK*

The week in session

States in Regular Session: CA, MA, MI, US

States in Recess: DC, NJ, NY, PA, PR

States in Special Session: AZ “d”, CA “f”, NY “w”

Special Sessions in Recess: CT “a”, CT “b”, DE “b”, PA “a”

States in Skeleton Session: OH

States Currently Prefiling or Drafting for 2011: FL, KY, MT, ND, NV, VA

States Adjourned in 2010: AK, AL, AR, AZ, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

State Special Sessions Adjourned in 2010: AZ “a”, AZ “b”, CA “e”, CA “h”, FL “a”, KY “a”, MN “a”, MO “a”, MS “a”, NH “a”, NJ “a”, NM “a”, NV “b”, OR “a”, TN “a”, WA “a”, WI “b”, WV “a”, WV “b”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 8/5/2010)
Source: State Net database

Budget & taxes

STATES SEEKING SAVINGS BY KEEPING WORKERS ON JOB LONGER: As of the 1st of last month, new fire and public safety employees hired in UTAH have to work for 25 years instead of 20 before being able to retire with a full pension. Most of the state’s other public employees will have to work even longer for that privilege: 35 years instead of 30.



UTAH is one of at least 10 states that have voted this year to raise the retirement age for government employees or to increase the penalties on workers who retire early. And similar changes may soon be coming to other states, such as CALIFORNIA, where this past June Gov. Arnold Schwarzenegger (R) reached tentative contract agreements with six public employee unions bumping up the retirement age for new hires by five years.

“It’s a very positive change that the age for receiving full benefits is increasing,” said Alicia Munnell, director of Boston College’s Center for Retirement Research.

“Increasing the retirement age is the single most important thing [states] can do” to rein in future pension costs because it decreases the number of years they must pay a benefit, she said.

“Increasing the retirement age is the single most important thing [states] can do.”

Changes to the retirement age won’t solve states’ immediate fiscal problems. Since the adjustments generally affect only new hires, they won’t start paying off for decades. And the impact of lengthening

lifespans on public pension systems has been a longstanding concern. But the time seems to be ripe for reshaping government employment.

ILLINOIS’ decision in March to increase the retirement age for most new hires from 60 to 67 “had everything to do with the financial straits the state is in,” said Tim Blair, executive secretary of ILLINOIS’ State Employees’ Retirement System. “The scales have tipped.”

A federal commission studying long-term national fiscal issues is also looking at the idea of raising the retirement age for Social Security. And calls to boost the retirement age, currently 67 for Americans born in 1960 or later, have come from members of both parties, including U.S. House Majority Leader Rep. Steny Hoyer (D-MARYLAND) and U.S. House Minority Leader Rep. John Boehner (R-OHIO).

Foreign governments from France to Morocco have gone or are considering going even further: raising the age at which private as well as public workers can receive government pensions.

Opponents of the retirement age changes say requiring public employees to work longer for fewer benefits will affect the quality of government services.

“We are hurting ourselves in terms of retaining good employees,” said MISSOURI Rep. John Burnett (D), who opposed raising the retirement age in his state.

Advocates counter that in addition to saving money, keeping healthy, capable older workers on the job will allow states to continue to benefit from their skills and experience. Boston College’s Munnell also points out that the changes will bring the retirement age for public sector workers, 60 on average, more in line with that of the private sector, around 63.

Public employee unions have managed some victories, however. COLORADO’s teachers union helped prevent an increase in their state’s retirement age proposed for 2017. And UTAH’s fire and public safety workers lobbied successfully to limit the



increase in their state’s retirement age to five years rather than the 15 years that was proposed.

“There’s some point at which an old cop like me shouldn’t be out chasing young criminals,” said Michael Galieti, a 61-year-old police officer and board member of the Utah Peace Officers Association. (WALL STREET JOURNAL)

WI MEDICAID CUTS MINIMIZE PAIN: Last year when WISCONSIN Gov. Jim Doyle (D) and lawmakers were faced with cutting \$625 million from Medicaid — about 10 percent of the state’s total cost for the program — to help close a projected \$6.25 billion state budget deficit, they took a novel approach: giving agency officials a dollar amount to cut but granting them complete authority over how to reach that target.

That led to six months of discussions between insurance companies, providers, academics and advocates refereed by state health officials, which came to be known as the Wisconsin Medicaid Rate Reform Project.

