

Peer-to-peer Pressure



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March 10, 2014

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Top Story

Growing pains in the new, fast growing "sharing economy" could spur major regulatory realignments in a multitude of industries.

SNCJ Spotlight

Growth of 'Sharing economy' could bring major regulatory changes

Peer-to-peer businesses like the ride-sharing services UberX and Lyft and the vacation-rental websites Airbnb and VRBO have been booming the last few years. But the rapid expansion of those businesses — collectively known as the "sharing economy" — and growing pains that have accompanied



By Korey Clark

it could spur major regulatory realignments in a multitude of industries.

The first foreshock of that potentially seismic shift came last year when California became the first state to regulate ride-sharing services like UberX, Lyft and Sidecar, which allow individuals in need of transportation to connect with drivers of privately owned vehicles-for-hire by using their smartphones. Those regulations, which among other things, require drivers for such companies to undergo criminal background checks and the companies to carry at least \$1 million in commercial liability insurance, effectively sanctioned ridesharing as a business in the state.

Sidecar appropriately tweeted its approval.

It's official! Rideshare is a new, official transportation category in CA!

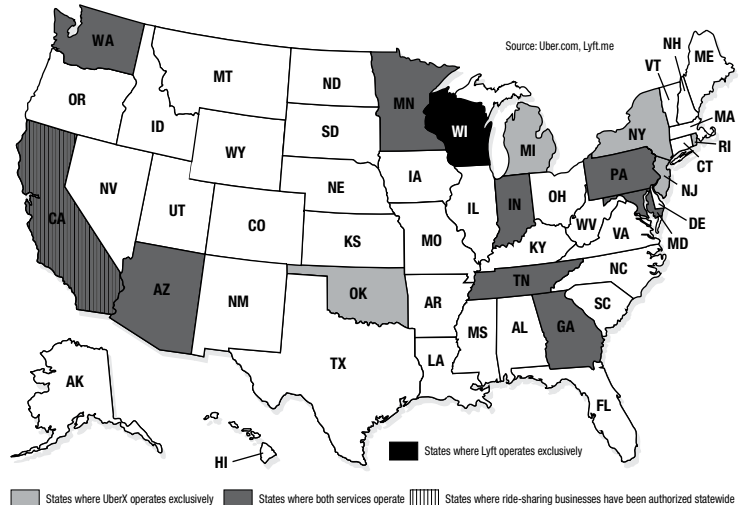
Lately, however, ride-sharing businesses, also known as transportation network companies, or TNCs, haven't had as much to tweet about. The year began with news that an UberX driver in San Francisco, while between paying fares on New Year's Eve, had struck a mother and her two children in a crosswalk, killing one of them, a 6-year-old girl. It later emerged that the driver, Syed Muzzafar, had been arrested 10 years earlier for driving 100 miles per hour into oncoming traffic to pass another car and Uber's driver-screening process had failed to catch that.

The accident and a subsequent lawsuit brought by the parents of Sofia Liu, the young girl who was killed, accusing Uber of wrongful death, negligent hiring and negligence with a motor vehicle, drew a heap of criticism of the company. *The New York Times* reported that Christopher Dolan, a personal injury attorney representing the Liu family, said that by its very nature Uber distracted its drivers.

"Cabdrivers who are looking for fares are scanning the streets," he said. "Uber drivers looking for fares are looking at their phones."

The same *Times* piece quoted Trevor Johnson, a director of the San Francisco Cab Drivers Association, which has been losing drivers to Uber, saying Uber poses a threat to public safety that other Internet businesses like eBay and Amazon do not.

Bird's eye view



Ride-sharing businesses operate in legal gray area in many states

Lyft and UberX, the nation's leading peer-to-peer, ride-sharing services now operate in cities in a combined 21 states, according to their respective websites. UberX service is available in 27 cities in 20 states, as well as the District of Columbia, while Lyft is available in 21 cities in 16 states, along with Washington, D.C. But so far only California has legalized the operation of such businesses statewide.



“Uber may be the next Amazon, but Amazon doesn’t have the same potential capability to leave a trail of bodies in the street,” he said.

In an opinion piece on SFGate.com, the online version of the *San Francisco Chronicle*, Robert Werth, president of the Taxicab, Limousine & Paratransit Association, was even more direct, asserting, “Public safety demands that Uber be more...regulated.”

Uber isn’t the only peer-to-peer business that has been drawing unfavorable attention recently. Airbnb has come under fire for a variety of alleged transgressions, including failing to pay city transient occupancy taxes as hotels are required to do and reducing the availability of affordable housing in some cities. *Slate* reported last month that a San Francisco man was suing his landlord for allegedly kicking him out of the rent-controlled apartment he’d occupied for nearly a decade so he could list the apartment on Airbnb, where he stood to make considerably more income. And Steven Jones, editor-in-chief of the San Francisco *Bay Guardian*, said rent-controlled units were a dwindling commodity in that city.

