

# Capitol Journal

News & Views from the 50 States

December 3, 2012

## The Year Ahead



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The next issue of  
Capitol Journal will be  
available on December 10th..

### Top Story

*With the elections finally over, lawmakers will settle in to try and solve a myriad of thorny problems in 2013.*

## SNCJ Spotlight

### Lawmakers will face wide array of issues in 2013

For much of 2012, it seemed just about every major issue confronting states and the federal government was put on hold in anticipation of the impending election. With that process finally over, lawmakers will settle in to try and solve a myriad of thorny problems in 2013. Over the next few issues, SNCJ will review some of the most pressing matters facing states in the New Year.



By Rich Ehsen



**HEALTH INSURANCE EXCHANGES** — With the Affordable Care Act having been upheld by both the U.S. Supreme Court and, in effect, the voters, many states will now turn their full attention to determining how they will implement the health reform law’s many tenets. Chief among them is the creation of health insurance exchanges, online portals where individuals and small groups will in theory be able to comparison shop for affordable health policies. To date, 17 states and the District of Columbia have opted to run their own exchanges, while six more have indicated they will partner with the federal government on a hybrid state-federal model. Seventeen states have said they will defer entirely to the federal government on their exchanges. The remaining 10 are still undecided. Last month, the U.S. Department of Health and Human Services (HHS) extended the deadlines for states to inform them of which direction they plan to go: Dec. 14 for states that wish to run their own exchange or Feb. 15 for those who opt for a partnership.

One major roadblock has been the failure by HHS to release final proposed rules for defining the 10 “essential health benefits” the law requires each insurance policy to cover. The law allows states to determine for themselves which benefits they will require within each of the categories, but until last month HHS had only provided states with guidelines, not the actual final rules. The agency finally issued them on Nov. 20, and some of the law’s most vocal critics, including New Jersey Gov. Chris Christie (R) and Florida Gov. Rick Scott (R), have indicated they are now more willing to consider a state-run exchange.

But a plethora of other challenges exist in getting the exchanges up and running in time to begin enrolling people by the deadline of Oct. 1, 2013, including massive technical hurdles that virtually necessitate each exchange be customized to fit its state’s specific needs. Regardless of which option states choose, the creation of health exchanges is sure to dominate legislative agendas for the foreseeable future.

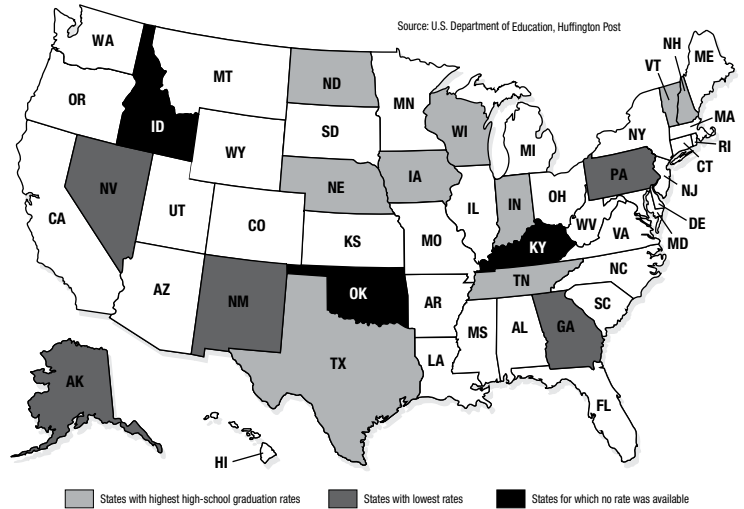
**MEDICAID EXPANSION** — While the Supreme Court decision last June upheld the ACA’s individual mandate to have health insurance, it nixed the law’s other major directive, which required states to increase Medicaid eligibility to everyone at or below 138 percent of the poverty line. With expansion now voluntary, at least eight states have said they will not grow their Medicaid roles beyond current levels. How long they can remain steadfast, however, remains to be seen. The federal government will initially foot the entire bill for new Medicaid recipients in 2014, 2015 and 2016 before gradually dropping to 90 percent by 2020 and beyond. A new report released last week by the non-partisan Kaiser Family Foundation said that while states would spend an additional \$76 billion over the next decade to expand their Medicaid rolls, that would mark only a 2.9 percent increase over what they would spend anyway without the law. The federal government, meanwhile, would cover over \$950 billion in expanded Medicaid costs. That is likely to be a temptation many lawmakers and perhaps even some currently reluctant governors find too much to resist.



