

Medical Errors



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● The next issue of
● Capitol Journal will be
● available on December 8th.
●

Top Story

Medical errors cost thousands of lives and billions of dollars in the U.S. each year. But the feds have cut off payments to hospitals for fixing those flubs, and states are now looking to do the same.

SNCJ Spotlight

More states join fight to reduce hospital "never events"

Medical errors are among the most costly in our society, in both human and economic terms. According to the Institute of Medicine (IOM), tens of thousands of people die each year in U.S. hospitals from preventable medical mistakes, with many thousands more seriously injured. The IOM additionally estimates that those errors cost between \$17 and \$29 billion annually in additional treatment and related costs. The vast majority of that fiscal burden has traditionally been borne by government, private insurers or, in worst case scenarios, those without public or private health

insurance. That situation, however, is beginning to change.

Spurred by federal legislation signed into law by President George W. Bush in 2006 (the Federal Deficit Reduction Act of 2005), several states have since adopted or begun considering policies and measures designed to stop hospitals from billing insurers and patients for care related to so-called “never events,” those defined by the federal Centers for Medicare and Medicaid Services as those errors that are preventable and which should never have happened.

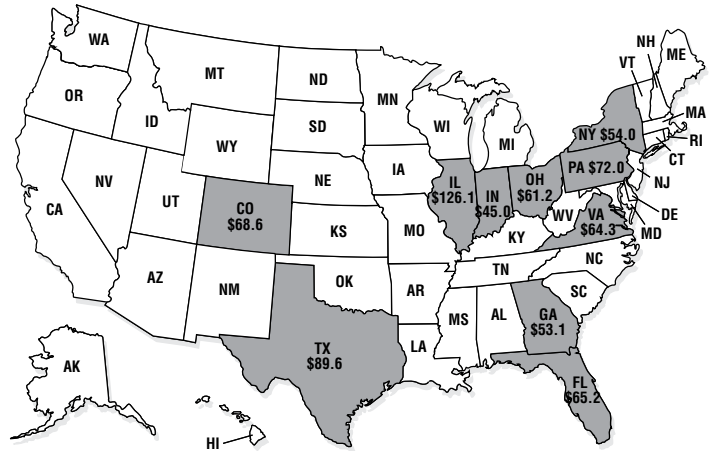
The federal measure, which went into effect last month, bars health care providers from billing Medicare for eight specific errors, including leaving objects in a body during surgery or operating on the wrong body part. According to the National Conference of State Legislatures, three additional errors — surgical site infections following certain

elective procedures, problems caused by poor control of blood sugar levels and deep vein thrombosis, or pulmonary embolism following total knee replacement and hip replacement procedures — were added this year.

In April, MAINE became the first state to emulate the federal statute when Gov. John Baldacci (D) signed HB 1428, which bars health care facilities from charging insurance companies or patients for fixing medical mistakes. But unlike the fairly limited number of such events listed in the federal statute, HB 1428 is based on a list developed by the National Quality Forum (NQF), a Washington D.C.-based non-profit that measures and tracks health care quality nationally, which contains 28 never events. A similar measure is also pending in NEW JERSEY (AB 3371), which specifies only errors noted in the federal statute.

While most states have yet to pursue codifying such restrictions on payment via statute, others have addressed the matter through official decree or via voluntary agreements with medical providers. PENNSYLVANIA Gov. Ed Rendell (D), for

Bird's eye view



Source: Wall Street Journal, Good Jobs First

States that forfeited the most in 2007 (in millions):

States allowing retailers to 'skim' sales taxes

Twenty-six states forfeit roughly \$1 billion a year in tax revenue because of little-known laws on their books allowing retailers to withhold a portion of the sales taxes they collect as compensation for doing so. The biggest losers, according to the Washington D.C.-based nonprofit research group Good Jobs First, are the 13 states that impose no cap on the amount vendors can keep. ILLINOIS topped that list last year, missing out on \$126 million in sales-tax revenue. Other states that took big hits were TEXAS (\$90 million), PENNSYLVANIA (\$72 million) and COLORADO (\$69 million). Meanwhile, the nation's largest retailer, WalMart, saved about \$60 million last year as a result of the state vendor-compensation programs.



example, decided last January that his state would no longer pay for certain preventable medical errors in its acute care hospitals, with the list of errors comprising 27 of the 28 listed by the NQF. In October, NEW YORK Health Commissioner Richard F. Daines, M.D. followed suit, declaring that the state Medicaid program would reject claims for reimbursement on 14 never events.