“Any of those precious few units going to visiting tourists rather than permanent residents certainly adds to the housing crisis here,” he said.

Airbnb has also made headlines on the opposite coast, where New York Attorney General Eric Schneiderman is going after the company’s rental “hosts” for violating a 2010 state law barring the rental of an apartment for less than 30 days unless a permanent resident of the apartment is present. Schneiderman has subpoenaed the company demanding that it turn over information about thousands of New York City residents who have listed their residences on the company’s Web site.

The surge both in criticism of peer-to-peer businesses and attention from regulators coincides with the sharing economy’s tremendous growth. *The Economist* reported last year that Airbnb offered “250,000 rooms in 30,000 cities in 192 countries.” And the company, founded in 2008, was recently valued at \$2.5 billion. Uber, founded in 2009, has been valued at between \$3.5 billion and \$4 billion. Presumably it’s a lot easier to avoid criticism when you’re a scrappy Internet startup providing cash-strapped consumers with a valuable service for less than when you’re big enough to cause major disruptions of entrenched industries like hotels and taxi cabs.

The response from those industries has understandably been feisty. Mark Gruberg of the United Taxicab Workers of San Francisco called ride-sharing services “an existential threat” to his industry, according to the *Los Angeles Times*.

“It’s hard to see how the taxi industry with its rules and regulations and responsibilities can compete with a service that has none of those requirements,” he said.

The industry has also responded with action. Taxi drivers and owners in Chicago, for example, filed a lawsuit last month seeking to shut down ride-sharing services there. And there were reports earlier this year of Paris cabbies slashing the tires and smashing the windows of cars booked through Uber.

The response of regulators — who tend to share the perspective of the industries they regulate as a result of dealing almost exclusively with them year after year, a phenomenon political scientists call “regulatory capture” — has generally been to avoid disrupting the status quo by blocking peer-to-peer business from entering the market. In fact California’s PUC initially did exactly that in 2012, just a year before adopting the regulations authorizing the operation of ride-sharing businesses in the state.

Perhaps it should come as no surprise that the PUC’s reversal was apparently due in large part to the effective mobilization of the ride-sharing community through social networking sites like Twitter and Facebook. Shortly after the PUC’s action, Lyft posted on its blog: “Today the California Public Utilities Commission (CPUC) made history with a unanimous, groundbreaking vote to authorize peer-to-peer transportation in the State of California. More than 300 community members showed up to have their voices heard, and together helped ensure an exciting path forward for our movement.”

The future direction of regulation of the sharing economy, however, remains uncertain, particularly in the near term. California’s PUC plans to hold a workshop this year to hear from all parties impacted by its TNC regulations. One issue that’s likely to come up is insurance, with cab drivers and some auto insurers contending the personal auto insurance policies ride-sharing companies require their drivers to have don’t cover commercial use of their vehicles.

“They’re allowing them to get away with an insurance that doesn’t exist,” Barry Korengold, president of the San Francisco Cab Drivers Association, told SFGate.com last month. “There is no personal insurance policy that’s going to cover you while you’re using your car for passengers.”

SFGate’s Ellen Huet also pointed out that the \$1 million in liability insurance the PUC regulations require ride-sharing companies to carry doesn’t actually cover their drivers’ cars, only individuals injured or property damaged by their drivers when they are at fault, and — as brought to light by the Uber New Year’s Eve accident — possibly only when the drivers are actually carrying paying passengers. As for the commercial insurance option, the former driver for Lyft featured in Huet’s story was quoted a price of \$8,000 per year by Geico, nearly eight times the rate of his personal insurance policy with the company.

Uber says its policy will cover damage to Uberx vehicles caused by uninsured or underinsured drivers, and it will also reimburse collision costs incurred by UberX drivers whose personal collision policy is deemed not to apply. But coverage appears to vary among TNCs, and whether that coverage should apply to drivers who are between fares remains a point of contention. The CPUC regulations don’t spell that out. But at the moment it’s not clear if the CPUC intends to make any changes to its rules based on what comes out of the workshop or if cities will step in with additional regulations of their own.

There is also considerable regulatory uncertainty right now with regard to Airbnb. The company, which has generally resisted any effort to regulate its business, recently

agreed to work with city officials in New York and San Francisco on a regulatory framework for its hosts to begin collecting occupancy taxes.

Time.com contributor Verne Kopytoff said the fact that companies like Airbnb were choosing to stop fighting the system and try shaping it to their liking instead was a sign “the sharing economy is starting to grow up.”