## PHARMACY OVERSIGHT

— This year's deadly meningitis outbreak caused by tainted drugs distributed by a Massachusetts compounding pharmacy has already spurred action in several states and Congress. While many observers are urging Congress to increase federal oversight of the pharmacies, the bulk of regulation currently falls primarily to the states. Since the outbreak — which has killed 36 people nationwide and sickened hundreds more — Ohio and Texas are among several states that have ramped up inspections, while others have put together task forces to study oversight changes. Legislation has also been introduced in New Jersey (AB 3453/SB 2365) to toughen the rules for accreditation for compounding pharmacies, and some states, including California and Maryland, are considering requiring out-of-state pharmacies that sell drugs in their states to be regularly inspected by an independent agency.

## Bird's eye view



### Iowa leads nation in high school graduation rate

The U.S. Department of Education has released high school graduation rates for virtually all states for the first time. The rates for the 2010-11 academic year are preliminary, based on state-reported data, which will be finalized in the coming months. According to the data, IOWA had the highest graduation rate in the nation, at 88 percent. Wisconsin and Vermont shared the second-highest rate of 87 percent. At the bottom of the list were Nevada, with a rate of 62 percent, New Mexico (63 percent) and Georgia (67 percent). Rates weren't available for three states: Idaho, Kentucky and Oklahoma.



**FRACKING** — According to State Net, over 130 bills dealing with the natural gas and oil extraction process known as hydraulic fracturing, or fracking, are currently pending in statehouses. Ohio Gov. John Kasich (R) signed sweeping legislation last summer to regulate the process in the Buckeye State, and Colorado Gov. John Hickenlooper (D) and Michigan Gov. Rick Snyder (R) have expressed strong support for the process in their states. But fracking — which entails injecting large amounts of water deep into the ground to break up Marcellus shale deposits that contain oil and natural gas — continues to draw strong opposition from environmental groups, which claim it contaminates drinking water supplies and causes other environmental damage. The most notable conflicts continue in New York, which has had a moratorium on fracking since 2010. New York Gov. Andrew Cuomo (D) is now considering a proposal to allow fracking in a five-county region bordering Pennsylvania. But Cuomo has so far been reluctant to embrace that





proposal and recently ordered another environmental review before acting on proposed new fracking regulations that would lift his state's moratorium.

**THE FISCAL CLIFF** — The ongoing conflict in Washington D.C. over an impending combination of across-the-board sequestration cuts and tax hikes, a.k.a. the “fiscal cliff,” could have a dramatic impact on states. If the cuts are allowed to go forward, states would lose billions of dollars in federal funding for education, health care, law enforcement and a host of other services. Worse, the nation's fragile economy could possibly slide back into recession, losing two million jobs along the way. As of this writing, President Obama and Congressional leaders continue to negotiate a solution for avoiding that possibility. But as the *Wall Street Journal* reports, many state budget chiefs have started setting aside money and targeting programs that can be quickly scaled back if no resolution is reached.

**INTERNET GAMBLING** — In 2011, the U.S. Department of Justice issued an opinion that declared the 1961 Federal Wire Act did not specifically ban online gambling, only sports betting. Since then, a growing number of states have introduced a variety of bills to regulate some aspect of online gaming and lotteries. But now, draft legislation in Congress would effectively strip states of that power by barring all online gaming except for poker. This does not sit well with most states, which feel they are perfectly equipped to regulate online gaming on their own. With the fiscal cliff issue dominating the agenda, many observers doubt Congress will pass the measure during the current lame duck session. If that turns out to be the case, states will almost assuredly introduce a wealth of their own bills next session to either legalize or bar Internet gaming. Congress will also not have seen the last of the issue, as the gaming industry is overwhelmingly in favor of federal legislation over a litany of differing state statutes.