Several other states, including MINNESOTA, MASSACHUSETTS, NORTH CAROLINA, DELAWARE, VERMONT, UTAH and WASHINGTON, have worked out voluntary agreements with their major hospitals in which those facilities have agreed to not bill for many medical mistakes. The number of events covered varies significantly, from the 28 specified in MINNESOTA, WASHINGTON and VERMONT to just nine in MASSACHUSETTS and DELAWARE.

Private insurance companies have also gotten into the act. According to NCSL, such industry heavyweights as Aetna Inc., CIGNA HealthCare, Anthem Blue Cross Blue Shield in NEW HAMPSHIRE, Blue Cross Blue Shield of MASSACHUSETTS, and WellPoint (in INDIANA, COLORADO, WISCONSIN, OHIO and MAINE) have determined they also will not pay for certain errors, generally those on the federal statute's list.

Non-payment is also not the only tool states are bringing to bear. A number have enacted or are considering bills to require hospitals to disclose the number of never events that occur in their facilities, either to the public or to state health officials. Bills in at least five states — IOWA (HB 2539), WASHINGTON (SB 6457), RHODE ISLAND (SB 2677), MASSACHUSETTS (SB 2863) and NEW YORK (SB 8298) — were signed into law this year. Similar bills are still pending in PENNSYLVANIA (HB 2098), MICHIGAN (HB 6456) and the District of Columbia (B 858).

Taken collectively, these measures add up to what Nancy Foster, Vice President for Quality and Safety Policy for the American Hospital Association (AHA), calls “a mixed bag.” Foster says her organization generally supports the non-payment and reporting measures, and in fact has its own voluntary no-charge policy that it urges all hospitals to adopt. But she says there is also “great concern” in the medical community over what ultimately is deemed to be a preventable mistake.

The week in session

States in Regular Session: DC, MI(House), NJ, PA(Senate), US

States in Recess: CA, MI(Senate), NY, PA(House)

States in Special Session: CA “d”, CT “e”

Special Sessions in Recess: CA “b”, CT “b”, CT “c”, CT “d”, DE “b”

States in Informal Session: MA

States in Skeleton Session: OH

States in Perfunctory Session: IL
Special Sessions “a”-“z”

States in Veto Session: IL

States Currently Prefiling or Drafting for 2009: AL, AR, FL, GA, IA, KY, MT, ND, NH, NV, OK, TN, TX, VA

States Projected to Adjourn: CA, IL, PA

States in Special Session Projected to Adjourn: IL “a”-“z”, NE “a”, PA “a”

States Adjourned in 2008: AK, AL, AZ, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

State Special Sessions Adjourned in 2008: AK “c”, AK “d”, AL “a”, AR “a”, CA “a”, CA “c”, CT “a”, DE “a”, KY “a”, LA “a”, LA “b”, ME “a”, MS “a”, NC “b”, NH “a”, NM “a”, NV “a”, NY “a”, NY “b”, OR “a”, UT “a”, VA “a”, VA “b”, WI “c”, WI “d”, WI “e”, WV “a”, WV “b”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 11/21/2008)
Source: State Net database

“Any list still needs to have consensus to be effective,” Foster says. “That is actually pretty hard to do at times because, while some things are obvious, such as a wrong surgery, each case may be very different.”

Foster also notes that while non-payment laws have the potential to be effective in reducing some medical errors, they could also have “unintended consequences, pending what events end up on the never list” and whether those events and the care leading up to them can be accurately and fairly measured. That, she adds, is often complicated by the fact that never events “are generally quite rare.”

“If hospitals know their mistakes will be made public, they will be more careful. No hospital wants to be on the bottom of a list like that.”

Most health care industry observers acknowledge that it is hard to assess just how often such events occur. A 2008 study conducted by HealthGrades, a health care ratings organization, placed

the error rate at about 3 percent, but that study only surveyed the record of Medicare patients. Another recent study conducted by the Commonwealth Fund, found that one-third of U.S. medical patients reported experiencing some kind of medical error, although most were not never events. The aforementioned Institute of Medicine study, conducted in 1999, determined that between 44,000 and 98,000 U.S. patients die each year due to never events.

Patricia Kelmar, Associate State Advocacy Director for AARP in NEW JERSEY, says even if drastic mistakes are “few and far between,” they need to be addressed as aggressively as possible because “they indicate breakdowns that are system-wide.” In that regard, Kelmar says, “financial incentives are a good way to get hospitals to take more care in preventing mistakes.”

