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Top Story

Legislatures are mostly out for the year, but that doesn't mean governors have it easy these days. From bad weather to bad press, states' head honchos continue to face down numerous problems.

SNCJ Spotlight

High court ruling adds to Bush woes

It has not been a good month for FLORIDA Gov. Jeb Bush (R). His state has been racked with three significant hurricanes that have caused billions of dollars in damage, with more possibly on the way as early as this week. Even if Mother Nature gives the Sunshine State a break, the cleanup and rebuilding from the destruction that has already happened could take months or even years. If that wasn't enough

to darken the governor's mood, last week's state Supreme Court decision striking down a hastily-crafted law Bush helped to push through the Legislature last fall to keep a severely brain-damaged woman hooked up to a feeding tube just might be.

The case of 40-year-old Terri Schiavo, who was left in a vegetative state 14 years ago after a heart attack caused her to suffer severe brain damage, made national headlines last year when her husband won a long court battle with her family to have her feeding tube removed so she could die. Bush responded by urging the Legislature to pass "Terri's Law," a bill giving him legal authority to override the court's decision. Bush signed it and quickly ordered the tube re-inserted, but Schiavo's husband appealed to the high court, and last week the seven members unanimously agreed that the governor and lawmakers had acted improperly. Chief Justice Barbara Pariente said in her decision that "It is without question an invasion of the authority of the judicial branch for the Legislature to pass a law that allows the executive branch to interfere with the final judicial determination in this case." The court added that the law improperly delegated legislative powers to Bush, who then had complete authority over the situation.

Bush was not happy with the decision. "I'm disappointed for the moral reasons of the taking of innocent life without having — I don't think — a full hearing on the facts of what her intent was," he said.

It is not clear at this point if this means the feeding tube will be removed. Schiavo left no written instructions on how she wished to be treated if she should become incapacitated, but Florida law allows for those instructions to be made orally. Her husband claims she told him before her heart attack that she would not want to be kept alive by artificial means, an opinion with which her family vehemently disagrees. Although a lawyer for her husband said Mr. Schiavo has every intention of following through on his wife's wishes, Gov. Bush has 10 days to request a rehearing. A Bush spokesperson said there is a good chance he might bypass that option for a crack at the U.S. Supreme Court instead.

Right-to-die advocates across the nation hailed the decision, calling it a direct rebuke to Bush's actions in stopping Terri Schiavo from being allowed to die. Others said the ruling elevated the rights of the court above those of people with disabilities. (ASSOCIATED PRESS, USA TODAY)

*State Recaps
available this
week on the
State Net Web site*

AK, AL, CA, CO, CT, 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

2003-04 State Session
Recaps showcase legislative
statistics for each state.

VILSACK JUST SAYS NO TO BULLYING: A 2002 Iowa Youth Survey of 97,000 kids indicated that 19 percent had been involved in at least one fight, and 17 percent did not feel safe in their school. That situation inspired IOWA Gov. Tom Vilsack (D) last week to launch an initiative to stop school bullying in the Hawkeye State. The governor is hoping to force local school districts to develop and implement anti-bullying policies that are stronger than those already required in most areas. The plan gives districts the option of using a model school safety policy put together by state education officials, and also enlists high school-age volunteers to take the message directly to kids in the classroom. Vilsack originally asked lawmakers in January to craft legislation that would force local districts to develop their own anti-harassment and bullying policies, but Republican leaders rejected the idea, saying most districts already have their own policies in place. (QUAD-CITY TIMES)

SEBELIUS WANTS JAPAN TO BEEF UP: KANSAS Gov. Kathleen Sebelius (D) has embarked on a nine-day trade mission to Japan in an effort to re-open that market to American beef. Japan is one of many nations that barred U.S. beef after mad cow disease was discovered in a single cow in WASHINGTON last year. Sebelius hopes to use the Sunflower State's history of good relations with Japanese industry to convince business officials to help her to lobby their government to end the ban. Japan imported more than \$800 million in products from Kansas in 2003, making it the state's second-largest trading partner. (LAWRENCE JOURNAL-WORLD)

