

December 5, 2011

Looking Ahead



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Budget & taxes **5**
Supercommittee stalemate sets up automatic cuts

Politics & leadership **8**
VA Dems challenge GOP's Senate majority

Governors **11**
Kitzhaber kills Oregon death penalty

Bird's eye view **2**

Hot issues **15**

Once around the statehouse lightly **17**

The next issue of Capitol Journal will be available on December 19th.

Top Story

Although the economy is slowly improving, states will remain focused on pinching pennies in 2012. But lawmakers are also sure to tackle a broad range of other hot issues, including major reforms in public employee pensions, education and health care.

SNCJ Spotlight

States will be big on reform in 2012

The last several years have been short on good news for state budgets, with the Great Recession forcing fiscal woes to the top of every lawmaker's priority list. Even with the economy now finally crawling toward recovery, approximately half of all states will face budget gaps over the next two years, forcing them to remain focused on pinching pennies in 2012. But with at least some of the economic misery abating, lawmakers are also sure to tackle a broad range of other hot issues, including major reforms in public employee pensions, education and health care. Over the next few issues the

PENSION REFORM – Public employee pension obligations have come under intense scrutiny over the last decade, with a recent Pew Center on the States report indicating states face a collective \$1.26 trillion unfunded pension liability. Estimates from other sources are even worse, placing the total at close to \$3 trillion. Although the National Association of State Budget Officers contends that states are not in crisis over their pension obligations — NASBO argues that states also have \$2.7 trillion set aside in pension trusts — nearly two-thirds of states have nonetheless made significant changes in recent years to their benefit levels or contribution rate structures.

New Hampshire, Rhode Island, Massachusetts, Illinois and Rhode Island are among the states looking to invoke major changes in their retirement systems in 2012. Last week, Illinois lawmakers sent Gov. Pat Quinn (D) HB 3813, legislation that would close loopholes in the Prairie State pension system that allow union officials to inflate their own pensions. Quinn is expected to sign the bill. California Gov. Jerry Brown (D), meanwhile, has proposed a 12-point plan to restructure the pension system, while on November 18th Rhode Island Gov. Lincoln Chaffee (I) signed legislation (AB 6319/SB 1111) that, among several things, implemented a “hybrid” pension plan that combines a defined benefit plan — with significantly reduced benefits — with a 401(k)-style defined contribution plan.

Such reforms won’t come without a tussle. Public sector unions in Rhode Island have already filed suit to stop the proposed changes, while advocates in California are pushing their own reform package separate from Brown’s, which they hope to put before voters as a ballot measure on the November 2012 ballot.

ONLINE SALES TAX – The battle between bricks-and-mortar retailers and online sellers over collecting sales tax grew heated this year. It is no small issue: the National Conference of State Legislatures estimates that states are losing approximately \$23 billion each year in tax revenue not collected by online retailers. Several states considered legislation to require online sellers to collect taxes in 2011, but intense lobbying by online giant Amazon managed to deflect most of those measures. Three states — South Carolina, Tennessee and California — agreed to delay forcing Washington-based Amazon to begin collections for between one and four years, pending Congress closing a loophole that allows online sellers to avoid collecting sales tax in states where they do not have bricks-and-mortar outlets. At least two bills have already been introduced in Congress that would require the tax collections. Given Congress’ ongoing gridlock, states may well continue their own efforts.

HEALTH CARE REFORM – Thirteen states have passed legislation to create health care exchanges, a signature element of the Affordable Care Act, since President Barack Obama signed the law in March, 2010. Another six and the District of Columbia have bills pending to follow suit. At least 17, however, rejected similar bills this year, although 13 states last week accepted nearly \$220 million in federal

grants to begin or continue work on their exchanges. But exchange measures make up only a fraction of the health reform bills that have kept lawmakers busy across the country over the last 21 months. The big question mark is whether the U.S. Supreme Court, which has agreed to decide on the law's constitutionality by late spring, will make much of the states' efforts so far a moot point. Should the court uphold the law, legislation to meet the law's various requirements will likely become a priority in many statehouses.

