

Pension Peril



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● The next issue of
 ● Capitol Journal will be
 ● available on January 24th.
 ●

Top Story

Recent efforts to rein in escalating public employee pension costs have focused on new hires. But with budgets still reeling, some states are now looking at shrinking pensions for current workers.

SNCJ Spotlight

Pushing the limits of pension reform

Over the last few years, states seeking to curb the rising costs of public employee retirement have taken the legally and politically safe approach of reducing the benefits of new hires. But last year, lawmakers in Colorado, Minnesota and South Dakota voted to limit cost-of-living increases already promised to thousands of current retirees.

Unsurprisingly, retirees in all three states have filed lawsuits seeking the restoration of their annual benefit increases at their former levels. And the law appears to be on their side, with state constitutions, statutes and the courts



generally holding public pension systems to be contracts between states and their employees that can't be altered.

But not everyone thinks such precedents are inviolable. A growing number of elected officials believe more can be done to reduce the costs of providing pension benefits for existing state employees.

None have been more vocal than New Jersey Gov. Chris Christie (R), who told lawmakers gathered for a special budget session last year: "Make no mistake about it, pensions and benefits are the major driver of our spending increases at all levels of government...we cannot in good conscience fund a system that is out of control, bankrupting our state and its people, and making promises it cannot meet in the long term."

This past fall, Christie proposed a series of pension reforms targeting public employees who have been on the job less than 25 years, the amount of time required for vesting under New Jersey law. The proposals include increasing the salary percentage state workers must contribute to their pension plans, basing benefit calculations on employees' five highest earnings years instead of the current three and raising the retirement age for all public employees to 65.

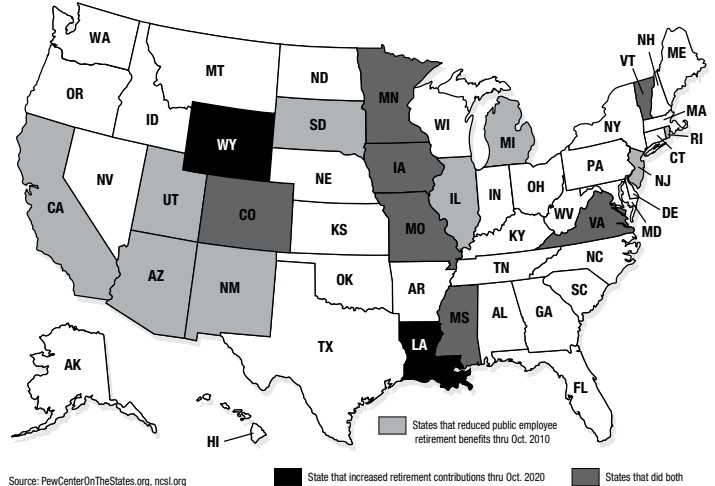
"There's significant reform and change that can happen for people with less than 25 years, which is really the majority of people in the system," Christie said in announcing the proposals.

Union representatives say those proposals are illegal. They've also knocked the state in general for chronically underfunding the pension system and Christie in particular for skipping a required \$3.1 billion payment to the state's pension fund last year.

But Christie has characteristically remained defiant.

"If they want to sue me, tell them to get in line," he told the *Star-Ledger* last year. "I've got plenty of lawyers to defend our positions."

Bird's eye view



States ratcheting up pension reforms

In the first nine and half months of 2010, 18 states undertook legislative action to reduce their pension liabilities, seven more than did so during the whole of 2009 and 10 more than in 2008, according to analysis of National Conference of State Legislatures data by the Pew Center on the States. As of October 19 of last year, nine states had reduced retirement benefits for their public workers, two had increased employee contributions and seven had done both. In 2009, six states reduced benefits, three increased contributions and two did both, while in 2008, the numbers were three, three and two, respectively.





Christie isn't the only one geared up for a legal battle, however. The American Legislative Exchange Council (ALEC), an association of conservative state lawmakers and policy advocates, has drafted a model resolution that aims to free up states to go after pension benefits more aggressively.

The resolution declares that all pension obligations to state and local workers "shall be immediately adjusted to a level comparable to that of private sector workers for positions of comparable responsibility and direct compensation." Under the resolution's provisions, those adjustments would be made by an independent federal review panel, with federal courts having sole jurisdiction over the changes instead of state courts to avoid "inherent conflicts of interest."

