

January 13, 2014

Carbon Conundrum



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Capitol Journal will be
available on January 20th.

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*By most measures,
California's nascent
cap-and-trade program
had a solid first year of
operation, but significant
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program moves forward.*

SNCJ Spotlight

Hard part just beginning for CA cap-and-trade program

By most measures, California's nascent cap-and-trade program had a solid first year of operation, producing hundreds of millions of dollars in revenue for state coffers and, perhaps more important, not dragging the state's still-recovering economy back into the abyss it had been wallowing in for years. But while the fast start calmed some of



By Rich Ehsen

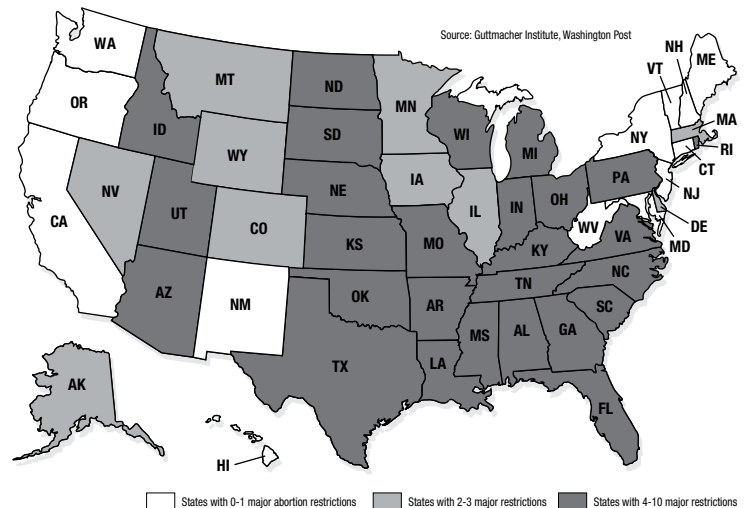
cap-and-trade's fiercest critics, significant hurdles remain as the program moves forward.

California's cap-and-trade program is a direct byproduct of AB 32, the 2006 bill championed by former Gov. Arnold Schwarzenegger (R) that requires the state to reduce its production of greenhouse gas (GHG) emissions — which are linked to global climate change — to 1990 levels by 2020. The law itself is fairly brief and ambiguous, leaving virtually all of the details for how to achieve that goal to the California Air Resources Board (CARB). The agency has implemented a number of regulations to do so, but none compare in scope to the cap-and-trade program, which essentially sets a limit on how much GHG emissions certain industries can produce. Businesses receive or buy "credits," equal to one ton of GHG each, and then may sell or trade unused credits to other businesses

that exceed their own limits. Each year the overall cap is reduced, requiring polluters to either generate less GHG or pay major fines to the state.

The state has held five carbon allowance auctions since November 2012. Summaries of those auctions supplied by CARB show that buyers have scooped up all 81 million available 2013 compliance allowances-for-purchase, as well as another 36 million future credits for years 2015 and 2016. Approximately 207 more credits were given for free to regulated businesses, something written into AB 32 to help those businesses adapt more quickly to the new system. The 324 million total credits were valued at over \$1.1 billion. While slightly more than \$600 million of that was eaten up by the free credits given to businesses like cement manufacturers and food processors, the rest — \$533 million — went into state coffers. This year's auctions are expected to produce even more revenue — up to \$1.5 billion in total, with around \$850 million of that going to the state.

Bird's eye view



States becoming more 'hostile' to abortion

Twenty-two states enacted provisions restricting access to abortion in 2013, making the year second only to 2011 in the number of such enactments, according to the Guttmacher Institute, a reproductive health and abortion rights advocacy group. The institute also reported that states enacted more abortion restrictions in the past three years (205) than in the entire decade preceding them (189). The group said now only 13 states are "supportive of abortion rights" (meaning they have one or no major abortion restrictions), down from 17 states in 2000, while 27 states are "hostile to abortion rights" (with four to 10 major restrictions), up from 13 in 2000. The shift has been attributed to several factors, including the election of more pro-life Republicans, the battle over ObamaCare and the focus on late-term abortion bans, which draw more public support.



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A strong secondary market has also developed for companies looking to buy and sell allowances, with almost 2 million credits being exchanged each week over the last year. Allowance prices hovered at around \$11 throughout 2013, far less than many regulated businesses feared they would end up paying. California also completed its first linkage with another jurisdiction, inking a deal that has now connected its cap-and-trade program with that of the Canadian province of Quebec. The state also fended off multiple lawsuits seeking to stop the program in its tracks, one that challenged CARB's authority to hold carbon allowance auctions and another claiming that revenue from those auctions constitutes an illegal tax. As *LexisNexis Law 360* reports, the court rejected both on Nov. 12. The plaintiffs have about another month to decide whether to appeal.

It was a start that has the program's supporters understandably pleased.

"There were a host of theories of what would happen when the program began, from the camp that lauded California for having really progressive environmental

"We're proving that good environmental policy is also good economic policy."

policies to those who said it was going to kill jobs and businesses," says Joaquin McPeck, the California Media Director for the Environmental Defense Fund (EDF), which detailed the program's initial success in a report released last week. "But the fact that we've created a statewide carbon market that is a model

for other states and countries is nothing short of a major achievement for California. We're proving that good environmental policy is also good economic policy."

That may ultimately prove to be true, but even the program's most ardent fans acknowledge the path forward only gets harder — arguably much harder — from here.