Rachel Weissburg of the Leapfrog Group, a Washington D.C.-based health care transparency group, agrees, noting that her organization has asked hospitals to adhere to a voluntary four-tenet policy to help eliminate never events. Those actions include issuing a verbal apology to the patient, taking responsibility for what happened, conducting a thorough analysis to determine what went wrong and promising not to bill patients or their insurance companies for costs related to post-error treatment. In a statement released in October, Leapfrog said that over 700 hospitals have implemented this policy, though the variation between states is fairly broad.

“Pay reform is needed, but hospitals also need to put out a consistent message,” Weissburg says. “We want to make sure that hospitals are following the spirit of the law, not just its intent. We want them to reform their policies so that these mistakes don’t happen again. We want them to see the need for this without someone cracking the whip all the time.”

How that is best accomplished is yet to be determined. AARP’s Kelmar is also a fan of required reporting of hospital errors, particularly if that data is made public. “If hospitals know their mistakes will be made public, they will be more careful. No hospital wants to be on the bottom of a list like that,” she says.



AHA's Foster isn't so sure. "I have serious concerns over whether you can get an accurate accounting of these events," she says. "Even in states with solid reporting like MINNESOTA, they aren't confident they are getting all of the information. It's hard to get doctors to report on themselves."

Leapfrog's Weissburg also notes that not all state reporting requirements are the same, and that some respond more punitively against the medical provider than do others. That, she says, is why the best solution ultimately is having hospital leaders make safety their top priority. (Evidence of that point is FL SB 50, a bill prefiled for 2009, which would compensate a family for death due to hospital negligence).

"There needs to be a totally holistic approach to safety," she says. "If safety isn't on top of the agenda for hospital leadership, it won't happen."

— By RICH EHISEN

Budget & taxes

STATES MAKING OWN ECONOMIC STIMULUS PLANS: U.S. House Speaker Nancy Pelosi (D-CALIFORNIA) and other top congressional Democrats have been pushing for aid to states as part of a broad economic stimulus package for months. In September, the House passed a \$61 billion stimulus package that included assistance for Medicaid, unemployment benefits and infrastructure projects, but the legislation stalled in the Senate. Congress may still pass a stimulus package in a lame-duck session this year, or they may wait until Barack Obama is sworn in as president next year. But some states aren't waiting around to find out; they're pursuing their own stimulus plans.

ILLINOIS intends to invest up to \$1 billion in local banks and credit unions that aren't eligible for the federal bailout of major financial institutions. State Treasurer Alexi Giannoulias said the move makes sense for the state, not only because it can get a better rate of return on its investments than it would with Treasury bonds or other traditional investments, but because it will help people who turn to those banks for loans during the economic downturn.

"It's tougher for people who want to start a business or buy a house to tap into a line of credit, and that's a grave concern for me," Giannoulias said. He said 31 of the state's 102 counties already have unemployment rates of 8 percent or more, a problem that a tight credit market might only make worse.

Officials in NEW JERSEY and MICHIGAN are taking similar action to help their financial institutions, residents and local businesses. FLORIDA, OHIO and VERMONT also passed their own stimulus plans earlier this year, and the governors

of OREGON, WASHINGTON and WISCONSIN are working on plans to pitch to lawmakers in January.

Sujit CanagaRetna, senior fiscal analyst for the Council of State Governments, said that in order for the stimulus packages to be effective, they must be “timely, targeted and temporary,” guaranteeing that the money works its way into the economy quickly.

The problem, however, is that the states most in need of economic stimulus are the ones least able to dole out stimulus packages. CanagaRetna said one way for cash-strapped states to get around that obstacle is through bonding, which has become the revenue-generating method of choice over the last decade. When Wall Street started its slide a couple of months ago, however, the bond market froze. The situation became so dire that CALIFORNIA Gov. Arnold Schwarzenegger (R) informed the federal government that his state might need \$7 billion to keep the government running.

But the bond market has rebounded since then, and states are selling their debt again. In fact, now Schwarzenegger wants to accelerate transportation construction planned for next year by using future bond proceeds. Believing the construction projects are key to getting the state’s economy going, he’s also called on legislators to temporarily suspend some environmental regulations and overtime-related labor laws to speed things along.