The legal basis for the draft resolution, which still has to be approved by ALEC's board, is evidently a pair of U.S. Supreme Court cases — *Energy Reserves Group v. Kansas Power & Light* and *United States Trust Company of New York v. New Jersey* — that make it "permissible for states to modify contractual obligations for a significant and legitimate public purpose, such as the remedying of a broad and general social or economic problem," as the resolution states.

"Now there's at the very least a persuasive, legitimate argument that we can do this," said Ralph Benko, a senior adviser at the conservative American Principles

Project, who helped draft the resolution's language.

"Yes, it will require litigation and be challenged by the courts, but gosh, we have a strong case here."

Indiana state Sen. Jim Buck (R), chair of the ALEC task force that created the resolution, stressed that the measure is only intended for cases of real crisis.

"It's not summarily discarding a contract that you're financially fit to take care of," he said. "I don't anticipate any state doing it unless they're in a financial crisis."

That is essentially the argument Colorado has been making in defense of its decision to cut cost-of-living increases for its current retirees.

"If we don't reduce these automatic pension increases, the entire fund is poised to go bankrupt," Senate Minority Leader Josh Penry (R) said last February. "Think United [Airlines]. Think GM. That didn't work out well for the company or the retirees."

Minnesota, likewise, stated in court filings in connection with the legal challenge to its cost-of-living cut that the action "was reasonable and necessary to maintain and restore the financial stability of Minnesota's public pension plans."

But a report by the Pew Center on the States indicated that Colorado's pension funding level dropped from 100 percent in 2000 to 70 percent in 2008, before the recession hit. And Minnesota's funding level went from 101 percent in 1999 to 80 percent in 2008.

"If we don't reduce these automatic pension increases, the entire fund is poised to go bankrupt."

“The Legislature was cutting off funds and starving the pension system,” said Stephen Pincus, a Pennsylvania attorney representing the retirees in the lawsuits against Colorado, Minnesota and South Dakota. “They shouldn’t now be able to cry there’s no money in the pension system. They had a large hand in creating the crisis.”

South Dakota’s case for a crisis appears even more shaky. The state’s pension was 97 percent funded in both 2000 and 2008, according to Pew’s report. And although the state’s retirement system investments lost over 20 percent of their value in 2008, they gained that back in fiscal year 2010.

“There’s no crisis in South Dakota,” said Pincus. “They had one bad year. So they’re going to shore up their pension fund by cutting benefits to those who already receive them?”

“The Legislature was cutting off funds and starving the pension system. They shouldn’t now be able to cry there’s no money in the pension system.”

Pincus said the other problem with the crisis argument is that it paves the way for states to default on all of their contracts, not just those with public employees.

“If there is a real general threat to the financial well-being of a state or local government, then everything should be on the table, not just one set of contracts,” he said.

One reason states are now taking the risk of going after current employees’ retirement benefits is that they’ve determined cutting benefits for new employees alone won’t be enough to keep their pension systems solvent in the long run. Colorado, for instance, projected that without the cost-of-living reduction, its pension system would run out of money within 30 years.

Robert Klausner, a Florida attorney specializing in public pension law, said many state officials now think they have less to lose by challenging pension protections in court than they do by not taking any action at all.

“The belief is that if the employer [the state] prevails, it will have been worth the political risk,” he said. “And if they lose, they will be no worse off than before.”

Adding to the attraction of current employee benefits is the fact that many of the legal protections that have traditionally shielded them are somewhat murky.

“It is uncertain in many states what the constitutional protections are because they haven’t been tested or at least thoroughly tested in the courts,” said Ron Snell of the National Conference of State Legislatures.

The legal protections also vary significantly by state. Nine states — Alaska, Arizona, Hawaii, Illinois, Louisiana, Michigan, New Mexico, New York and Texas — have worker protections in their constitutions. But even those aren’t necessarily unchallengeable. Arizona lawmakers, for instance, are considering a ballot measure for 2012 revising the language in the state’s constitution protecting pensions.

In other states, where the protections exist in statutes and case law, pensions are sometimes treated as “contracts” and other times as “property rights.” The latter tend



to be easier to modify. But there's also significant variation in the "contract" states, in terms of when those contracts are deemed to take effect. In Nebraska, for instance the protections kick in as soon as employees begin working for the state, while in New Jersey, if Gov. Christie is correct, pensions are only protected after employees have worked for 25 years.

