

October 7, 2013

To Drill or Not to Drill?



Photo Credit: Rich Ehsen

Budget & taxes

NV, NJ & DE vying for Internet gambling pot

5

Politics & leadership

Federal shutdown sign of the times for states?

6

Governors

Brown signs several pro-Obamacare measures

11

Bird's eye view

2

Hot issues

13

Once around the statehouse lightly

15

The next issue of Capitol Journal will be available on October 14th.

Top Story

California Gov. Jerry Brown and Illinois Gov. Pat Quinn have endorsed fracking, placing significant pressure on another Democratic governor, New York's Gov. Andrew Cuomo, to follow suit.

SNCJ Spotlight

Cuomo in no rush to join other Dems in endorsing fracking

Arkansas has embraced it. So has Illinois. West Virginia and Colorado have too. Maryland is strongly considering it. And now California has become the latest state led by a Democratic governor to sign off on the controversial oil and natural gas drilling practice known as hydraulic fracturing, or fracking. With that, all eyes are again focused on New York Gov. Andrew Cuomo (D), who is under



By Rich Ehsen

intense pressure from both drilling opponents and supporters to act on his state's five-year-old fracking moratorium.

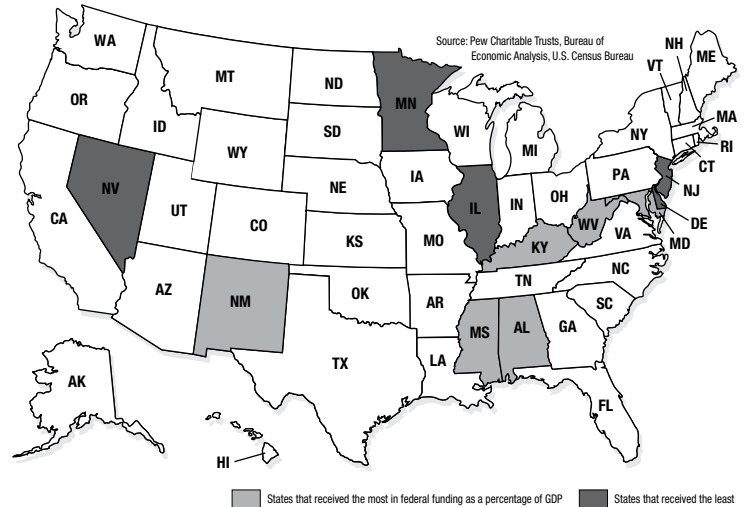
Fracking involves injecting a mix of water, sand and chemicals thousands of feet deep into the ground to break up shale formations that trap natural gas and oil deposits. While very effective at getting to those deposits — and potentially creating billions of dollars in new tax revenues and millions of jobs — opponents contend the process comes with an environmental and social price tag even those haughty figures can't cover. This includes possible contamination of irreplaceable underground wells and aquifers that supply millions of people with drinking water. Above-ground rivers and streams might also be at risk. Fracking also uses excessive amounts of water on the front end and creates copious waste water on the back end. The U.S.

Environmental Protection Agency, for instance, says the nation's 35,000-plus oil and natural gas fracking wells use as much as 140 billion gallons of water each year. That's about the same as the cities of Chicago and Houston combined.

Although environmental groups like the Sierra Club and others normally in the Democratic fold opposed California's fracking bill (SB 4), Gov. Jerry Brown (D) signed it into law on Sept. 20. Brown said the bill created "strong environmental protections and transparency requirements" for drillers using the fracking process. Under the law, drillers must now obtain permits for new wells, provide neighbors with at least 30 days notice of their intent to use the fracking process, regularly test groundwater supplies in the area and conduct studies of fracking's impact on the environment.

Those requirements constitute what supporters of the measure like Catherine Reheis-Boyd, president of the Western States Petroleum Association, called "the toughest regulations of hydraulic fracturing and other energy production technologies in the country." In a statement, Reheis-Boyd said that while SB 4 went "significantly

Bird's eye view



Some states more vulnerable to federal cuts than others

New Mexico received the equivalent of 35.8 percent of its gross domestic product in federal funding in 2010, more than any other state, according to a recent report from The Pew Charitable Trusts. Delaware received the least, amounting to 12.3 percent of its GDP. But the type of federal funding varied from state to state. For example, Mississippi and Maryland both received the equivalent of 32.3 percent of their respective GDPs in federal funding overall. However, federal grants comprised 8.2 percent of Mississippi's GDP but only 4.9 percent of Maryland's, while federal procurement comprised 8.9 percent of Maryland's GDP but only 2.7 percent of Mississippi's, meaning Mississippi would likely be impacted more by the former type of cuts, while Maryland would be impacted more by the latter.



farther” than the industry had hoped it would, it gave the state “an environmental platform on which California can look toward the opportunity to responsibly develop the enormous potential energy resource contained in the Monterey Shale formation.”

How enormous? According to a study conducted by the University of Southern California earlier this year, fully exploiting California’s massive shale formation could produce as much as \$25 billion in tax revenue and create up to 2.8 million jobs by 2020. Even so, SB 4 was only one of several bills introduced in California this session that would have either greatly restricted or banned fracking altogether. None of the others made it to Brown’s desk. Only one state, Vermont, has banned fracking. That

ban is symbolic as the Green Mountain State sits on no major deposits of natural gas or oil.