Early on, the participants determined that the two approaches states usually take in cutting Medicaid are trimming benefits for patients and paying doctors less for providing care, both of which have downsides. Reducing benefits takes away services from enrollees while cutting reimbursement rates to providers runs the risk of driving them out of the program.

So instead, the Reform Project focused on cutting out unnecessary procedures that might possibly even produce better outcomes. For instance, it found \$4 million in savings on hospital births by ceasing payment for unnecessary C-sections. And it expects to save another \$21 million through the establishment of an evidence-based care initiative aimed at paying doctors based on the value rather than the number of procedures they perform.

Much of the cost cutting, \$200 million worth, will come from renegotiated contracts with health maintenance organizations, while another \$26 million will be saved by reducing administrative payments to HMOs.

The Reform Project didn’t just reduce the cost of the state’s Medicaid program by hundreds of millions of dollars, however. It also expanded the program’s coverage to include 41,000 childless adults, through a new tax on hospitals enacted separately by the Legislature and additional federal dollars resulting from that tax.

“I’m a big believer that bad budgets can create big opportunities,” said Jason Helgerson, WISCONSIN’s Medicaid director. “You really have to convince stakeholders that the reductions are necessary. They have to be made. The question is how.”

What is particularly surprising about the state’s Medicaid cuts is that despite their scale, the response from patients, advocates and stakeholders has been largely positive. The Reform Project appears to have avoided the protests, outrage and even lawsuits that such cuts have spurred elsewhere.

“They looked at things that would not affect current patients,” said Tom Petri, Director of Policy and Communications at the Wisconsin Primary Health Care Association. “The mindset was, this is an enormous budget, helping an enormous amount of people, but there are some areas where we could squeeze.” (STATELINE.ORG)

BUDGETS IN BRIEF: The **NEW YORK** Legislature passed a state budget last week — more than four months late. The \$136 billion plan (AB 9710) increases spending 2 percent, a fraction of the nearly 10-percent spending increase passed a year ago (ASSOCIATED PRESS, BUSINESSWEEK).

- **PENNSYLVANIA**, one of nine states involved in the retail sale of alcohol, has become the first to try selling wine through vending machines. The machines, which can hold more than 700 bottles and require an ID and a breath test for intoxication, were introduced at grocery stores in Harrisburg and Mechanicsburg in late June, and, if all goes well, may be expanded statewide in the fall (USA TODAY).
- **VERMONT** will likely become the first state in the nation to bring high speed wireless Internet access to all of its residents, thanks to \$116 million in federal stimulus grants and loans awarded last week to VTel Wireless Inc., a telecommunications firm based in Springfield (BURLINGTON FREE PRESS).
- To save \$17 million a year, **NEW JERSEY**'s Motor Vehicle Commission has halted biennial safety inspections for private cars, claiming that only 6 percent of the 1.9 million cars inspected in the state each year are rejected as a result of “serious mechanical defects.” The move brings the number of states that do not check residents’ cars for safety violations to 30 (STATELINE.ORG).
- The Obama administration has named 18 states and the District of Columbia as finalists in the Race to the Top education reform grant competition. The finalist states are **ARIZONA, CALIFORNIA, COLORADO, FLORIDA, GEORGIA, HAWAII,**

Upcoming elections

8/5/2010 - 8/26/2010

08/05/2010

Tennessee Primary Election

House (All)

Senate (Odd)

Constitutional Officers: Governor

US House (All)

08/10/2010

Colorado Primary Election

House (All)

Senate 1, 2, 3, 5, 6, 7, 9, 11, 13, 15,

16, 20, 22, 24, 30, 31, 32, 34

Constitutional Officers:

Governor, Lieutenant Governor,

Secretary of State, Treasurer,

Attorney General

US House (All)

US Senate

Connecticut Primary Election

House (All)

Senate (All)

Constitutional Officers:

Governor, Lieutenant Governor,

Secretary of State, Treasurer,

Attorney General, Comptroller

US House (All)

US Senate

Georgia Primary Runoff

House Districts 14, 19, 75, 94, 95, 102,

110, 143, 179 and 180

Senate Districts 17, 47, and 56

Constitutional Officers:

Governor, Secretary of State, Attorney

General, Comptroller General/

Commissioner of Insurance

US House (Districts 7, 9, 12, and 13)

Minnesota Primary Election

House (All)

Senate (All)

Constitutional Officers:

Governor, Lieutenant Governor,

Secretary of State,

Attorney General, Auditor

US House (All)

08/17/2010

California Special Election

Senate District 15

(continues on page 8)



ILLINOIS, KENTUCKY, LOUISIANA, MARYLAND, MASSACHUSETTS,
NEW JERSEY, NEW YORK, NORTH CAROLINA, OHIO, PENNSYLVANIA,
RHODE ISLAND and SOUTH CAROLINA (WALL STREET JOURNAL).