FRACKING – Recent technological advancements have made it possible to extract natural gas supplies contained in previously unreachable Marcellus Shale deposits. But the process for doing so, hydraulic fracturing or “fracking,” has drawn significant opposition from environmental groups, which claim it pollutes drinking water supplies. According to the National Conference of State Legislatures, over 100 bills have been introduced in 19 states since 2010, with several of those still currently pending in statehouses. Most would require drillers to publicly disclose chemicals used in the extraction process, with some barring the use of chemicals deemed unsafe. The biggest battlegrounds heading into 2012 are in the Northeast, particularly Pennsylvania, New York, Delaware and New Jersey, where the Delaware River Basin Commission is considering a plan to allow fracking within the watershed that provides drinking water to 15 million people. Several other states, including West Virginia, Ohio, Colorado, Wyoming and Utah, have fracking bills on the agenda, as does Congress.

SOCIAL ISSUES – Financial issues may still dominate legislative agendas, but lawmakers will undoubtedly also find time to take on a number of social issues as well. Efforts to limit funding for abortion are likely to top this list, along with ongoing efforts at increasing rights for gay, lesbian and transgender individuals and couples.

But other issues will also be front and center. A Florida jury's acquittal of a mother accused of murder in the death of her child has sparked numerous lawmakers across the country to plan “Caylee's Law” legislation, which would make it a crime to not report a missing or deceased child within 24 hours. As of November 28th, 13 states have introduced a total of 51 such bills for consideration this year. More are likely to come in other states. Most have yet to be heard, though two bills in the Michigan Senate — SB 580 and SB 626 — have been approved in that chamber.

The ongoing child sex abuse scandal at Penn State University has also spurred some lawmakers to demand tougher laws on reporting such crimes to the proper authorities. Lawmakers have already proposed bills or announced plans to do so in Virginia, California, New York, Maryland, Montana, Missouri, New Jersey, Indiana, Iowa and Pennsylvania. Louisiana Gov. Bobby Jindal (R) has also issued an executive order (EO 2011-23) that requires anyone working at a Pelican State university to report suspected child abuse within 24 hours. Iowa Gov. Terry Brandstad (R) is considering similar action.

— By *RICH EHISEN*

Budget & taxes

SUPERCOMMITTEE STALEMATE SETS UP AUTOMATIC CUTS: As part of the deal reached by Congress in August raising the federal debt ceiling, a bipartisan supercommittee was charged with the Herculean task of figuring out by November 23rd how to reduce the federal deficit by at least \$1.2 trillion over the next decade. As many had predicted, the gridlock that has plagued Congress as a whole also afflicted the six Democrats and six Republicans on the Joint Select Committee on Deficit Reduction, and last month's deadline passed without an agreement.

The de rigueur blame game followed. Democrats said Republicans' unwillingness to yield on the no-new-taxes pledge they signed at the request of Grover Norquist's antitax group, Americans for Tax Reform, made a deal impossible.

"As long as we have some Republican lawmakers who feel more enthralled with a pledge they took to a Republican lobbyist than they do to a pledge to the country to solve the problems, this is going to be hard to do," U.S. Sen. Patty Murray (D-Washington), the committee's co-chairwoman, said on CNN's "State of the Union."

But U.S. Rep. Jeb Hensarling (R-Texas), the committee's co-chairman, said the Democrats' refusal to make money-saving changes to social programs like Medicare and Social Security was the reason for the impasse.

"Unfortunately, what we haven't seen in these talks from the other side is any Democrats willing to put a proposal on the table that actually solves the problems," Hensarling said on "Fox News Sunday."

As a result of the supercommittee's inability to agree on a plan, the mandated trillion plus dollars in deficit reduction will come from automatic cuts to non-mandatory programs — a process known as sequestration — starting in 2013.

About half of those cuts will be to the military, weighing heavily on defense-dependent states like Alaska, Hawaii and Virginia, unless Congress moves to protect that funding or strikes a new deficit reduction deal after next year's presidential and congressional elections. And although dozens of other categories of funding states rely on, including education, would also be subject to the automatic cuts required under the current agreement, programs making up about three-quarters of federal aid to states, including Medicaid, would be exempt. Marcia Howard, the executive director of Federal Funds Information for States, doesn't see that as such a bad thing for states.

"They have a little more certainty here," she said. "They know what set of programs is likely to be affected and they can take the worst-case scenario."

Gabriel Petek, an analyst at Standard & Poor's, likewise, believes states may fare better with sequestration than they might have with the supercommittee's cuts.