California’s new regulations are very similar to those signed into law by Illinois Gov. Pat Quinn (D) in June. In addition to enacting a permitting process and requiring water testing, SB 1715 also made the Prairie State the first to require drillers to disclose the chemicals they use throughout the fracking process. Many states

have previously required some disclosure on either end, but not from start to finish.

In all, more than 30 states now have some kind of fracking operations in place. But with so much on the line, bills continue to pour forth. According to State Net, 26 states introduced 176 bills this year. An astounding 49 of those came in New York, where all but one remain pending. Another 16 came in Pennsylvania, with 15 still alive. Pennsylvania Gov. Tom Corbett (R) signed the 16th, SB 259, a measure that allows drillers to use fracking “to pool and jointly develop contiguous leased acreage” even if the companies do not have specific permission to do so from landowners, in July.

Whether New York will join California and Illinois in allowing fracking with enhanced regulation or continue the moratorium it started under then-Gov. David Paterson (D) in 2008 has been one of the most closely watched issues of the year. To date, Gov. Cuomo has offered precious little hint of what he might do, and he has repeatedly avoided making a decision in favor of doing more study about fracking’s pros and cons. He insists his decision, whenever he makes it, will be driven by “facts and science” and not the highly charged emotions that surround the issue.

Polls in New York have generally split fairly evenly, although a new Siena College survey released last week showed opponents with a growing edge. According to that study, 45 percent of residents now oppose fracking, with 37 percent in favor. The gap is larger upstate, where fracking would take place, with 52 percent against it and only 34 percent in favor. That marks a major shift just since August, when the variation was only 1 percent (42 in opposition to 41 percent opposed).

That slim differential has been the norm, according to Siena pollster Steve Greenberg, who told the *Binghamton Press and Sun-Bulletin* the college has been surveying attitudes on fracking for two years.

“Fully exploiting California’s massive shale formation could produce as much as \$25 billion in tax revenue and create up to 2.8 million jobs by 2020.”

“What we have seen this month is the largest opposition to fracking we have seen so far,” he said.

Seth Gladstone, a spokesperson for the group Food and Water Watch, which opposes fracking, says that change is due to a “swelling grassroots movement” that is dedicated to making sure “not a single well” is drilled in New York.

“We’ve done an outstanding job of educating and mobilizing folks from throughout the state on a very simple message: that no amount of regulation will make this process safe,” he said in an interview with *SNCJ*. “This is an inherently dangerous and polluting process that cannot be regulated safely.”

“This is an inherently dangerous and polluting process that cannot be regulated safely.”

The divisive nature of the issue is particularly sensitive for Cuomo, whom many observers expect to run for president in 2016. Endorsing new drilling and fracking would clearly bolster his bona fides

with those who point to the process’s economic potential; one new report from the Manhattan Institute for Policy Research says lifting the moratorium in the 28 counties where new fracking would occur would expand the incomes of residents in those communities by as much as 15 percent. But doing so would also undoubtedly push away fracking opponents. The issue is so touchy that in August Cuomo avoided appearing with President Obama, who supports greater use of fracking, during the president’s tour of upstate New York to promote his education policies.

Maryland Gov. Martin O’Malley (D) may soon encounter the same problem. Like New York, Maryland has been studying fracking for years. But while Cuomo’s intentions remain anyone’s guess, O’Malley appears close to endorsing increased fracking in the Old Line State. His administration recently began using parts of an as-yet unfinished “best management practices” report from the state’s Fracking Safety Commission to begin drafting fracking regulations, a move that has drawn waves of protest from a coalition of anti-fracking groups. That could prove dicey for his future, as O’Malley is also thought to be weighing a campaign to seek the 2016 Democratic presidential nomination. The issue is already becoming a point of contention between candidates seeking to succeed him in Annapolis, with Republican candidates in favor of allowing the process and Democrats opposed.

Cuomo, meanwhile, continues to play his cards close to the vest. But Gladstone says anything less than a total rejection of fracking is likely to be met with serious protests.

“If he proceeds with even a single well, I think it would be a tough road for him to travel anywhere in this state given the level of constant protest and negative energy that would surround him every step of the way,” he says. “That could be pretty hard on a man with higher political aspirations.”

— By *RICH EHISEN*

Budget & taxes

NV, NJ & DE VYING FOR INTERNET GAMBLING POT: Nevada, New Jersey and Delaware are jockeying for dominance over the next frontier in gambling: online gaming. Nevada became the first state to legalize online poker earlier this year. But later this fall, New Jersey will offer a whole menu of online table games along with slots at its 12 Atlantic City casinos. And Delaware's three casinos will offer cash jackpots for online slots, poker, blackjack and roulette by the end of this month. In addition all three states will allow anyone within their borders to gamble online with their own computers at state-approved websites.

The potential payoff for the states is sizeable, with Americans having spent \$2.6 billion on illegal offshore gambling websites in 2012, according to gambling research firm H2 Gambling Capital. New Jersey estimated it would bring in as much as \$180 million in tax revenue in its first year of legalized online gambling, although some estimates place that figure as low as \$35 million. Estimates for Nevada have ranged from nearly \$3 million per year in tax revenue if online poker is kept within the state's borders to more than \$50 million if it expands to other states. And Delaware estimated it would collect as much as \$3.75 million in its first year of online gaming.