— Compiled by KOREY CLARK

Politics & leadership

CAMPAIGN FINANCE BILL STALLS IN CONGRESS: Democrats in the U.S. Senate failed last week to advance campaign finance legislation (US SB 3628) that is a top priority of the Obama administration. The bill, intended to reduce the impact of the landmark Supreme Court decision in January striking down the ban on political advertising by corporations and labor unions, fell three votes short of the 60 needed to end a Republican filibuster.

The measure, which, among other things, would force companies and unions to disclose their donors and spending on elections, is opposed by many of the nation’s largest interest groups, including both the U.S. Chamber of Commerce and the AFL-CIO.

Republicans said the legislation would impose tougher restrictions on corporations, hindering their ability to support GOP candidates. U.S. Senate Minority Leader Mitch McConnell (R-KENTUCKY) called it a “transparent effort to rig the fall election for the Democrats.”

“Unions are the ultimate victors under this bill,” he said.

Democrats vowed to keep fighting for the measure, despite the fact that it would likely curb support from one of their own key constituencies.

“The only ones fearful of transparency are those with something to hide.”

“The only ones fearful of transparency are those with something to hide,” said Senate Majority Leader Harry Reid (D-NEVADA).

Unless Democrats make some accommodations to win Republican support, however, the legislation will likely remain in limbo until after Labor Day and probably for the rest of the year. (WALL STREET JOURNAL)

MO VOTERS REJECT FEDERAL HEALTH MANDATE: MISSOURI voters have overwhelmingly approved a measure exempting their state from the federal mandate to purchase health insurance passed by Congress in March.

“The citizens of the Show Me State don’t want Washington involved in their health care decisions,” said Sen. Jane Cunningham (R), one of the sponsors of the legislation that placed Proposition C on last Tuesday’s ballot. Cunningham credited

a grass-roots campaign supported by Tea Party and patriot groups for the measure's resounding success, passing by a ratio of nearly 3 to 1.

"I've never seen anything like it," she said at a campaign gathering. "Citizens wanted their voices to be heard."

MISSOURI is the first state to opt out of the insurance purchase mandate provision of the federal health care law. And although some legal scholars say Prop. C is mostly symbolic and wouldn't stand up in court, its overwhelming approval is likely to give momentum to similar initiative campaigns in other states, including ARIZONA, FLORIDA and OKLAHOMA, that could have a bearing on the midterm elections.

"It's a big number," Sen. Jim Lembke (R) said of the vote. "I expected a victory, but not of this magnitude. This is going to propel the issue and several other issues about the proper role of the federal government." (ST. LOUIS POST-DISPATCH)

POLITICS IN BRIEF: NEW YORK Democrats could get a boost in future legislative elections thanks to a provision buried in the final budget bill passed last week. The provision mandates that the Legislature count prison inmates as residents of their communities of arrest when redistricting (NEW YORK POST).

• **MASSACHUSETTS** Gov. Deval Patrick (D) signed HB 4156, legislation committing his state to the National Popular Vote pact. Five other states — **HAWAII, ILLINOIS, MARYLAND, NEW JERSEY** and **WASHINGTON** — have already pledged to award their electoral votes to the presidential candidate who receives the most votes nationally, regardless of the results in their own states, if enough other states to constitute a majority of the Electoral College do the same (BOSTON GLOBE).

Upcoming elections (cont.)