But Airbnb is still swinging away at New York AG Schneiderman’s subpoena. In a statement the company said: “We always want to work with governments to make the Airbnb community stronger, but at this point, this demand is unreasonably broad and we will fight it with everything we’ve got.” And that stance could threaten any deal on occupancy taxes.

Meanwhile, according to LexisNexis State Net’s legislative database, Arizona, Colorado and Oklahoma are considering bills (HB 2273, SB 125 and SB 1703, respectively) that would regulate ride-sharing services much as they are now regulated in California. But Seattle is considering limiting the maximum number of vehicles ride-sharing businesses could have available at any one time to 150 per company, which would mean “four out of five UberX drivers would no longer be able to make an income,” according to Corey Ownes, Head of Global Public Relations for Uber. And other cities like Minneapolis and Pittsburgh are moving toward bans on peer-to-peer businesses.

Still, some experts say technology-driven sharing will be a big part of our economic future, which is entirely believable given a world where teenagers already seem oblivious to the boundary between the virtual and physical realms and even toddlers know how to operate iPads. Lisa Gansky, author of *The Mesh: Why the Future of Business is Sharing*, maintains that the sharing economy offers a solution to the problem of providing for the Earth’s ever-growing population, maximizing efficiency and minimizing waste. It also provides a way for millions of people to earn a little money. And in the case of ridesharing, at least, it generally seems to offer a better user experience at a lower cost — unless you happen to be using Uber during holidays like New Year’s Eve when “surge pricing” is in effect, raising prices by multiples of their normal levels to boost the number of available drivers — than the traditional alternative: taxis.

As David Autor, a professor of economics at Massachusetts Institute of Technology, put it for *Bloomberg Businessweek*, the taxi industry is “characterized by high prices, low service, and no accountability.”

“It was ripe for entry [by startups] because everybody hates it,” he said.

According to Larry Downes, an Internet analyst and coauthor of *Big Bang Disruption*, taxi services are the way they are because they operate in a non-market economy created through rules put in place beginning in the early 20th century by cities and states that decided the costs of eliminating competition were outweighed by the benefits. Those benefits, he wrote in *Forbes*, included “ensuring that drivers and their vehicles are safe and adequately insured, that passengers are charged reasonable and predictable fares, and that limits are placed to protect drivers and riders alike

from having so many vehicles for hire on city streets that no traffic can actually move.”

Ride-sharing companies like Uber and Lyft are posing the question of whether those same benefits can be better achieved through technology, innovations like driver and passenger rating systems, and navigation technology that enables potential customers to know exactly how long it will take to get picked up and how much it will cost to get to their destination.

Peer-to-peer startups are asking the same question in numerous other industries, including car rentals (RelayRides), money lending (Prosper and Lending Club), meals (Feastly) and even odd jobs (TaskRabbit). And it doesn’t seem as though there’s a sector of the economy that couldn’t potentially be impacted by them in some way.

“It’s a trend we’re going to see everywhere,” Uday Karmarkar, a technology and strategies professor at UCLA’s Anderson School of Management, told the *Los Angeles Times*.

The prospect of sector after sector of the economy going through the same regulatory upheaval as the taxi and hotel industries is one reason Arun Sundararajan, a professor and NEC Faculty Fellow at New York University’s Stern School of Business, proposed on Economix, *The New York Times*’ economic blog, encouraging self-regulation in the peer-to-peer marketplace. Sundararajan, whose research focuses on the impact of digital technologies on business and society, said there is a “misalignment between newer peer-to-peer business models and older regulations” that will “impede economic growth.”

“The solution,” he said, “is to delegate more regulatory responsibility to the marketplaces and platforms while preserving some government oversight, by creating new self-regulatory organizations like those that have succeeded in other markets and industries,” such as real estate (the National Association of Realtors) and medicine (the American Medical Association).

He goes on to say: “As hundreds of new peer-to-peer marketplaces emerge over the coming years, such organizations would ease what would otherwise be a tremendous strain on the government’s resources: having to constantly monitor and correct regulatory misalignment across an evolving set of industries.”

It sounds like a bold idea, but perhaps that’s what the sharing economy calls for.