**SOCIAL NETWORK ACCESS** — Lawmakers have considered a plethora of workplace and hiring issues in recent years. A trend has developed to bar employers from asking current workers and potential hires for log-in information for their personal social networking accounts, such as Facebook and Twitter. Illinois, California and Maryland have barred the practice, and California and Delaware have extended that prohibition to colleges and universities as well. Variations of these measures are pending in over a dozen states, with more likely in the coming session.

## Upcoming stories

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

**8 Transportation**  
**8 Fracking**  
**8 2013 previews**

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# Budget & taxes

**‘CYBER MONDAY’ SPURS PUSH FOR ONLINE SALES TAX:** By most accounts, “Cyber Monday,” was a good day for online retailers. Adobe Systems Inc. said Cyber Monday sales, based on data from retailers like Best Buy Co. and Wal-Mart Stores Inc., jumped 17 percent to almost \$2 billion, while International Business Machines Corp’s Smarter Commerce arm said online sales among some of the nation’s largest retailers shot up 30 percent.

But a coalition of small business leaders hopes this year’s Cyber Monday will be the last with online purchases not subject to sales taxes. The Alliance for Main Street Fairness is pressing Congress for that change( See “With Congress stalled, states work their own ‘Amazon Tax’ deals” in the May 7, SNCJ).

“Cyber Monday is just another opportunity for out-of-state, online-only retailers to exploit a government-sanctioned loophole that puts local businesses at a significant disadvantage,” Alison Joseph, spokesperson for the group said in a press release. “This should be the last holiday shopping season that Main Street businesses have to compete on a playing field that is not level.”

Legislation has been introduced in the U.S. Senate that would allow states to collect sales taxes on most online purchases. Although the so-called Marketplace Fairness Act is likely to face strong resistance in the Republican-controlled U.S. House, it does have the backing of several Republican governors, including Iowa’s Terry Branstad, Michigan’s Rick Snyder, New Jersey’s Chris Christie and Tennessee’s Bill Haslam. Their states are among the 24 that have signed the Streamlined Sales and Use Tax Agreement, allowing retailers to voluntarily collect state sales taxes. The congressional online sales tax bill also has the support of online giant Amazon.com, which already collects sales taxes in seven states — California, Kansas, Kentucky, New York, North Dakota, Pennsylvania, Texas and Washington — and will do so in at least five more by 2016.

Amazon rival eBay, however, opposes the bill, saying it would hinder the growth of online retailers. And the bill also has foes in the U.S. Senate, including Sen. Jim DeMint (R-SC) who, in a blog post last month, called online sales taxes “a federal decree disadvantaging internet companies by forcing them to collect sales taxes not only according to their state and locality, but across all 50 states and thousands of local tax jurisdictions.” (STATELINE.ORG)

**STATE AND LOCAL GOVERNMENTS OVER \$7T IN DEBT:** Although there’s been a lot of talk lately about the “fiscal cliff” and the national debt underlying that looming crisis, it isn’t just the federal government that’s been living beyond its means. According to a report by The States Project, a joint venture of Harvard



University’s Institute of Politics, the University of Pennsylvania’s Fels Institute of Government, and the American Education Foundation, state and local governments are trillions in debt too, \$7.3 trillion to be precise. That total estimate includes \$3.4 trillion in unfunded pension liabilities; \$1.2 trillion in unfunded health care benefits; and \$2.7 trillion in state and local borrowing, including bonds and notes payable.

“Total state and local debt is now almost half of what the national debt is,” said Alex Palmer, a Harvard senior who worked on the “State of the States” report. “But nobody talks about that.” (THESTATESPROJECT.ORG, IOP.HARVARD.EDU, REALCLEARPOLITICS.COM)