But the main reason states are going after pensions more aggressively now may be that organized labor is simply an easy target in the current economy.

Republican lawmakers in Indiana, Maine, Missouri and seven other states are planning to introduce legislation this session barring private sector unions from forcing their members to pay dues or fees. Ohio's new Republican governor, John Kasich, wants to ban public school teachers from striking. And Wisconsin Gov. Scott Walker (R) is threatening to take away government workers' right to form unions.

Even Democrats have turned on their traditional political ally. New York Gov. Andrew M. Cuomo (D) has called for a one-year salary freeze for government employees. And California Gov. Jerry Brown (D) has stripped 48,000 state workers of their government-paid cell phones.

"They're throwing the kitchen sink at us," American Federation of Teachers President Randi Weingarten said a couple of weeks ago. "We're seeing people use the budget crisis to make every attempt to roll back workers' voices and any ability of workers to join collectively in any way whatsoever." (STATELINE.ORG, STAR-LEDGER [NEWARK], NEW YORK TIMES, DENVER POST, NEW JERSEY GOVERNOR'S OFFICE)

— *Compiled by KOREY CLARK*

Budget & taxes

BIG CHANGES COMING IN STATE-FEDERAL RELATIONSHIP: Federal stimulus money is well on the way out for states. The flow of dollars, which peaked at \$112 billion in the 2010 fiscal year, will drop to \$23 billion in FY 2012 and \$14 billion in FY 2013. And state officials aren't optimistic anything will be done to cushion the fall off that funding cliff.

"We have a \$13 trillion national debt," said Oregon Gov. John Kitzhaber (D). "I don't think we're looking at a whole lot of new money going down to the states from the federal government."

But the GOP takeover of the U.S. House of Representatives could bring more fundamental changes for states than just the end of the stimulus. Republicans have already promised to seek a rollback of most federal spending to 2008 levels. That could mean as much as \$100 billion in cuts, with programs states rely on almost



certainly taking a hit, although it isn't entirely clear yet which ones.

"We don't know where the cuts will be," said Michael Bird, senior federal affairs counsel at the National Conference of State Legislatures.

The biggest potential targets are Medicaid, which accounts for nearly 43 percent of state spending from federal funds; elementary and secondary education, which accounts for 12 percent; and transportation, which accounts for 8 percent.

Marcia Howard, executive director of the nonpartisan Federal Funds Information for States, expects Congress to try to consolidate various state grant programs that fund educational, community development and environmental projects, an idea President Obama proposed in last year's budget.

"They'll collapse and broaden, but fund them less," Howard said.

Congress may also try to end the practice of earmarking. Although doing so wouldn't have much impact on the federal deficit — with earmarks accounting for only about 1 percent of federal spending — the practice has become an emblem of government inefficiency. And a ban could have a relatively big impact on states such as Hawaii, Mississippi, North Dakota, Vermont and West Virginia, which have received more earmarks per capita than other states because of the senior lawmakers they've had on key congressional committees.

A more sweeping proposal under consideration is replacing the funding structure for Medicaid, in which Washington and the states pay equal shares of the cost, with fixed federal block grants to states, like the way welfare funds are disbursed.

"Let's cut the strings, give them the money so that they can reform this," said U.S. Rep. Paul Ryan (R-Wisconsin), who proposed the idea.

A similar measure failed during the Clinton administration, but Ryan said: "This is not the 1990s. We've got fiscal pressures that are dictating these kinds of things. And let's let these governors...experiment." Ryan's new post as chairman of the House Budget Committee could also help the proposal's chances.

A report from the Center on Budget and Policy Priorities said the block grant plan "would shift costs and risks to states, low-income beneficiaries, and health care providers" and "likely unravel the health reform law, driving up the number of people who are uninsured and underinsured."

Many House Republicans would welcome the latter. But with Democrats still controlling the Senate and White House, they might have to settle for a proposal made by all 29 of the Republican governors who will hold office this year in a letter to President Obama and congressional leaders: drop requirements in the stimulus

Upcoming elections

1/12/2011 - 2/2/2011

01/18/2011

Iowa Special Election

Senate District 35

01/20/2011

Tennessee Special Primary

House District 98

Senate District 18

01/22/2011

Louisiana Special Primary

House District 101

Senate Districts 22 & 26

02/01/2011

Pennsylvania Special Election

House District 185



and health care laws preventing states from cutting Medicaid enrollments.