But despite the U.S. Justice Department having reversed its ban on Internet gambling in December 2011, no other states have opted to legalize online gaming, although several, including California, Illinois, Iowa, Massachusetts and Texas, considered online gambling proposals this year (STATELINE.ORG)

STATES CUTTING BACK ON FOOD STAMPS: Last month the GOP-controlled U.S. House voted 217-210 to slash \$39 billion from the Supplemental Nutrition Assistance Program over 10 years. Among the changes the chamber approved was the termination of waivers granted to states as part of the 1996 welfare reforms to give them greater flexibility in times of high unemployment, which allowed as many as 4 million more people to qualify for food stamps during the recession. The fate of that legislation is uncertain, with the U.S. Senate having approved much smaller reductions, and the White House threatening to veto any large cuts to the program.

But seven states, Delaware, Kansas, New Hampshire, Oklahoma, Utah, Vermont and Wyoming — not all of which are governed by Republican majorities — have already made similar cuts or soon will. And Wisconsin will join them as soon as its waiver expires in July 2014.

The changes will impact hundreds of thousands of Americans. But since before the recession, the cost of the food stamp program has more than doubled, exceeding \$82



billion in fiscal year 2013. And 15 percent of Americans are now enrolled, with the rate topping 20 percent in many states. (STATELINE.ORG, STATE NET)

BUDGETS IN BRIEF: A new study from the nonprofit advocacy group State Budget Solutions revealed that **NEW JERSEY's** pension plan is \$172 billion short of what it needs to pay what the state has promised in retirement benefits to public workers. The study suggested one possible solution would be to require all future public hires to enter into a contribution plan like a 401k (NEW JERSEY NEWSROOM). • **NEW YORK** Comptroller Tom DiNapoli added Nassau, Suffolk and Rockland counties to the state's existing list of two dozen municipalities under fiscal stress. DiNapoli developed the stress test earlier this year, with many municipalities, particularly those upstate, having been squeezed by declines in population and employment, high legacy costs and a spike in mandated pension contributions (TIMES UNION [ALBANY]). • The **ARIZONA** Supreme Court ruled last month that legislators did not violate the law in seizing \$50 million from the state's share of the nationwide mortgage fraud settlement to balance the state budget. The justices upheld lower-court rulings stating that nothing in that agreement required the state to spend its settlement money exclusively on services that benefit homeowners (ARIZONA DAILY STAR [TUCSON]).

— *Compiled by KOREY CLARK*

Upcoming stories

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

- **Immigration**
- **Year end reviews**
- **Health reform**

Politics & leadership

FEDERAL SHUTDOWN SIGN OF THE TIMES FOR STATES? Two years ago Congress pulled back from the brink of a federal government shutdown with an 11th hour budget deal. But last week there was no late reprieve to prevent the federal government from shutting its doors for the first time in 17 years. State governments, which rely heavily on federal funding, may suffer considerably if the shutdown is prolonged. But even if it is only short-lived, it's likely to have a more lasting impact on the states.

The federal shutdown of non-essential services came at midnight on Oct. 1 after the Democrat-controlled U.S. Senate rejected repeated efforts by the Republican-led House to derail the Affordable Care Act by attaching provisions undermining the federal health care law to legislation that was needed to keep the federal government running.

The White House and Congressional Democrats accused the Republicans of trying to use the threat of a government shutdown to force negotiations on the ACA, noting the law has been upheld by the U.S. Supreme Court and endorsed by voters last year via the re-election of President Obama over GOP candidate Mitt Romney, who campaigned on repealing the law. But House Republicans said Senate Democrats could have kept the government running if they'd simply agreed to delay implementation of Obamacare, which was the last deal they pitched the upper chamber.

State budget experts said a brief shutdown wouldn't be too tough on states.

“A couple of days is a pain in the neck...but doable; nobody likes it, but it happens,” said Scott Pattison, executive director of the National Association of State Budget Officers.

But Pattison said states faced greater challenges if the shutdown was prolonged.

“The longer a shutdown goes, the longer the impact it starts to have,” he said.

“Even if there’s a ‘shutdown,’ it’s not like the vault doors get closed, and no money comes out of the doors. It doesn’t work that way.”

Still, Marcia Howard, executive director of Federal Funds Information for States (FFIS), which tracks the impact of federal budgets and spending on states, said there were workarounds for disbursing money to states even during a shutdown.

“I have never seen a statute that Congress and the administration haven’t figured out a way to get around,” she said. “Even if there’s a ‘shutdown,’ it’s not like the vault doors get closed, and no money comes out of the doors. It doesn’t work that way.”

The main factor determining whether a particular program will be impacted by the shutdown is whether it is considered mandatory or discretionary. Funding for mandatory programs like Medicaid and Social Security will not be affected. Neither will programs that have already received their funding, including Title I education grants and special education grants, according to an FFIS report. Even the rollout of the ACA will be able to continue, NASBO said, because the federal government still has funds available from past appropriations to continue that process.

But some major programs, including those utilized by the most needy Americans, such as the Low Income Home Energy Assistance Program; the Special Supplemental Nutrition Program for Women, Infants and Children; Head Start; and Unemployment Insurance would be at risk.