8/5/2010 - 8/26/2010

Washington Primary Election

House (All)

Senate 6, 7, 8, 13, 15, 21, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48

US House (All)

US Senate

Wyoming Primary Election

House (All)

Senate (Odd)

Constitutional Officers:

Governor, Secretary of State,

Treasurer, Auditor,

Superintendent of Public Instruction

US House (All)

08/24/2010

Alaska Primary Election

House (All)

Senate B, D, F, H, J, L, N, P, R, S

Constitutional Officers:

Governor, Lieutenant Governor

US House (All)

US Senate

Arizona Primary Election

House (All)

Senate (All)

Constitutional Officers:

Governor, Secretary of State, Treasurer,

Attorney General, Mine Inspector,

Superintendent of Public Instruction

US House (All)

US Senate

Florida Primary Election

House (All)

Senate (Even)

Constitutional Officers:

Governor, Lieutenant Governor, Attorney

General,

Chief Financial Officer,

Commissioner of Agriculture

US House (All)

US Senate

(continues on page 10)

— Compiled by KOREY CLARK

Governors

PATERSON WON'T FACE CRIMINAL CHARGES: A retired judge investigating claims that NEW YORK Gov. David Paterson (D) criminally interfered with a domestic abuse case involving one of his closest aides has recommended not charging the governor with a crime.

But while former judge Judith Kaye's report freed Paterson from facing criminal charges, it also found that he and his staff had committed serious errors in judgment in the case. Those transgressions included two members of the governor's inner circle — State Police Major Charles Day and senior advisor Clemmie L. Harris Jr. — each attempting to coerce the victim from pressing charges. Paterson also called the victim, though he did not attempt to convince her to drop the case. He did, however, prod her to help him minimize the political fallout from the situation.

Day has since been transferred from Paterson's security detail. No action has yet been taken against Harris. David Johnson, the aide accused of assaulting his then-girlfriend, also remains on Paterson's staff, though he has been suspended

without pay. Ironically, the firestorm of controversy over the administration's intervention in the case spurred the resignations of two senior State Police officials and prompted three other senior administration officials to quit in protest over the governor's handling of the situation.

“Drivers without insurance...put all drivers at risk, so for that reason alone we should be deploying this technology.”

Paterson's legal issues are also not completely over. Kaye is investigating accusations by state ethics investigators that he perjured himself when he testified this year about receiving more than \$2,000 worth of free tickets to the 2009 World Series. He is also under investigation by state and federal authorities over his handling of a casino contract at the Aqueduct racetrack in Queens. (NEW YORK TIMES, ASSOCIATED PRESS)

RENDELL WANTS CAMERAS TO FIND UNINSURED DRIVERS: Civil liberties advocates are up in arms over PENNSYLVANIA Gov. Ed Rendell's (D) proposal to use highway cameras to track down Keystone State drivers who are motoring along without insurance. The cameras would photograph license plates and compare the numbers against a state insurance database to verify whether the driver has insurance, with uninsured vehicle owners receiving a hefty fine in the mail.

“Drivers without insurance...put all drivers at risk, so for that reason alone we should be deploying this technology,” Rendell said.

Rendell spokesperson Gary Tuma said the plan could bring in up to \$120 million a year in fines. But Mary Catherine Roper, an attorney with the American



Civil Liberties Union’s PENNSYLVANIA chapter, questioned the government’s ability to keep the information private.

“We’re always skeptical when the government sets up yet another system of monitoring people who have done nothing wrong,” she said. “How do I know that information isn’t going to be shared with other agencies? How do I know that information isn’t going to be used for other purposes?”

Lawmakers have yet to approve the program but that hasn’t stopped state insurance officials from moving forward with plans to implement it, including accepting applications from private companies to run the system. Lawmakers are currently considering numerous details, including the amount of potential fines, who will have access to any collected data, how long images are stored and whether police could use the system to check insurance at traffic stops. (PATRIOT NEWS [HARRISBURG])

HERBERT EARNS PUBLIC EMPLOYEE SUPPORT: The UTAH Public Employee Association’s PAC announced its support for Gov. Gary Herbert (R) last week, the first time since 1992 the union has backed a Republican. UPEA Citizen Action by Public Employees Committee Chairman Jeff Horrocks praised Herbert’s treatment of state workers, even though the governor signed legislation that dramatically overhauled the Beehive State retirement system, moving future employees from a defined-benefit pension system to a defined-contribution system similar to a 401(k). Horrocks said the union considered that

“We understood that if certain steps were not taken to protect that system, it would fail.”

action in making its decision, but concluded that Herbert had done the right thing.

“We understood that if certain steps were not taken to protect that system, it would fail. And after discussions of the system, we thought the steps that the governor and lieutenant governor had taken were probably the best steps they could,” he said. “Without the changes, eventually there wouldn’t be a system as we know it.”