**BUDGETS IN BRIEF:** State Medicaid spending will increase \$76 billion, or nearly 3 percent, over the next decade if all 50 states expand Medicaid eligibility in 2014 under the federal health law, but state Medicaid costs will increase \$68 billion even if no state opts for expansion, according to a study released last week by the Kaiser Family Foundation. The report says even states that don’t expand eligibility will see a surge of people signing up for the program who were previously eligible but not enrolled (KAISER HEALTH NEWS). • A **MICHIGAN** House committee debated legislation last week (HB 5684 AND HB 5685) that would allow a fetus at least 12 weeks old to be claimed as a dependent by its parents on their state tax return. If approved the state would become the first to adopt such a policy (MLIVE.COM, STATE NET). • Several U.S. states, led by **CONNECTICUT** and **NEW YORK**, have joined the investigations into the illegal manipulation of the bank-to-bank interest rate known as the “Libor” — shorthand for London Interbank Offered Rate — used to set the interest rate on financial instruments around the world. State officials believe the rate-rigging may have cost U.S. municipal debt issuers and taxpayers up to \$6 billion (STATELINE.ORG). • After nearly five years of decline, **CALIFORNIA**’s economy is showing signs of a rebound. The state reported a 10.1 percent unemployment rate last month, down from 11.5 percent in October 2011, and home sales in Southern California were up 25 percent in October compared to a year earlier (NEW YORK TIMES). • Support is growing in **NEW YORK**’s financial community for federal government approval of tax-exempt “Sandy Bonds.” Like the Gulf Opportunity or “GO Zone” bonds sold after Hurricane Katrina, Sandy Bonds would provide private investors such as real estate developers and manufacturers with a way to finance the reconstruction of houses, apartment buildings and businesses

## Upcoming elections

(12/7/2012 - 12/21/2012)

12/08/2012

**Louisiana Runoff**  
US House (CD 3)

12/11/2012

**Alabama Primary Runoff**  
House District 34

**Alabama Special Election**  
House District 30

**Iowa Special Election**  
Senate District 22

**Maine Special Election**  
Senate District 22

12/18/2012

**Kentucky Special Election**  
Senate District 16

**Virginia Special Election**  
House District 89



destroyed by the storm (ALBANY TIMES-UNION). • **CONNECTICUT** Gov. Dannel Malloy (D) ordered \$170 million in spending cuts last week, including a \$63 million reduction in funding for social service programs, such as mental health and addiction services, and assistance to families (CONNECTICUT POST, STATE NET). • UK-based Camelot Global Services PA LLC promised **PENNSYLVANIA** \$34 billion in profits over the next 20 years if it is allowed to take over operation of the state’s lottery. The Corbett administration has been exploring privatization of the lottery since April to increase profits and the predictability of funding for programs benefitting the state’s growing senior population (PENNLIVE.COM). • The Christie administration has agreed to make purchases of marijuana from an approved dispensary by pre-screened patients subject to **NEW JERSEY**’s 7 percent sales tax, potentially removing the final roadblock to launching the state’s medical marijuana program. Implementation of the program, which was approved by Gov. Jon Corzine (D) nearly three years ago, has been held up by battles between Gov. Christie (R) and the Legislature over how it should be run, among other things (NJ.COM).

– *Compiled by KOREY CLARK*

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# Politics & leadership

**ELECTION DAY TURNAROUND FOR UNIONS:** Less than two years ago, Wisconsin Gov. Scott Walker (R) announced plans to strip public employees of their collective bargaining rights as a means of shoring up the state budget, touching off a wave of efforts across the country aimed at curbing union power. Unions have lost most of those battles and even failed earlier this year to recall Walker from office, although they did manage to recall a Republican member of Wisconsin’s Senate on the same day and temporarily claim majority control of that chamber. But last month’s elections marked a somewhat more definitive turnaround for labor.

Union support helped Democrats take control of the state legislatures in Maine and Minnesota. In Michigan, unions succeeded in repealing a law allowing financially troubled cities to suspend collective bargaining contracts. And in California, they defeated a ballot measure (Proposition 32) that would have barred them from using union dues collected through payroll deductions for political purposes. They also achieved their top Election Day goal: re-electing President Obama.

“The unions must be fairly happy with themselves,” said Gary Chaison, a professor of industrial relations at Clark University in Worcester, Massachusetts. “These are positive signs, particularly saving their political life in California.”



The Election Day news wasn't all positive for unions, however. In Michigan, they lost a first-ever ballot effort to make collective bargaining a constitutional right (Proposal 12-2), which some members of that state's Republican controlled Legislature say could actually lead to passage of right-to-work legislation unions were hoping to avoid with the measure.