NAPOLITANO ON A MISSION: ARIZONA Gov. Janet Napolitano (D) sojourned to UTAH last week to meet with Mormon Church leaders in an effort to learn more about the religion. Napolitano's aids said the governor made the

The Week in Session

In Regular Session:
DC, MI, NJ, PA, US

With Projected Special Session: KY

In Recess:
CA "d", CA "e", DE "c", IL, MA, NY, PA

In Skeleton Session: OH

Currently Prefiling:
CO(Drafts for 2005)
FL(Drafts for 2005)
IN(Drafts for 2005)
KY(Drafts for 2005)
MT(Drafts for 2005)
NV(Drafts for 2005)
VA(Drafts for 2005)

Adjourned:
AK, AL, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD "2003 session", MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

In Special Session Adjourned:
AK "a", AR "b", CA "a", CA "b", CA "c", CT "a", CT "b", CT "c", CT "d", DE "a", GA "a", IA "b", IL "a-q", LA "a", ME "a", ME "b", MS "a", MS "b", NY "a", OR "a", TX "d", UT "a", UT "b", UT "c", VA "a", VA "b", WA "a", WA "b", WA "c", WI "d", WI "e", WI "f", WI "g", WV "a", WV "b", WY "a"

Projected to Adjourn: OK "a"

Letters indicate special/extraordinary sessions
Source: State Net, 9/24/04

majority in the chamber, they fell one vote short of the 100 votes that were required, after three members didn't show up for work. The suspicion among many Democrats was that Gov. Pataki was responsible for the absences, prompting one to remark that the missing members must have come down with the "Pataki flu." But Dems said the three members were easy targets for Pataki. One had made an unsuccessful bid for the Senate as a Republican in the primary election two weeks ago; another had been one of the "Democrats for Pataki" in 2000; and the third, in addition to having demonstrated a willingness to oppose Silver in the past, is retiring at the end of the year. Aides to the governor suggested that Silver's override failure is a sign his leadership is slipping. But the speaker's fellow Democrats and other observers dismiss that claim, pointing out that the 99 Democrats who showed up held together under pressure and contending that the budget fight isn't over. As Blair Horner of the New York Public Interest Group put it, "In the ongoing, furious battle between the governor and the speaker, the governor won the first round." (NEW YORK TIMES, TIMES UNION [ALBANY])

Quote...

"As he always does, the governor urged the members of the Assembly to vote based on principle."
— **Kevin Quinn, spokesman for NEW YORK Gov. George Pataki (R), acknowledging that the governor used some leverage to convince three Assembly Democrats not to vote last Monday to override his budget vetoes.**

KY GOV CALLS SPECIAL SESSION: In response to a looming crisis over the issue of health care for teachers and other state employees, KENTUCKY Gov. Ernie Fletcher (R) is calling a special session of the General Assembly — the first time he's done so since taking office last December. The trouble began earlier this month when Fletcher introduced his plan to overhaul

... unquote

"I feel embarrassed by this. Two members of the Bronx delegation are missing in action. Send them to Iraq!"

— **NEW YORK Assemblyman and Bronx Democratic Chairman Jose Rivera, commenting on the failure of two members from his borough to show up for the vote. (ALBANY TIMES UNION)**

the state health insurance program, the costs of which public employees and legislators of both parties claimed would outstrip pay increases. In response, education leaders scheduled a day of protest for today and threatened a statewide teachers strike on Oct. 27. After making several adjustments which failed to appease state workers or lawmakers, Fletcher called for the session, hoping to achieve a bipartisan solution to the problem. That may not be an easy task, as conflict between the Republican-controlled Senate and Democrat-controlled House



prevented lawmakers from passing a budget this year, ultimately requiring Fletcher to come up with his own spending plan. But Fletcher said he will restrict the session to health insurance issues and that it will begin Oct. 5 and last “until a final agreement is reached.” Senate President David Williams (R) gave some indication as to how long that might actually take. “I think if we all come up here and lay our political swords down for a while and address these important issues, that we can accomplish in a two- to three-week period what we need to do,” Williams said. “If it takes a month, we need to take a month.” (COURIER-JOURNAL [LOUISVILLE], CINCINNATI ENQUIRER, LOUISVILLE BUSINESS JOURNAL)