For one thing, as of Jan. 1, 2015 the cap-and-trade program will include producers of transportation fuels and natural gas, more than doubling the program's size. That could conceivably produce sudden and dramatic spikes in both gasoline and electricity prices, hitting consumers who have so far been relatively unscathed in the cap-and-

"We've seen estimates of spikes of up to 40 cents a gallon."

trade rollout square in the pocket book. While nobody knows for sure how big of a hit gas prices could take, some fear the worst.

"We've seen estimates of spikes of up to 40 cents a gallon," says Gino DiCaro, Vice President of Communications for the California Manufacturers and Technology Association. "Who knows what it's actually going to be, but raising gas prices by 25 cents a gallon or more is not going to be cost effective at all."

There are other hurdles as well, such as the fact that Golden State lawmakers never envisioned California being a lone wolf in this effort. In 2007, there was reason to believe Arizona, New Mexico, Oregon and Washington would soon follow California's lead. That year, those states and California formed the Western States Climate Initiative (WCI), a coalition aimed at developing market-based programs to

reduce their production of greenhouse gas emissions. In 2008 they were joined by Utah and Montana as well as Canadian provinces Quebec, British Columbia, Ontario and Manitoba. The plan was for the states and provinces to create a giant web of linked cap-and-trade programs that would encompass 20 percent of the U.S. economy and about 70 percent of Canada's. But years of economic and political upheaval sent that plan up in smoke. Today, California and the Canadian provinces are the WCI's only remaining members.

California Gov. Jerry Brown (D), however, has continued trying to gain partners. Last fall, he signed an agreement with Democratic Govs. John Kitzhaber of Oregon and Jay Inslee of Washington and British Columbia Premier Christy Clark in which all four agreed to work to implement a carbon tax in their respective jurisdictions. Dubbed the Pacific Coast Action Plan on Climate and Energy, it would also promote more use of alternative fuels and high mileage electric vehicles. None of which, however, remotely constitutes the equivalent of a cap-and-trade program. While Inslee last December voiced support for one in the Evergreen State, lawmakers there have so far been lukewarm to the idea. Legislatures in both Washington and Oregon have in recent years rejected bills that would have created cap-and-trade systems in those states.

Questions have also persisted in California about the money generated by its cap-and-trade program. Citing budget needs, Brown last year took \$500 million of the program's revenue for the state's General Fund, promising to pay it back this year. The 2014-15 budget proposal he released last Thursday, however, would repay only \$100 million of that this year, with the rest to follow over the next few years.

Brown also has come under criticism for proposing to spend \$250 million from this year's cap-and-trade revenues to pay for the state's ongoing effort to build a high-speed rail system, with another \$50 million for the state Department of Transportation to help integrate current rail systems with the high-speed system. That has angered both environmental groups, which contend the money by law is supposed to be spent only on reducing the state's GHG emissions, and high-speed rail opponents, who say the governor is wasting money on an already-troubled project that has little chance of gaining the billions of dollars in federal funding it needs to be completed.

Bill McGavern of the Coalition for Clean Air voiced the concern of many, lauding Brown's plans to spend the bulk of the cap-and-trade funds on emission reduction

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 2014 Prefiles last week: 1,634

Number of 2015 Prefiles last week: 5

Number of Intros last week: 5,321

Number of Enacted/Adopted last week: 215

Number of 2014 Prefiles to date: 7,828

Number of 2015 Prefiles to date: 28

Number of 2014 Intros to date: 5,321

Number of 2013 Session Enacted/Adopted overall to date: 40,579

Number of bills currently in State Net Database: 102,439

— Compiled By FELICIA CARILLO
(measures current as of 1/9/2014)
Source: State Net database

efforts but also questioning the governor's insistence on siphoning off money for the troubled rail project.

"High-speed rail has some merit, but it should not be the biggest spending category in this proposal," he said.

But Brown defended taking the money, telling reporters at his budget release press conference that it was "very appropriate," insisting that high-speed rail will be "a reducer of greenhouse gases." That claim, however, has already been refuted by the nonpartisan Legislative Analyst's Office, which said GHG reduction attributable to high-speed rail will come decades in the future, if at all. In the short term, the LAO says, the system will likely even raise those emissions.

There is also the strong likelihood that the court's decision to allow CARB to accumulate revenue will be appealed, leaving the long-term legality of the system at least somewhat in doubt. There is also the daunting prospect of lawmakers and CARB needing to codify plans for how the state will continue to meet even more stringent GHG reduction goals set by former Gov. Schwarzenegger via executive order in 2005. Under that directive, California must cut its GHG emissions by 80 percent by 2050. Experts say hitting the 2020 goals will be no problem; but with the state's 2050 population expected to top 50 million, significantly increasing the demand for electricity and transportation fuels, hitting the 80 percent reduction goal will be almost impossible.

Cap-and-trade supporters acknowledge the daunting nature of these issues, but that has not dampened the enthusiasm of folks like EDF's McPeck.

"We recognize there are some major challenges ahead," he says. "But we have taken a really strategic approach by enacting policies that will benefit not just the few, but the many. We're cautiously optimistic that this next year will see policies that help to successfully implement the law."

Jon Costantino, a senior adviser with Mannatt, Phelps and Philips LLC in Sacramento and a former key manager on the CARB team that developed the cap-and-trade plan, is a bit more reserved.

"Last year went off without too many hiccups," he says. "Let's just say it wasn't the Obamacare rollout."

But he also warns that the big consumer costs haven't hit yet, and the legal issues are not fully resolved.

"Things look okay, the program is converging on stability," he adds. "But let's just wait and see how we progress. There's still a long way to go."