Labor also paid a hefty price for its election victories. Unions and other Democratic interests reportedly poured over \$75 million into the campaign to defeat California's Prop. 32. And union losses didn't come cheap either. One union-supported group spent upwards of \$6 billion on TV ads supporting Michigan's Proposal 12-2. (WASHINGTON TIMES, STATE NET)

### CO MARIJUANA ADVOCATES DEBATE

**NEXT STEPS:** Fresh off their breakthrough victory at the ballot box last month, Colorado marijuana advocates gathered at a recent forum to talk over how to proceed, specifically whether to move forward aggressively on implementation of Amendment 64, legalizing the recreational use of marijuana, or to take a more conciliatory approach with regard to law enforcement and regulation.

Denver attorney Christian Sederberg, one of the Amendment 64 campaign's chief organizers, clearly supports the first approach.

"We have a mandate," he said. "We need to lead, and we need to flex that muscle — with deference to certain things."

His position is certainly understandable, given that Amendment 64 garnered over 1.36 million votes, more than any U.S. Senate, gubernatorial or presidential candidate ever has in the state.

Full implementation of the law would allow residents to grow and harvest up to six marijuana plants of any size without fear of state prosecution, permit individuals to join together in large-scale cooperatives to produce marijuana by the pound without a license as long as they didn't sell any of it, and let private businesses allow marijuana smoking on site.

"You can have an Amsterdam-style private coffee shop," said forum attendee Rob Corry.

But others at the forum cautioned that too much brazenness could produce a backlash.

## 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: 207**

**Number of Intros last week: 175**

**Number of Enacted/Adopted last week: 111**

**Number of 2012 Prefiles to date: 15,701**

**Number of 2012 Intros to date: 85,219**

**Number of 2012 Session Enacted/Adopted overall to date: 28,619**

**Number of bills currently in State Net Database: 181,630**

— Compiled By FELICIA CARRILLO  
(measures current as of 11/29/2012)  
Source: State Net database



after Election Day the email ballots still hadn't been tabulated and thousands were in jeopardy of being invalidated.

The main problem is that state law requires voters who submit a ballot electronically to also send in a paper version by mail. Several election officials didn't know that, however, and it's likely a lot of voters didn't either. Now if the state sticks to the law and throws out the electronic-only ballots, it'll disenfranchise the very voters it intended to help, but if it lets the email ballots stand without paper backups, it'll open itself up to lawsuits from voting rights groups and the losing candidates of close races.

"I do think a lot of people will be disenfranchised, because there's clearly no system in place to process these votes," said Rutgers University election law professor Penny Venetis. "You can't have people doing things on an ad hoc basis... What do they do if there's a discrepancy? There's no steps or directive."

In their own defense, New Jersey election officials say they weren't trying to be innovators; they were just trying to give residents displaced by Sandy a way to participate in the election, but they didn't have enough time to execute the plan properly.

"It was overwhelming at the time because we were not prepared," said Morris County Clerk Joan Bramhall. "If in the future this is the way to go, we have to have more notice. It was an election from hell." (POLITICO)

**POLITICS IN BRIEF: OREGON** House Democrats have nominated openly gay Rep. Tina Kotek as their next speaker. If elected in January, she will become the first openly lesbian lawmaker to lead a chamber in any state, according to the Gay and Lesbian Victory Fund. Democrats in **WASHINGTON'S** Senate and **COLORADO'S** House have also chosen openly gay lawmakers to lead their chambers, Sen. Ed Murray and Rep. Mark Ferrandino, respectively (STATELINE.ORG). • With Democrats having gained control of **COLORADO'S** House in last month's elections and Ferrandino poised to become the first gay speaker of that chamber, legislation allowing same sex couples to enter into civil unions is said to be on the fast track for passage next session. House Democrats actually had enough votes to pass a civil unions measure this year, but the GOP leadership refused to call it up for debate, the fallout from which contributed to the Democrats' Election Day wins (DENVER POST). • **WISCONSIN** Gov. Scott Walker (R) drew the ire

## The week in session

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

**States in Veto Session:** IL

**States in Recess:** DE

**States in 2013 Organizational Sessions:** FL, IN

**States Currently Prefiling or Drafting for 2013:** AL, AR, GA, FL, KY, MT, ND, NH, NV, OK, TN, TX, VA, WY

**States Adjourned in 2012:** AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, OR, PR, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