In a statement, Texas Gov. Rick Perry, chairman of the Republican Governors Association, said, “Now is the time for the federal government to restore states’ flexibility to craft Medicaid programs tailored to their specific needs.”

One of the most controversial proposals being circulated among conservatives, however, is allowing states to file for bankruptcy the way cities can, unburdening them of some of their weightier obligations, such as contracts with public sector employees and possibly even the pension benefits they’ve fallen way behind on paying.

In an article in the *Weekly Standard*, University of Pennsylvania law professor David Skeel called state bankruptcy the “best option for avoiding a massive federal bailout,” particularly for states such as California and Illinois, which already have piles of debt but still face huge budget deficits.

U.S. Rep. Devin Nunes (R-California) has proposed a bill that could be a precursor to state bankruptcy legislation. The measure would require states to provide an accurate accounting of their pension liabilities or lose the ability to sell tax-exempt bonds, a crucial funding source.

Conservative Colorado state Sen. Greg Brophy (R) is hoping for something less specific but possibly just as elusive. He wants Congress to “honor federalism by working only on things that the federal government should, leaving the rest to the states.” (STATELINE.ORG, CENTER ON BUDGET AND POLICY PRIORITIES)

BUDGETS IN BRIEF: Before ending its 96th legislative session last week, the **ILLINOIS** General Assembly passed a 66 percent increase in the individual state income tax. But state lawmakers failed to approve an \$8.7 billion borrowing plan to help the state pay off its enormous backlog of bills and a \$1.01 per pack increase in the cigarette tax that would have generated an estimated \$377 million, mainly for education (STATE JOURNAL-REGISTER [SPRINGFIELD]). • **VIRGINIA** Gov. Robert F. McDonnell (R) unveiled a proposal last week to close 332 state-owned liquor stores and open 1,000 private retail outlets in their place. The plan is a scaled-down version of the one McDonnell had been pushing for months, which also included wholesalers and distributors, but it is still expected to generate an additional \$13.1 million in revenue 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: 1,470

Number of Intros last week: 10,996

Number of Enacted/Adopted last week: 250

Number of 2010 Prefiles to date: 20,240

Number of 2011 Prefiles to date: 13,474

Number of 2010 Intros to date: 94,226

Number of 2011 Intros to date: 16,702

Number of 2010 Session Enacted/Adopted overall to date: 31,664

Number of 2011 Session Enacted/Adopted overall to date: 2,313

Number of bills currently in State Net Database: 111,540

— Compiled By JAMES ROSS
(measures current as of 1/12/2011)
Source: State Net database



the state each year (WASHINGTON POST). • **MARYLAND** Gov. Martin O'Malley (D) said last week he will "keep an open mind" on any new taxes the General Assembly proposes during the legislative session. The state faces a \$1.6 billion gap between forecasted revenues and expenditures (BALTIMORE SUN).

— *Compiled by KOREY CLARK*

Politics & leadership

SHOOTING SHINES HARSH SPOTLIGHT ON AZ: In the aftermath of this month's fatal shootings in Tuscon, Arizona, the question on everyone's mind — as it always seems to be whenever such tragedies occur — was why did it happen?

At a press conference hours after the shootings, Pima County Sheriff Clarence W. Dupnik, offered one explanation.

"The anger, the hatred, the bigotry that goes on in this country is getting to be outrageous, and unfortunately Arizona, I think, has become sort of the capital," he said. "We have become the mecca for prejudice and bigotry."

"Just when we were starting to emerge from the P.R. trauma of the immigration law...we offer up our state as the land of Oswalds."

The following day, on CBS' "Face the Nation," U.S. Sen. Jon Kyl (R-Arizona) suggested that Dupnik, a Democratic elected official, had overreached.

"I didn't really think that that had any part in a law enforcement briefing last night," he said.

But the partisan difference of opinion continued on NBC's "Meet the Press," with U.S. Rep. Raul M. Grijalva (D-Arizona) stating: "Arizona's the

epicenter of a lot of division and a lot of hard politics. And from the top to the bottom of not only our elected leadership, but community leadership."

The state's leadership has certainly found itself under the critical eye of the nation before. In 1987, Gov. Evan Mecham (R), days after being inaugurated, rescinded the state holiday honoring the Rev. Dr. Martin Luther King Jr., leading to protests and a boycott of the state. And just last year the state was again besieged by protests and boycotts over its passage of one of the strictest anti-immigration laws in the nation, SB 1070.