“All discretionary programs [anything not mandatory] could definitely be affected,” said Melissa Loeb, a senior policy analyst at FFIS. “There won’t be new funding provided [during a shutdown].”

Much less certain is whether states will be reimbursed if they continue running discretionary programs that aren't "forward funded" using their own money, a difficult decision for states just beginning to recover from the recession.

“We feel Michigan’s got a budget that’s in balance now,” said Kurt Weiss, a spokesman for the Michigan Department of Technology, Management and Budget. “Getting into the practice of replacing lost federal funds with state money...it’s not what we want to get into.”

NASBO’s Pattison said state budget officials were also concerned about the broader effects the federal shutdown could have on the already weak national economic recovery. States that are heavily dependent on federal contracting and federal employees would be especially vulnerable (see *Bird’s eye view*). Budget officials in Maryland estimated a shutdown could cost the state \$5 million in revenue a day, partly due to the loss of sales tax revenue from tens of thousands of federal employees who work in the state no longer being paid.

Local governments, meanwhile, are frustrated that they’re having to spend their recession-depleted resources on addressing the issue.

“It creates unnecessary delays for our folks and wastes a lot of time with planning,” said Deborah Cox, director of legislative affairs for the National Association of Counties.

The current state of Congress virtually assures this won’t be the last time state and local governments have to address the issue, whether the current shutdown lasts a week or considerably longer. Another potential crisis point could come as soon as Oct. 17, when the federal government’s borrowing authority expires, which many economists believe is an even bigger threat to the U.S. economy than the government shutdown. If an agreement on the \$16.7 trillion federal debt ceiling isn’t reached by that deadline, all federal spending — including non-discretionary spending — would become eligible for cutting. And in addition to public finance issuers likely facing higher borrowing costs and “challenging” market access, according to Moody’s Investor Services, Uncle Sam defaulting on its debt could send international financial markets reeling.

In spite of that, NBC White House correspondent Chuck Todd tweeted last Tuesday morning, “Feels like if there isn’t a resolution today, then we’re probably looking at a shutdown thru the week, possibly merging w/debt ceiling 10/17.”

Veteran federal budget expert Stan Collender of Qorvis Communications, likewise, posted on his “Capital Gains and Games” blog the day before, “I’m projecting that the shutdown will last at least a week because it will take that long for the impact of the shutdown to start to be felt and, therefore, to make ending it more politically acceptable.”

That prediction rests on the premise that House Speaker John Boehner’s (R-Ohio) intention was to demonstrate to tea party conservatives that he was willing to stand with them on the fight over Obamacare even to the point of a government shutdown, which is longer than many pundits had predicted he would.

In fact, shortly after the shutdown began some House Republicans said it was time for Boehner to fold.

“We fought the good fight. Time for a clean CR,” tweeted U.S. Rep. Scott Rigell (R-Virginia), referring to a funding bill with no riders attached that would alter the Affordable Care Act.

The last federal government shutdowns, which began in 1995 and drug into 1996, totaled 28 days. But back then state and local officials had little understanding of what a shutdown meant and didn’t believe Congress would actually let that happen. Marcia Hale, who led the White House office that served as liaison to state and local governments at the time, said, “we were in uncharted territory.” Those shutdowns, the threat of another in 2011, and other recent Congressional action and inaction, however, have, at the very least, made state and local governments a little more prepared for the current crisis and those looming in the future. (GOVERNING, STATELINE.ORG, NATIONAL ASSOCIATION OF STATE BUDGET OFFICERS, CNN.COM, WASHINGTON POST, NATIONAL GOVERNORS ASSOCIATION, CHRISTIAN SCIENCE MONITOR, WALL STREET JOURNAL)

NUMBER OF SPECIAL DISTRICTS ROSE DURING RECESSION: Over the last five years, the total number of U.S. government bodies increased slightly, from 89,476 to 90,056, according to the U.S. Census of Governments, a quinquennial count of every unit of government in the nation. The increase was due largely to an uptick in the number of special districts that serve a specific function, such as trash collection; the number of school districts, counties and towns all declined between 2007 and 2012.

The reason for the rise of special districts is simple: debt and tax limits aren’t as stringent for them as they are for local governments. So in times of fiscal stress, they offer local governments a way to unburden themselves of obligations and services they can’t afford.

“Back in the day, cities wanted to retain every single one of their services,” said Hasina Squires, government affairs director for the Special Districts Association of Oregon. “Now, we hear from cities wanting to shed most of their services: libraries, parks, fire protection.” (STATELINE.ORG)

Upcoming elections

(10/4/2013 - 10/25/2013)

10/08/2013

Alabama Special Primary

House Districts 74 and 104

Arkansas Special Primary

Senate District 21

Massachusetts Special Primary

Senate 2nd Hampden and Hampshire

Tennessee Special Primary

House District 91

10/15/2013

Florida Special Election

House District 36

Massachusetts Special Primary

US House (Congressional District 5)

10/16/2013

New Jersey Special Election

US Senate (Class 2)

10/19/2013

Louisiana Special Election

US House (Congressional District 5)

Iowa Special Election

House District 33

10/22/2013

Wisconsin Primary

Assembly Districts 21 and 69

JUSTICE DEPARTMENT SUES TO BLOCK NC VOTER ID LAW: The U.S. Department of Justice filed a lawsuit last month to block North Carolina's new voter ID law, which some critics have called the most sweeping of its kind.