**State Special Sessions Adjourned in 2012:** AK "c", AL "a", CO "a", CT "a", CT "b", DE "b", DE "c", FL "b", HI "b", KY "a", MD "a", MD "b", MN "b", NJ "a", NY "a", PR "c", UT "a", VA "a", WA "c", WA "d", WV "a"

Letters indicate special/extraordinary sessions

— Compiled By FELICIA CARRILLO  
(session information current as of 11/29/2012)  
Source: State Net database



of Democrats again last month when he said he is considering ending the state's same-day voter registration law, which dates back to 1976, because it puts too much stress on poll workers on Election Day. In Milwaukee, 48,000 voters, or 17 percent of the total, registered to vote on the day of the election, the majority of whom voted Democratic (MILWAUKEE JOURNAL SENTINEL).

— *Compiled by KOREY CLARK*

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# Governors

**C**UOMO, CHRISTIE SEEK \$78.9B IN SANDY AID: Saying that Hurricane Sandy has been even more impactful on New York City than Hurricane Katrina was on New Orleans, New York Gov. Andrew Cuomo (D) announced last Monday he would be seeking \$42 billion in disaster aid from Congress, \$12 billion more than he had originally estimated. Congressional leaders barely had time to digest that when, two days later, New Jersey Gov. Chris Christie (R) announced his state would seek \$36.9 billion of its own.

In a joint statement, the two governors — often mentioned as possible candidates for their respective parties' presidential nominations in 2016 — said they would work together wherever possible to make their case to Congress.

“Our economies and infrastructures are inextricably linked and in many ways dependent on one another, which is why we share common goals in the rebuilding effort,” they said.

Both governors have spent significant time strategizing with key figures inside and out of their respective administrations: Cuomo with his state's Congressional delegation, New York City Mayor Michael R. Bloomberg and Nassau, Suffolk and Westchester County executives and Christie with governors from Florida, Louisiana and Mississippi who have been through similar disasters in recent years. It was on their advice, Christie said, that he decided to name one person to head the state's recovery process, something they told him would ensure nothing falls through the cracks. Christie named Marc Ferzan, his former executive in the Attorney General's Office, to that position.

Several members of the states' Congressional delegations said they would lobby their colleagues to approve the aid package before the current Congress adjourns later this month. But with Congressional leaders caught up in the ongoing “fiscal cliff” negotiations, that prospect is unclear.

Gov. Cuomo said he would travel to Washington D.C. to lobby Congress if need be.

“I understand the fiscal pressures that Washington is under,” he told the *New York Times* last week. “I also understand the fiscal pressure that New York is under. And I



know that the taxpayers of New York cannot shoulder this burden, and I don't think it's fair to ask them to shoulder this burden." (NEW YORK TIMES, ALBANY TIMES-UNION, STAR-LEDGER [NEWARK])

## In case you missed it

With all efforts to stop the ACA now moot, the bulk of the pressure to make the law work falls on the states.

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

[http://www.statenet.com/capitol\\_journal/11-19-2012/html#sncj\\_spotlight](http://www.statenet.com/capitol_journal/11-19-2012/html#sncj_spotlight)

### **ABERCROMBIE PUSHES VOTING BY**

**MAIL:** Hawaii Gov. Neal Abercrombie (D) said he wants the Aloha State to follow the lead of Washington and Oregon and move toward 100 percent mail-in voting. In a statement released last week, he said he will propose legislation to that effect in January. Abercrombie's announcement came weeks after the state suffered through a chaotic Election Day he said "tarnished the election process and eroded public confidence." Many polling places on Oahu ran out of paper ballots, forcing voters to either wait excessive amounts of time for a sparse number of voting booths or to give up altogether. Abercrombie cited the state's geographic challenges, calling mail-in only voting "a sensible thing to do in our state, particularly with our multiple islands and remote electoral precincts, etc." He also noted the growing number of people who are already voting by absentee ballot.

"If almost half of those voting right now are already voting early, then why not maximize the opportunity to vote early by making it as easy as possible," he told reporters at a Capitol news conference. "The mail-in ballot seems to me is just a sensible, cost-effective way."