"It excludes the most important area of fiscal integration between states and the federal government, which is Medicaid," Petek said. "The sequestration cuts have some of the fewest credit implications to state and local governments."



But Michael Bird, Senior Federal Affairs Counsel for the National Conference of State Legislatures, said protections for some programs won't provide much relief to states hit with \$11 billion — or 6.1 percent — more in cuts to virtually everything else.

“States get saved on the Medicaid side while they get punched in the face on education, transportation, energy, environment, labor and all the other programs,” he said.

New York Gov. Andrew Cuomo (D) said the automatic cuts could end up costing his state \$5 billion over the next decade, adding to the economic turmoil that has altered the state's financial future.

“These events, combined with a stagnant national economy and the expanding fiscal crisis in Europe that has led to a sudden and severe decline in revenues for the state, have dramatically changed the fiscal course” for New York, he said in a statement.

(BLOOMBERG BUSINESSWEEK, NEW YORK TIMES)

“States get saved on the Medicaid side while they get punched in the face on education, transportation, energy, environment, labor and all the other programs.”

NATION'S GRAYEST STATE WANTS MORE RETIREES: According to the 2010 Census, the state with the highest median age is no longer Florida but Maine, with a median age of 42.7, up from 38.6 in 2000 and 33.9 in

1990. As a result of its graying population, the state faces such concerns as sustaining a vital work force and providing adequate health care.

But state officials are actually seeking to attract more seniors to the state. Gov. Paul LePage (R) has proposed exempting all public and private retiree pension income from the state's income tax to help it compete for retirees with states like Nevada and Florida, which have no personal income tax, even though that action would cost Maine an estimated \$93 million in annual revenue.

LePage and other officials say retirees are a real asset to the state; they do volunteer work, help fund schools without adding to the student population and create demand for services ranging from health care to home repair.

Without retirees “we lose tremendous abilities to move our state forward,” LePage said at a recent town hall meeting. They “participate, they spend,” he said.

And although more seniors won't prevent the labor shortage expected across New England in the future as the nation's population continues to migrate south and west, Maine officials say older people are now working longer, which could help the state cope with that problem. (WALL STREET JOURNAL)

CASH-STRAPPED STATES CUT TAXES THIS YEAR: Despite their ongoing revenue problems, states collectively reduced taxes and fees this fiscal year — by over half a billion dollars. According to a report by the National Governors Association and



National Association of State Budget Officers, the \$584.2 million net decrease in new state taxes and fees in FY 2012 — the first in five years — follows a \$6.2 billion increase last fiscal year.

“The findings do demonstrate the political will to increase taxes was lacking in 2011 and this is expected to be more pronounced in election year 2012,” said Scott Pattison, executive director of NASBO.

Corporate income taxes experienced the biggest decline, a net \$1.3 billion, the majority of which was the result of Michigan replacing its business tax with a lower 6 percent corporate income tax. Sales taxes also declined by \$690.5 million, caused largely by the end of temporary sales tax hikes in California and North Carolina. Those reductions were offset by net increases in other taxes and fees, including personal income taxes, up by \$571 million, and alcohol taxes, up by \$97.1 million (POLITICO).

BUDGETS IN BRIEF: CALIFORNIA Gov.

Jerry Brown (D) plans to ask voters in November to raise taxes on the state’s highest earners and increase the state’s sales tax by half a cent until 2016. The levies would generate an estimated \$7 billion for the state, which is facing a \$3.7 billion budget shortfall this fiscal year and a \$13 billion shortfall next year (LOS ANGELES TIMES). • Last week, **NEW YORK** Gov. Andrew Cuomo (D) suggested for the first time that a tax increase was a possibility next year. On a talk radio show he said, “Some people on the tax code say you should increase taxes; some people say you should decrease taxes” and his administration was “open to all the best thinking” (NEW YORK POST). • The U.S. Department of Transportation announced last week that it is sending \$215 million in emergency relief to 34 states. The biggest beneficiaries are **CALIFORNIA, NORTH DAKOTA, OHIO** and **VERMONT** (STATELINE.ORG). • **ILLINOIS** Gov. Pat Quinn (D) and legislative leaders reached a tentative budget deal last week that would avoid closing state facilities and cutting nearly 2,000 jobs by diverting money from elsewhere in the state budget, including about \$100 million previously earmarked for education (NORTHWEST INDIANA TIMES [MUNSTER]). • U.S. Health and Human Services Secretary Kathleen Sebelius announced last week that 13 states will split \$220 million in grants to help them set up health insurance exchanges. Seven of the states — **ALABAMA, ARIZONA, IDAHO, IOWA, MAINE, MICHIGAN** and **NEBRASKA** — are among those suing to overturn the federal health reform law (IDAHO STATESMAN [BOISE]). • **WASHINGTON**’s machinists union has reached a tentative agreement