Union officials also noted that Herbert has worked hard to limit budget-induced layoffs while also adding increases to the state employees’ retirement system in his 2010 budget. (DESERET MORNING NEWS [SALT LAKE CITY])

RELL ORDERS TRUCKING CRACKDOWN: Citing an ongoing rash of big rig accidents that have clogged Constitution State roadways since April,

Upcoming elections (cont.)
8/5/2010 - 8/26/2010

Oklahoma Primary Runoff

House Districts 3, 18, 21, 27, 66, 86 and 100

Senate District 44

Constitutional Officers: Insurance Commissioner

US House (Districts 2 and 5)

Vermont Primary Election

House (All)

Senate (All)

Constitutional Officers:

Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General, Auditor of Accounts

US House (All)

US Senate



CONNECTICUT Gov. M. Jodi Rell (R) has ordered an “intense crackdown” by state police and the Department of Motor Vehicles on unsafe truckers. Rell cited a police analysis of the wrecks that placed most of the blame on truck drivers, saying the accidents “are happening in clear, dry weather and in light or moderate traffic conditions, and that means one of the biggest contributing factors is high-risk behavior by truck drivers.” Rell said that behavior included excessive speed and unsafe lane changes. She said the effort will involve all 500 state troopers as well as another 24 members of the state traffic squad. In addition to going after truckers who speed or make erratic lane changes, troopers will pay special attention to those who follow too closely in traffic or log too many hours. (HARTFORD COURANT)

Upcoming stories

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

- **Time to bag plastics?**
- **Lou Cannon’s global perspective**
- **Human trafficking**

GOVERNORS IN BRIEF: The Midwest Governors Association announced it will hold a summit meeting next month to discuss greater investments in the “new energy economy.” The announcement was made by **OHIO** Gov. Ted Strickland (D), the MGA chairman, who said the meeting will be held in Columbus (COLUMBUS DISPATCH). • **CALIFORNIA** Gov. Arnold Schwarzenegger (R) praised a court ruling last week that overturned a voter-approved Golden State constitutional amendment banning same-sex marriage. The governor said the decision “affirms the full legal protections and safeguards I believe everyone deserves” (LOS ANGELES TIMES). • **NORTH CAROLINA** Gov. Bev Perdue (D) signed a pair of ethics bills last week: HB 961, which requires more disclosure of campaign fundraising activities, makes penalties tougher for those who make illegal campaign donations of more than \$10,000 and opens up to the public more information about state employees; and HB 748, which will require corporations that back a candidate in TV or radio ads to have the chief executive say the name of the company (CHARLOTTE NEWS & OBSERVER).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **CALIFORNIA** Supreme Court rules that a state law barring affirmative action by government does not violate the U.S. Constitution. The court’s decision came after plaintiffs sued to block a San Francisco program that rejected an argument that gave women- and minority-owned businesses preference in obtaining government contracts (SAN FRANCISCO



CHRONICLE). • Still in **CALIFORNIA**, Gov. Arnold Schwarzenegger (R) vetoes SB 1121, which would have granted overtime pay to farm laborers who work more than eight hours a day or 60 hours a week. The governor said the bill would be overly burdensome to agribusiness (LOS ANGELES TIMES). • The **MASSACHUSETTS** House fails to vote on SB 2517, a Senate-endorsed measure that would have required auto manufacturers to sell independent mechanics the same diagnostic codes offered to mechanics at dealerships. The bill's supporters vowed to try again next year (BOSTON GLOBE). • **NEW YORK** Gov. David Paterson (D) signs SB 3296, legislation that makes the Empire State the seventh to bar the sale of products meant for children ages 3 and younger if those items contain the chemical bisphenol A, or BPA. The chemical has been linked to a number of negative health conditions, including obesity, infertility, brain dysfunction, heart disease, diabetes and cancer (ALBANY TIMES-UNION). • Also in **NEW YORK**, Paterson signs AB 11007, which requires retailers who offer rebates in some form other than cash or check to reveal to the consumer how the rebate will be issued and if they must pay fees related to that rebate (NEW YORK GOVERNOR'S OFFICE). • Still in **NEW YORK**, Paterson signs AB 10000, which requires auto dealers who take vehicles in on trade to pay the outstanding loan or lease amounts on those vehicles within 21 days (NEW YORK GOVERNOR'S OFFICE). • **ILLINOIS** Gov. Pat Quinn (D) signs HB 6038, which extends to 2016 a Prairie State program that offers a 50 percent tax credit to private investors who build affordable housing. The credit was set to expire next year (DAILY HERALD [ARLINGTON HEIGHTS]). • Still in **ILLINOIS**, Quinn also signs SB 3739, which extends a state law giving homeowners facing foreclosure who work with a qualified mortgage counselor an additional 90 days to become current on their home loan or work out a new deal with their lender (DAILY HERALD [ARLINGTON HEIGHTS]). • **DELAWARE** Gov. Jack Markell (D) vetoes HB 463, which would have eliminated the state's two-tiered licensing classification for massage professionals. Current law requires 300 hours of in-class study to be deemed a massage technician and 500 hours to earn the rank of massage therapist (NEWS JOURNAL [NEW CASTLE-WILMINGTON]).

