

March 21, 2011

The Public Pension Time Bomb



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The next issue of Capitol Journal will be available on April 4th.

Top Story

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

SNCJ Spotlight

Pension obligations shortchanging states' future prosperity

Public employees are under the microscope as states struggle for the third consecutive year to balance budgets with below-normal revenues during a weak and slow economic recovery. Wisconsin, it turns out, was a sign of the times. When Wisconsin Governor Scott Walker (R) and his GOP legislative majority succeeded over noisy protests in trimming the

A Cannon Perspective



With Lou Cannon

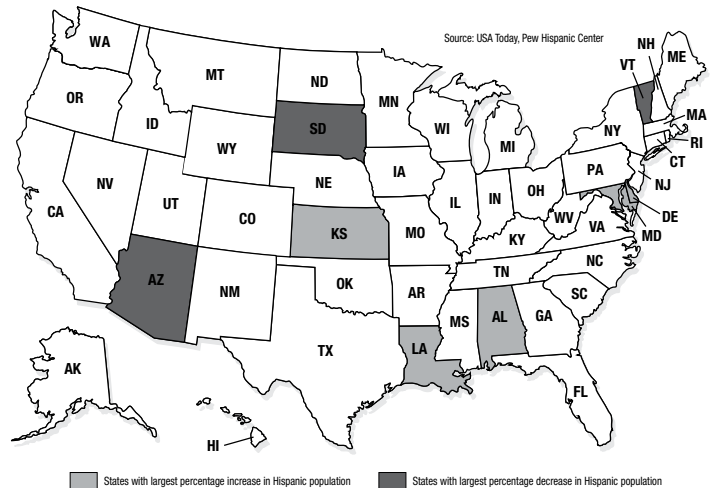
pension benefits and restricting the collective bargaining rights of public employees, they set the stage for similar battles in a score of other states where Republicans control both the governorship and the Legislature.

The latest eruption, small by Wisconsin standards, occurred March 15 when a thousand people, mostly seniors, rallied outside the state capitol in Lansing to protest a pension tax increase proposed by Michigan Gov. Rick Snyder (R). Republicans are also pushing pension issues into the spotlight in states where Democrats rule the roost. In California, where Democratic Gov. Jerry Brown has put forth an ambitious program of budget cuts and tax extensions, Republican legislators who oppose the package are making pension reform a condition of putting Brown's plan before the voters.

Pensions owed to 80 percent of the nation's 27 million state and local government workers and retirees are ticking time bombs. Estimates of the combined shortfall in pension liabilities are too wide-ranging — from \$1 trillion to \$3 trillion — to be useful, but are worrisome even at the low end. In plain language, state and local governments are shortchanging present public services to meet future pension obligations. Los Angeles Mayor Antonio Villaraigosa, a liberal Democrat in a non-partisan office, wants to trim pension benefits and increase the retirement age for civilian city workers. Otherwise, he says, pension and health costs for retirees will consume a third of the city's budget by 2015.

Villaraigosa, who was elected with union support, believes that pension reform is a matter of common sense rather than partisanship. But in a time of belt-tight budgets and persistent unemployment, the issue has irresistible political appeal for Republicans. Several GOP gubernatorial candidates, Walker and Snyder among them, promised pension reform in last year's election campaign, which ended in a GOP landslide. Their campaigns were bolstered by a finding of the Pew Center on the

Bird's eye view



Hispanic population growth exceeds estimates in many states

The 2010 Census counted nearly 600,000 more Hispanics than the Census Bureau had estimated in 28 of the 33 states for which data have been released so far, according to the Pew Hispanic Center.

Most of the 28 states are those with smaller and newer immigrant populations, as opposed to traditional gateway states like California and New York. For instance, the Census counted 186,000 Hispanics in Alabama, 15.9 percent or 26,000 more than expected, and 193,000 Hispanics in Louisiana, 13.2 percent or 25,000 more than estimated. Arizona, which recently passed tough immigration laws and beefed up enforcement against the undocumented, was one of the few states where the trend was reversed, with the Census finding 1.9 million Hispanics, 22,000 or 13.2 fewer than estimated.



States that unfunded pension liabilities in the states were increasing because of poor management and lack of discipline. According to the Pew report, only four states had fully funded pension plans. One, ironically, was Wisconsin.

Republicans in 2010 campaigned on a panoply of issues, headed by opposition to the Patient Protection and Affordable Care Act passed by a Democratic Congress and signed into law by President Obama. At the state level, many GOP candidates also pledged immigration clampdowns patterned after a controversial Arizona law empowering police officers to check the immigration status of those they detain. But in 2011, with states feeling the impact of continued revenue shortfalls, fiscal concerns have pushed pension and health care costs to the forefront at the expense of other issues. The supposed hot-button issue of immigration, for instance, has proved a dud. Although a number of bills are still pending, no state has yet copied Arizona, and six states have rejected Arizona-style measures outright (though bills have cleared at least one chamber in South Carolina and Georgia). Utah gave police officers additional authority to check the immigration status of those they arrest (HB 497) but also approved a progressive measure providing for “guest workers” and identification cards for them and their families.