“We don’t have the luxury of waiting for January when I make my budget proposal or hold my State of the State Address,” Schwarzenegger said. “We have a dramatic situation here and it takes dramatic solutions and immediate action. We must stop the bleeding.” (SACRAMENTO BEE, STATELINE.ORG)

BUDGETS IN BRIEF: New revenue projections released last week in WASHINGTON indicate that the state faces a \$5 billion hole in its next two-year budget. Lawmakers said they are looking at every option, from cuts to higher education to layoffs and pay freezes for state workers and teachers to a tax increase (SEATTLE TIMES). • The governors of CONNECTICUT, NEW YORK and NEW JERSEY are seeking \$48.2 million in federal emergency grant funding to help them manage the thousands of financial industry workers who are losing their jobs. The governors said 82,000 financial services jobs are expected to be lost in the New York City metropolitan area by the end of next year (REPUBLICAN AMERICAN). • TENNESSEE Gov. Phil Bredesen (D) said last week he won’t seek to increase the state’s gas tax to fund road construction and repair. The governor said it’s not a good time to be asking people to pay more taxes (TENNESSEAN [NASHVILLE]). • The ARIZONA League of Cities and Towns has filed a lawsuit in the state Supreme Court alleging that a provision in the state budget requiring cities and towns to come up with \$30 million to help balance the state’s books is unconstitutional (ARIZONA CAPITOL TIMES [PHOENIX]). • The CALIFORNIA State University system, the nation’s largest, is considering slashing its 450,000



enrollment by 10,000 students for the 2009-2010 academic year. The 23-campus system has never turned away qualified students for budget reasons before (LOS ANGELES TIMES). • **MISSISSIPPI** Gov. Haley Barbour (R) has proposed raising taxes on cigarettes and health care providers, making more cuts to state agencies and using some of the state’s reserves to balance the state budget for next fiscal year. The governor’s plan, however, would not alter the state funding formula for K-12 education (CLARION LEDGER [JACKSON]). • **FLORIDA** legislative leaders announced last week that they will not allow any local budget requests — known nationally as “pork” and locally as “turkey” — next session. The decree was delivered at a \$400-a-night beach resort where the state Republican Party was hosting a retreat for more than 70 House members and their families (ST. PETERSBURG TIMES). • Gaming revenues in the 12 states with commercial casinos dropped 2.6 percent in the first nine months of 2008, American Gaming Association Chief Executive Officer Frank Fahrenkopf Jr. reported at the Global Gaming Expo in Las Vegas last week (LAS VEGAS REVIEW-JOURNAL).

— *Compiled by KOREY CLARK*

Politics & leadership

POLITICS-AS-USUAL IN ALBANY KILLS BUDGET DEAL: For weeks, NEW YORK Gov. David Paterson (D) has been begging legislative leaders for a plan to deal with the state’s budget deficit, which has been growing daily as tax revenues from Wall Street dry up. In an effort to spur the lawmakers into action,

the governor called a special session and proposed his own deficit reduction plan, which included politically risky cuts to Medicaid and public schools, anticipating that legislative leaders would use it as a starting point for negotiations.

But last Monday, the Senate’s Republican leaders unexpectedly announced they would hold a floor vote

on Paterson’s proposal. The governor initially welcomed the idea, but changed his mind after discovering the Republicans had no intention of passing his plan.

At a public meeting the following day called by Paterson, Senate Republican leader Dean Skelos absolved his party of any wrongdoing in the budget impasse.

“Governor, today the Senate is prepared to honor your request,” he said.

Assembly Speaker Sheldon Silver (D) responded: “Mr. Skelos is not interested in passing bills. He’s interested in passing the buck.”

“Mr. Skelos is not interested in passing bills. He’s interested in passing the buck.”



Republicans had little reason not to pass the buck. They lost two Senate seats on Election Day, which will give the Democrats control of the chamber — and both the legislative and executive branches — in January. Why inflict pain on their constituents and political allies now when they can wait until next year and let the Democrats take the blame for it? In fact, any postponed cuts would have to be added to next year’s, forcing Democrats to mete out even more pain on the electorate at that time, perhaps enough to sour voters on the Dems and set the stage for a Republican comeback.

But the Democrats weren’t showing much interest in dealing with the budget deficit either, as long as Republicans were unwilling to come to the table, prompting Paterson’s general disapproval.

“No one has actually offered any alternatives to my plan,” the governor said at last Tuesday’s meeting. “And no one seems to want to negotiate and find ways we can cut our spending now.”

After the meeting, Paterson cancelled the special session, leaving the issue for next year.

Elizabeth Lynam, deputy research director for the Citizens Budget Commission, saw a familiar pattern in the whole episode.

“They are just postponing the inevitable,” she said. “There is a real sense that this is the Albany of olden times.”