— By *RICH EHISEN*

Budget & taxes

2014 EXPECTED TO BE ‘BREAKOUT YEAR’ FOR JOBS: After years of tentative growth, the U.S. job market will pick up a bit more this year, according to Moody’s Analytics. The global economic forecasting company projects the nation will add 2.6 million jobs this year — up from 2.2 million in 2013.

Moody’s forecast is particularly bright for some states. For instance, North Dakota, it said, will continue to have the nation’s highest job rate, 3.57 percent, as a result of its ongoing energy boom. Thanks to a boost from its high-tech industry, Arizona will have the second highest rate, at 3.08 percent. Lee McPheters, a Research Professor of Economics at Arizona State University’s W. P. Carey School of Business, said his state was ranked 49th for job growth in 2010 and seventh in October 2013, based on his analysis of data from the Bureau of Labor Statistics.

With a projected job rate of 2.75 percent, Texas was third in Moody’s rankings, although in terms of sheer number of jobs, Moody’s expects it to lead the nation, generating 308,000. And the state already recovered all the jobs it lost during the recession back in December 2011. Rounding out Moody’s top 10 are Colorado (2.67 percent), Florida (2.34 percent), Georgia (2.18 percent), South Carolina (2.14 percent), Oregon (2.14 percent), Idaho (2.05 percent) and Utah (1.98 percent). Moody’s ranked California 15th in job rate (1.80 percent), but it said the state would see the second largest increase in the number of new jobs (264,000), which it said would be driven by the state’s recovering housing market and high-tech industry in Silicon Valley. But unlike Texas, the Golden State still has a ways to go to replace the 1.4 million jobs it lost during the recession.

Moody’s outlook wasn’t quite as rosy for other states and the nation’s capital. It said the shrinking of the federal government would hold job growth in the District of Columbia to 0.75 percent, the lowest rate in the nation. And Illinois, Maine, Vermont, New York, Alaska, Massachusetts, Tennessee, New Hampshire and New Mexico would all see rates of 1.25 percent or lower.

Still, Mark Zandi, chief economist at Moody’s Analytics, said 2014 would be a “breakout year.” And he predicted the U.S. economy would reach full employment — which he defined as an unemployment rate of 5.75 percent and 64 percent labor force participation — within three years. (STATELINE.ORG)

NY GOV CUOMO PROPOSES \$2B IN TAX RELIEF: Last week, ahead of his State of the State address, Gov. Andrew Cuomo (D) announced a \$2 billion tax relief proposal that sent the clear message New York’s status as a high-tax state will no longer be tolerated. The proposal’s assortment of cuts for property owners, renters and upstate manufacturers largely mirrored the recommendations made last month

by a panel led by Republican former Gov. George E. Pataki and Democratic former State Comptroller H. Carl McCall.

“The commission fundamentally recognized that New Yorkers need tax relief,” Cuomo said. “You have got a lot of hardworking families, a lot of homeowners who are getting crushed in this state by taxation.”

One of the ideas Cuomo pitched that was suggested by the panel was a two-year tax rebate for homeowners equal to their property tax increases — effectively a property tax freeze — with the second year contingent upon municipalities’ demonstrating they have taken “concrete steps” toward sharing services. As one illustration of the need to consolidate, the governor ticked off a list of the various tax collecting entities in the state.

“Towns, villages, district — water district, sewer district, fire district — another district just to count the other districts,” he said, calling the state “government-crazed.”

Another of the governor’s proposals was a tax credit for homeowners who earn up to \$200,000 a year tied to how much they pay in property taxes, a scheme known as a “circuit breaker.”

Cuomo also embraced a number of business-friendly proposals, including a reduction of the corporate income tax rate from its current 7.1 percent to 6.5 percent. He also called for an increase in the estate tax exemption from \$1 million to \$5.25 million, to stop wealthy New Yorkers from having to “leave the state to die.” For less affluent residents of that city, he proposed an income tax credit for renters earning up to \$100,000 a year. And for the struggling manufacturing businesses in upstate New York, he called for the elimination of corporate income taxes, which are currently 5.9 percent.

The governor’s proposals were generally well received by Republican and Democratic legislative leaders, as well as the state’s business community. But there were some critics. Edmund J. McMahon, president of the conservative Empire Center for Public Policy, for instance, said he wasn’t convinced the property tax measures would have much of an impact.

“These are tiny marginal temporary savings,” he said. “They won’t do anything to speak of for the economy. They are meant to increase the ability of the governor and Legislature to say they reduced your property taxes.” (NEW YORK TIMES, TIMES UNION [ALBANY])

Upcoming elections

(1/10/2014 - 1/31/2014)

01/14/2014

Arkansas Special Election

Senate District 21

Florida Special Primary

US House (Congressional District 13)

01/21/2014

Rhode Island Special Primary

House District 49

Virginia Special Election

Senate District 33

01/28/2014

Alabama Special Election

House District 104

Alabama Special Primary Runoff

House Districts 31 and 53

Pennsylvania Special Election

House District 78

Texas Special Runoff

House District 50



CA GOV BROWN TO PROPOSE \$107B

BUDGET: California Gov. Jerry Brown (D) will ask state lawmakers for billions of dollars more for education and debt reduction next fiscal year, according to a spending plan leaked last Wednesday.

The \$107 billion budget proposal includes \$10 billion in new spending for K-12 schools, \$5.8 billion for the state's public colleges and universities and \$11 billion for the reduction of the \$25 billion "Wall of Debt" the state has built up in recent years from special fund loans, unpaid costs to schools and deferred payments to public pensions and Medi-Cal. Brown also intends to ask for a constitutional amendment to ensure a rainy-day fund for future budget crises and for \$1.6 billion to be set aside next fiscal year.