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: 442

Number of Intros last week: 249

Number of Enacted/Adopted last week: 145

Number of 2011 Prefiles to date: 39,374

Number of 2011 Intros to date: 137,331

Number of 2011 Session Enacted/Adopted overall to date: 47,362

Number of Measures currently in State Net Database: 156,969

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



with Boeing that could result in thousands of local jobs and end the National Labor Relations Board’s lawsuit against the aerospace company. Union members will vote on the proposed four-year contract this week (SEATTLE TIMES). • Also in **WASHINGTON**, Gov. Chris Gregoire (D) proposed \$1.7 billion in budget cuts last month but suggested some of the more severe reductions, including the shortening of the school year, might be avoided with a temporary sales tax increase. Lawmakers convened last week for a special budget session, which could last up to 30 days (OLYMPIAN, STATELINE.ORG).

Upcoming stories

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

- **More 2012 previews**
- **Health care**
- **The economy**

— *Compiled by KOREY CLARK*

Politics & leadership

VA DEMS CHALLENGE GOP’S SENATE MAJORITY: Virginia Republicans picked up two seats in the state Senate on November 8th, eliminating the Democrats’ majority in the chamber and splitting it 20-20 between the two parties. The Republicans, however, claim to have an effective majority in the chamber because of Republican Lt. Gov. Bill Bolling’s authority to cast tie-breaking votes. And they say that advantage gives them the power to organize the new Senate that convenes in January and dominate and lead its standing committees.

Last week, Democrats announced they intend to challenge that assertion in court. Sen. Donald McEachin (D) said it is unclear whether the state Constitution allows the lieutenant governor to vote on organizational Senate matters because he’s not a member of the Senate. And Senate Democratic Leader Dick Saslaw said while the lieutenant governor’s right to break ties on general legislation has never been challenged, past lieutenant governors have declined to vote on budget and judicial matters, which he and his fellow Democrats contend should be the case for organizational matters too.

“This lieutenant governor says there’s nothing he can’t vote on,” Saslaw said. “So it’s not just a matter of this year; it ought to get settled for all time, and that’s the purpose behind this.”

What Democrats may find particularly galling is that they tried to do exactly the same thing following the 1995 legislative elections when the chamber was also split 20-20 and the lieutenant governor was Democrat Donald Beyer. Republicans at the time planned to file a lawsuit to block the move until Virgil Goode, then a conservative Democrat, threatened to side with the Republicans unless Democrats agreed to share power and equally apportion Senate committee seats among the two parties, which they ultimately did.

“I would hope that my Republican colleagues would remember the words they uttered in 1995 and 1996 and remember that if it was fair then, it’s fair now,” said McEachin.

But this time around, there are no moderate Republicans demanding their party share power. The GOP is unified in claiming the advantage Bolling gives them, right up to the state’s Republican chief executive, Gov. Robert McDonnell.

“It is 20-20, but on organizational matters on the Virginia Senate, the lieutenant governor breaks the tie vote and Bill Bolling has stated his intention is to vote with Republicans and organize accordingly,” he said, adding that the issue is “an internal organizing matter for the Senate.” (VIRGINIAN-PILOT [NORFOLK])

BREWER PASSES ON SPECIAL SESSION TO BLOCK REMAP: Last Tuesday, the same day Arizona’s Independent Redistricting Commission met for the first time since Gov. Jan Brewer’s (R) failed attempt to fire the panel’s chairwoman, Colleen Mathis, the governor announced she would not call lawmakers back to Phoenix to pass legislation seeking voter approval for the commission’s repeal, as GOP leaders had urged.