In contrast, Republican state lawmakers have aggressively pushed for pension reform, usually in the form of requiring employees to contribute a greater share of their pension and health costs. Some states and cities are also adopting or exploring a two-tier system in which new employees would obtain their retirement through 401(k) accounts now common in the private sector. Tim Storey of the National Conference of State Legislatures says the GOP has gained traction on pension reform because of the sweeping nature of the 2010 election, in which Republicans wrested control from the Democrats of both the governorship and the legislature in states such as Ohio, Michigan and Wisconsin. Governors in these states may have been emboldened by Indiana Gov. Mitch Daniels, a Republican who without fanfare in 2005 issued an executive order eliminating collective bargaining for state employees. The order had a broad impact, doing away with seniority preferences and giving the governor greater freedom to consolidate state operations or outsource them to private companies. State employees had a mixed reaction to the changes: some of them have prospered under a merit-pay system introduced by Daniels while others have had few pay raises. Overall, the policy contributed to a turnaround in Indiana state government that has bolstered Daniels’ status as a potential 2012 candidate for the Republican presidential nomination.

Current battles in the Midwest over collective bargaining for public employees have broken down along party lines, but that was not always the case. President Franklin D. Roosevelt, a Democratic icon, and even labor leader George Meany were skeptical that public employees should be unionized. Later, however, collective bargaining for public employees became widely accepted in large urban states; Gov. Ronald Reagan (R), a conservative hero in 1968, signed a bipartisan bill permitting collective bargaining for local public employees in California. Twenty-four states currently restrict or deny collective bargaining for public employees. Opponents of



such bargaining point out that unions in the private sector organize to obtain better wages and working conditions from a specific employer. They have no say on how the company is run. Public employees, on the other hand, help elect those they bargain with and their support or lack of it at election time can be crucial. So state and especially local officials have an incentive to give employees generous benefits in order to win re-election.

But public officials may demonstrate such unwarranted generosity whether or not their employees are represented by a labor union. A recent study by Sylvester J. Schieber, an economist, reported in the *New York Times*, found no apparent relationship of collective bargaining to the benefits received by public workers. He used a measurement called pension replacement rate, which is the percentage of a worker's income that he receives in retirement. To take only two examples from this complex study, the pension replacement rate is virtually identical in Ohio and Georgia, where public worker retirees receive two-thirds of their pre-retirement income. Nearly half the public employees in Ohio are covered by collective bargaining agreements; in Georgia less than one in six public employees have a union contract.

This study lets public unions off the hook to a degree but provides no comfort to private employees who have seen a steady erosion of pension and health benefits and must work into old age to make ends meet. The sticking point is the early retirement age enjoyed by public employees. "By the time the typical private-sector worker has retired, the teachers, the highway patrolmen and these [other public employee] folks have already gotten \$200,000, \$300,000, \$400,000 in pensions," Schieber said. "Plus they're getting a pretty rich retiree health benefit. That's why these benefits are so expensive."

Scott D. Pattison, Executive Director of the National Association of State Budget Officers, believes that generous retirement and health benefits for public employees were widely tolerated by officeholders and the public alike until the recent Great Recession. Then, he said, workers in the private sector who were struggling economically began to resent the favored treatment of neighbors in the public sector. This has made pension reform a powerful political issue. In the wake of Gov. Walker's ham-handed effort to jam his reform package through in Wisconsin, public unions rallied and are now viewed in some Democratic circles as a potent counterforce in the 2012 election campaign. Maybe so, but Pattison believes that the math favors the pension reformers. Pension liabilities of the current magnitude for public workers are unsustainable, and state and local officials of both parties are going to have to face up to this reality.

Upcoming elections

3/17/2011 - 4/7/2011

03/22/2011

Alabama Special Primary
House District 105

03/29/2011

Minnesota Special Primary
Senate District 66

04/02/2011

Louisiana Special Primary
House District 46

04/05/2011

South Carolina Special Election
House District 64

Wisconsin Special Primary
Assembly Districts 60, 83 & 94

Budget & taxes

S TATES NOT SWEATING FEDERAL SHUTDOWN THREAT — YET: The congressional budget impasse that has threatened to shut down much of the federal government for the second time this month has drawn only muted reaction from the state capitols — at least so far.

One reason is that two of the largest pots of money states receive from the federal government — for Medicaid and the Children’s Health Insurance Program — would remain accessible even if a government shutdown occurred. Funding for those programs is considered “essential” and would not be suspended, according to Mary Kahn of the federal Centers for Medicare and Medicaid Services.