The request for \$9 billion more in spending over the current fiscal year's \$98 billion level was prompted in part by the \$4 billion the state expects to receive in capital gains taxes, according to the plan. (SAN FRANCISCO CHRONICLE)

2014 CRUCIAL YEAR FOR ATLANTIC CITY: This year is going to be an important one for Atlantic City. New Jersey Gov. Chris Christie (R) has given the seaside gambling resort town five years to reverse its declining fortunes or face the expansion of casino gambling to other parts of the state, and 2014 will be the fourth year of that grace period.

"It's obviously a critical year because we need to begin to see progress in Atlantic City or we're going to start considering alternatives," Christie said recently. "That means considering the once-unthinkable: allowing casinos at the Meadowlands sports complex in northern New Jersey and possibly elsewhere in the state."

The city isn't getting the year off to the best start, however. One of its 12 casinos, the Atlantic Club Casino Hotel, is shutting its doors on Jan. 13, as a result of a bankruptcy court ruling. But that news isn't all bad. The casino's slot machines, table games, customer lists, property and 801-room hotel are going to two national gambling companies with casinos in the city, Tropicana Entertainment and Caesars Entertainment, which paid a combined \$23.4 million for the Atlantic Club.

But some observers fear that casino's closing could be the first of several in the city that analysts have long said has too many casinos to support the region's shrinking gambling market.

"It is very likely that this same strategy will be used to take out Trump Plaza, perhaps the Golden Nugget and maybe even the Showboat," said Wayne Schaffel, an Atlantic City casino publicist in the 1980s. "It will undoubtedly shore up the balance sheets for the remaining 8 to 11 properties, but it will also take out anywhere from 1,500 to 3,000 rooms. At the end of the day, the winners will be the few remaining casino companies. The losers will be the thousands of employees who lose their jobs; the state, which will suffer from ever lower revenue and taxes, and Atlantic City itself."

Upcoming stories

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

- **Biosimilars**
- **E-cigarettes**
- **Health reform**

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Liza Cartmell, head of the Atlantic City Alliance which promotes the resort community, wants Christie to grant a one-year extension on his deadline for the city's turnaround, not only because of the investment in noncasino attractions but also

“There are people who believe this island, this magical place, is a gem. It’s very rough but it’s continuing to be polished. It just needs some time.”

‘AMERICA’S AUTOBAHN’ AILING: A Texas toll road known as “America’s Autobahn,” owing to its 85-mile-per-hour speed limit — the highest in the nation — has run into financial trouble a year after opening. Although billed by its private operator, SH 130

The news is the latest in a string of reports of toll-road operations across the country running into financial troubles as a result of heavy debt loads and lower-than-forecast usage. But some say motorists have avoided SH 130 simply because of the cost of using it, which can top \$8 for cars \$29 for commercial trucks.

BUDGETS IN BRIEF: A case currently before **MASSACHUSETTS'** highest court could determine whether cities and towns can tax land owned and protected from development by groups like the Nature Conservancy and the Massachusetts Audubon Society. The case (*New England Forestry Foundation, Inc. v. Board of Assessors of*

the *Town of Hawley*) revolves around how publicly accessible and active conservation land must be in order to qualify for a tax exemption (BOSTON GLOBE). • Republican legislative leaders in **MICHIGAN**, anticipating a budget surplus this year and next totaling close to \$1.3 billion, want to pass a broad-based tax cut for state residents this year, possibly a reduction in the personal income tax rate from 4.25 percent to 3.9 percent over four years (CRAIN'S DETROIT BUSINESS, STATE NET). • Pot shops in **COLORADO** reportedly did over \$1 million in business on Jan. 1, the first day of legalized recreational marijuana sales in the state (9NEWS.COM). • Slightly less than half of the recipients of the 266 economic-development incentives awarded by **OHIO** that expired in 2012 fulfilled their hiring promises and other commitments, according to a report from the state's attorney general, Mike DeWine. The report stated the compliance rate for recipient companies was 54.9 percent, down from the previous-year's rate of 63.5 percent (COLUMBUS DISPATCH).

— Compiled by KOREY CLARK

Politics & leadership

B RIDGE CLOSURE CONTROVERSY COMES TO HEAD IN NJ:
The controversy over lane closures on the George Washington Bridge that has been brewing in New Jersey for months reached a crisis point last Wednesday with the release of a cache of email messages linking Gov. Chris Christie's (R) office to the September traffic snarls.

The emails appeared to show the governor's office giving former Port Authority executive David Wildstein the go-ahead to order the lane closures in retribution against Fort Lee Mayor Mark Sokolich for not supporting Christie in his re-election bid last year against Democrat Barbara Buono and six other candidates.

In one of the messages, sent on Aug. 13, Bridget Anne Kelly, one of Christie's three deputy chiefs of staff, wrote, "Time for some traffic problems in Fort Lee," to which Wildstein, a longtime political operative and high school classmate of Christie, replied, "Got it." In an email dated Sept. 9, the first day of the lane closures, Kelly asked Weinstein if the Port Authority had returned any of Mayor Sokolich's calls about the closures. Wildstein replied, "Radio silence," adding, "His name comes right after mayor Fulop," evidently referring to Jersey City Mayor Steven Fulop, who said the Christie administration had also retaliated against him for failing to endorse the governor last year. And in another email exchange that took place during the lane closures, in which an unidentified individual commented that they felt bad about the kids stuck on school buses on the way to their first day of school, Wildstein replied, "They are the children of Buono voters."