Lawmakers would have to approve the proposal, with many expressing support for the idea last week. (STATELINE.ORG, HAWAIINEWSNOW.COM [HONOLULU])

**HALEY TAKES BLAME FOR DATA THEFT:** After months of saying nobody was to blame for a massive cyber-attack that stole the personal data of almost 4 million Palmetto State residents, South Carolina Gov. Nikki Haley (R) last week said she is ultimately at fault for the theft. But Haley also took great pains to lay some of the blame on the Internal Revenue Service, saying the agency had failed to inform the state that their compliance rules do not require sensitive data to be encrypted. Even so, she said, it was the state's responsibility to know that information.

"I, ultimately, am saying that South Carolina is at fault for not doing this," Haley said. "I should have asked the extra question. I should have said, 'Does this include encryption?'"

Haley also complained that the equipment in the state revenue agency where the data was stored was out of date, and accepted the resignation of Department of Revenue Director Jim Etter, effective Dec. 31. (THE STATE [COLUMBIA], ASSOCIATED PRESS, E-SECURITY PLANET)



adopt a permanent ban on all variants of the substances used to make synthetic marijuana and so-called “bath salts,” which can simulate the effect of cocaine and other illegal drugs (STAR-LEDGER [NEWARK]).

**EDUCATION:** U.S. District Judge Ivan L. R. Lemelle rules that a **LOUISIANA** school voucher program that pays private school tuition for some lower-income students from low-performing schools violates a 47-year-old court-ordered desegregation agreement in Tangipahoa Parish. The ruling could similarly impact at least 30 other districts under similar federal desegregation orders. State officials say they will appeal the ruling (TIMES-PICAYUNE [NEW ORLEANS]). • The **OHIO** House approves HB 191, legislation that would replace the current Buckeye State law that requires students to attend school at least 182 days a year with a requirement that students attend at least 1,001 hours in grades seven through 12, and 910 hours for lower grades. Half-day kindergartners would have to be in school at least 455 hours each school year. The measure moves to the Senate (COLUMBUS DISPATCH).

**ENVIRONMENT:** The **NEW YORK** Department of Environmental Conservation requests a 90-day extension to finalize its regulatory blueprint for the controversial natural gas drilling technique known as hydraulic fracturing, or fracking. The extension could delay the release of long-awaited rules regarding the process by up to six months (ALBANY TIMES-UNION). • The **MICHIGAN** Senate approves SB 1350, legislation that would create a hunting season on gray wolves in the Wolverine State. The measure moves to the House (DETROIT FREE PRESS).

**HEALTH & SCIENCE:** The U.S. Department of Health and Human Services releases proposed final rules for defining the benefits health insurers must offer under the Affordable Care Act. The rules, which include defining what will comprise the essential health benefits all plans must cover, is now in a 60-day public comment period (REUTERS). • The U.S. Supreme Court rules that a federal appeals court must reconsider a case challenging the constitutionality of the Affordable Care Act. The justices returned the case to the 4<sup>th</sup> U.S. Circuit Court of Appeals in **VIRGINIA**, directing it to reconsider the underlying merits of a lawsuit claiming the law violates religious freedom. The lower court had originally ruled it did not have the authority to do so (CHRISTIAN SCIENCE MONITOR). • The **MICHIGAN** Senate Committee on Insurance fails to endorse SB 1116, which would release health care professionals from malpractice liability if they acted with reasonable and good-faith belief that their conduct was well-founded in medicine and in the patient’s best interests (DETROIT FREE PRESS). • **ARIZONA** Gov. Jan Brewer (R) announces that her state will allow the federal government to run its health benefits exchange. The Grand Canyon State becomes the 17<sup>th</sup> to decide against creating its own exchange or participating in a state-federal partnership (EAST VALLEY TRIBUNE [MESA]).



**IMMIGRATION:** The 11th U.S. Circuit Court of Appeals rejects a request by **GEORGIA** officials to reconsider its decision to block of a portion of the Peach State's strict new illegal immigration law that would have punished people who knowingly transport or harbor illegal immigrants while committing other crimes. The court ruled last August that the measure is pre-empted by federal law (**ATLANTA JOURNAL-CONSTITUTION**).