“If a state were to run out of money and needed an infusion of cash,” Kahn says, “we would give them that.”

Even a disruption of non-essential funding streams wouldn’t dramatically affect state finances unless it continued for an extended period, because states don’t typically access federal funds on a daily basis. According to a brief issued by the National Association of State Budget Officers, the amount of impact that a federal shutdown has on states “is directly related to the length of the shutdown.”

“A shutdown that lasts for a couple of weeks, while inconvenient, would not cause significant harm to states,” the report stated.

In fact, the longest federal shutdown in history — which began in December 1995 and lasted only 20 days — caused little long-term damage in the states.

But the states aren’t without worries. State budgets are a lot more fragile now than they were during the federal shutdown 15 years ago, when state coffers were flush with cash from the dot-com boom. So a federal shutdown could cause detrimental economic ripple effects, particularly in states with large numbers of federal workers, such as those surrounding Washington, D.C., and those with tourism industries that are largely dependent upon national parks, such as Arizona, home of the Grand Canyon.

“The Grand Canyon is a huge tourist draw for the state of Arizona,” said Renee Bahl, the state’s parks director. “We are the Grand Canyon State.” (STATELINE.ORG)

STATES PRESSURE AMAZON ON SALES TAX: Online mega-retailer Amazon.com currently collects sales taxes only in the five states where it has offices or some other physical presence: Kansas, Kentucky, New York, North Dakota and Washington. The Seattle, Washington-based company has managed to avoid collecting sales taxes in other states where it has warehouses by assigning ownership of those facilities to subsidiaries.



BUDGETS IN BRIEF: Both houses of the **NEW YORK** Legislature passed budgets last week (AB 4002) that reject key elements of Gov. Andrew M. Cuomo’s (D) Medicaid overhaul and eliminate hundreds of millions of dollars of the governor’s proposed cuts to education. The state’s deadline to pass a spending plan is April 1 (NEW YORK TIMES). • **NEW JERSEY** property taxes rose an average of 4.1 percent between 2009 and 2010, the largest year-over-year increase since 2007. Gov. Chris Christie (R) said former Gov. Jon Corzine’s (D) 4 percent property tax cap was responsible for the spike and not his own 2 percent property tax cap, which took effect this year (STAR-LEDGER [NEWARK]). • **HAWAII** tourism promoters are bracing for a much bigger impact than the millions of dollars in damage to harbors, roads and shoreline buildings on Maui and the Big Island from last week’s tsunami: a significant decline in the \$2 billion Japanese tourists had been projected to spend in the islands this year (USA TODAY). • **PENNSYLVANIA** Gov. Tom Corbett’s (R) proposed budget cuts to education would be 10 times higher in some poorer, urban districts than in wealthier ones, according to an analysis by the Education Law Center, a public education advocacy group. For instance, the Steelton-Highspire School District in Dauphin County would get \$1,139 less for every student, even though the district has a poverty rate of 68.2 percent, while Derry Township, with a poverty rate of 12.3 percent, would lose just \$121 per student (PATRIOT-NEWS [HARRISBURG]). • **FLORIDA** Rep. Pat Rooney (R) filed legislation this month that would allow Jack Nicklaus-designed golf courses to be built on state park land. HB 1239 — and companion bill SB 1846, sponsored by Sen. John Thrasher (R) — requires the construction of at least one 18-hole golf course at each of the state’s five parks, “free from unnecessarily burdensome requirements,” in order “to increase tourism and enhance the state’s economy” (ORLANDO SENTINEL, STATE NET).

— *Compiled by KOREY CLARK*

Politics & leadership

SENATE DEMOCRATS RETURN TO WI: The 14 Democratic senators who fled Wisconsin last month to block Gov. Scott Walker’s (R) collective bargaining-killing budget-repair bill finally returned to Madison last week. They failed to stop that bill, AB 11a, which Walker signed into law [although a state judge issued a temporary restraining order blocking publication of the law last Friday]. But you wouldn’t know it from the heroes’ welcome they received at the Capitol. Tens of thousands of pro-labor demonstrators crowded Capitol Square, chanting “thank you, thank you,” as the Democrats made their way up the Capitol steps.

Not everyone cheered the Dems' return. Senate Majority Leader Scott Fitzgerald (R) issued a statement calling them "the most shameful 14 people in the state of Wisconsin."

"To the Senate Democrats: when you smile for the cameras today and pretend you're heroes, I hope you look at that beautiful Capitol building you insulted," he wrote. "And I hope you're embarrassed to call yourselves senators."

But the Democrats showed no signs of shame, vowing to continue their fight against the Republicans' anti-labor proposals.

"They won the battle; we're going to win the war," said Sen. Dave Hansen (D-Green Bay).

Sen. Fred Risser (D), likewise, said: "This is not the end. This is the beginning of phase two."