The law was signed by Gov. Pat McCrory (R) in August, just two months after the U.S. Supreme Court struck down a key section of the Voting Rights Act requiring a handful of mostly Southern states to obtain federal preapproval before making any changes to their voting laws. Although the entire state of North Carolina wasn't subject to that provision, several of its counties were.

The state's new law, which is scheduled to take effect before the 2016 elections, requires voters to show a valid, government-issued ID before casting a ballot, in addition to eliminating early voting and same-day registration during early voting and prohibiting the counting of provisional ballots cast by voters at the wrong polling place.

The federal government alleges the state was "willfully discriminatory" when it passed the law, a charge that was based on a recent analysis indicating that a large percentage of the state's registered voters without government-issued IDs, as well as early voters, voters who cast out-of-precinct ballots, and voters who use same-day registration are African-American. (CHARLOTTE OBSERVER)

POLITICS IN BRIEF: A Cook County judge ruled last month that **ILLINOIS** Gov. Pat Quinn (D) violated the state's Constitution when he froze lawmakers pay to try to force passage of stalled pension-reform legislation. Judge Neil H. Cohen said the Constitution stipulates that lawmakers' salaries cannot be changed during the term in which they were elected and he ordered Comptroller Judy Baar Topinka to pay lawmakers immediately with interest. Quinn appealed that ruling last Wednesday to the state Supreme Court (CHICAGO SUN-TIMES, STATE NET). • **IOWA** Sen. Kent Sorenson (R) resigned from office last week. The lawmaker stepped down just hours after an independent investigator delivered a report to the Senate Ethics Committee alleging that he violated ethics rules by accepting payments from a PAC associated with 2012 presidential candidate U.S. Rep. Michele Bachmann (R-Minnesota) (DES MOINES REGISTER). • **OREGON** Gov. John Kitzhaber (D) has called a special legislative session for Monday (Sept. 7) to deal with the Public Employees Retirement System and taxes (STATESMAN JOURNAL [SALEM], STATE NET).

— Compiled by KOREY CLARK

The week in session

States in Regular Session: DC, MA, MI, OH, PR, SC, US, WI

States in Special Session: DE "b"

States in Recess: IL, NJ, NY, PA

States Adjourned in 2013: AK, AL, AR, AZ, AZ "a", CA, CA "a", CO, CT, DC, DE, DE "a", FL, GA, HI, IA, ID, IL "a", IN, KS, KY, KY "a", LA, MD, ME, ME "a", MN, MO, MS, MS "a", MS "b", MT, NC, ND, NE, NH, NJ "a", NM, NV, NV "a", OK, OK "a", OR, OR "a", RI, SD, TN, TX, TX "a", TX "b", TX "c", UT, UT "a", UT "b", VA, VA "a", VA "b", VT, WA, WA "a", WA "b", WV, WV "a", WV "b", WY

States currently prefilming for 2014 Session: AL, FL, NH, KY, KS, TN, WY

States currently prefilming for 2015 Session: MT

Letters indicate special/extraordinary sessions

— Compiled By FELICA CARILLO
(session information current as of 10/3/2013)
Source: State Net database

Governors

BROWN SIGNS SEVERAL PRO-OBAMACARE MEASURES: The rollout of health benefits exchanges was pretty bumpy across the nation last Tuesday, but that didn't stop California Gov. Jerry Brown (D) from throwing his full support behind the Affordable Care Act. Brown signed 10 health care-related bills on Oct. 1, the same day the Golden State's exchange, Covered California, began enrolling consumers. The measures include: AB 362, which extends health care tax breaks to same-sex couples; AB 422, which requires school districts that offer discounted meals to poor students through the National School Lunch Program to notify parents about expanded healthcare options; AB 1180 which requires insurers to notify policyholders about the availability of guaranteed issue coverage through Covered California; SB 800, which requires state health officials to provide the exchange with information on children from families receiving MediCal (Medicaid) or other welfare benefits so the exchange can conduct outreach to those individuals; SB 353, which requires health plans and insurers to translate coverage documents in the same language they use to market or advertise

“While extreme radicals in Washington shut down our government, here in California we’re taking action to extend decent healthcare to millions of families.”

to an individual or small employer; and SB 332, which codifies that insurance contracts obtained through the exchange are subject to state open-records laws.

Brown also used the signings to take a jab at the dysfunction on display in Washington D.C. of late.

“While extreme radicals in Washington shut down our government, here in California we’re taking action to extend decent healthcare to millions of families,” he said in a statement. (LOS ANGELES TIMES, CALIFORNIA GOVERNOR’S OFFICE, STATE NET)

WALKER PONDERING SELF INSURANCE FOR WI STATE EMPLOYEES: Wisconsin Gov. Scott Walker (R) met with health plan executives last week to discuss the possibility of moving state employees from their current HMO-style plans to a state self-insured plan. At least 20 states currently have such plans, but Walker said more time was needed to assess whether self insurance was a good fit for the Badger State.

“We have not proposed a plan,” Walker said after the meeting. “We may find after all that we’re going to stay with the status quo. We may find that we’re going to change. We may find some sort of a hybrid. But there have been no conclusions made in that regard.”