— By KOREY CLARK

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: 1,471

Number of 2015 Prefiles last week: 1

Number of Intros last week: 5,609

Number of Enacted/Adopted last week: 1,337

Number of 2014 Prefiles to date: 19,407

Number of 2015 Prefiles to date: 64

Number of 2014 Intros to date: 56,844

Number of 2013 Session Enacted/Adopted overall to date: 40,747

Number of 2014 Session Enacted/Adopted overall to date: 5,292

Number of bills currently in State Net Database: 154,600

— Compiled By FELICIA CARILLO
(measures current as of 3/6/2014)
Source: State Net database

Budget & taxes

NEW HEPATITIS C DRUGS COME WITH BUDGET-BUSTING PRICE TAG: Until recently, the only truly effective cure for hepatitis C, a serious infection of the liver that afflicts 3.2 million to 5.2 million Americans and kills more of them each year than HIV/AIDS, according to the U.S. Centers for Disease Control and Prevention, has been a liver transplant. Nearly a year of interferon injections has also been an option. But the side effects of that method of treatment include anemia and depression, and the cure rate is only about 45 percent for the most common strain of hepatitis C, genotype 1.

But two new drugs were approved for the treatment of hepatitis C last year. The drugs — simeprevir, marketed as Olysio by Janssen Therapeutics, and sofosbuvir, sold as Sovaldi by Gilead Sciences — taken in pill form, have only mild side effects and cure rates as high as 95 percent.

The price of the drugs, however, is sticker-shock-inducing: A 12-week course of treatment runs between \$84,000 and \$168,000, which works out to \$1,000 to \$2,000 a pill.

With hepatitis C about twice as prevalent among Medicaid beneficiaries as the general population, much of that expense could fall on states and the federal government, which jointly fund Medicaid. A preliminary study by the Institute for Clinical & Economic Review estimated that in California alone, the cost of treating just half of those with chronic hepatitis C would increase Medicaid spending by \$18 billion.

“If you do back-of-the envelope calculations, it’s clear budgets couldn’t take on the potential of every eligible patient,” said ICER President Steven Pearson.

What’s more, Matt Salo, executive director of the National Association of State Medicaid Directors, said the new hepatitis C medications could be part of a new wave of expensive “specialty” drugs that will create major dilemmas for the public health care system.

“I don’t know that public policy has yet come up with how we are going to deal with this,” he said. “If a cure comes out for lupus and it costs \$300,000 a year, at what point do we say, ‘We can’t do this for everybody?’ Those are big policy questions we’re going to have to start to grapple with.” (STATELINE.ORG)

2013 (SORT OF) ‘YEAR OF TAX REFORM’: Early last year many predicted 2013 would be “the year of tax reform” in the states, due to the unusually high number of tax measures that had been proposed, a number of which included major reforms. But according to the results of a survey by the National Conference of State Legislatures (NCSL), the year was a more modest one for tax reform than expected.

“State Tax Actions 2013” indicates that although tax reforms were enacted in 13 states last year, many other tax measures failed or were substantially scaled down. Collectively, revenue actions last year resulted in a net tax reduction of less than \$1 billion, representing about 0.1 percent of state tax collections in 2012. By comparison, revenue actions in 2012 resulted in a net tax increase of \$4.1 billion, representing 0.5 percent of prior-year collections. And while seven states — Alaska, Arizona, Iowa, Maine, North Dakota, Ohio and Wisconsin — reported net tax reductions of more than 1 percent, another seven — Georgia, Massachusetts, Minnesota, Oregon, Vermont, Virginia and Wyoming — reported net tax increases of more than 1 percent. Thirty-six others reported no significant net change.

“The results of our survey are a bit misleading because even though the net tax change was relatively modest, tax reform was still a predominant theme in state legislatures in 2013,” said Mandy Rafool, fiscal affairs program principal at NCSL. “The robust discussions in the states that enacted and proposed major tax changes shows there is an appetite for reform.” (NATIONAL CONFERENCE OF STATE LEGISLATURES)

BUDGETS IN BRIEF: Last Tuesday, one day after failing to pass a bill extending a tax break for film productions in the state by three votes, the **OKLAHOMA** House reversed course and approved the measure (HB 2580) on a 65-28 vote, easily exceeding the 51 votes needed for passage. With the Senate also having approved a bill extending the tax break, it’s likely one of them will make it to Gov. Mary Fallin (R), who reportedly favors the idea (NEWSOK.COM [OKLAHOMA CITY], STATE NET). • Also in **OKLAHOMA**, the Senate approved a bill (SB 1246) that would cut the state’s top income tax rate from 5.25 percent to 5 percent, once certified projections for general revenues return to where they were when the Legislature approved a tax cut last year. The bill also contains a provision that would make an additional cut in the top income tax rate to 4.85 percent when state revenue growth is sufficient to offset the hit from the additional cut (NEWSOK.COM [OKLAHOMA CITY], STATE NET). • Leaders of **IOWA**’s divided Legislature agreed on a \$6.97 billion budget for the 2015 fiscal year, which begins on July 1. That figure represents a 7.4 percent spending increase over the current fiscal year (DES

Upcoming elections

(3/7/2014 - 3/28/2014)