STATES OPPOSE FEDS’ INSURANCE PLAN: Part of a plan proposed by the Bush administration to make health insurance more affordable for small businesses is generating strong opposition from the states. The plan would allow groups of small businesses and other organizations to pool together to negotiate better prices for health insurance. While states don’t oppose the concept of insurance pools — many have been experimenting with such plans since the early 1990s — they do object to a provision in the Bush plan calling for a change in federal law to exempt pools that cross state lines from state insurance regulation, placing them instead under the supervision of the U.S. Department of Labor. State regulators fear that provision could deny participants consumer protections granted under state law. KANSAS Insurance Commissioner Sandy Praeger also believes the federal labor department lacks the manpower and resources to manage participants’ needs as effectively as the states. But supporters of insurance pools say those claims are unwarranted. Craig Orfield, a spokesman for the U.S. Senate Committee on Small Business and Entrepreneurship, for example, said, “It’s the same federal regulatory umbrella that regulates many of the largest labor union plans, and none of these state officials seem concerned about their workers who get insurance from the United Steelworkers.” If Orfield sounds a little bitter about the subject, it might be because although the U.S. House of Representatives has passed a number of bills to expand insurance pools, they’ve all gotten hung up in the highly partisan U.S. Senate. (STATE-LINE.ORG)

BUDGETS IN BRIEF: MICHIGAN Gov. Jennifer Granholm (D) signed the state’s \$2.6 billion budget Sept. 17. Her action puts pressure on the Legislature to approve a measure pushing up the date of county property tax collections, which would generate savings the budget relies on (SOUTH BEND TRIBUNE).

- A study released last week by the **WISCONSIN** Policy Research Institute



showed that the state’s residents would have saved \$2.4 billion — or \$438 per taxpayer — in 2002, if government spending had been in line with the national average. Wisconsin residents paid 21.4 percent of their income in taxes, exceeding the national average by 1.5 percent, while state and local government spending exceeded the national average by 7.7 percent (MILWAUKEE JOURNAL ONLINE). • Harrah’s Entertainment is threatening to sue **RHODE ISLAND** Gov. Donald Carcieri (R) over public comments he made alleging that the casino giant had promised an Ocean State law firm 200 foreclosure transactions a year in exchange for supporting its bid for a casino in the state. After learning of Carcieri’s remarks, delivered during an anti-gambling conference in Warwick, Harrah’s senior vice president of communications and government relations challenged Carcieri to “Prove it, retract it or expect papers to be filed” (PROVIDENCE JOURNAL). • **VIRGINIA**’s highly successful prepaid college tuition program will begin welcoming new investors next month for the first time in over a year. But prospective investors will have to pay a lot more to participate. The prepaid cost of four years of college for a newborn, for example, is \$32,772, which is up from \$20,464 last year, while the cost for a child in the ninth grade is \$8,193, up from last year’s \$5,116 tab (VIRGINIAN-PILOT [NORFOLK]).

— *Compiled by KOREY CLARK*

Politics & Leadership

ETHICS SCANDAL BREWING IN CA: CALIFORNIA Secretary of State Kevin Shelley (D) has found himself at the center of a political firestorm over allegations that he has misused federal funds the state received through the Help America Vote Act (HAVA). That money is supposed to be used for replacing old paper ballot voting machines with electronic ones, educating voters about the new technology and teaching them how to register and get to their polling places. But Republicans and others claim Shelley has used a large amount of the money for partisan purposes, including promoting himself politically. The accusations began last month after *Knight Ridder* reported that Shelley had used some of the HAVA funds to hire former aides and Democratic allies. The report prompted the Legislature to order a state audit of the HAVA expenditures, which is expected to be completed in November. On top of that, last week Republicans called for a federal audit of the secretary of state’s office and urged Gov. Arnold Schwarzenegger (R) to establish an independent authority to administer the



election funds. And the governor's office has already elected to freeze further disbursements of federal money to the secretary of state. The developing scandal is drawing comparisons with a similar one four years ago that led to the resignation of another ambitious, low-visibility state office-holder, Insurance Commissioner Doug Quackenbush. Shelley is probably hoping things don't turn out the same way. (SACRAMENTO BEE, ASSOCIATED PRESS, CONTRA COSTA TIMES)