Wildstein, who resigned last month over the escalating scandal, was called to testify before a panel of state lawmakers investigating the matter last Thursday. He pled the Fifth Amendment, and the lawmakers voted to hold him in contempt and said they would refer that decision to law enforcement.

Even Christie, not known for demurring in times of controversy, initially kept silent after last week's revelations, cancelling a public event at which he was scheduled to talk about Sandy relief and only issuing a four-sentence statement that read:

"What I've seen today for the first time is unacceptable. I am outraged and deeply saddened to learn that not only was I misled by a member of my staff, but this completely inappropriate and unsanctioned conduct was made without my knowledge. One thing is clear: this type of behavior is unacceptable and I will not tolerate it because the people of New Jersey deserve better. This behavior is not representative of me or my Administration in any way, and people will be held responsible for their actions."

Shortly before Wildstein was scheduled to testify, however, the governor made a more decisive effort at damage control, holding a press conference at which he apologized for the lane closures and announced the dismissal of two of his top aides, Kelly and Bill Stepien, his campaign manager in last year's overwhelmingly successful reelection campaign, before going on to answer reporters' questions for 90 minutes.

But the scandal is far from over for the governor. Democrats have pledged to continue their investigation. And the office of the U.S. Attorney in New Jersey announced that it will also review the matter. As *The Washington Post* put it: "Two months after winning reelection in a landslide, New Jersey Gov. Chris Christie has hit the lowest point of his political career." (NORTHJERSEY.COM, WASHINGTON POST, POLITICO, CHICAGO TRIBUNE)

BOEING DEAL SENDS WA LEGISLATIVE AGENDA INTO TAILSPIN:

The state of Washington was spared a major blow to its economy last week when Boeing's machinists narrowly approved a new labor contract and the Seattle-based jet manufacturer said it would stay put. But that development left the state's lawmakers with an interesting problem: what to focus their attention on in the legislative session that begins Jan. 13.

For months those lawmakers had been gearing up for a session in which the top issue was likely to be figuring out what else the state could do to keep Boeing and its planned 777X jetliner facility in the state. The Machinists Union's vote left them with just a week to come up with an alternative agenda. Complicating that task was the fact that other potential top issues, such as a gas-tax hike, workers' compensation reform, and a pull-back on the Department of Ecology's proposed

In case you missed it

Many states found 2013 to be a year of living dangerously as they struggled with increased pension debts of their own making and unresolved issues dumped in their laps by the federal government.

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

http://www.statenet.com/capitol_journal/12-23-2013/html#sncj_spotlight

stringent new water-quality standards, all derived much of their sense of urgency from the Boeing situation.

Not that anyone was begrudging the vote that is expected to result in about \$20 billion in tax revenue flowing into state government coffers and thousands of jobs streaming into the state's economy over the projected life of Boeing's new airliner.

"The men and women of the International Association of Machinists District 751 ensured that Washington's long tradition of aerospace innovation will continue and that thousands of direct and indirect family-wage jobs will remain and be

created in our state for years to come," said state Sen.

Sharon Nelson, the newly-elected leader of the Senate Democratic Caucus.

She also acknowledged the difficulty of the decision made by the machinists, who ultimately voted 51-49 to accept a contract with pension and health-benefit concessions.

"This is a positive outcome for our state," she said, "but the truth is that this was a very close vote and every Machinist — whether they voted yes or no — made an extremely difficult decision and an enormous sacrifice for the greater good of Washington."

State Sen. Michael Baumgartner (R) said that decision hasn't changed anything about the other pressing state issues that have been tied to the Boeing deal, however.

"Boeing is the bell cow for the state, but we still need to consider the rest of the herd," he said. "I think just because we were able to take steps to keep Boeing here for the 777X doesn't change the fact that Washington state has a failing workers' compensation system. And the vote by the Machinists Union last night doesn't do anything to change the fact that we have ominous regulations looming, such as on water quality, that can really hurt jobs."

Baumgartner also said the state still needs to do more to attract businesses to, and keep them in, the state, and he plans to lead an effort to pass right-to-work legislation that would curb union power.

"In today's mobile economy, companies can and will move," he said. "We should do everything in our power to prove to the world that Washington is a place where it is easy for new businesses to be created and existing business to grow and thrive." (WASHINGTON STATE WIRE, STATE NET)

MOVE TO CONGRESS NOT ALWAYS PLEASANT FOR STATE

LAWMAKERS: About half of the current members of Congress were state lawmakers before heading to Washington, according to the National Conference of State Legislatures. And after arriving many have evidently found themselves longing for the good old days back at the statehouse.

"Boeing is the bell cow for the state, but we still need to consider the rest of the herd."

U.S. Rep. Chellie Pingree (D-Maine) said that as a state senator she often had freewheeling debates with both Democratic and Republican colleagues. But she said that as a member of the minority party in the U.S. House of Representatives, she has to exert a lot of energy just to get a committee chair to allow her a few minutes to make her case for a bill.

“Honestly, in many ways I found my time as a state legislator more enjoyable,” she said. “We had a much more lively discussion of all kinds of issues.”

Such remarks aren’t very surprising to Karl Kurtz, director of the National Conference of State Legislatures’ Trust for Representative Democracy.

“An effective legislator in either party in a more citizen-style legislature can really accomplish a lot,” he said. The U.S. House, on the other hand, is “a pretty frustrating place, especially for members in the minority party.”