The Albany of olden times may hold a lesson for Senate Republicans. During the fiscal crisis of the 1970s, Republicans in the Assembly, led by Perry Duryea, snubbed

then-Gov. Hugh Carey’s (D) calls for deep spending cuts. Duryea’s stance was considered a smart political move at the time, the thinking being that by making the Democrats absorb the political pain of the cuts, Republicans would pick up enough

seats in the ‘76 elections to swing the narrowly divided chamber back to GOP control. The Republicans, however, ended up losing seats that year and in the elections two years later. (Senate Republicans, who had worked closely with Carey on trimming the budget, meanwhile, picked up seats.) That same year Carey won re-election, handily defeating his Republican opponent, Perry Duryea. (NEW YORK TIMES)

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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 2008 prefiles last week: 45

Number of 2009 prefiles last week: 517

Number of Intros last week: 468

Number of bills enacted/adopted last week: 178

Number of 2008 prefiles to date: 21,664

Number of 2009 prefiles to date: 3,168

Number of Intros to date: 92,606

Number of bills enacted/adopted overall to date: 28,183

— Compiled By JAMES ROSS
(measures current as of 11/20/2008)
Source: State Net database

week, Stevens conceded (KTUU [ANCHORAGE], ANCHORAGE DAILY NEWS, WASHINGTON POST). • A hand recount began last week in the U.S. Senate race between U.S. Sen. Norm Coleman (R-MINNESOTA) and Democrat Al Franken. With only about 200 votes separating the two candidates — a margin of 0.5 percent of the more than 2.9 million votes cast — the hand count of every ballot was automatically triggered (CNET NEWS). • Fifteen-year veteran MASSACHUSETTS state Sen. Dianne Wilkerson (D) resigned last Wednesday, the day after being indicted by a federal grand jury on eight counts of extortion (BOSTON HERALD, BOSTON GLOBE). • A WISCONSIN legislative committee approved a bill last week that would require state lawmakers to submit lists of three to seven individuals who would succeed them in the event of a disaster. The lists would not be subject to the state’s open records law (INSURANCE JOURNAL). • ILLINOIS Sen. John Cullerton, a veteran Democratic lawmaker from Chicago, was selected as the next president of the state Senate. Cullerton, who got his start as a deputy to House Speaker Michael Madigan (D), arch nemesis of Gov. Rod Blagojevich (D), will succeed retiring Sen. Emil Jones (D), the governor’s closest ally in the General Assembly (CHICAGO TRIBUNE). • FLORIDA lawmakers selected a new House speaker and Senate president last week, Rep. Ray Sansom (R) and Sen. Jeff Atwater (R), respectively. The Senate also eased disclosure requirements for political committees some lawmakers use to collect unlimited contributions for campaigns and expenses, including meals and travel (ST. PETERSBURG TIMES).

— Compiled by KOREY CLARK

Governors

WILL NAPOLITANO HEAD HOMELAND SECURITY? President-elect Barack Obama has reportedly chosen ARIZONA Gov. Janet Napolitano (D) to serve as the director of the U.S. Department of Homeland Security. Napolitano, who was the first Democratic governor to publicly endorse Obama’s candidacy, has previously served as a U.S. attorney and as the Grand Canyon State attorney general. She was the first woman in each of those posts and is also the only elected official to be chosen for his transition team.

If nominated and confirmed by the Senate, Napolitano would be taking on what many consider the hardest job in government. DHS includes divisions that protect the borders, develop new radiation detection equipment, study and test infectious diseases, enforce immigration and maritime laws, protect the president and other dignitaries, coordinate disaster response, work to keep terrorists off of airplanes and other forms of transportation, and monitor and prevent cyber-intrusions.



The agency, which came into being only after the September 11, 2001 terrorist attacks, has also shown significant growing pains since its inception, earning near universal condemnation for its handling of emergency response during and after Hurricane Katrina, as well as its involvement in a failed deal that would have allowed a Dubai company to manage some U.S. ports, its mismanagement of large government contracts and its delayed implementation of post-9/11 security programs.