Among the strategies Democrats are considering for that second phase are a general labor strike or a consumer boycott.

"People we're up against care about money and are very greedy," said Sen. Kathleen Vinehout (D). "Look at the companies and products these people manufacture. When I buy something, I make my vote known."

There's also the recall option, with signature drives already under way for eight Republicans and eight Democrats.

"A lot of the people shut out of the process in the last two weeks will be heard," said Sen. Chris Larson (D). "They'll be trading in those rally signs for clipboards as the recall efforts heat up." (MILWAUKEE JOURNAL SENTINEL)

VT TAKES CIVIL APPROACH TO PENSION PROBLEMS: Vermont is facing the same pension problems as many other states: it has fallen behind on its payments to cover the cost of public employees' retirement benefits, the recession has reduced the size of its pension portfolio and its aging workforce is driving up retirement costs.

"In my experience, you get more with maple syrup than vinegar. I'm puzzled by the approach taken by some of my colleagues who prefer confrontation to common sense."

But public employees in the state have agreed to pay cuts, layoffs, and hikes to their pension plan contributions and retirement age without any union protests or members of the Legislature fleeing the state.

The concessions haven't been unsubstantial. State workers have agreed to take a two-year, 3 percent pay cut. And teachers have agreed to work for three more

years before retiring and contribute 1.6 percent more toward their pensions.

But Vermont Gov. Peter Shumlin's (D) approach to getting workers to make those sacrifices has been very different from that taken by the chief executives of other states, like Wisconsin's Gov. Scott Walker (R) and New Jersey's Gov. Chris Christie (R).



“One of the things that is troubling to us is, with that two-thirds requirement in voting, whether the General Assembly would be nimble enough to react to unanticipated changes,” said Leanne Winner, a lobbyist for the North Carolina School Boards Association.

She cited the Columbine High School shooting in 1999, after which school officials in North Carolina removed evacuation plans for schools from public access to prevent copycat plotters from using the documents to plan an attack.

Paul Meyer, a lobbyist for the North Carolina League of Municipalities, said records about public buildings became a similar concern following the 9/11 terrorist attacks.

LaRoque said exceptions like those would get quick approval.

“The things they’re talking about, in reality, pass with almost unanimous approval,” he said.

But Winner said it’s impossible to predict what might come up in the future, and an important exception that the majority wants still might not pass.

Still, support for the idea seems to be growing.

“If we can get it to the House floor, it’s going to be hard for anyone to justify voting against open government,” said LaRoque last week. He got his wish: the bill was amended and sent to the House on the 16th.

Open records measures tend to draw strong public support. In Florida, an amendment similar to the one under consideration in North Carolina was endorsed by 83 percent of voters. One in California received the support of over 80 percent of voters. And support for such a measure appears to be similar in North Carolina. Eighty-one percent of the respondents to a recent Elon University poll said they approved of a constitutional amendment making all public business of any government entity open to the public. (NEWS & OBSERVER [RALEIGH])

POLITICS IN BRIEF: Four TEXAS legislators who served on committees responsible for overseeing the state-run Texas Wind Insurance Agency reportedly pocketed tens of thousands of dollars in windstorm-related fees and commissions. The TWIA, which covered the tab for much of the storm damage from Hurricane Ike in 2008, is the subject of 2,000 lawsuits and a fraud investigation by a district

The week in session

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

States in Recess: MO, PA, SC(House), SD, US, WI

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

Special Sessions in Recess: VA “a” (Redistricting).

Upcoming Special Sessions: AL “a” regarding Coastal Insurance convene date TBA.

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

States in Extended Session: WV

States Currently Prefiling or Drafting for 2011: LA

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

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

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

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 3/18/2011)
Source: State Net database



attorney in Austin (HOUSTON CHRONICLE). • Ninety percent of the bills passed by the **UTAH** Legislature this year were sponsored by Republicans, while just 11 percent were sponsored by Democrats. Still, Democrats praised Republicans for their even-handedness, noting that with the GOP holding seventy-five percent of the Legislature’s seats, the Democrats passage rate could easily have been 0 percent (SALT LAKE TRIBUNE [SALT LAKE CITY]). • Minority Democratic leaders of **MICHIGAN**’s House and Senate are pushing for a state constitutional amendment (SJR 9) to guarantee the right to collective bargaining for all public and private employees. But with Republicans holding sizable majorities in both chambers, the Democrats may have to resort to a petition drive to get such a measure on the 2012 ballot (DETROIT FREE PRESS). • State ethics investigators have charged **SOUTH CAROLINA** Lt. Gov. Ken Ard (R) with 69 counts of using campaign money for personal expenses and 23 counts of failing to properly disclose campaign expenditures. Ard took office in November (STATE [COLUMBIA]).