Things aren’t all wine and roses for state lawmakers coming to the U.S. Senate either. U.S. Sen. Johnny Isakson (R-Georgia) said the biggest change for him was the narrowing of his scope of focus.

“In the state legislature, you’re kind of a jack of all trades,” he said. “In the U.S. Congress, you pretty much are relegated to the jurisdiction of your committee. Your horizons aren’t as broad.”

U.S. Rep. Kristi Noem (R-South Dakota), meanwhile, said she missed the camaraderie of the statehouse.

“In Congress you spend the vast majority of your time with your staff and visitors,” she said. “You see other members when you’re going to the floor to vote or when you’re sitting together in committee. When I was in the state legislature, we really got to know each other and our families very well — Republicans and Democrats.”

Still, some of those same federal lawmakers say their statehouse experience was great training for working in Congress. Isakson, for instance, said his time in the Georgia state Legislature helped prepare him for the long, drawn-out nature of the federal legislative process. He said after 17 years as a state lawmaker, “I had a maturity about me that really helped me understand that you can’t snap your fingers and make things happen overnight.”

Noem, likewise, said her experience as a state lawmaker in South Dakota gave her an appreciation for how federal initiatives affect states.

“I view every piece of legislation through the eyes of someone who has seen it on the state level,” she said. “The federal government should not be doing things that could be better done at the state level.” (STATELINE.ORG, STATE NET)

The week in session

States in Regular Session: AL, AZ, CA, CO, DC, DE, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MO, MS, NE, NH, NJ, NY, OH, PA, PR, RI, SC, SD, TN, US, VA, VT, WA, WI, WV

States in Special Session: DE “b”, WI “b”

States in Recess: IL, IN, NY, OH, US

States currently prefilng for 2014 Session: FL, NM, UT, WY

States currently prefilng for 2015 Session: MT

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO
(session information current as of 1/9/2014)
Source: State Net database

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POLITICS IN BRIEF: Whether Democrats or Republicans will control the **VIRGINIA** Senate — currently split 20-20 between the two parties — was still undecided last Tuesday night, with Democratic Del. Lynwood W. Lewis Jr. leading Republican Norfolk business owner Wayne Coleman by just 22 votes in a special election to fill the District 6 seat of Lt. Gov.-elect Ralph S. Northam (D). If that margin holds, it would be well within the range for the loser to demand a government-funded recount (WASHINGTON POST). • Also in **VIRGINIA**, R. Creigh Deeds (D) returned to the Senate. It was the senator’s first public appearance since November, when his mentally ill son attacked him with a knife before taking his own life (WASHINGTON POST). • The first of potentially many lawsuits challenging the constitutionality of **ILLINOIS’** historic but controversial pension reform plan was filed last month by the Illinois Retired Teachers Association (CHICAGO TRIBUNE). • The U.S. Supreme Court has granted **UTAH’s** request to put a hold on same-sex marriages in the state until the 10th Circuit Court of Appeals rules on the state’s appeal of a lower court decision declaring laws banning such marriages unconstitutional (SALT LAKE TRIBUNE).

— *Compiled by KOREY CLARK*

Governors

CUOMO OUTLINES NY MEDICAL POT PLAN: New York Gov. Andrew Cuomo (D) announced plans to issue an executive order that will launch a pilot program to allow 20 Empire State hospitals to dispense medical marijuana. Conditions for which the drug can be prescribed will be limited to certain serious illnesses, such as cancer, glaucoma and other specific diseases listed by the Health Department and to those “who are in a life-threatening or sense-threatening situation.” Cuomo announced the plan during his annual State of the State address last Wednesday.

Under his plan, the state health department would establish guidelines for the program and choose the hospitals that would participate. Those facilities would then determine on a person-by-person basis which patients qualify for medical marijuana.

The proposal received conflicting reviews. Some, such as New York Civil Liberties Union Executive Director Donna were highly favorable.

“The governor’s executive order serves as an important step towards the wholesale reform of the state’s marijuana laws, which are painfully out of date, needlessly harsh and have a devastating impact on communities of color,” Lieberman said.

Others, however, expressed concern over Cuomo’s plan to rely on a 24-year-old state health regulation that is intended to allow the use of some narcotics as part of

legitimate therapeutic research. Advocacy groups like the Marijuana Policy Project argued that Cuomo is essentially setting the system up to fail by making the process of getting marijuana to needy patients cumbersome and “unworkable.”

The governor offered no details for when he would issue his directive or when the program would start. (NEW YORK TIMES, NEW YORK GOVERNOR’S OFFICE, LOS ANGELES TIMES, CNN.COM)

PARNELL TIGHTENS ABORTION FUNDING RULES: The administration of Alaska Gov. Sean Parnell (R) finalized rules last week that require medical providers to certify that abortions paid for by Medicaid were from a pregnancy that resulted from rape or incest or were necessary to save the woman’s life or prevent serious permanent damage to her health. The new regulations, which require abortion providers to certify that a woman was suffering from one of 23 approved medical conditions, take effect Feb 2. (ALASKA DISPATCH, JUNEAU EMPIRE).