Speculation had been high that she would be tabbed to serve as U.S. attorney general, a position that now appears to be going to former Deputy U.S. Attorney General Eric Holder instead. Napolitano spokeswoman Jeanine L'Ecuyer said the governor had no comment on the possible appointment. "She's not looking for another job, and the president-elect will announce his Cabinet selection when he's ready to do that," L'Ecuyer said. (WASHINGTON POST, BLOOMBERG.COM, ASSOCIATED PRESS)

HUNTSMAN DRAFTS BILL ON PRIVATE CLUBS: Irked at the state liquor commission's slow pace in drafting a proposal to do away with private club memberships, UTAH Gov. Jon Huntsman Jr. (R) has directed his staff to draft his own bill for lawmakers to consider in the upcoming legislative session. The state Department of Alcoholic Beverage Control Commission voted in July to start work on a proposal to eliminate requirements that would-be drinkers fill out applications and pay membership fees before being allowed into a private club, the Beehive State's equivalent of a bar. But that effort slowed down in August amidst questions from some members over whether there really was a need to change the law. (DESERET NEWS [SALT LAKE CITY])

PERRY WANTS ILLEGALS DEPORTED: TEXAS Gov. Rick Perry (R) joined members of the state's Congressional delegation last week in calling on the federal government to take steps to help state and local officials ensure that illegal immigrants who commit crimes in the Lone Star State remain in custody until they are deported. In a letter to Homeland Security chief Michael Chertoff, Perry said he was outraged to learn that many convicted illegal immigrants in TEXAS jails were being released after they completed their jail sentences instead of being deported, saying "TEXAS has spent the last four years investing unprecedented amounts of state resources to secure our border with Mexico. To now learn that criminal aliens who have been jailed are being released back into our communities by federal authorities who have neglected to secure our border is infuriating and

<p style="text-align: center;">Upcoming elections 11/20/2008 - 12/11/2008</p> <p>11/25/2008 Mississippi Special Runoff US Senate (Senate Class 1 seat)</p> <p>Wyoming Special Election House District 22</p> <p>12/02/2008 Georgia Special Runoff US Senate (Senate Class 2 seat)</p> <p>12/06/2008 Louisiana Special Primary Senate District 3 US House (Congressional Districts 2 & 4)</p>



unconscionable.” The federal Immigration and Customs Enforcement agency, which is responsible for screening and identifying illegal immigrants in local jails, defended its work, saying it had successfully removed a record 107,000 convicted criminals from the U.S. in the 2008 fiscal year, which ended in September. (HOUSTON CHRONICLE)

In case you missed it

With the jaws of recession tightening upon the land, State Net Capitol Journal Lou Cannon notes in the Nov. 17 SNCJ that Congress has an opportunity to rescue the states even before President-elect Barack Obama takes the oath of office. But will they do it?

In case you missed it, the article can be found on our Web site at http://www.statenet.com/capitol_journal/11-24-2008/html

GOVS SIGN GLOBAL WARMING PLEDGE: A dozen governors signed a declaration last week pledging their cooperation to reduce greenhouse gases. The pledge, which came during the Governors’ Global Climate Summit, hosted by CALIFORNIA Gov. Arnold Schwarzenegger (R), says the state leaders will develop policy positions on the industries that produce the most greenhouse gases: forestry, agriculture, cement, iron, aluminum, energy and transportation. Those reports will then be forwarded to the United Nations. The governors signing the pledge included Schwarzenegger as well as fellow Republicans Charlie Crist of FLORIDA and Jon Huntsman of UTAH. The Democrats that signed were Rod Blagojevich of ILLINOIS; Kathleen Sebelius of KANSAS; Deval Patrick of MASSACHUSETTS; Jennifer Granholm of MICHIGAN; Martin O’Malley of MARYLAND; David Paterson of NEW YORK; Ted Kulongoski of OREGON; Christine Gregoire of WASHINGTON; and Jim Doyle of WISCONSIN. (DENVER POST)

EXECUTIVE ORDERS: CALIFORNIA Gov. Arnold Schwarzenegger (R) issues S-13-08, which orders state agencies to plan for sea level rise and climate change resulting from global warming. The order further directs agencies with large construction projects in areas considered vulnerable to future sea level rise to “consider a range of sea level rise scenarios for the years 2050 and 2100 in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency” to those changes (STATE NET). • Still in CALIFORNIA, Schwarzenegger also issues EO S-14-08, which directs Golden State utilities to provide 33 percent of their power from renewable resources by 2020. Current state law requires utilities to produce 20 percent of their power from renewable resources by 2010 (STATE NET).