— *Compiled by KOREY CLARK*

Governors

HERBERT OKAYS ‘**UTAH SOLUTION**’: For most of the last year, the rhetoric surrounding immigration has mostly come from Republican lawmakers anxious to see their states adopt measures similar to Arizona’s SB 1070, the Grand Canyon State’s controversial 2010 immigration crackdown that reignited a heated national debate on immigration reform. But last week, Utah Gov. Gary Herbert (R) signed a suite of bills into law that take a decidedly more comprehensive approach to the reform issue, including the creation of a guest worker program that gives undocumented immigrants a chance to legally stay and work in the Beehive State. In doing so, Herbert may soon face fierce challenges from both the federal government and members of his own party.

The bills Herbert signed — the so-called “Utah solution” — encompass a range of immigration issues, from a strict enforcement measure similar to AZ SB 1070 (HB 497) to measures creating the guest worker program (HB 116) and establishing a partnership with the Mexican state of Nuevo Leon to allow workers to come to Utah using federal visas (HB 466). A fourth measure, HB 469, would allow Utah residents to sponsor an immigrant as long as that person is not coming from a country known to support terrorism and if the sponsor takes financial responsibility for that person.

Herbert acknowledged that the bills are likely to draw a sharp response from the federal government, which retains ultimate authority over all U.S. immigration laws. The most controversial of the quartet — HB 116, which allows illegal immigrants to



obtain a guest worker visa by paying a fine of up to \$2,500 — does not go into effect until 2013, which in theory would allow the state to work with the feds to avoid any legal snafus. But Herbert also noted the overarching goal of the bill package was to prod federal authorities to take action on comprehensive immigration reform.

“Part of the overall strategy here is to, in fact, force the federal government to engage,” Herbert said. “They’ve been on the sidelines way too long. They need to get in the game.”

Whether or not Herbert’s signature succeeds in doing that remains to be determined, but it has already clearly succeeded in engaging immigration opponents. A collection of GOP delegates and Tea Party activists lobbied Herbert hard to reject the guest worker bill, presenting him with an online petition opposing the bill they said garnered 4,500 signatures in less than a week. The governor’s rejection did not go over well.

“Part of the overall strategy here is to, in fact, force the federal government to engage.”

“The campaign started today,” said Utah Tea Party organizer David Kirkham. “[Herbert] will be challenged and we will be actively supporting someone else.”

Anti-immigration groups from across the country also took aim at Herbert, accusing the governor of signing off on an amnesty plan for those they say are breaking the law. One such group, North Carolina-based Americans for Legal Immigration, called for Utah voters to oust both Herbert and U.S. Sen. Orrin Hatch (R-Utah), who are both up for reelection in 2012, for “supporting amnesty for illegal aliens.” That drew a sharp response from Hatch, who posted an open letter on his Web site refuting the claim and noting his previous opposition to federal immigration reform bills. He also took no public position on any of the bills Herbert signed.

But the bill package also drew strong support from another, likely more powerful Beehive State entity — the Mormon Church. LDS leaders made it clear they believed any immigration reform the state adopted must be humane and include the guest worker program contained in HB 116. LDS Presiding Bishop H. David Burton attended last Tuesday’s signing ceremony.

Herbert’s endorsement of the immigration measures came less than a week after he inked his name to another highly controversial measure, HB 477, which restricts access to text messages, e-mails and most other electronic communications by government officials. That law also allows state agencies to charge more to answer records requests, and puts the burden of proof about whether a record is public on the person asking to see the record.

Herbert spokesperson Ally Isom defended the governor’s action on the bill, saying he originally rejected the bill, convincing lawmakers to push the measure’s effective date back to July 1, so it can be amended in a special session before then. But opponents, including Tea Party activist Kirkham, are not planning to wait and



see if that happens. He is one of several people, including former Salt Lake City Mayor Rocky Anderson, currently gathering signatures to place a referendum to repeal the law before voters. They need to gather 97,000 signatures by about this time next month to make that happen. (ASSOCIATED PRESS, SALT LAKE TRIBUNE [SALT LAKE CITY], DESERET NEWS [SALT LAKE CITY], DAILY HERALD [PROVO])

GOVERNORS IN BRIEF: The **KANSAS** Senate rejected Gov. Sam Brownback’s (R) call (SR 1819) to eliminate the state Arts Commission. Brownback had proposed converting the Commission to a private nonprofit group and reassigning its official responsibilities to the Kansas Historical Society (KANSAS CITY STAR). •

MONTANA Gov. Brian Schweitzer (D) vowed to veto any legislative measure that bans the movement of disease-free Yellowstone bison onto state lands. Schweitzer wants to cull the growing bison herds by moving a portion of those that have tested brucellosis-free to state lands, a move Treasure State Republicans oppose (BILLINGS GAZETTE). •