SHUMLIN PLEDGES FIGHT AGAINST DRUG ABUSE: Vermont Gov. Pete Shumlin (D) used his entire 34-minute State of the State speech last week to focus on the state’s growing drug abuse problem. Shumlin said that each week over \$2 million worth of heroin and other opiates are trafficked into Vermont, and that nearly 80 percent of the state’s prison inmates are jailed on drug-related charges. He further noted that the Green Mountain State has seen a doubling in the number of residents who have died from heroin overdose since 2012 and a 770 percent increase since 2000 in the number of people in treatment for opiate addictions. Shumlin asked lawmakers to allocate funds to expand treatment centers and intervention programs so that addicts could be quickly directed to treatment when they encounter police. He also asked for tougher laws to discourage high-volume dealers from coming into the state. (NEW YORK TIMES, BURLINGTON PRESS)

CORBETT DROPS LOTTERY PRIVATIZATION PROPOSAL: Faced with criticism and opposition from all sides, Pennsylvania Gov. Tom Corbett (R) announced he will drop his push to transfer management of the Keystone State lottery to the British firm Camelot Global Services. Corbett has been pushing the plan for over a year, spending an estimated \$4.6 million on lawyers and consultants to smooth the way. The plan never gained much traction, facing legal challenges and staunch criticism from unions, senior citizen groups, lawmakers, and the public. Corbett conceded defeat, but said the process had launched a much needed public conversation about how to best improve the lottery system. (PHILADELPHIA INQUIRER, WASHINGTON POST)

GOVERNORS IN BRIEF: Backing off of previous statements that she believed voters should decide the issue of same-sex marriage, **NEW MEXICO** Gov. Susana

Martinez (R) said she won't push for a constitutional amendment to ban gay marriage in the Land of Enchantment in the upcoming legislative session. Martinez referenced recent U.S. Supreme Court decisions that struck down laws barring gay marriage, saying "it's now the law of the land" (SANTA FE NEW MEXICAN). • Oil and gas drillers in **PENNSYLVANIA** said they would honor Gov. Tom Corbett's (R) request to voluntarily honor a state law that established buffer zones intended to protect waterways and wetlands even though the state Supreme Court struck down those environmental rules last month. The agreement will keep deep-shale drilling pads and conventional oil and gas wellbores at least 100 feet from those environmentally sensitive areas (PITTSBURGH TRIBUNE-REVIEW). • **MARYLAND** Gov. Martin O'Malley (D) said last week that raising the Old Line State minimum wage would be his top legislative priority for this year. He also rejected calls to legalize recreational use of marijuana, calling it "a gateway to even more harmful behavior" (WASHINGTON POST). • **ARIZONA** Gov. Jan Brewer (R) asked the U.S. Supreme Court to allow the Grand Canyon State to enforce a 2010 law making it a crime to knowingly transport or harbor those in the country illegally. The law is part of the omnibus immigration law, SB 1070, that has already had three major provisions permanently invalidated by the courts (ARIZONA CAPITOL TIMES).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **NEW JERSEY** Assembly approves SB 1226, which would require Garden State bars and other businesses hosting teen social nights to hire police officers for security, limit the age groups that may attend and forbid registered sex offenders from working the events. The bill moves to Gov. Chris Christie (R) for review (STATE NET, NORTHJERSEY.COM). • Also in **NEW JERSEY**, a state appeals court upholds the constitutionality of a state law barring employers from requiring job applicants to already be employed elsewhere. The New Jersey Appellate Division ruling came in response to a challenge to the law by a Garden State company that was fined for continuing to require applicants to be currently employed (NORTHJERSEY.COM).

CRIME & PUNISHMENT: The **MASSACHUSETTS** Supreme Judicial Court rules that a Bay State law allowing juveniles to be sentenced to life in prison without parole is unconstitutional. Justices said judges should not be allowed to irreversibly decide that a juvenile defendant was “irretrievably depraved” because a juvenile’s brain is not fully developed yet (HNGN.COM). • The **NEW JERSEY** Assembly

approves SB 2702, legislation that would require Garden State law enforcement agencies to get a warrant each time they deploy a drone to investigate a crime. The measure returns to the Senate for concurrence (STAR-LEDGER [NEWARK]).

EDUCATION: The **NEW JERSEY** Assembly approves AB 4120, legislation that would require Garden State public colleges and universities to track the graduation rates of students who get state-funded grants to help pay for college. It moves to the Senate (STATE NET, PRESS OF ATLANTIC CITY). • A **LOUISIANA** court rules for the second time in two years that a law overhauling how Pelican State teachers are evaluated and obtain tenure is unconstitutional. Gov. Bobby Jindal (R) said his administration would appeal the ruling to the state Supreme Court (TIMES-PICAYUNE [NEW ORLEANS]).

HEALTH & SCIENCE: The U.S. Centers for Medicare & Medicaid Services approves a **MICHIGAN** proposal to expand Medicaid under the Affordable Care Act to approximately 320,000 Wolverine State residents. The plan, dubbed Healthy Michigan, will require new enrollees to pay co-pays for doctor visits and contribute up to 2 percent of their income to a health savings account that will be administered by the state and can be used for out-of-pocket medical expenses (DETROIT NEWS, DETROIT FREE PRESS). • Also in **MICHIGAN**, Gov. Rick Snyder (R) signs SB 660, which would allow the state to create a “pharmaceutical-grade” marijuana registry if the federal government ever reclassifies marijuana as a Schedule II drug fit for medical use (MLIVE.COM). • Staying in **MICHIGAN**, Lt. Gov. Brian Calley (R) signs a quartet of bills — HBs 4694, 4695, 4696 and 4697 — that collectively allow the state’s circuit and district courts to create special mental health courts, including one specifically for juveniles (MLIVE.COM). • The **NEW HAMPSHIRE** House approves a bill that would allow the Granite State to expand its Medicaid rolls to cover an additional 50,000 residents in line with the Affordable Care Act. The measure moves to the Senate (CONCORD MONITOR).