"Just when we were starting to emerge from the P.R. trauma of the immigration law...we offer up our state as the land of Oswalds," said Jason Rose, a well-known political adviser based in Phoenix.

Arizona's liberal gun laws won't do much to discourage that perception. The state permits guns in bars and recently became one of just a few states to allow people to carry concealed weapons without a permit. Last summer, Jesse Kelly, the Republican challenger to Gabrielle Giffords, the Arizona Congresswoman critically wounded in the Jan. 8 shooting, held a campaign event in which he invited voters to "shoot a fully automatic M-16" with him to signify his assault on Giffords' campaign.

But where many Americans may see intolerance and even insanity, many residents of the state see security and independence. Indeed Arizona is undoubtedly one of the few states that could produce a politician like Giffords, who is a staunch defender of the Second Amendment right to bear arms and tough on border issues, and at the same time a Democrat and ardent supporter of the health care overhaul.

The state possesses a population comprised largely of individuals born and raised outside of its borders; a bifurcated urban and rural culture; a trifurcated political culture, with independents just as numerous as Republicans and Democrats; and a strong independent streak. And those characteristics have been pressurized the last few years by the state's proximity to Mexico, rapid growth and dire fiscal problems.

Rose seems to think the state may now be at a crossroads, where either it's more moderate, independent political voices will take control of the political discourse or the state will become even more polarized.

"Either way, a giant collision is about to occur," he said. (NEW YORK TIMES) (See *Governors: Shooting turns AZ 'State of the State' somber* in this issue for more on this topic)

POLITICS IN BRIEF: Republicans and Democrats in the **OREGON** House negotiated an unprecedented power-sharing agreement to run the 30-30 evenly split chamber last week, unanimously electing "co-speakers" and endorsing new rules to ensure that neither party gains the upper hand. The new speakers are Republican Bruce Hanna and Democrat Arnie Roblan (OREGONIAN [PORTLAND], STATELINE.ORG). • **NEW YORK's** business community took to the TV airwaves for the first time last week to promote Gov. Andrew Cuomo's (D) political agenda ahead of an anticipated wave of attack ads by organized labor. The statewide TV ad campaign, expected to cost about \$800,000 a week, is being funded by the "Committee to Save New York," a group founded at Cuomo's urging as a private-sector counterbalance to the union-backed campaigns that have hindered previous governors (NEW YORK POST). • **IOWA** Supreme Court Chief Justice Mark Cady's State of the Judiciary speech last week drew an unusual standing ovation from the public gallery and about half the chamber, while many of the Republican legislators and all of the judges in the room remained seated without clapping. The divergently received speech, which comes two months after a pair of justices were ousted over a ruling in favor of gay marriage, among other things praised Iowa's once controversial rulings on civil rights that have since become a "celebrated part" of the state's "proud and rich" history (DES MOINES REGISTER).

— Compiled by KOREY CLARK

Governors

SHOOTING TURNS AZ ‘STATE OF THE STATE’ SOMBER: A little more than a week ago, Arizona Gov. Jan Brewer (R) was working in the House of Representatives, practicing to give her first “State of the State” address since being re-elected to a full term of her own in November. As she noted later, her intention was to focus her comments on ways her state could close another looming budget gap, and on red meat Republican issues like job creation, education and tax reform. But after the tragic shooting that killed six people and left Congresswoman Gabrielle Giffords (D-ARIZONA) and more than a dozen others critically wounded, Brewer changed her focus entirely, delivering instead a somber speech that lauded Giffords and called for prayers and mourning for the victims of the deadly attack. In doing so, she also delivered a message that leaders in both parties said could help ease some of the state’s volatile political climate.

“I thought it was gracious of her to make that decision to defer her comments as far as the State of the State goes and to instead deliver the comments that she did,” said Senate Minority Leader David Schapira (D).

“If there’s any day that we need to rise above partisanship and just focus on those who were victimized, today’s the day. I’m glad to see that she did that, and I thought she did it well. I was grateful for that,” added Sen. Kyrsten Sinema (D).

House Speaker Kirk Adams, a Republican, said he believed the attack had “permanently” changed things in the Grand Canyon State, adding, “I hope all of us elected officials and citizens of Arizona can come together and overcome challenges.”