ARIZONA Gov. Jan Brewer (R) proposed a new Medicaid spending plan that would eliminate 160,000 fewer people from the current rolls than her earlier proposals. The new plan would freeze enrollment, require patients who remain to pay more for their care and reduce the amount paid to Grand Canyon State health care providers. The plan would require approval from both state lawmakers and federal authorities (ARIZONA REPUBLIC [PHOENIX]). •

GEORGIA Gov. Nathan Deal (R) pulled back legislation (HB 476) to create a commission to develop a plan for a Peach State health care exchange in line with the federal health care reform law. Deal backed off after receiving a number of calls from Tea Party advocates who oppose the law. He said he would shelve the legislation in favor of creating an advisory committee to study the state’s options for an exchange (ATLANTA JOURNAL CONSTITUTION).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **MICHIGAN** House and Senate give final endorsement to HB 4158, which would repeal a Wolverine State law requiring individual price tags on most retail items. It is now with Gov. Rick Snyder (R) for review (BLOOMBERG BUSINESSWEEK). • The **NEW MEXICO** House approves SB 11, legislation that would allow diners in the Land of Enchantment to bring their non-service dogs into restaurants with them. Under the measure, which now heads to Gov. Susana Martinez (R), restaurants could allow dogs on leashes in designated outdoor areas, but canine companions would be barred from being on tables or

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chairs (DAILY TIMES [FARMINGTON]). • The **TEXAS** Senate approves SB 321, a bill that would bar employers from banning legal firearms in their employee parking areas. The measure, which would require workers to keep their guns and ammunition locked in a vehicle, heads to the House (DALLAS MORNING NEWS). • The **GEORGIA** Senate approves SB 10, a bill that would for the first time allow Peach State retailers to sell liquor on Sundays. It moves to the House (ATLANTA JOURNAL-CONSTITUTION).

CRIME & PUNISHMENT: The **OREGON** House approves HB 2463, legislation that would require computer technicians who find child pornography to report the discovery to police or other authorities. The measure moves to the Senate (PORTLAND OREGONIAN). • **FLORIDA** prison officials announce a ban on smoking cigarettes behind bars. The ban will go into place in six months. Officials say inmates' smoking-related illnesses cost the state \$9 million annually (PALM BEACH POST). • **SOUTH DAKOTA** Gov. Dennis Daugaard (R) signs SB 33, which allows the state's "24/7" sobriety program to use ignition locking devices that prevent people from starting their vehicle if they have been drinking (RAPID CITY JOURNAL). • The **IDAHO** Senate approves SB 1067, which would require the Gem State to collect DNA samples from all convicted felons. The measure is now in the House (SPOKESMAN-REVIEW [SPOKANE]). • The **NEW JERSEY** Assembly approves AB 1561, legislation that would divert teens who engage in "sexting" — sending sexually explicit images of themselves or others — over a cell phone into an education program as an alternate to criminal prosecution. Duplicate legislation (SB 2700) is awaiting a hearing in the Senate (STAR-LEDGER [NEWARK]). • **TEXAS** officials announce they will change the drug cocktail used to execute condemned prisoners. The mixture will replace sodium thiopental — the cocktail's sedative — with pentobarbital, a drug that has similar properties. A similar change in **OKLAHOMA** was recently upheld in the courts (HOUSTON CHRONICLE). • The **GEORGIA** Senate approves SB 80, which would require law enforcement officials to collect a DNA sample from anyone charged with a felony. It moves to the House (ATLANTA JOURNAL-CONSTITUTION).

EDUCATION: The **IOWA** House approves HF 493, legislation that would require Hawkeye State teachers convicted of a felony or other serious crime to repay all salary received during a paid leave of absence related to the charges. It moves to the Senate (DES MOINES REGISTER). • The **ARIZONA** Senate approves SB 1467, a bill that would let people carry guns on streets and adjacent sidewalks at college and university campuses. It moves to the House (ARIZONA CAPITOL TIMES [PHOENIX]). • The **IDAHO** House approves HB 222, a bill that would strip governing boards of publicly funded universities, community colleges and technical schools of the authority to establish most weapons policies on campuses. Board



would still set standards for undergraduate dorms. It is now in the Senate (REUTERS). • The **OREGON** House rejects HB 2287, which would have required a five-year contract for new Beaver State charter schools (PORTLAND OREGONIAN). • The **FLORIDA** House endorses SB 736, which eliminates teacher tenure and layoffs based on seniority. The measure will also create an as-yet-to-be-fully-determined merit pay system for Sunshine State teachers. The bill moves to Gov. Rick Scott (R), who is expected to sign it into law (MIAMI HERALD). • The **GEORGIA** Senate approves SB 184, legislation that would prevent local school systems from firing or furloughing teachers based on seniority alone. It moves to the House (ATLANTA JOURNAL-CONSTITUTION). • The **NEW HAMPSHIRE** House approves HB 429, which lowers the state’s drop out age to 16 as long as the student has parental consent. It moves to the Senate (FOSTER’S DAILY DEMOCRAT). • The **NEW MEXICO** Senate approves HB 241, which will allow the state to repay federal educational loans of teachers who agree to work in struggling schools in the state’s high poverty areas. It moves to Gov. Susana Martinez (R) for review (DAILY TIMES [FARMINGTON]).