03/11/2014

Florida Special Election

US House CD 13

Florida Special Primary

House District 44

03/18/2014

Illinois Primary Election

House (All)

Senate Districts 3, 6, 9, 12, 15, 18, 21, 24, 27, 30, 33, 36, 39, 42, 45, 48, 51, 54, 57

Constitutional Officers: Governor,

Lieutenant Governor, Secretary of State,

Treasurer, Attorney General, Comptroller

US House (All)

US Senate (Class 2)

Pennsylvania Special Election

Senate District 28

03/25/2014

Alabama Special Election

House District 53

California Special Primary

Senate District 23

MOINES REGISTER). • **DELAWARE** Gov. Jack Markell (D) has proposed adding an additional \$45 to homeowners' property tax bills to fund the cleanup of the state's polluted waterways (WDEL 1150AM RADIO). • The **NEW HAMPSHIRE** Senate Ways and Means Committee endorsed a bill that would increase the state's 18-cents-per-gallon gas tax, which hasn't been changed in over 20 years, by 4.2-cents. Sen. Jim Rausch (R), chief sponsor of the bill (SB 367), is optimistic it will clear the full House and Senate, now that a provision that would have triggered automatic increases tied to the consumer price index has been removed from the bill (UNION LEADER [MANCHESTER], STATE NET). • The closure of national parks during last year's federal government shutdown reduced the number of visits to the parks by 8 million and cost local communities over \$400 million in economic activity, according to the National Park Service (WASHINGTON TIMES). • The **INDIANA** House voted to exempt Olympic medals and prize money from state income taxes. If approved, the tax break would be retroactively effective Jan. 1, making it available for Nick Goepper, the 19-year-old Indiana resident who won a bronze medal in slopestyle skiing at last month's Winter Olympics (INDIANAPOLIS STAR).

— Compiled by KOREY CLARK

Politics & leadership

TEA PARTY ALIVE AND WELL IN TX PRIMARIES: Texas Republicans took to the polls last Tuesday in the nation's first primaries of the year. And the biggest takeaway from those contests may be that the Tea Party, oft-eulogized after its pivotal role in last year's federal government shutdown, is far from dead.

Four of the five candidates for judicial and legislative offices endorsed by Tea Party favorite U.S. Sen. Ted Cruz (R-Texas) won their races outright, while the fifth garnered enough votes to force a May 27 runoff for an open state Senate seat. Even U.S. Sen. John Cornyn (R-Texas) — the U.S. Senate's second-ranking Republican — suffered under a challenge from a far-right, first-term congressman, U.S. Rep. Steve Stockman (R-Texas).

"At the end of the day, Cornyn got 59 percent of the vote," said Robert Gonzalez, president of the Clear Lake Tea Party in suburban Houston. "It wasn't a huge victory."

That race was particularly interesting because few influential Tea Party groups actually backed Stockman, whose candidacy reportedly seemed more like a publicity stunt than a real campaign, owing to the minimal number of public appearances he made. One Tea Party group described his effort as possibly "the laziest statewide campaign to date."

Some analysts said the race demonstrated the maturation of key national Tea Party groups like FreedomWorks and the Club for Growth, which took into account Stockman's weaknesses and the cost of Texas campaigns and opted to save their resources for more competitive and inexpensive upcoming primaries, such as the one for U.S. Senate Minority Leader Mitch McConnell (R-Kentucky) in May.

"Stockman is Stockman," said Chris Chocola, president of the Club for Growth. "That was not tempting. We like to think we're relatively mature and discerning in our engagement, so there wasn't much in Texas to find appealing."

Nonetheless, the Tea Party's positive showing in last week's GOP primaries is consistent with the results of a Washington Post/ABC News poll conducted in late January, which showed that support for the movement among Republicans has remained relatively steady — at between 60 and 70 percent — since early 2013, and it's actually on the upswing among independents.

The news for establishment Republicans in Texas wasn't all bad, though. In addition to securing Cornyn's win, they also brushed aside a Tea Party-aligned challenge to U.S. Rep. Pete Sessions (R-Texas). And every other U.S. House Republican from the state won their primaries but one, 90-year-old U.S. Rep. Ralph Hall, who will face a runoff in May that evidently has more to do with generational issues than ideological ones. (NEW YORK TIMES, WASHINGTON POST, TEXAS TRIBUNE)

OR GOV STAVES OFF BALLOT BATTLE: Oregon Gov. John Kitzhaber (D) has reportedly defused a political battle bound for the state's November ballot. The state's major public employee unions were planning to back several initiatives aimed at raising taxes on wealthy individuals and larger corporations, while rival groups were planning to back measures curbing union power, including a measure allowing public workers to opt out of paying union dues.