“We cannot act in haste — or in anger — when it comes to something as critical as the way in which Arizona draws its congressional and legislative districts,” the governor said in a prepared statement issued roughly two weeks after the state Supreme Court voided her dismissal of Mathis. “Our action must be reasoned and rational, and there must be a defined path to victory with voters.”

The day after the court’s November 17th order Brewer said she was considering attempting to fire Mathis again, but she evidently gave up that idea after receiving a clarification order from the court on November 23rd. The governor said while she still believes the commission has not been following the law in carrying out its voter-mandated task — which is why she had attempted to dismiss Mathis — she said there was “no evidence” indicating voters were ready to do away with the commission they established in 2000.

“Polling that we have seen doesn’t show willingness right now to throw out the commission,” said the governor’s press aide, Matthew Benson.

Benson also said Brewer was willing to call a special session to consider something less radical than repeal, but there was no consensus among Republican legislative leaders about what that might be.

The week in session

States in Regular Session: DC, MA, MI, NJ, OH, PA

States in Recess: CT, NC, NH, NY, RI, US, WI

States in Special Session: WA “b”

Special Sessions in Recess: DE “b”, VA “a”, WI “a”

States Currently Prefiling or Drafting for 2012: AL, AZ, FL, KS, KY, ME, MT, OK, TN

States Adjourned in 2011: AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, ND, NE, NM, NV, OK, OR, PR, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY

State Special Sessions Adjourned in 2011: AK “a”, AK “b”, AL “a”, AZ “a”, AZ “b”, AZ “c”, CA “a”, CT “a”, DE “a”, GA “a”, KY “a”, LA “a”, MD “a”, ME “a”, MN “a”, MO “a”, MS “a”, NM “a”, SD “a”, TX “a”, UT “a”, UT “b”, UT “c”, WA “a”, WI “a”, WI “b”, WV “a”, WV “b”

Letters indicate special/extraordinary sessions

— Compiled By OWEN JARNIGAN
(session information current as of 12/1/2011)
Source: State Net database

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GOP leaders faulted both Brewer's decision and her grasp of their preparedness to act.

"If you believe in something and you think it's the right way to remedy the problem, you should do it and you shouldn't wait for a poll," said Senate Majority Whip Frank Antenori (R). "A lot of times polls are wrong."

And Senate President-elect Steve Pierce (R) said leadership had already drafted a bill expanding the commission from five members to nine, adding another Republican, another Democrat and two more members unaffiliated with either party.

But Pierce said trying to change Brewer's mind would be a waste of time.

"She's made it very clear she's not going to rethink this," he said.

With the deadline for adding items to the ballot for the state's February 28th Republican presidential primary now having passed, lawmakers will be left with making changes to the commission when they return next year. At that point, they won't be able to submit anything to voters before next year's election, meaning they'll likely be running in districts less inclined to be in their favor.

That still isn't a certainty, however. Pierce said he expects legal challenges to be filed against the commission's maps once they are completed. (ARIZONA DAILY STAR [TUCSON], KVOA TUCSON NEWS)

POLITICS IN BRIEF: Less than a month after **OHIO** voters repealed that state's controversial collective bargaining law passed by the state's Republican-controlled General Assembly this year — SB 5 — Republicans who control **INDIANA's** General Assembly announced "right to work" legislation would top their agenda next year. Democratic lawmakers said they could resort to unprecedented tactics to prevent such legislation from becoming law (EVANSVILLE COURIER & PRESS). • The **NEW HAMPSHIRE** House voted 240-139 last week to sustain Gov. John Lynch's (D) veto of HB 474, barring unions from collecting dues from non-members, killing the right-to-work bill (BOSTON GLOBE). • On a 3-2 vote, the **SOUTH CAROLINA** Supreme Court refused last week to block the state's first-in-the-South presidential primary as requested by several counties. Election officials in Beaufort, Chester, Greenville and Spartanburg argued the January 21st contest will saddle local taxpayers with more than \$1 million in costs the state won't cover (STATE [COLUMBIA]). • The U.S. Senate has voted to expand the Joint Chiefs of Staff to include the National Guard. Although the current chairman and service chiefs opposed the move, supporters argued the roles of the Army National Guard and Air National Guard have changed significantly since 9/11, with significant numbers