Wisconsin currently contracts with 18 HMOs to cover its 236,000 employees and family members. Moving to self-insured would require the state to carry the risk for losses and pay benefits directly to employees rather than to continue buying health insurance through the private market, though most self-insured employers still typically hire insurance companies to process claims and contract with providers.

A report issued in 2012 by Deloitte said the state could save \$20 million by switching, though it would spend up to \$100 million in the crossover process. Ultimately, Deloitte said, the state could shave 4 to 5 percent a year off their annual health care coverage costs. Those savings would come mainly from taxes and fees imposed for fully-insured programs under the Affordable Care Act. But Walker said much more information is needed before the final decision can be made, including what impact it would have on residents who do not work for the state.

“When we make this decision, we’re going to want as much information as possible and not just to get out from having to pay some of the taxes and fees under the Affordable Care Act,” he said.

The possible change drew sharp criticism from Marty Beil, executive director of the Wisconsin State Employee Union, who called it “a bizarre flip flop” from Walker, a vocal opponent of federal health reform who has so far rejected federal funding for expanding Medicaid.

“Now he wants to make state employees dependent on government-run health care system,” Beil said in a statement. “He wants to blow up a system that has consistently used market forces to contain costs and replace it with a government-run system.” (LACROSSE TRIBUNE, WISCONSIN STATE JOURNAL [MADISON])

GOVERNORS IN BRIEF: A federal three-judge panel granted **CALIFORNIA** Gov. Jerry Brown (D) a four-week extension on their deadline to reduce the Golden State prison population to 137.5 percent of capacity. The panel moved the deadline from Dec. 31, 2013 to Jan. 27, 2014 and also ordered Brown to attempt negotiating a deal with lawyers representing inmates who say system overcrowding has created unconstitutionally poor health care for their clients. The justices said they would consider the state’s request for a three-year extension (See “Brown, lawmakers reach prison compromise” in the Sept. 16 SN CJ) if both sides agree to it (STATE

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 2013 Prefiles last week: 0

Number of 2014 Prefiles last week: 548

Number of Intros last week: 492

Number of Enacted/Adopted last week: 344

Number of 2013 Prefiles to date: 27,041

Number of 2014 Prefiles to date: 940

Number of 2015 Prefiles to date: 21

Number of 2013 Intros to date: 130,253

Number of 2013 Session Enacted/Adopted overall to date: 38,035

Number of bills currently in State Net Database: 148,521

— Compiled By FELICIA CARILLO
(measures current as of 10/3/2013)
Source: State Net database

NET, SAN FRANCISCO CHRONICLE). • **HAWAII** Gov. Neil Abercrombie (D) announced the Aloha State will introduce voluntary standards and guidelines for seed companies using genetically modified organism (GMO) products. The announcement came as the Kauai County Council considers Bill 2491, which would require extensive studies to determine whether GMO crops and related pesticides are harmful to human health and the environment. That bill would require biotech companies to disclose what pesticides they are spraying, where they are doing so and in what quantities. They would also have to set up buffer zones between biotech fields and public spaces, including schools, hospitals, roads and waterways (HUFFINGTON POST). • **PENNSYLVANIA** Gov. Tom Corbett (R) asked a federal court to dismiss a lawsuit that seeks to overturn the Keystone State's 1996 law banning same-sex marriage. The suit was filed in July by the American Civil Liberties Union on behalf of 23 plaintiffs, including 10 couples. State Attorney General Kathleen Kane (D) has said she will not defend the state law, which she says is unconstitutional (PITTSBURGH TRIBUNE-REVIEW).

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: The **MICHIGAN** House approves HB 4952, legislation that would bar workers from receiving unemployment benefits if they refuse to take or fail a drug test. It moves to the Senate (STATE NET, DETROIT FREE PRESS). • Also in **MICHIGAN**, the Senate approves SB 311, which would increase fines against retailers who sell tobacco products to minors. Under the bill, the current fine for a first offense would double from \$50 to \$100, with fines for subsequent offenses reaching \$500. It moves to the House (MLIVE.COM). • **CALIFORNIA** Gov. Jerry Brown (D) signs AB 329, legislation that bars the use of so-called ticket-buying software, or “bots,” that can purchase hundreds of the best seats to concerts and sporting events within seconds of their going on sale online, which scalpers can then sell at highly inflated prices (CALIFORNIA GOVERNOR’S OFFICE). • Still in **CALIFORNIA**, Gov. Brown signs AB 10, which will raise the Golden State minimum wage to \$10 per hour by 2016 (STATE NET). • In **CALIFORNIA**, Gov. Brown signs AB 241, a bill that ensures domestic workers such as in-home care providers are paid overtime for working more than nine hours a day or over 45 hours in a week (STATE NET). • Gov. Brown also signs **CALIFORNIA** AB 933, which allows distilleries to offer paid tastings on their premises (STATE NET). • Gov. Brown signs SB 566, which makes **CALIFORNIA** the 10th to allow farmers to grow industrial hemp — a non-psychoactive relative