But after months of prodding by the governor, the two sides agreed last week to drop their plans and work with him instead on reforming the state's tax system. In a statement, he called the agreement "an unprecedented moment in Oregon's long history of ballot measure politics."

"Instead of spending millions on ballot measure battles, we have an agreement that provides an opportunity for people to work with one another on solving Oregon's biggest problems," he said. "I appreciate the willingness of the measures' sponsors to take this enormous step forward." (OREGONLIVE.COM)

POLITICS IN BRIEF: A bill has been introduced in **SOUTH CAROLINA** that would allow liquor stores to open on Election Day. According to a local historian, the Election Day-ban on liquor sales dates back to Colonial times when taverns were used

In case you missed it

A growing number of states are moving away from strictly punitive laws aimed at curbing heroin use in favor of measures aimed at first saving lives.

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

http://www.statenet.com/capitol_journal/03-03-2014/html#sncl_spotlight

as polling places and drinks were used to bribe voters (STATE [COLUMBIA]). • The **MISSISSIPPI** House passed four bills last week that would restrict union organizing and protest, and bar local governments from adopting union-friendly regulations (See Hot Issues for a breakdown of the four bills). Opponents say the new laws are unnecessary in one of the least unionized states in the nation, but supporters say the laws are needed to pre-empt the strong-arm tactics employed by organized labor in other states that could hinder economic development (CLARION LEDGER). • Majority Democrats in the **MINNESOTA** Legislature, including Senate Majority Leader Tom Bakk, have proposed several constitutional amendments that would make it more difficult to get constitutional amendments on the ballot. When Republicans controlled the Legislature in 2011 and 2012, they sent two constitutional amendments to voters, one banning gay marriage and the other requiring a photo ID to vote, both of which failed (MINNEAPOLIS STAR TRIBUNE). • The U.S. Government Accountability Office, the investigative arm of Congress, announced last week that it is going to look into problems with state health exchange websites across the country in response to requests from congressional committees and members (NATIONAL PUBLIC RADIO). • Allegations surfaced last week that **WISCONSIN** Assembly Majority Leader Bill Kramer (R) sexually harassed at least two women while in Washington, D.C., for a Republican fundraiser. It was speculated that he might leave his leadership post before the week was out (MILWAUKEE JOURNAL SENTINEL).

— Compiled by **KOREY CLARK**

Governors

BESHEAR ORDERS DEFENSE OF KY GAY MARRIAGE BAN:

Kentucky Gov. Steve Beshear (D) said the Bluegrass State would hire a private sector attorney to defend the state's ban on recognizing same-sex marriages performed in other states. Beshear made the announcement last Tuesday shortly after state Attorney General Jack Conway (D) said he would not appeal a federal judge's ruling that struck down the law.

In a statement, Beshear noted that the legality of same-sex marriage bans is being litigated all over the country, and that decisions made in those cases have all been stayed pending the outcome of final appeals. Beshear said he believes the matter should be — and ultimately will be — decided by the U.S. Supreme Court. Until then, he said, he has no choice but to seek a stay longer than the 20 days allowed by U.S. District Judge John G. Heyburn II because “without a stay in place, the opportunity for legal chaos is real. Other Kentucky courts may reach different and conflicting decisions.”

“Employers, health care providers, governmental agencies and others faced with changing rules need a clear and certain roadmap,” he said. “Also, people may take action based on this decision only to be placed at a disadvantage should a higher court reverse the decision.”

Conway said he could not in good conscience make the appeal Beshear wants because to do so would endorse discrimination. “That I will not do,” he told reporters.

“In the final analysis, I had to make a decision that I could be proud of — for me now, and my daughters’ judgment in the future,” he said. (CHRISTIAN SCIENCE MONITOR, LEXINGTON COURIER-JOURNAL, USA TODAY)

Upcoming stories

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

- **Immigration**
- **Drones**
- **Human trafficking**

NORTHEASTERN GOVS LOBBY FOR MINIMUM WAGE HIKE:

President Barack Obama enlisted the help of four Northeastern governors last week in his ongoing push to raise the federal minimum wage to \$10.10 per hour. The president appeared at a rally on Wednesday flanked by Vermont Gov. Pete Shumlin, Connecticut Gov. Dannel P. Malloy, Massachusetts Gov. Deval Patrick and Rhode Island Gov. Lincoln Chaffee. All are Democrats except for Chaffee, who is an Independent. All four have also lobbied to raise the minimum wage in their own states. President Obama made the proposal during his State of the Union speech in January but has so far met with minimal support from Congress. (NEW YORK TIMES, U.S. NEWS & WORLD REPORT)