Upcoming elections

12/1/2011 - 12/22/2011

12/06/2011

Georgia Special Runoff
House District 25
Senate Districts 28 and 50

12/13/2011

Massachusetts Special Primary
Senate District 2nd Suffolk and Middlesex

Texas Special Runoff

House District 14

12/20/2011

Kentucky Special Election
House District 82



of guardsmen and reservists having seen combat in Iraq and Afghanistan (WASHINGTON POST). • **ALASKA** Attorney General John J. Burns submitted his resignation last week, less than a year after he took office. The 51-year-old cited his desire to spend more time with his family as the reason for his departure, which will come on January 2nd (ANCHORAGE DAILY NEWS). • Protestors largely associated with the national Occupy movement disrupted the first day of a special legislative session in **OREGON** last week. Gov. Chris Gregoire (D) called lawmakers back to Olympia for a 30-day session to address the state’s \$2 billion budget shortfall (SEATTLE TIMES). • Last month, **PENNSYLVANIA** Gov. Tom Corbett (R) announced his choice to guide Harrisburg through its financial mess: bond attorney David Unkovic. Critics immediately blasted that decision because of Unkovic’s multiple connections to creditors connected to the city’s \$317 million of incinerator debt, including his previous employment with Philadelphia-based law firm Saul Ewing, which represents bond insurer Assured Guaranty Municipal Corp., Harrisburg’s largest creditor (PATRIOT-NEWS [HARRISBURG]).

In case you missed it

Severe budgetary and political pressures have combined with continued high unemployment and the housing crash to create a quiet crisis for the poor.

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

http://www.statenet.com/capitol_journal/12-05-2011/html#sncj

— *Compiled by KOREY CLARK*

Governors

KITZHABER KILLS OREGON DEATH PENALTY: Calling the death penalty “a perversion of justice” and saying it was time to try “a different approach,” Oregon Gov. John Kitzhaber (D) announced last month he was imposing a moratorium on executions in his state for the duration of his time in office.

“I refuse to be a part of this compromised and inequitable system any longer; and I will not allow further executions while I am governor,” he said in announcing

“I refuse to be a part of this compromised and inequitable system any longer.”

his decision a few days before Thanksgiving. The moratorium halted the state’s planned execution of condemned murderer Gary Haugen, who was scheduled to be put to death by lethal injection on December 6th.

Kitzhaber, a physician, had approved two executions during his previous stint as governor, one in 1996 and another in 1997. He made it clear those executions played a significant role in his decision to not allow a third on his watch.



“They were the most agonizing and difficult decisions I have made as governor and I have revisited and questioned them over and over again during the past 14 years,” he said. “I do not believe that those executions made us safer; certainly I don’t believe they made us more noble as a society. And I simply cannot participate once again in something I believe to be morally wrong.”

The moratorium makes Oregon the second state this year to end its use of capital punishment, and the fifth since 2004. That year, the New York Supreme Court ruled the Empire State’s death penalty law unconstitutional. New Jersey (2007), New Mexico (2009) and Illinois (2011) have since legislatively abolished their death penalty statutes.

Clatsop County District Attorney Jason Marquis didn’t give much credence to the governor’s moral objections. Marquis claimed Kitzhaber had shown more moral courage in allowing the two previous executions to go forward.

“I simply cannot participate once again in something I believe to be morally wrong.”

“When you’re the governor of the state and the law is X ... it is your duty to carry it out,” he said.

Kitzhaber had another, more unlikely critic: Gary Haugen, the condemned man whose life the governor had spared. Haugen called Kitzhaber a coward and “a paper cowboy” who “couldn’t pull the trigger.”

Ironically, both Haugen and Kitzhaber found fault with many of the same things about the state’s execution law, most notably its highly arbitrary use. Under the statute, only those who volunteer for it are sent to the state’s death row, while others convicted of similar or even worse crimes serve life sentences. Even so, many death row inmates still exhaust all of their appeals, Kitzhaber said, a process that can take up to 20 years and cost hundreds of thousands of dollars or more to litigate.

The families of Haugen’s two victims also expressed anger over the moratorium, with one calling it “a miscarriage of justice.”

In spite of the governor’s decree, Haugen’s fight to die might not be over. Although the moratorium would technically end whenever Kitzhaber leaves office, Haugen said he plans to seek further legal action to force his sentence to be carried out sooner than that.