of marijuana — if and when the federal government lifts a ban on hemp cultivation (STATE NET). • Still in **CALIFORNIA**, Gov. Brown signs SB 370, which requires operators of commercial websites that collect “personally identifiable information” to disclose how it responds to “do not track” signals or other mechanisms that provide consumers the ability to exercise choice regarding the collection of personally identifiable information about an individual consumer’s online activities (STATE NET, LEXOLOGY.COM). • Gov. Brown signs **CALIFORNIA** AB 1220, which prohibits credit reporting agencies from discouraging banks, lenders and retailers from supplying their customers with copies of the credit reports given to the businesses in cases when they take adverse action against the consumer. It takes affect Jan. 1 (STATE NET, LOS ANGELES TIMES). • Gov. Brown vetoes AB 374, which would have required a **CALIFORNIA** business owner seeking goodwill compensation damages in an eminent domain case to provide sufficient evidence to permit a jury to find that goodwill existed prior to the taking of property. Brown said the law would have removed the ability of judges to determine those facts before a case goes to a jury trial (STATE NET, CALIFORNIA GOVERNOR’S OFFICE).

CRIME & PUNISHMENT: CALIFORNIA Gov. Jerry Brown (D) signs SB 606, the so-called “paparazzi bill,” which makes it a misdemeanor to attempt to photograph or videotape a child in a harassing manner if the image is being taken because the child’s parent is a celebrity or public official (LOS ANGELES TIMES, STATE NET). • Still in **CALIFORNIA**, Gov. Brown signs SB 255, a bill that criminalizes so-called “revenge porn” — maliciously posting nude or sexual images of someone online. Violators face up to six months in jail and/or fines up to \$1,000 (STATE NET, SACRAMENTO BEE).

EDUCATION: The U.S. Dept. Of Education approves **TEXAS’** request for an exemption to No Child Left Behind waiver rules that would have required 100 percent of students to pass state reading and math tests by 2014. The Lone Star State is the 42nd to receive a federal waiver to the 2001 law (SAN ANTONIO EXPRESS-NEWS). • **CALIFORNIA** Gov. Jerry Brown (D) signs AB 588, which expands to charter and private schools a current state law requiring public schools to keep athletes who have suffered a concussion out of competition until cleared by a medical professional (STATE NET, CALIFORNIA GOVERNOR’S OFFICE). • **CALIFORNIA** Gov. Brown also signs AB 182, which bars schools and community college districts from issuing capital appreciation bonds, which can delay repayment for decades in lieu of large balloon payments decades later. The new law limits total debt service to four times the principal, limits the duration to 25 years and requires

In case you missed it

The Affordable Care Act is reaching a moment of truth, with several key deadlines fast approaching amid signs states will simply not be ready to go on time.

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

http://www.statenet.com/capitol_journal/09-23-2013/html#sncl_spotlight

that deals permit early repayment on bonds that mature after 10 years (SAN JOSE MERCURY NEWS). • Also in **CALIFORNIA**, Gov. Brown signs AB 484, which creates a new testing regimen for K-12 schools and allows them to abandon the Standardized Testing and Reporting (STAR) tests the state has used for over a decade. Brown signed the measure in spite of a warning from federal officials they may withhold funding if the state abandoned the STAR testing (SAN JOSE MERCURY NEWS). • **MICHIGAN** Gov. Rick Snyder (R) signs SBs 237, 238 and 239, legislation that collectively requires Wolverine State students to submit a certificate of immunization to their schools upon entering the seventh grade (DETROIT FREE PRESS, MICHIGAN GOVERNOR'S OFFICE).

ENVIRONMENT: Officials from Quebec and **CALIFORNIA** sign an agreement outlining steps and procedures to fully integrate the two entities' cap-and-trade programs. That linkage is set to become official on Jan. 1, 2014, at which time participants in the two jurisdictions will be able to exchange carbon allowances and offset credits, or reductions in greenhouse gas emissions made to offset emissions made elsewhere (CALIFORNIA AIR RESOURCES BOARD, STATE NET). • **CALIFORNIA** Gov. Jerry Brown (D) signs SB 4, which creates a permitting system for oil and natural gas drillers who wish to use hydraulic fracturing, or fracking, in the Golden State. Under the new law, drillers must also more closely monitor groundwater supplies and contamination, notify neighboring communities when they plan to using fracking procedures and disclose more information about the chemicals they use in that process (STATE NET). • Still in **CALIFORNIA**, Gov. Brown signs AB 266, which extends until 2019 a program that allows electric and other low-emissions vehicles to use carpool lanes (STATE NET). • Also in **CALIFORNIA**, Gov. Brown signs SB 254, which creates a statewide mattress recycling program (STATE NET).

HEALTH & SCIENCE: The U.S. Centers for Medicare and Medicaid Services approves an **ARKANSAS** proposal to use federal funds targeted for expanding Medicaid to instead help low-income residents buy private insurance. Similar proposals from **PENNSYLVANIA** and **IOWA** are still pending (REUTERS). • Federal officials also approve a **MISSISSIPPI** proposal to run an online marketplace where businesses with 50 or fewer employees can buy health insurance under the Affordable Care Act. The new service is expected to be operational by January (BILOXI SUN-HERALD). • **CALIFORNIA** Gov. Jerry Brown (D) signs AB 670, which "prohibits a pharmacist or pharmacy employer from receiving compensation for recommending or replacing a patient's originally prescribed drug with a therapeutic alternative, unless the recommendation or replacement is part of a comprehensive medication review (CMR), which includes a patient consultation" (STATE NET, CALIFORNIA GOVERNOR'S OFFICE). • Conversely, Gov. Brown

vetoes SB 62, a bill that would have required coroners to inform **CALIFORNIA** medical officials whenever a person's cause of death was linked to prescription drug abuse. Brown said the measure would create "an unfunded mandate" (STATE NET, CALIFORNIA GOVERNOR'S OFFICE). • Gov. Brown also signs SB 493, which allows **CALIFORNIA** pharmacists to independently administer some vaccines and to provide certain nicotine replacement drugs and hormonal contraceptives (STATE NET, LOS ANGELES TIMES).