GOVERNORS IN BRIEF: Facing the worst drought in state history, **CALIFORNIA** Gov. Jerry Brown (D) signed a package of bills designed to provide \$687 million to help expedite statewide water conservation projects, clean up contaminated groundwater and make irrigation more efficient (LOS ANGELES TIMES). • **NEW MEXICO** Gov. Susana Martinez (R) urged political foes in both parties to step back from heated political rhetoric and for fellow Republicans to show more respect for President Obama. “I do think we do have to respect the position of the presidency,” Martinez said. “Because he is the president of the United States that position deserves the respect as a leader of a free country” (ASSOCIATED PRESS). • **MISSOURI** Gov. Jay Nixon (D) called on President Obama to approve the controversial Keystone XL pipeline project. Nixon sent U.S. Secretary of State John Kerry a letter urging the State Department to approve the Canadian-based oil pipeline “to boost American energy independence and create jobs” (ASSOCIATED PRESS). • **NEW YORK** Gov. Andrew Cuomo (D) reiterated his support for charter schools in the New York City area, telling a rally he would work to ensure charters have the “financial capacity and physical space and government support to thrive and to grow.” Cuomo’s position is in direct contrast to that of NYC Mayor Bill de Blasio, who has moved to block charter schools from using space in traditional public school

— *Compiled by RICH EHISEN*

State Net Capitol Journal®

CRIME & PUNISHMENT: The **OKLAHOMA** House endorses HB 2589, a bill that would add morphine, oxycodone, hydrocodone and benzodiazepine to drugs listed under the Sooner State's current drug trafficking law. Under the measure, carrying large amounts of these drugs could result in fines up to \$500,000 and prison time. It moves to the Senate (INSURANCE JOURNAL). • The **UTAH** Senate approves HB 20, which would bar criminal suspects who initiate high-speed car chases with police from suing officers or police agencies if the chase ends with the suspect being injured in an accident. It is now back in the House for concurrence (SALT LAKE TRIBUNE). • The **WASHINGTON D.C.** City Council votes to decriminalize possession of small amounts of marijuana. Under Bill 20-409, possession of an ounce or less would still be punishable by a fine of \$25 and confiscation of the weed but no longer be subject to arrest. It now moves to Mayor Vincent Gray, who has indicated he will sign it into law (WJLA.COM [ARLINGTON]).

EDUCATION: The **INDIANA** House approves SB 222, which would require high school athletes to stay out of competition for at least 24 hours after a suspected concussion or head injury. The bill, which would also require football coaches to complete courses on player safety, returns to the Senate for concurrence (INDIANAPOLIS STAR, STATE NET). • The **UTAH** Senate endorses SB 39, which would remove requirements for parents who home-school their children to follow state curriculum guidelines and school hour requirements. It moves to the Senate (SALT LAKE TRIBUNE). • The **ARIZONA** Senate rejects SB 1310, which would have barred the Grand Canyon State from adopting Common Core education standards, which seek to make uniform reading and math standards across multiple states (GOVERNING).

ENVIRONMENT: The U.S. House of Representatives endorses HR 3370, legislation that would provide retroactive refunds for people who have had large flood insurance rate increases due to the sale or purchase of a home, cap average annual premium increases at 15 to 18 percent and allow subsidies for insurance rates that are based on current flood maps. The bill is a direct response to the federal Biggert-waters Insurance Reform Act of 2012, which sought to scale down federal flood insurance subsidies for people and businesses located in flood-prone areas (See "Congress struggles to find balance in flood insurance reform" in the Nov. 18, 2013 issue of *SN CJ*). The measure must now be reconciled with a much different version passed in the U.S. Senate (SB 1926) in January (STATE NET, INSURANCE JOURNAL).

The week in session

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

States in Special Session: WI "c"

States currently prefilng for 2015 Session: MT

States adjourned in 2014: DE "b", WI "b"

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO
(session information current as of 3/6/2014)
Source: State Net database

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HEALTH & SCIENCE: The **ARKANSAS** Senate approves a bill that authorizes the Razorback State to use federal Medicaid funds to pay for thousands of low-income residents who are newly-eligible for the federal-state program to obtain health coverage through the state health benefits exchange. It moves to Gov. Mike Beebe (D) for review (NATIONAL JOURNAL). • **NEW MEXICO** Gov. Susana Martinez (R) signs HB 9, a bill that requires newborns to be tested for congenital heart disease (ALBUQUERQUE JOURNAL). • The Obama administration announces it will allow people with individual health care policies that don't meet the minimum requirements of the Affordable Care Act to keep those policies for two more years. Those policies originally were supposed to be cut off in January (TIME). • The **UTAH** Senate approves SB 196, which would bar medical waste incinerators from being located within two miles of residential areas. It moves to the House (SALT LAKE TRIBUNE).