“I’m going to have to get with some serious legal experts and figure out really if he can do this,” he said. “I think there’s got to be some constitutional violations. Man, this is definitely cruel and unusual punishment. You don’t bring a guy to the table twice and then just stop it.” (NEW YORK TIMES, OREGONIAN [PORTLAND], WASHINGTON POST, DAILY HERALD [ARLINGTON HEIGHTS])

CHRISTIE ANNOUNCES PRISONER REFORM PLAN: New Jersey Gov. Chris Christie (R) revealed a plan to help non-violent prisoners released from Garden State jails get drug and alcohol counseling in an effort to help keep them from

returning to jail. Christie's multi-point plan includes expanding the state's Drug Court Program, which offers non-violent drug offenders treatment and recovery counseling rather than prison sentences.

State data shows drug court participants have a recidivism rate of approximately 8 percent, far less than the 43 percent rate of other drug offenders. The drug court program is also much more cost effective, with participants running the state just over \$11,000 a year, while the average prison inmate costs taxpayers almost \$39,000 annually.

Christie also issued Executive Order 83, which creates a task force to coordinate the state's programs to help prisoners re-enter society. The task force will also access a real-time database to track people in the re-entry programs. (STAR-LEDGER [NEWARK], NEW JERSEY GOVERNOR'S OFFICE)

MCDONNELL PITCHES AGENCY CUTDOWN: Virginia Gov. Robert McDonnell (R) proposed a plan last week that would eliminate two state agencies and 19 boards and commissions, cuts he said would save the Old Dominion \$2 million annually. McDonnell's plan would get rid of the Virginia National Defense Industrial Authority and the Board of Towing and Recovery Operators, while 23 boards and commissions would be consolidated into 11 entities. Nineteen more boards, including the Virginia Public Broadcasting Board, the Small Business Advisory Board and the Board on Transportation Safety, would also be eliminated, while three professions — hair braiders, mold inspectors and remediators and interior designers — would be deregulated entirely. The proposal must be approved by the General Assembly.

The proposals came from the work of the Governor's Commission on Government Reform and Restructuring, which McDonnell created last year specifically to seek ways to make government more efficient. In addition to his proposed agency and board changes, the governor issued two executive directives: ED 2 (2011), which orders executive branch personnel to implement recommendations of the Commission, and ED 3 (2011), which directs officials to overhaul the state's travel and human resources operations and policies. (VIRGINIAN-PILOT [NORFOLK]), WASHINGTON POST, VIRGINIA GOVERNOR'S OFFICE)

GOVS MOVE AHEAD WITH HEALTH EXCHANGES: Alabama Gov. Robert Bentley and Pennsylvania Gov. Tom Corbett, both Republicans, each moved their states ahead last week with efforts to create health care insurance exchanges mandated under the federal Affordable Care Act. The ACA allows each state to choose between creating its own exchange or having the federal government create one for them. The proposal Bentley released — based on the results of a report from a commission he created last year to study possible exchange formats — would have the Heart of Dixie create its own quasi-government exchange.

Bentley's proposal came less than a week after Corbett gave the Pennsylvania Insurance Department the green light to begin setting up a state-run health exchange. The Keystone State will work to meet a December 30th deadline to apply for federal grant funding to pay for the startup costs.

In that regard, Alabama is already a leg up. Even though it had not officially determined its exchange status, the state was one of 13 last week to be awarded federal exchange startup funds from the Department of Health and Human Services. Lawmakers in both states must also now develop legislation to put the exchanges in place. (BIRMINGHAM NEWS, PITTSBURGH POST-GAZETTE, TUSCALOSA NEWS, CENTRAL PENNSYLVANIA BUSINESS JOURNAL)