**SOCIAL POLICY:** The **OHIO** Senate shelves HB 125, a House-approved measure that would have banned doctors from performing abortions after a fetal heartbeat has been detected, about six weeks into pregnancy. The measure is expected to be revived in the next legislative session (**CLEVELAND PLAIN DEALER**).

**POTPOURRI:** The 2<sup>nd</sup> U.S. Circuit Court of Appeals rules that a **NEW YORK** law requiring residents to prove they have a special need for protection in order to obtain a concealed weapons permit does not violate the U.S. Constitution's Second Amendment. The ruling upholds an Empire State law requiring applicants to prove that they'd received a personal threat or had some other special need for protection before they would be granted a permit to carry a concealed firearm in public (**CHRISTIAN SCIENCE MONITOR**). • The **ILLINOIS** Senate votes to override Gov. Pat Quinn's (D) amendatory veto of SB 681, a bill that would, among several things, allow Prairie State gun owners to buy ammunition by mail from in-state dealers. The measure is now in the House (**NEWS-GAZETTE [CHAMPAIGN-URBANA]**).

— *Compiled by RICH EHISEN*

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## Once around the statehouse lightly

**USE HEALTH CARE, GO TO JAIL:** It has been a bad year for opponents of the Affordable Care Act, better known these days as Obamacare. In June, the U.S. Supreme Court upheld the bulk of the law. Voters then essentially upheld it again in November by rejecting GOP presidential candidate Mitt Romney, who had vowed to send it packing. But to a group of nine Wisconsin lawmakers, the fight is never over. As the *Milwaukee Journal-Sentinel* reports, the nine Republicans say they will support introducing legislation next year that would allow Badger State police to arrest any federal official attempting to implement the ACA. In the words of Rep. Chris Kapenga, "Just because Obama was re-elected does not mean he's above

the constitution.” Hmm...it sounds like we shouldn't invite him and Chief Justice John Roberts to the same party.

**EVERYONE'S A CRITIC:** Speaking of Mitt Romney, he's not the only one being second guessed these days. When the University of Alabama football team was recently upset by Texas A&M, many pundits and fans alike couldn't wait to jump on head coach Lou Saban's case over his play calling. As the *Birmingham News* reports, one of those critics was none other than Gov. Robert Bentley, who opined on a radio show that Saban should have called for a running play on a crucial fourth down play at the Aggies' two-yard line. Oops! Bentley ought to know by now that in the Heart of Dixie, no politician will ever be as popular as the Crimson Tide football coach.

**GETTING WHIGGY WITH IT:** Once upon a time, the Whig Party was a viable political force in this country, with four of its members serving as president of the United States before petering out in the mid-1850s. The party reformed — kinda sorta — in 2003 and now claims affiliates in all 50 states. The Nevada chapter has even achieved official recognition from the state. Not a bad feat considering, as the *Las Vegas Sun* reports, the chapter consists primarily of one person, a 59-year-old software engineer named Jim Bacon. While Bacon has strong personal opinions on everything from the “fiscal cliff” to nuclear energy, there is no single party platform to attract members. That, says University of Nevada Reno political science professor Eric Herzik, is also a bit of historical recreation. “That's one of the reasons the Whigs disappeared: It was hard to determine what they stood for,” he says.

**DON'T TELL GROVER NORQUIST ABOUT THIS:** We don't know how Thanksgiving went for Virginia Gov. Bob McDonnell, but we know for sure he had options well beyond the usual turkey dinner. As the *Richmond Times-Dispatch* reports, just before the holiday Old Dominion Native American tribes presented McDonnell and his wife Maureen with a wealth of gifts, including pottery, a medicine bag, a drum and a bounty of freshly killed wild game: a buck, a doe and a Canadian goose. The presentation was the 335<sup>th</sup> between the tribes and the Virginia governor, dating back to a 1677 treaty in which each side acknowledged the other's sovereignty. McDonnell said that by next year's ceremony, there will be a plaque on the statehouse grounds to honor the tribes. It's doubtful, however, that such a deal could be struck today: The gifts are in lieu of the tribes paying taxes

— By RICH EHISEN



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