Rep. Steve Farley (D) said he hoped the incident will encourage both parties to end the “hateful or hurtful rhetoric” that has become such a regular part of the state and national political discourse.

“We have crossed a threshold, a threshold into a new day of politics in which we do not trash one another on either side, where we work together, where we follow in [Giffords’] model for how you work with people you don’t necessarily agree with,” Farley said. “I believe that [Republicans] will be partners in this goal.”

Brewer also used her speech to defend her state, which has been at the center of a nationwide debate over everything from its immigration policies to cutting off aid to people who need life-saving organ transplants and banning the teaching of ethnic studies in public schools. In the aftermath of the shooting, many media and political observers also accused the state of fostering a toxic political atmosphere that may have led to the attack.

Brewer referenced those criticisms, noting that “Since Saturday, all of us have read and heard a lot about the state of Arizona.” But she also deflected those charges, calling her state “a place of service, a place of heroes, a place with a bruised, battered heart that I know will get past this hideous moment.”



But many observers also noted that Brewer has often been front and center on many of the most controversial issues, giving a major role in creating the state's national image.

"She faces some real challenges where the image of Arizona is concerned," said Nathan Sproul, a former head of the Arizona Republican Party who is now a political consultant in Phoenix. "I think this is the darkest time for Arizona, per the way the nation looks at us, since when we repealed the Martin Luther King holiday in the 1980s. That took Arizona a decade to overcome. I think this presents Arizona with the strongest challenge since then."

Others also note that while Brewer may be viewed negatively outside the state, she is popular at home, with approval ratings over 50 percent. As such, Grant Woods, a former state attorney general who chaired Brewer's re-election campaign last year, believes the governor and lawmakers have a chance to help improve how people see Arizona going forward.

"I think the governor can, should...talk about all the positive things that we have going on in our state, and how our state should not be judged by the worst people in our state," he said. "I would hope that the governor and the Legislature would see this as an appropriate time to take a break from some of those divisive issues. Those are the sort of things that cause emotions to run high. One thing leads to another." (ARIZONA CAPITOL TIMES [PHOENIX], WALL STREET JOURNAL, NEW YORK TIMES, ARIZONA REPUBLIC [PHOENIX]) (For more on this topic, see *Politics & leadership: Shooting shines harsh light on Arizona* in this issue.)

EXECUTIVE ORDERS: COLORADO Gov. John Hickenlooper (D) issues EO D 2011-005, which, among several things, orders state agencies to consult with local governments before imposing new regulations or rules upon them. The governor also issues EO D 2011-003, which requires the state's 64 counties to help develop a statewide economic development strategy; EO D 2011-004, which creates a program designed to enlist Coloradans living abroad and coordinate their efforts to create new commerce avenues for the state in foreign countries; and EO B 2010-010, which creates the Governor's Education Leadership Council, a group tasked with helping to improve education in the Centennial State (STATE NET, PUEBLO CHIEFTAIN, COLORADO GOVERNOR'S OFFICE). • Meanwhile, RHODE

The week in session

States in Regular Session: AK, AR, AZ, CA, CO, DC, DE, GA, HI, IA, ID, IN, KS, MA, MD, ME, MI, MN, MO, MS, MT, ND, NE, NH, NJ, NM, NY, OH, OR, PA, PR, RI, SC, SD, TN, TX, VA, VT, WA, WI, WV, WY

States in Recess: US (until 01/25/2011), CT (until 02/01/2011), IL (until 02/01/2011), KY (until 02/01/2011)

States in Special Session: WI "a", CA "1"

Upcoming Special Sessions: LA "a" regarding Census / Redistricting convenes 03/20/2011.

States Currently Prefiling or Drafting for 2011: AK, FL, NM, NV, OK, UT

States Adjourned in 2011: IL (2009-10 Session - Adjourned 01/12/2011)

State Special Sessions Adjourned in 2011: AL "a"

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 1/13/2011)
Source: State Net database



ISLAND Gov. Lincoln Chafee (I) issues EO 11-02, which nullifies a previous order from former Gov. Don Carcieri (R) that required Ocean State employers to use the federal E-verify database to ensure their workers are in the country legally (STATE NET, RHODE ISLAND GOVERNOR’S OFFICE).