Upcoming Elections
 (09/20/2004 - 10/04/2004)

09/21/2004 Alabama
 Special Primary
 House 47

AT THE POLLS: HAWAII Gov. Linda Lingle's (R) hope of packing the state school board with members who support her plan to break the school system into local boards dissipated with last Saturday's primary election: Only two of the five candidates endorsed by the governor won their races. Lingle downplayed the result, saying the GOP was focusing its efforts on taking control of the state House. In related news, Aloha State election officials were troubled by the high number of spoiled ballots cast in the election. Nearly 10,000 ballots — about 4 percent of the total number cast — had to be thrown out because voters had chosen candidates from more than one political party. That is nearly three times the number of ballots invalidated in the 2002 primary (HONOLULU STAR-BULLETIN, HONOLULU ADVERTISER). • LOUISIANA's primary held the same day didn't exactly come off without a hitch either. In what Secretary of State Fox McKeithen called the biggest election fiasco in modern state history, voting machines arrived late at 52 polling places in New Orleans, preventing potentially thousands of voters from casting ballots. Early reports placed the blame on confusion resulting from the evacuation for Hurricane Ivan (TIMES-PICAYUNE [NEW ORLEANS]).

POLITICS IN BRIEF: WISCONSIN Senate Republicans chose Sen. Scott Fitzgerald as their new majority leader, replacing Mary Panzer, who was defeated handily in the primary two weeks ago by a fellow Republican who contended she was too moderate. Fitzgerald said he plans a more conservative agenda, starting with a constitutional amendment limiting government spending (ASSOCIATED PRESS, CAPITAL TIMES [MADISON]). • RHODE ISLAND voters will consider 14 separate ballot measures in November, the highest number since 1986. The proposals include a constitutional amendment to more clearly define the roles of the three branches of government and \$392 million in bond issues for a variety of construction projects (PROVIDENCE JOURNAL).

• A new group has launched a campaign against **FLORIDA's** Amendment 2, a proposition placed on the Nov. 2 ballot by lawmakers and the state Chamber of Commerce that seeks to rein in costly citizen initiatives. The coalition, which includes the League of Women Voters, the ACLU, Common Cause and the American Lung Association of Florida, calls the measure “a power grab by legislators and the state’s business lobby to maintain power in Tallahassee” (ST. PETERSBURG TIMES). • **MICHIGAN** voters are holding firm in their support of limiting the expansion of gambling in the state. A poll released two weeks ago by EPIC/MRA of Lansing showed that 62 percent of likely voters support Proposal 1, a gambling-limits measure that will appear on the state’s November ballot. That number is virtually unchanged from a survey conducted last month (DETROIT FREE PRESS).

— *Compiled by KOREY CLARK*

Hot issues

B **USINESS:** Saying it would hurt businesses and cost jobs, **CALIFORNIA** Gov. Arnold Schwarzenegger (R) vetoes AB 2832, legislation that would have raised the state’s minimum wage to \$7.75 per hour. The bill would have given the Golden State the highest minimum wage in the nation, a distinction currently held by **WASHINGTON**, which has a \$7.16 per hour rate (SACRAMENTO BEE). • Still in **CALIFORNIA**, Gov. Schwarzenegger (R) signs SB 1506, which makes the state the first in the country to require anyone disseminating movies or music on the Internet to disclose their e-mail address. Golden State file sharers who trade songs and movies without giving up an e-mail address can now be charged with a misdemeanor (SAN FRANCISCO CHRONICLE). • **SCHWARZENEGGER** also signs AB 1793, a measure that requires **CALIFORNIA** video game retailers to post signs and offer brochures that notify parents of the video industry’s game-rating system. A version of the bill that would have banned the sale of ultra-violent video games to minors did not get out of the Legislature (SACRAMENTO BEE, SAN FRANCISCO CHRONICLE).