IMMIGRATION: The **CALIFORNIA** Supreme Court rules that an undocumented immigrant who has earned a law degree and passed the bar exam cannot be denied the right to legally practice law, saying “the fact that an undocumented immigrant’s presence in this country violates federal statutes is not itself a sufficient or persuasive basis for denying undocumented immigrants, as a class, admission to the State Bar.” The person in question has been awaiting approval of an immigrant visa request since 1995 (LOS ANGELES TIMES).

SOCIAL POLICY: The Supreme Court of the United States puts a hold on same-sex marriages in **UTAH** until the state’s appeal of a lower court decision allowing those unions can be heard. U.S. District Judge Robert J. Shelby ruled

Dec. 20 that the state's ban on such unions violated constitutional guarantees of equal protection and due process, a ruling the state appealed to the 10th U.S. Circuit Court of Appeals. Shelby and the 10th Circuit both denied the Beehive State's request for a stay in Shelby's ruling, prompting the state to appeal to the high court. Same-sex unions will thus remain barred until the 10th Circuit's decision, and likely longer if their ruling prompts another appeal directly to the U.S. Supreme Court (WASHINGTON POST). • A federal judge rules that a **FLORIDA** law requiring welfare applicants to undergo mandatory drug testing is unconstitutional. Judge Mary S. Scriven of the United States District Court ruled that the law violates the protection against unreasonable searches. Gov. Rick Scott (R) said the state would appeal the ruling (NEW YORK TIMES). • The **NEW JERSEY** Assembly and Senate approve AB 3812, legislation that would require the state labor department to check every unemployment recipient against a list of people in state prisons or jails. The bill, which came in response to a comptroller's report issued last year that showed at least 20,000 prisoners in Garden State jails and prisons were paid nearly \$24 million in benefits by government programs over a two-year period, moves to Gov. Chris Christie (R) for review (STAR-LEDGER [NEWARK]).

POTPOURRI: The **NEW JERSEY** Assembly unanimously approves SB 1907, a bill that would make it a crime punishable by up to 18 months in prison and a fine of as much as \$10,000 for someone to recklessly kill or allow their animal to kill a guide dog or service dog in training. The bill, which would also impose a penalty of up to 6 months in prison or a \$1,000 fine for injuring a service dog and jail time of at least 30 days and a \$500 fine for interfering with a service dog, moves to Gov. Christie (R) for review (STAR-LEDGER [NEWARK]).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

THE NAME GAME: For years, Hawaii resident Janice “Lokelani” Keihanaikukauakahihuliheekahaunaale's driver's license has been not quite right. As *Fox News* reports, for years Aloha State licenses have only accommodated 35 total characters for a person's name. Hers, however, has 36 — 35 letters and an okina, a mark used in the Hawaiian alphabet — in the last name alone. As such, her license for years has had only her surname, and with the last letter omitted to boot. But after recently getting hassled by an officer during a traffic stop,

she started a campaign to get the state to accommodate her extra long last name. It was a worthy effort — the state Department of Transportation has changed its policy to allow up to 40 characters for last names, 40 for first names and 35 for middle names. No word on how big a license would have to be to accommodate a name with all those characters combined.

A MAN ALONE: The new legislative session is already proving to be tough sledding for California state Senator Ron Calderon, who is the subject of an ongoing federal corruption investigation. That unto itself makes a fellow kind of toxic around the Capitol, but Calderon has also chosen to defend himself by attempting to implicate Senate pro Tem Darrell Steinberg. That didn't sit well with Steinberg, who stripped Calderon of all of his committee assignments until this whole thing gets sorted out. But that wasn't all. When the Senate convened last Monday, Calderon found his seat had been moved from its usual place front and center in the Senate chamber to one in a far corner of the room away from all others. Calderon did his best to brush it off, telling the *San Francisco Chronicle* he was okay with it "as long as I have a microphone and I can present my bills and vote." For now, anyway.

STEVEN SEAGAL – ACTOR, LAWMAN...GOVERNOR? First it was former wrestler and kinda-sorta actor Jesse Ventura taking the reins of Minnesota's governor's office. Then it was California voters putting another hulking action-oriented thespian, Arnold Schwarzenegger, into the corner office. Now, as the *Arizona Republic* reports, movie and TV bone cruncher Steven Seagal is hinting he might be making a run to succeed Jan Brewer as the Grand Canyon State's governor. Seagal says he has to weigh that possibility against other "more important" responsibilities, including a new TV reality show. There's also the matter of Brewer's contention that she isn't actually termed out and thus eligible to seek re-election. We're not sure even a 7th degree black belt like Seagal wants to mess with her!

ONE HELL OF AN IDEA: You may recall we recently noted the efforts of the New York City-based Satanic Temple to erect a statue honoring their deity on the grounds of the Oklahoma state Capitol. Well, as the *Christian Science Monitor* reports, they unveiled the statue's design last Monday and it's a doozy. Based on an artist's rendering, the statue will depict Satan as "Baphomet, a goat-headed figure with horns, wings and a long beard that's often used as a symbol of the occult... sitting in a pentagram-adorned throne with smiling children next to him." The Temple is pushing the idea in response to Sooner State lawmakers' decision in 2012 to okay a privately funded Ten Commandments monument on the Capitol's north steps. The Temple is not alone, however: a Hindu leader, an animal rights group and the satirical Church of the Flying Spaghetti Monster have also asked to place statues there. Sounds like a devilish dilemma to us.

— By RICH EHISEN



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