Upcoming stories

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

- **Education reform**
- **Crash taxes**
- **Immigration**

ENERGY: The **COLORADO** Senate approves HB 1083, which would allow the Public Utilities Commission to consider hydroelectric and pumped hydro projects among new-energy technologies when issuing decisions on new projects. It has returned to the House for concurrence (PUEBLO CHIEFTAIN, STATE NET). • **ILLINOIS** Gov. Pat Quinn (D) vetoes a pair of measures (SB 1927 [2009] & SB 3388 [2009]) that would have allowed the building of two coal-to-gas power plants in the Prairie State. Quinn said a requirement for the state to buy gas from the plants would have raised consumer home heating bills (CHICAGO TRIBUNE).

ENVIRONMENT: The **NORTH CAROLINA** House approves HB 45, a measure that would allow polluted industrial sites to undergo “risk-based remediation,” which would let polluters or land owners clean up contaminated sites only to eliminate or reduce threats to human health and to reflect expected future uses. Current Tar Heel State law generally requires polluted sites to be able to support any future use. The bill moves to the Senate (WINSTON-SALEM JOURNAL).

HEALTH & SCIENCE: The **NEW JERSEY** Assembly unanimously approves AB 3698, legislation that would add human growth hormone (HGH) to a state program that requires pharmacies to electronically report information about every prescription they fill for controlled dangerous substances. It moves to the Senate (STAR-LEDGER [NEWARK]). • The **GEORGIA** Senate approves SB 93, which would require that medications containing pseudoephedrine be sold only from behind a counter at



pharmacies. Buyers would also have to sign a state log before receiving their purchase. It moves to the House (ATLANTA JOURNAL-CONSTITUTION). • The **NEW HAMPSHIRE** House approves HB 442, a bill that allows the use of marijuana for medicinal purposes by terminally and seriously ill patients. It moves to the Senate (UNION LEADER [MANCHESTER]).

In case you missed it

For a decade, states have fiercely competed to lure Hollywood productions by offering filmmakers generous tax breaks to flee California. But with budgets still in the red, some states are wondering whether its time to roll the credits on those incentives.

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

http://www.statenet.com/capitol_journal/03-14-2011/html

IMMIGRATION: The **MARYLAND** Senate endorses SB 167, legislation that would allow undocumented immigrants to pay in-state tuition at Old Line State colleges and universities. It moves to the House (WASHINGTON POST). • **UTAH** Gov. Gary Herbert (R) signs a quartet of bills that overhaul how the Beehive State manages immigration. The measures are HB 116, which establishes a guest worker program, HB 466, which establishes a partnership with the Mexican state of Nuevo Leon to supply **UTAH** with workers, HB 497, which requires police to check the immigration status of people arrested for felonies and Class A misdemeanors and HB 469, which allows Utahns to sponsor an immigrant from another country (SALT LAKE TRIBUNE [SALT LAKE CITY]). • The **GEORGIA** Senate approves SB 40, which would require most Peach State businesses to use the federal E-Verify system to confirm their newly hired employees are eligible to work in the United States. The measure would exempt some employers who hire migrant workers through a federal guest worker program. The measure must now be rectified with HB 37, a similar but more stringent House measure (ATLANTA JOURNAL-CONSTITUTION).

SOCIAL POLICY: The **OHIO** House approves HB 63, legislation that would require Buckeye State judges considering whether to let a girl bypass the state’s parental consent requirement for a minor girl to have an abortion to collect evidence that she understands the impacts of having the procedure. The judge would have to ask the girl if she was coached on how to answer such questions. The measure moves to the Senate (DAYTON DAILY NEWS). • The **MISSOURI** House approves HB 213, which would bar late-term abortions unless the woman is in danger of death or “substantial and irreversible physical impairment of a major bodily function.” It faces one more vote before it can move to the Senate (NEWS TRIBUNE [JEFFERSON CITY]). • The **GEORGIA** Senate approves SB 210, which would allow a woman to sue her abortion provider if he or she does not provide her with an image of an ultrasound or let her hear the fetus’ heartbeat prior to the procedure. It moves to the House (AUGUSTA CHRONICLE). • The **NEW HAMPSHIRE** House approves HB 329, which would require abortion providers to notify a parent or guardian 48 hours before performing an abortion on anyone younger than 18. Young women could avoid going to a parent by asking a judge to determine whether she is mature and capable of consenting or if an abortion is in her best interest. It moves to the Senate (CONCORD MONITOR).