GOVERNORS IN BRIEF: • **MICHIGAN** Gov. Rick Snyder (R) approved a state takeover of the city of Flint, naming a former mayor as the city's emergency financial manager. Flint becomes the fifth Wolverine State city this year to come under a state-appointed manager (REUTERS). • **KENTUCKY** Gov. Steve Beshear (D) ordered state officials last week to "immediately begin opening records" of child protection cases involving deaths or serious injuries from abuse. The directive was intended to end his administration's long-running legal battle to keep the records private, but it came on the same day administration officials filed a legal motion seeking to delay the release (LOUISVILLE COURIER-JOURNAL). • Responding to a series of controversial confrontations between protesters and University of California police, **CALIFORNIA** Gov. Jerry Brown (D) ordered the state Commission on Peace Officer Standards and Training to review its guidelines for crowd control and "make whatever changes are necessary" to prevent campus police from violating protesters' "First and Fourth Amendment rights" (SACRAMENTO BEE). • **WISCONSIN** Gov. Scott Walker (R) barred people from openly carrying guns into Badger State government buildings. Last month, Walker said state employees will be allowed to carry concealed weapons into work if they have the proper permit to do so. A new state law (SB 93) allowing properly permitted citizens to carry concealed weapons went into effect November 1st (MILWAUKEE JOURNAL-SENTINEL). • **WEST VIRGINIA** Gov. Earl Ray Tomblin (D) said he plans to call the Mountain State Legislature into special session this month to pass new rules to regulate Marcellus Shale natural gas extraction. A 10-member House and Senate committee has been working on legislation to regulate the extraction process, hydraulic fracturing or "fracking." Tomblin wants to review that measure before calling lawmakers in for a vote (CHARLESTON DAILY MAIL). • **MINNESOTA** Gov. Mark Dayton (D) issued EO 11-33, which will create a 15-person state task force intended to combat school bullying. The task force will supply Dayton with recommendations for preventing bullying in Gopher State schools (BRAINERD DISPATCH). **OHIO** Gov. John Kasich (R) said he is reversing a Buckeye State policy to go after welfare recipients that received overpayments if those payouts



percent of health premiums on medical care or rebate the difference to consumers. HHS said the states had no grounds for the waiver (POLITICO). • HHS also announces grants totaling \$220 million to 13 states to begin or continue work on creating health care insurance exchanges required under the Affordable Care Act. States receiving funding were **ALABAMA, ARIZONA, IDAHO, IOWA, MAINE, MICHIGAN, NEBRASKA, DELAWARE, HAWAII, NEW MEXICO, RHODE ISLAND, TENNESSEE** and **VERMONT** (WASHINGTON POST).

SOCIAL POLICY: MASSACHUSETTS Gov. Deval Patrick (D) signs HB 3810, which adds transgender people to the state’s list of those who cannot be discriminated against in housing or in the workplace. The law also increases the state’s ability to prosecute hate crimes against transgender people (BOSTON GLOBE, MASSACHUSETTS GOVERNOR’S OFFICE). • **MICHIGAN** Gov. Rick Snyder (R) signs Senate Bills 435 through 440, which collectively allow Wolverine State foster kids to stay in state care until age 20. The measures also provide counseling services, medical aid and life-skills training. Those in the program must be enrolled in school or vocational training, or work 80 hours a month (MICHIGAN GOVERNOR’S OFFICE). • A **NEW YORK** state judge allows a lawsuit challenging the Empire State’s new law legalizing same-sex marriage (AB 8354) to go forward. Acting Justice Robert B. Wiggins concurred with the plaintiffs that that the Republican majority in the Senate may have violated the state open meetings law as it discussed whether to bring the marriage bill to a vote earlier this year (NEW YORK TIMES).

POTPOURRI: MICHIGAN Gov. Rick Snyder (R) signs HB 4642, which allows volunteer members of specialized rescue teams to equip their personal vehicles with flashing lights and sirens and to disobey certain traffic laws when responding to an emergency. The law goes into effect immediately (MICHIGAN GOVERNOR’S OFFICE).

– Compiled by *RICH EHISEN*

Once around the statehouse lightly

CAN’T BEAT THE TWEET: Teenagers have been smarting off to adults since the first human child turned 13. Doing it over social media, however, is a fairly new thing that some folks are still struggling with. Take the staff of Kansas Gov. Sam Brownback, for instance. As the *Topeka Capital-Journal* reports,



before breaking out their dancing shoes for the crowd at the real event. In the end, all the dancers were actually pretty good — no disasters to be found. Alas, politicians were shut out of the winner’s circle, as journalists took two of the three dance categories and the event’s lone “public affairs strategist” took home the third category as well as the overall prize. (Full disclosure – this reporter is president of the Sacramento Press Club.)

– By RICH EHISEN

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