Upcoming stories

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

- **Workforce bullying**
- **Film incentives**
- **Immigration**

GOVERNORS IN BRIEF: Two states

inaugurated their first-ever female governors last week:

OKLAHOMA, which swore in Gov. Mary Fallin (R), and **SOUTH CAROLINA**, where Gov. Nikki Haley (R), also became the first Indian-American woman to hold that position. At 38, she is also the youngest sitting governor in the nation (OKLAHOMAN [OKLAHOMA CITY], THE STATE [COLUMBUS]). • **ILLINOIS** Gov. Pat Quinn (D) said he would “follow my conscience” in determining whether to sign SB 3539, legislation banning the death penalty in the Prairie State. Lawmakers sent him the bill last week (CHICAGO TRIBUNE).

— *Compiled by RICH EHISEN*

Hot issues

B **USINESS:** The **NEW JERSEY** Assembly and Senate endorse AB 2853, a bill that allows Garden State government officials to quicken the permitting process for economic development projects. It moves to Gov. Chris Christie (R) for review (STAR-LEDGER [NEWARK]). • Still in **NEW JERSEY**, the Legislature endorses an amended version of SB 1, which, among other things, would eliminate the state agency overseeing affordable housing requirements for local municipalities, lower the obligation of those towns to provide affordable housing and eliminate a 2.5 percent fee on commercial developers to pay for it. The measure, which lawmakers originally passed last June before amending it in recent weeks, now moves to Gov. Christie for review (STAR-LEDGER [NEWARK], PHILADELPHIA INQUIRER). • Also in **NEW JERSEY**, the Legislature approves SB 1216, legislation that would allow businesses owned by women and minorities in urban areas to qualify for state economic development loans. It moves to Gov. Christie for review (STAR LEDGER [NEWARK]). • The **MISSISSIPPI** House Banking Committee endorses HB 455, which would require payday lenders in the Magnolia State to give borrowers at least 28 days to repay their loan. Current law requires the loans to be repaid by the borrower’s next payday, regardless of when that is. The measure is now expected to go to a joint House-Senate committee (CLARION LEDGER [JACKSON]). •



Still in **MISSISSIPPI**, the House approves HB 510, which would bar the state from using the power of eminent domain to seize private property for private development. It is now with the Senate (CLARION LEDGER [JACKSON]).

In case you missed it

The New Year rang in more than a wealth of fireworks, party streamers and champagne toasts: it also brought forth a plethora of new laws.

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

http://www.statenet.com/capitol_journal/01-10-2011/html

CRIME: The **INDIANA** Senate Corrections, Criminal and Civil Matters Committee unanimously approves SB 57, which would bar the sale of synthetic marijuana products sold under names like K-2 and Spice, making possession of the products a misdemeanor or, in some cases, a felony. The measure goes to the full Senate (INDIANAPOLIS STAR). • The **ILLINOIS** House and Senate approve SB 3539, which would abolish capital punishment in the Prairie State. The state has had a moratorium on executions for a decade. It's now with Gov. Pat Quinn (D) for review (CHICAGO TRIBUNE). • The **MISSISSIPPI** House approves HB 551, legislation that would enhance penalties against motorists who unlawfully pass a school bus. Repeat violators would face losing their license for up to 90 days, while a driver who hits a child could face charges of aggravated assault. It moves to the Senate (CLARION LEDGER [JACKSON]).

EDUCATION: The **ARIZONA** Supreme Court rules that students who curse at their teachers are not committing a crime. The justices ruled that while such behavior can merit suspension, words that are “not inherently likely to provoke a violent reaction by the teacher” do not meet the criteria for “abuse” of a teacher, which is illegal (EAST VALLEY TRIBUNE [MESA]). • **NEW JERSEY** Gov. Chris Christie (R) signs AB 3466, legislation that requires training for most public school teachers, administrators and other employees on how to spot bullying, with school employees required to report all incidents they learn of, whether they took place in or outside of school. The measure also mandates that all districts form watchdog groups to review complaints and authorizes the state to take disciplinary action against administrators who do not investigate reported bullying incidents. Students who bully could be suspended or expelled (STAR LEDGER [NEWARK]). • Still in **NEW JERSEY**, Christie signs AB 1637, which allows school districts to sell advertising on the exterior sides of school buses. The law requires the ads to first be approved by the local school board, bars ads for tobacco or alcohol products and requires all proceeds to go toward paying for fuel costs and other programs the boards deem appropriate (NEW JERSEY GOVERNOR’S OFFICE, STATE NET).