POTPOURRI: The **ARIZONA** Senate approves SB 1409, a bill that bars government documents from being printed in any language other than English. The measure needs one more vote before it moves to the House (**EAST VALLEY TRIBUNE [MESA]**). • Also in **ARIZONA**, the Senate endorses SB 1538, which would ban Grand Canyon State drivers from texting while behind the wheel. It moves to the House (**EAST VALLEY TRIBUNE [MESA]**). • The **IDAHO** House endorses HB 205, which would require libraries in the Gem State to block computer access to online porn and other content deemed harmful to minors. It moves to the Senate (**SPOKESMAN-REVIEW [SPOKANE]**). • The **INDIANA** Senate approves HB 1129, which would bar Hoosier State drivers from talking or sending text messages on their cell phone while behind the wheel. It moves to a joint conference committee to resolve changes made in the version that passed the House (**POST-TRIBUNE [MERILLVILLE]**). • The **NORTH DAKOTA** Senate approves HB 1156, which allows agencies to refuse to release recordings and transcripts of 911 calls. The measure moves to Gov. Jack Dalrymple (R) for review (**FORUM [FARGO-MOORHEAD]**).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

FOOT-IN-MOUTH DISEASE: There is apparently something about tragedies that inspire folks to bust out their most inappropriate jokes. Case in point: Mississippi gubernatorial spokesperson Dan Turner, who recently fired off an e-mail making light of the devastating earthquake and tsunami in Japan. That missive probably seemed a lot less funny to him, however, after it was published by Politico. As the *Clarion-Ledger* of Jackson reports, it also wasn't Turner's first time sending out snarky commentary on human suffering — a previous knee-slapper was on genocide in Cambodia. As any staffer knows, embarrassing the boss is never a good career move. Turner offered up his resignation. Mississippi Gov. Haley Barbour, a likely 2012 presidential candidate, quickly accepted.

CRAZY TALK: Turner is not the only loose-lipped gentleman waving buh-bye. As *Foster's Daily Democrat* reports, New Hampshire state Rep. Martin Harty resigned his post last week after recently opining that state mental health funds should be cut and that “the crazy people” should be sent to “Siberia” where they could “all freeze and die” so “we could be rid of them.” Given multiple chances to



clarify if he was speaking specifically of the mentally ill, Harty noted his support of eugenics and that he absolutely meant “all the defective people,” including “drug addicts, mentally ill, the retarded.” The ensuing brouhaha prompted the 91-year-old freshman lawmaker to call it a career. He did also apologize for “all the uproar” caused by his “big mouth.”

Corrections

Last week we incorrectly reported that the Maine Senate ended its session 12 days earlier than scheduled. It was actually the Kentucky Senate that did so. And the attribution should have been to the Bowling Green Daily News instead of the Bangor Daily News. We apologize for the error.

HOG WILD FOR SURE: Alas, Turner and Harty are not alone in letting their mouths get the better of them. As the *Kansas City Star* reports, Sunflower State Rep. Virgil Peck apologized last week for recently suggesting the state deal with the state’s illegal immigration issues the same way it does in getting rid of feral hogs: with sharpshooters in helicopters. Peck said the comment was meant to be a joke, but it clearly made his fellow lawmakers uncomfortable. It also drew a rebuke from Gov. Sam Brownback — himself a devout proponent of harsher immigration measures — who called the alleged bit of humor “completely inappropriate.” Peck quickly issued a mea culpa, calling his comments “regrettable.”

GOVERNOR HOT AND SEXY: According to the latest Quinnipiac University poll, New Jersey Gov. Chris Christie is the country’s “hottest politician,” ahead of even President Barack Obama. The survey, which measures how favorably respondents view political figures, showed the governor trailing only Michelle Obama and former President Bill Clinton for “hotness” on the national political thermometer. But as the *Newark Star-Ledger* reports, an adoring fan took that ranking a bit more literally last week, gushing to Christie at a town hall meeting that she thought he was “hot and sexy.” The ever-nonplussed Christie, who likes to joke that voters did not elect him for his “charm and good looks,” said the woman needed to share those thoughts with his wife, noting that after 25 years of marriage “comments like that will keep her on her toes.”

USE THE VETO, GO TO JAIL: Governors threatening to veto bills they don’t like is as common as trees in the forest. Except, that is, in North Dakota, where veto talk is a bit more akin to trees on the tundra. That’s because the state constitution bars the governor from “menacing” lawmakers with such chatter. So while 49 other governors are free to cajole, prod and push legislators via warnings of an impending veto, North Dakota Gov. Jack Dalrymple must keep his lips zipped or face legal charges and expulsion from office. As the *Grand Forks Herald* reports, that could change this year as lawmakers are now considering HCR 3052, a measure that would allow the gov to threaten away. The bill is so far languishing in the House Committee on Constitutional Revision...where Dalrymple is at least legally able to talk about it.

— By RICH EHISEN

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