CRIME: NEW YORK Gov. David Paterson (D) signs AB 529, which allows victims of bias-based crimes to sue their attackers in civil court. The statute

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: 44

Number of Intros last week: 419

Number of Enacted/Adopted last week: 342

Number of 2010 Session Prefiles to date: 20,407

Number of 2010 Intros to date: 87,780

Number of 2010 Session Enacted/Adopted overall to date: 28,379

Number of 2009-10 bills currently in State Net Database: 187,467

— Compiled By JAMES ROSS
(measures current as of 8/4/2010)
Source: State Net database



covers victims chosen primarily for their age, sexual orientation, gender or physical or mental disabilities (NEW YORK GOVERNOR’S OFFICE). • Also in **NEW YORK**, Paterson signs AB 10061, which allows prison inmates to leave their institution under guard in order to perform volunteer work for a registered non-profit agency (NEW YORK GOVERNOR’S OFFICE). • Still in the Empire State, Paterson signs SB 7845, which bars health insurers from refusing to cover emergency care given to a policy holder who is hurt while driving drunk. The bill does allow the insurer to sue the policyholder to regain those costs (NEW YORK GOVERNOR’S OFFICE). • **DELAWARE** Gov. Jack Markell (D) vetoes HB 462, which would have imposed a mandatory \$1,500 fine on first-time offenders caught driving without insurance. Current law allows First State judges to set fines at their own discretion (NEWS JOURNAL [NEW CASTLE-WILMINGTON]).

In case you missed it

Economists are bombarding President Obama with a steady supply of conflicting advice based on diametrically opposed economic theories. The losers, however, may be states struggling to balance budgets in the face of reduced revenues and rising health care and pension costs.

In case you missed it, the article can be found on our Web site at http://www.statenet.com/capitol_journal/07-26-2010/html

EDUCATION: **ILLINOIS** Gov. Pat Quinn (D) signs HB 4209, which places a one-year moratorium on lawmakers imposing any new instructional mandates on Prairie State school systems. The measure also creates a task force to review current mandates and suggest a future course of action to the governor and Legislature (SOUTHERN [CARBONDALE]).

ENVIRONMENT: The U.S. Environmental Protection Agency rejects a petition from **VIRGINIA** officials that challenged the science the agency used in developing guidelines for regulating greenhouse gas (GHG) emissions. The EPA has concluded that manmade GHG emissions are contributing to global climate change and endangering human health. The state is seeking an appeal (RICHMOND TIMES-DISPATCH). • **NORTH CAROLINA** Gov. Bev Perdue (D) signs SB 836, which exempts offshore oil spills from limits on the recovery of damages from a discharge of hazardous substances (CHARLOTTE NEWS & OBSERVER).

HEALTH & SCIENCE: A federal judge refuses the Obama administration’s request to block a **VIRGINIA** lawsuit seeking to overturn the new federal health care reform law. Old Dominion officials say the law’s requirement that all citizens purchase health insurance is unconstitutional. Twenty other states have also joined the suit (WASHINGTON POST). • **NEW YORK** Gov. David Paterson (D) signs AB 8117, which overturns an Empire State law requiring midwives to have a written collaboration agreement with a licensed physician. The measure also requires health insurance policies that include hospitalization or surgical care to include coverage for maternity care (NEW YORK GOVERNOR’S OFFICE). • Still in **NEW YORK**, Paterson vetoes AB 1719, which would have allowed nurse practitioners to execute medical “do not resuscitate” orders (NEW YORK GOVERNOR’S OFFICE).