ENVIRONMENT: A federal court rejects a request by **TEXAS** officials to block the federal Environmental Protection Agency from regulating Lone Star State industries that produce large amounts of greenhouse gas (GHG) emissions. State



officials say they will continue pursuing their suit challenging the EPA’s authority to regulate GHG emissions (DALLAS MORNING NEWS).

HEALTH & SCIENCE: The **WISCONSIN** Joint Audit Committee approves a sweeping audit of the Badger State’s Medical Assistance Program, which provides health care for seniors, people with disabilities and the poor. Officials say they hope to have the audit completed by March (MILWAUKEE JOURNAL SENTINEL).

SOCIAL POLICY: ARIZONA Gov. Jan Brewer (R) signs SB 1101, emergency legislation that discourages political protests at funerals by creating a “funeral protection zone” that bans protesters within 300 feet of a funeral service. The ban applies to one hour before, during or after the service, with violators facing a Class 1 misdemeanor. The bill was a response to a planned protest by the Topeka, **KANSAS**-based Westboro Baptist church at the funeral of a 9-year-old girl killed during the recent shooting assault on **ARIZONA** Congresswoman Gabrielle Giffords (D). That attack killed six people and critically wounded 13 others, including Giffords (ARIZONA REPUBLIC [PHOENIX]).

POTPOURRI: MASSACHUSETTS Gov. Deval Patrick (D) signs legislation that authorizes Bay State pet owners to create legal trusts to provide for the care of one or more pets if the owner becomes disabled or dies. It takes effect in April (BOSTON HERALD).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

G ONE TO THE DOGS: Nevada Gov. Brian Sandoval loves animals. His family has quite the menagerie at home: two cats, two frogs, a turtle, a rat and four dogs. Alas, the pooch contingent recently got the gov in the doghouse. As the *Reno Gazette-Journal* reports, the Sandoval’s Reno neighborhood is in a county that limits residents to three dogs, a hedge against folks running illicit puppy mills out of their home. The Sandovals recently acquired their fourth hound from a gravely ill friend who eventually passed away. They chose to keep the dog, putting them over the limit. A newspaper feature story on the gov’s animal house brought several letters of protest from folks who accused him of getting special treatment. County officials are currently working on a fix, but the problem has



become moot: the Sandovals have moved into the governor's mansion, which is not subject to the mutt management law.

SPEAKING OF OLD DOGS...California's old/new Gov. Jerry Brown and First Lady Anne Gust have a new hound of their own, a Welsh Corgi named Sutter they are watching for the gov's sister while she moves her digs to Chicago. But as the *Sacramento Bee* reports, a growing chorus of folks are urging Brown to keep Sutter and make him the Golden State's "First Dog." Sutter now even has his own Twitter feed, which gives fans updates of his thoughts on such important matters of the day as proper press conference set up and hot local bands. As of Wednesday, his feed had 153 followers. No word from Brown on whether Sutter will eventually make his way to the Windy City.

HANG UP AND...WORK: Budget woes have governors everywhere preaching the gospel of shared sacrifice. In California, Gov. Jerry Brown is starting by telling tens of thousands of state workers to give up their government-paid cell phones. As the *Sacramento Bee* reports, Brown wants 48,000 of the 96,000 cell phones issued by the state to be rounded up and returned by June 1, something he says will save the state \$20 million annually. But those who will get to keep their phones shouldn't get too comfortable. Brown noted that will still leave one-fifth of all state workers with a taxpayer-funded cell phone, something he calls "too much." Long-time Brown watchers might recall a similar directive during his first term back in 1975 when the younger but just as notoriously frugal governor ended the practice of handing out state-issued briefcases. In short, technology may change but some people never do.

DOLLAR DAYS: Louisiana will mark its 200th birthday next year, and Pelican State officials want to celebrate. But facing tough budget times makes asking for public money a tad unwise. As the *New Orleans Times-Picayune* reports, however, being short on cash has never stopped Louisianans from celebrating anything. To wit, retired Lt. Gen. Russel Honore, the head of the state's bicentennial commission, has a novel idea: paying for the event by collecting a single dollar from every one of the state's 4.4 million residents. If everyone just ponies up a single dollar, Honore says, they will have all the bucks they need to do it up right. While some might scoff, Honore thinks the idea will resonate with a lot of folks, noting, "One thing we know how to do in Louisiana is throw a party." Truer words were never spoken.

— By RICH EHISEN

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