GOVERNORS IN BRIEF: NEW YORK GOV. David Paterson (D) ruled out the possibility of appointing himself to replace Sen. Hillary Clinton (D-NEW YORK) should President-elect Barack Obama appoint her Secretary of State. “I’m not going to speculate on the speculation about that situation,” Paterson said. “But what is not under speculation is that I am the governor of the state of NEW YORK. I want to run for re-election as governor in 2010” (ROCHESTER DEMOCRAT & CHRONICLE). • INDIANA Gov. Mitch Daniels (R) stated emphatically last week



that, despite rumors to the contrary, he has no interest in running for president in 2012 (INDIANAPOLIS STAR). • **MICHIGAN** Gov. Jennifer Granholm (D) signed a water technologies partnership agreement with Israel. The pact, the first of its kind between a U.S. state and Israel, establishes a working group between the two governments to focus on energy efficiency and technology that will improve water quality and increase water reuse (DETROIT NEWS). • **FLORIDA** Gov. Charlie Crist (R) issued a new tuition proposal that would allow all 11 public universities to raise the tuition and fees of resident undergraduates up to 15 percent each year. Five state schools already have that power. Sunshine State lawmakers would still set base tuition increases according to the consumer price index, but individual university trustee boards could then increase that up to a 15 percent cap annually until they reach the national average of resident tuition. The state Board of Governors would have to sign off on the hikes (PALM BEACH POST).

— *Compiled by RICH EHISEN*

Hot issues

B **BUSINESS:** The **HAWAII** County Council votes unanimously to uphold a ban on growing genetically modified taro and coffee on the Big Island. Violators could face a \$1,000 fine (SAN DIEGO UNION TRIBUNE).

CRIME & PUNISHMENT: The **NEW JERSEY** Assembly endorses AB 2947, legislation that would make all personal identifying information of witnesses testifying or submitting evidence to a grand jury confidential unless a court order authorizes the disclosure. Disclosing personal identifying information without such approval would be punishable by up to \$10,000 in fines and 18 months in jail. It moves to the Senate (STATE NET, STAR-LEDGER [NEWARK]).

EDUCATION: An **ALABAMA** court tosses out a state education policy that prohibited two-year college employees from serving in the Heart of Dixie Legislature after the 2010 election. The judge also overturned a policy that required current legislators employed in the community college system to use vacation time to attend legislative meetings before 2010, ruling that those statutes violate rules requiring state agencies to hold public hearings on policy changes and to have those changes approved by a legislative panel. The state is expected to appeal the decision (BIRMINGHAM NEWS). • **TENNESSEE** Gov. Phil Bredesen (D) re-signs SB 3794, legislation that requires Volunteer State public and private colleges and universities to exercise police campus computer networks to make sure they are not being used

to download copyrighted music via peer-to-peer file-sharing programs. Bredezen originally signed the measure last April (CHATTANOOGA TIMES FREE PRESS). • **TEXAS** education officials announce new rules that will allow four years of sports to count as elective credit toward graduation instead of the current maximum of two years. Supporters said the move would keep kids in school and spur them to do well in academic courses while opponents complained that the plan de-emphasizes academics (DALLAS MORNING NEWS).

ENVIRONMENT: Health officials in **NORTH DAKOTA** say they will allow salty oil field wastewater to be sprayed on roads as a de-icer or for dust control. The officials say the briny water left from oil production is no more toxic than commercial road salt, which is in short supply this year (IN-FORUM [FARGO]). • **KENTUCKY** becomes the 40th state to join the Climate Registry, a voluntary program that establishes standards for businesses and governments to calculate and publicly report their carbon footprints (COURIER-JOURNAL [LOUISVILLE]).

HEALTH & SCIENCE: A federal judge dismisses a **NEW JERSEY** lawsuit against the Bush administration over proposed new guidelines that threaten the subsidized health care of children covered by the state's FamilyCare program. The court said there is no reason for the court to intervene because the Bush administration has not yet enforced the changes it proposed in August 2007, which called for limiting the program to children from the lowest rungs of poverty (STAR-LEDGER [NEWARK]). • Still in **NEW JERSEY**, the Assembly endorses AB 3270, legislation that would suspend for three years the license of any health care professional, medical waste facility, generator or transporter found in violation of the Garden State's medical waste anti-dumping laws. It moves to the Senate (STAR-LEDGER [NEWARK]).

IMMIGRATION: The **TEXAS** Department of Public Safety says it is abandoning a proposal to set up statewide driver's license checkpoints. The agency had requested a legal opinion on the matter from the state attorney general, but withdrew the request after numerous lawmakers decried it as an attempt to enforce immigration laws (HOUSTON CHRONICLE).