SOCIAL POLICY: The **MARYLAND** Senate approves SB 212, which would add transgender people to the list of those who may not be discriminated against in employment, housing and public accommodations. It moves to the House (CAPITAL GAZETTE [ANNAPOLIS]). The **ALABAMA** House approves four abortion-related measures: HB 490, which would ban abortion when a fetal heartbeat is detected; HB 489, which would extend the waiting period for a woman to obtain an abortion from the current 24 hours to 48 hours; HB 493, which would require that a woman seeking abortion because of a lethal anomaly be counseled on hospice options for the child if it were carried to term; and HB 494, which would require a minor seeking to obtain an abortion without parental permission to first prove her maturity in court, prove the reason she can't tell her parents about the abortion and provide evidence that it's in her best interest to get the abortion. All four move to the Senate (STATE NET, MONTGOMERY ADVERTISER).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

MAYBE SHE SHOULD RUN FOR PRESIDENT: Andy Warhol said someday everyone will be famous for 15 minutes. If so, Orly Taiz is on overtime. As the *Sacramento Bee* reports, Taiz recently filed papers to run for California attorney general. Although Taiz is a lawyer by trade, she is best known as the mouthpiece of the so-called “birther” movement — those relentless folks who

insist that, all evidence to contrary aside, President Barack Obama was not born in the United States and thus is not eligible to hold his office. Her platform includes a vow to “prosecute state officials who ignored all evidence brought by law enforcement and experts showing Obama to possess citizenship of Indonesia.” It gets goofier but you see the point. Taiz, who has previously lost bids for the U.S. Senate and state controller, did not list a political party. We’re pretty sure it is the one where members wear a tin foil hat.

OOPS A THOUSAND TIMES OOPS: As mistakes go, this was a big one. When a federal judge recently ruled that a Texas law barring same-sex marriage was unconstitutional, state Sen. Dan Patrick was incensed. All lathered up, he fired off a quick tweet that decried “activist judges” and asserted that marriage was strictly the union of “ONE MAN &” ...wait for it... “ONE MAN.” What the what? No, the ultra-conservative Patrick had not suddenly had a change of heart on basic human rights — he’s still against them — but in his rush to vilify the courts he made a simple error. Alas, no error tweeted out to the whole world just goes away. As the *Los Angeles Times* reports, within minutes hundreds of folks had retweeted his message, prompting him to send another one saying “Oops. We have a new job opening on our campaign: social media intern” with the hashtag #twittertypo. Oops, indeed.

OOPS, PART II: Patrick isn’t the only one with twitchy Twitter fingers. One scribe at a recent Sacramento Press Club luncheon asked event speaker and California gubernatorial candidate Neel Kashkari his thoughts on social issues. Kashkari replied that he considered himself to be “a libertarian, socially.” Said scribe rushed out a tweet to that effect. Or thought he did. Said tweet actually had Kashkari saying he was “a libertarian socialist.” Someone quickly brought it to the scribe’s attention, after which he carefully issued a correction. Candidate Kashkari himself replied, graciously noting it was “an honest mistake.” The reporter — who you might have figured out was yours truly — greatly appreciated Kashkari’s understanding. Note to self: bring reading glasses to future press conferences.

NO GOVERNOR GANJA IS HE: California Gov. Jerry Brown said last week he is opposed to the Golden State morphing into the “Greenbud State.” Speaking on the NBC news show “Meet the Press,” Legalizing pot the way Colorado and Washington have, he said, begs the question, “how many people can get stoned and still have a great state or a great nation?” As the *Sacramento Bee* reports, that earned Brown a sendup from the Taiwanese Animators, a satirical YouTube channel that specializes in poking fun at newsmakers. In the animated video, Brown is called a “fuddy duddy” and shown as a doddering old man who gets around with the help of a walker while a pair of bong-hitting potheads laugh at him. A Brown spokesperson called the video “More entertaining than [GOP gubernatorial candidate]

Neel [Kashkari] spouting empty platitudes in the big chair, but still not nearly as fun as [fellow candidate and Assemblyman Tim] Donnelly's videos." **PLAINLY SPEAKING:** Anyone who has ever read a government document knows they often resemble something written in a language from another universe. But as TV station KARE in Minneapolis reports, Minnesota Gov. Mark Dayton is trying to do something about it. He issued an executive order last week directing all executive branch agencies to use plain language in their communications, defined as something an audience can understand the first time they read or hear it. He didn't stop there either. As KMSP in St. Paul reports, he also issued lawmakers a list of outdated or silly laws he would like them to overturn. Among them — a 1937 law that makes it illegal to drive a car in neutral. Unless I've been really confused these last 34-plus years behind the wheel, you really can't drive a car that's in neutral.

— *By RICH EHISEN*



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