• **NEW HAMPSHIRE** Gov. John Lynch (D) signs HB 569, which requires health insurers to cover autism therapy in children and young adults to age 21. The measure caps coverage at \$36,000 annually to age 12 and \$27,000 from age 13 to 21. The law goes into effect next January (CONCORD MONITOR). •

ILLINOIS Gov. Pat Quinn (D) signs SB 326, which enacts a number of changes to the state’s nursing home system, including: limiting residential admission to only those people who need 24-hour skilled medical care, screening potential residents for violent criminal histories and requiring facilities to increase their nursing staff and make a greater effort to prepare residents to transition to community-based homes (CHICAGO TRIBUNE). • **NORTH CAROLINA** Gov. Bev Perdue (D) signs SB 675, which makes it illegal for medical providers to give or receive kickbacks for the use or referral of Medicaid services (CHARLOTTE NEWS & OBSERVER).

IMMIGRATION: The 9th U.S. Circuit Court of Appeals rejects a request by **ARIZONA** Gov. Jan Brewer (R) for an expedited appeal to a District Court’s ruling to block five portions of SB 1070, the state’s controversial new immigration law. The court, which did not give a reason for its refusal, set another hearing for early November (EAST VALLEY TRIBUNE [MESA]). • **VIRGINIA** Attorney General Ken Cuccinelli (R) says Old Dominion police may legally ask anyone they detain for proof of that person’s legal immigration status even if they have not arrested that person. Cuccinelli based his legal opinion on a 2008 law that primarily allows authorities to check the immigration status of anyone they arrest on other charges (WASHINGTON POST).

SOCIAL POLICY: A federal court in **CALIFORNIA** rules that Proposition 8, a voter-approved initiative barring same-sex marriage in the Golden State, is unconstitutional because it violates gay couples’ civil rights. The judge concluded that the 2008 measure “does nothing more than enshrine in the **CALIFORNIA** Constitution the notion that opposite-sex couples are superior to same-sex couples.” Judge Vaughn R. Walker also issued a temporary stay to his order while he considers a request from the measure’s supporters for a permanent stay pending their appeal to the 9th U.S. Circuit Court of Appeals (SACRAMENTO BEE).

— *Compiled by RICH EHISEN*

At Issue in the States

Want to learn more about State Net, our legislative experts or the Capitol Journal staff? Visit our blog, <http://statenet.typepad.com/at-issue-in-the-states/>. It's a great way to find out in a flash what's going on in statehouses across the country...like yours!



A GERM OF AN IDEA: Speaking of the Governor, it has been almost a year since he planted an 800-pound bronze statue of a grizzly bear outside his office in the Capitol. Media wags quickly dubbed the bronze bruin “Mike” after discovering it was the perfect place to rest their audio gear during the gov’s impromptu pressers. But as the *Sacramento Bee* reports, the CALIFORNIA Highway Patrol officers who guard the governor have their own name for the statue. After seeing thousands of school kids and tourists rub their hands on its metallic fur, the CHP folks dubbed the statue “Bacteria Bear.” Officers have also placed a large jar of hand sanitizer nearby.

— By *RICH EHISEN*

Editor: Rich Ehsen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Virginia Nelson, Art Zimmerman
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA), Bruce McKeeman (CA), James Ross (CA), Linda Mendenhall (IL), Lauren Davis (MA) and Ben Livingood (PA)
Graphic Design: Vanessa Perez
 ©2008 State Net ISSN: 1521-8449



You've just read **State Net Capitol Journal**, the insider's source for political and legislative news in the 50 states.

State Net Capitol Journal is published 40 times annually and delivered over the Web or e-mail.

For a FREE subscription, visit our Website at www.statenet.com and click on the "Register Now" icon. Or call us at 916.444.0840

A publication of State Net — *the leader in legislative and regulatory intelligence.*

Who relies on State Net?

- Five of the nation's ten largest companies
- Major information services including Lexis-Nexis and WestLaw
- Companies representing every major industry in the U.S.

State Net: the service you can trust when you need to be right.

Learn more about our issue-based reporting solutions today:
info@statenet.com or www.statenet.com • (800) 726-4566