SOCIAL POLICY: The **INDIANA** Court of Appeals rules that it is not unconstitutional for Hoosier State officials to waive fees for specialty license plates bearing the phrase "In God We Trust." The case was spurred by state officials waiving the usual \$15 specialty fee for the plate (JOURNAL GAZETTE [FT. WAYNE]). • **NEBRASKA** Gov. Dave Heineman (R) signs L 1a, which enacts a 30-day age limit on a new statute that allows parents to surrender a child to authorities without fear of prosecution for child abandonment. In its original form the law had no age limit, which



led to more than 30 children, some as old as 17, being dropped off with Cornhusker State authorities (STATE NET, NEW YORK TIMES). • The CALIFORNIA Supreme Court agrees to hear challenges to Proposition 8, a voter-approved ballot measure that constitutionally bans same-sex marriage in the Golden State. Opponents of the measure claim it improperly revises the state constitution, which only lawmakers have the power to do. The court, however, chose not to stay the enforcement of the measure until it hears the case, which is expected to occur in March of next year (SACRAMENTO BEE). • A UTAH Legislative committee endorses draft legislation that would allow people in financially dependent relationships — whether related or not — to appeal to a judge for compensation if one person dies and it’s someone else’s fault. Under current Beehive State law, only the victim’s spouse, parents or children can sue. The measure will now go before the full Senate in January (STATE NET, DESERET MORNING NEWS [SALT LAKE CITY]).

— Compiled by RICH EHISEN

Once around the statehouse lightly

WHAT RECESSION? Times are tough all over these days, unless of course you are in the TEXAS House of Representatives. As reported by the Associated Press, House members recently responded to Gov. Rick Perry’s call for state government to cut costs by instead ordering \$140,000 worth of snazzy renovations for their members-only lounge. The extreme makeover includes \$14,500 for two antique chandeliers, \$61,000 for custom wood cabinets and granite countertops and another \$3,425 for an air-cooled flake ice maker. Lest we forget, the tab also includes a few grand more for a pair of 42-inch LCD televisions. Best of all, those figures are just estimates, meaning the final bill could be even more. Shockingly, no House member seems willing to step forward and take credit for initiating the project. If and when they do, the guess is it will be on a hand-made Persian rug.

ANOTHER BAILOUT? Peach State residents are justifiably proud of the role that native Georgians have played in the fields of sports, aviation and music. As the *Augusta Chronicle* reports, however, state lawmakers are tired of using tax dollars to prop up four state halls of fame that honor such folks. Under the current budget, the Golf and Aviation Halls of Fame are each supposed to be self-sufficient by next year, while the state Music Hall of Fame is expected to do so by 2011. The state Sports Hall of Fame is scheduled to stand alone by 2012. But a state auditor said



last week that none of them appears capable of meeting those deadlines unless they dramatically improve their own fundraising and attendance. Officials of all three have asked lawmakers for more time. Which begs the question: Can an appeal for a federal bailout be far behind?

AWKWARD! This year's race in the CALIFORNIA 4th Congressional District was by all accounts a nasty, bare knuckled hyper-partisan affair. It was also one of the closest in the nation, so much so that neither candidate, Republican state Senator Tom McClintock (R) nor Democrat Charlie Brown, has yet been able to claim victory. But, as the *Sacramento Bee* reports, that didn't stop either man from attending last week's orientation meetings in Washington D.C. for newly-elected House members. The two heated rivals ended up spending the whole week in close quarters, touring the Capitol, dining together at the Library of Congress and attending a swanky reception for incoming freshman. Each also took the opportunity to lobby their respective party leaders for committee assignment, you know, just in case the final vote goes their way. As of this writing, McClintock leads in the heavily-GOP district by about 560 votes.

NO SARAH PALIN: Saturday Night Live may not have Sarah Palin to kick around anymore (at least not for a while), but that doesn't mean the NBC sketch comedy warhorse is giving up on impersonating political figures. To wit, last week's show featured cast member Kristen Wiig's impression of ARIZONA Gov. Janet Napolitano, at the time heavily rumored to be under consideration for a spot as U.S. Attorney General under President-elect Barack Obama. That position has since gone to someone else, so Wiig's performance may have been a one-shot deal. Just as well, considering it wasn't exactly the rip snorting success Tina Fey enjoyed with her dead-on send up of Palin. In short, we have seen Tina Fey. We know Tina Fey. Tina Fey has become a friend of ours. Ms. Wiig, you are no Tina Fey.

— By *RICH EHISEN*



Editor: Rich Ehsen — capj@statenet.com

Associate Editor: Korey Clark — capj@statenet.com

Editorial Advisor: Lou Cannon

Correspondents: Richard Cox (CA), Steve Karas (CA), Bruce McKeeman (CA), Jeff Kinnison (CA), Chelsea Wolfe (CA), Linda Mendenhall (IL), Lauren King (MA) and Ben Livingood (PA)

Editorial Intern: Katherine Hasnain

Graphic Design: Vanessa Perez

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