CRIME & PUNISHMENT: A federal judge orders all **CALIFORNIA** state prison doctors to undergo competence evaluations before the end of next year. The order comes in response to a study that found widespread problems with prison medical staffs, including many poorly trained doctors who are practicing outside of their area of expertise. The evaluations will place doctors in three categories: those who are fit for duty, those who need more training, and those who should not be treating patients or supervising other physicians at all (SACRAMENTO BEE).

and bars state judges from recognizing same-sex marriages and civil unions conducted in other states (NEW ORLEANS TIMES-PICAYUNE).

POTPOURRI: In another move addressing Internet file sharing, **CALIFORNIA** Gov. Arnold Schwarzenegger (R) issues an executive order directing state technology officials to develop a policy that will allow legitimate peer-to-peer file sharing among state employees while barring those workers from illegally downloading copyrighted material from the Internet. The policy would make the state the first in the nation to prohibit the use of file-sharing programs such as Kazaa on state computers (SAN JOSE MERCURY NEWS). • A **PENNSYLVANIA** Senate committee unanimously endorses a bill that would require all lobbyists to register with state government within 10 days of being hired. Organizations that hire lobbyists must also register. The bill would also require lobbyists who spend more than \$2,500 in three months on dinners, entertainment and other forms of influence to file written reports on that spending. The measure now goes before the full Senate (PITTSBURGH POST-GAZETTE).

— Compiled by RICH EHISEN

Once around the statehouse lightly

B **UTTER POLICE.** The “Oleo Wars” have been raging in WISCONSIN for nearly 75 years, despite a peace treaty signed in the late 1960s. The Oleo Wars started when margarine first was invented — and immediately banned in the nation’s most prominent dairy state. Colored margarine was legalized in 1967, but it has been a hollow truce, as evidenced last week when a diner tried to order butter on his baked potato. As the *Milwaukee Journal-Sentinel* reports, the offending restaurant brought his potato, but not his butter. Instead, his meal was slathered with margarine. And that, it seems, is still a violation of a Badger State law that requires restaurants to serve butter unless a patron specifically asks for margarine. In the abovementioned case, a Ponderosa Steakhouse confessed to not having any butter. The patron sent his potato back, and persons unknown called the authorities — in this case, inspectors from the Food Safety and Environmental Licensing bureau. They issued a warning to the offending steakhouse, which promised to cooperate. After all, what self-respecting joint wants to earn the wrath of 5 million dairy cows?



PEDAL TO THE METAL. Al Loney, a MINNESOTA State Patrol officer, thought the motorcycle he observed was speeding. According to the *St. Paul Pioneer Press*, the veteran police officer, flying high above U.S. Highway 61, checked the speed by timing the cycle with a stopwatch as it zoomed between two designated white markers and, sure enough, the motorcycle was going a tad over the highway's 65-mph speed limit. Loney radioed ahead to a patrol car, which stopped the driver and issued the ticket — for exceeding the limit by 140 miles per hour. The clocked speed of 205 mph is about 60 mph above the previous record for a Gopher State speeding ticket. The cyclist was racing at the time and, yes, his buddy also earned a citation. No word on how fast he was going, but it was in excess of 100 mph.



TIDY TIDES. The state of CALIFORNIA held its annual beach clean-up day recently where civic-minded citizens traipse down to the sand to pick up trash. And given that this is the left coast, several out-of-the-ordinary groups participated. The *San Francisco Chronicle*, for instance, reports that the Bay Area Naturalists performed the service at Bonny Doon, a stretch of beach seven miles north of Santa Cruz. Yes, they are nudists, who have been cleaning up Bonny Doon for the past 17 years. This year, however, proved their metal — the weather was 60 degrees and foggy.

FLOODED OUT. The state of FLORIDA may be flood central for the country these days, thanks to a recent series of hurricanes that have swept through the Sunshine State. But the most unusual flood of last week took place in CALIFORNIA, where an unexpected weather front dumped nearly two inches of rain on Sacramento in less than an hour. Sewers backed up, trees toppled over, streets turned into lakes and buildings and houses flooded. Among the buildings affected, notes *The Sacramento Bee*, was the state Capitol. And the culprit in the Capitol soaking? Apparently, it was the courtyard patio tent where Gov. Arnold Schwarzenegger smokes his cigars. A carpet inside the tent blocked a drain, causing water to back up into the suite of offices housing the governor's top staff.