IMMIGRATION: CALIFORNIA Gov. Jerry Brown (D) signs AB 60, a bill that allows unauthorized immigrants to obtain Golden State driver's licenses. Those licenses must contain a distinguishing notation of DP, for driving privilege, instead of the normal DL for driver's license (STATE NET, LOS ANGELES TIMES).

SOCIAL POLICY: A NEW JERSEY court rules that the Garden State must allow same-sex couples to marry. Saying that barring such couples from marrying "is currently harming same-sex couples in New Jersey in a wide range of contexts," State Superior Court Judge Mary C. Jacobson ordered state officials to begin allowing marriages by Oct. 21. Gov. Chris Christie (R), however, immediately moved to appeal the decision directly to the state Supreme Court (NEW YORK TIMES). • **CALIFORNIA** Gov. Jerry Brown (D) signs SB 568, which requires websites such as Facebook and Instagram to give minors a way to take down photos and other posts from their sites (STATE NET). • Also in **CALIFORNIA**, Gov. Brown signs SB 770, which expands the state's family leave law to include allowing workers time off to tend to a sick sibling, grandparent, grandchild and parent-in-law. The law allows workers to collect temporary disability insurance benefits while they are caring for the ailing family member (STATE NET).

POTPOURRI: CALIFORNIA Gov. Jerry Brown (D) signs AB 1371, which requires drivers to maintain at least three feet of space between their vehicle and bicyclists they pass on the roads, or to slow to an as yet unspecified safe speed (CALIFORNIA GOVERNOR'S OFFICE).

— Compiled by *RICH EHISEN*

Once around the statehouse lightly

BEST OF THE WORST: State nicknames are based on good things their residents perceive about themselves, but what about all the bad stuff? For instance, Florida is the Sunshine State, but based on its rate of identity theft it could also be the Stolen Identity State. And with the fewest high school graduates, Texas — a.k.a. the Lone Star State — could be the Dumbest State. And Massachusetts, generally known as the Bay State, could instead be the Bad Driver State for its highest in the nation rate of auto accidents. All of these would be appropriate according to U.S. Census and other government data accumulated by the website *PolicyMic.com*, a news site aimed at Millennials, people generally born from the early 1980s on. Other, uh, winners in the “new name” game include Washington (highest rate of bestiality), Utah (most online porn subscriptions) and Mississippi (most obesity). You can figure out your own nicknames for those.

YOU WANT MY WHAT? Lots of folks accuse politicians of bleeding them dry, but Oregon’s newly-minted Republican Party has another bodily fluid in mind. As the Associated Press reports, new GOP chair Art Robinson recently sent a mailer to all the good folks of Josephine County asking them to submit a urine sample. Alas, this is not some Big Brother-esque scheme to weed dope smokers off of state welfare rolls or what have you, but a real stab at scientific research. Robinson is by trade a scientist, one currently working on a human longevity project that analyzes urine samples looking for ways to detect serious illnesses years before they come to fruition. He is also a twice-failed candidate for Congress who is considering a third run next year. And if he does run and win? “I won’t see anything wrong with a guy collecting urine samples while sitting in Congress,” he says.

STICKER SHOCK: Did you know it is illegal in Michigan to place a bumper sticker on your car promoting a particular group or organization if you are not actually a part of said group? It’s true. As *The Atlantic* reports, way back in 1929, Wolverine State lawmakers decided they didn’t want drivers putting anything on their cars that might coerce people into thinking said driver was part of a “benevolent, humane, fraternal, or charitable” group, i.e. one whose members might reasonably expect, given the mores of the day, to receive perks like free parking or waived tickets. Such shenanigans are frowned upon today, and the law was declared unconstitutional in the 1970s. It remains on the books, however. Or at least it does

for now. The Michigan House recently approved HB 4930, a bill to scrub it off completely. The measure is now in the Senate.

GET HIM A CAPE: California Sen. Barbara Boxer might be the last person on earth one would expect to be praising former President George W. Bush. But as the *Sacramento Bee* reports, that's just what happened last week when Sen. Boxer presented the inaugural "Climate Hero" award to Bush. Or, more accurately, to his presidential library, the George W. Bush Presidential Center on the campus of Southern Methodist University. Although Boxer railed loud and often about President Bush's dubious environmental track record while in office, she hailed the eco-friendliness of the library, which achieved the coveted LEED, or Leadership in Environmental Energy and Design, Platinum certification for its sustainable design, construction and operation. Hmmm...Boxer, one of Congress's more liberal members, found middle ground with the ultra-conservative Bush folks? One has to wonder if others are watching. Congress, we're looking right at you.

— By *RICH EHISEN*

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