COLORADO  
Debbie Haskins  
The Colorado State Capitol has installed a geothermal heating and cooling system which pumps water from two wells drilled into the Arapahoe aquifer more than 850 feet underground. The Capitol, opened in 1894, will now be cooled and heated by the geothermal system. It is the first LEED-certified capitol building in the country.

The Capitol is currently undergoing repairs to strengthen the underlying cast iron drum holding up the dome and replace the copper drum and gold leaf on the outside of the dome. The construction is expected to be completed in 2014. The next construction project planned is to remove the acoustical tiles from the walls and ceilings of the house and senate to restore the ceiling and original skylights in the chambers in the house and senate chambers. This is expected to be about a $6 million project.

Colorado residents and legislators have been dealing with the aftermath of extremely destructive wildfires and floods. For the last two years, Colorado has experienced several large wildfires that were extremely destructive and deadly. Years of drought, pine beetle destruction, and increasing numbers of homes being built in the wildland-urban interface have contributed to conditions that can explode in large wildfires that spread rapidly. This year a legislative interim committee was formed called the Wildfire Matters Review Committee. They have been discussing such topics as wildfire mitigation efforts, insurance issues, and coordination between local governments and state government in fighting fires and dealing with large wildfires. In September, 2013, after several hours of unprecedented rainfall, Colorado experienced flash floods, including some areas that were the scene of previous wildfires. The floods affected 17 counties with almost 6000 people under mandatory evacuation orders. There were at least 7 fatalities reported. Over 16,000 homes were damaged and approximately 1800 homes were destroyed. The infrastructure impact is still being calculated with 200 miles of roads damaged and 50 state bridges damaged. It will take a year or more to get all the roads and bridges repaired.

DELAWARE  
Rich Dillard  
Since the last submission, the 147th Delaware General Assembly recessed on July 1st until the second Tuesday in January. Bills on hot button issues passing at least one chamber had the following results: gay marriage became law [HB 75] on May 7 and became effective July 1; mandatory criminal background checks for most gun transactions between people who are not licensed firearms dealers became law [HB 35 with its 10 amendments] when it was signed May 8 and went into effect July 1; it is now a crime not to report a lost or stolen firearm since [SB 16] was signed 6/12/13 effective immediately, while a bill which would increase the penalty for falsely reporting a lost or stolen firearm unanimously passed the Senate but has not yet been considered by the House [SB 18]; a bill that mixed guns and mental health issues went down to defeat in the Senate with a vote of 6-13-2 after passing the House 40-1 [HB 88]; a bill creating mandatory minimum penalties for possession of a firearm by a person who is prohibited due to conviction of certain crimes is sitting in a Senate committee after passing the House 40-1 [HB 73], while a bill increasing mandatory minimum penalties for possession of a firearm by a person who is prohibited due to conviction of a violent felony became law [HB 36] when it was signed July 18 with immediate effect; a bill adding possession of a firearm during the commission of a felony to the list of crimes triggering the habitual criminal statute became law with just one no vote in the Legislature [SB 40], it took immediate effect when it was signed July 3; and a bill to repeal the death penalty never got out of committee in the House after squeaking out of the Senate 11-10 [SB 19].
ILLINOIS
Ronald P. Michel
Several bills have been signed into law in Illinois during the summer months. Here are just a few of Illinois’ new laws:

House Bill 183 created the Firearm Concealed Carry Act which allows residents and non-residents who meet specified qualifications to apply for a license to carry a concealed firearm in Illinois. The Concealed Carry Licensing Review Board determines whether an applicant is eligible or ineligible for the five-year license. The Firearm Concealed Carry Act establishes training requirements and prohibits a licensee from carrying a concealed handgun into certain specified locations.

House Bill 1247 amended the Illinois Vehicle Code. The code previously prohibited the use of electronic communication devices for composing, sending or reading an electronic message, but House Bill 1247 prohibits the use of hand-held wireless telephones while driving. The bill establishes exceptions to the prohibition for hands-free devices, two-way radios and electronic devices capable of performing multiple functions as long as these devices are not used for a proscribed purpose.

House Bill 1 created the Compassionate Use of Medical Cannabis Pilot Program Act. The act provides that when a person has been diagnosed by a physician with a debilitating medical condition, the person and the person’s primary caregiver may be issued a registry identification card by the Illinois Department of Public Health. The card permits the patient or the primary caregiver to legally possess no more than 2.5 ounces of usable cannabis during a 14-day period. The usable cannabis must be derived solely from an intrastate source and is subject to a sales tax. House Bill 1 has a sunset provision that ends the pilot program four years after the effective date of the bill, unless the General Assembly renews it.

MAINE
Margaret Reinsch
Maine Capitol Connection. The Legislature currently provides live streaming of the audio and video of the Senate and House sessions, as well as the audio of joint standing and select committees, via the Legislature’s website (http://www.maine.gov/legis/). At the request of Maine Public Broadcasting, the Maine Legislature’s Legislative Council in January approved the network’s proposal for a free over-the-air State House news channel called “Maine Capitol Connection.” The proposal identified the endeavor as a six-month pilot project, with planned coverage of the legislative, judicial and executive branches in Augusta.

The broadcasts covered daily sessions of the House and Senate, as well as public hearings and work sessions of specific joint standing and joint select committees. Broadcasts were available on at least one cable television provider, and online either live or in replays.

(from http://www.mpbn.net/News/MaineCapitolConnection.aspx): The mission of the Maine Capitol Connection is:
1. To provide citizens with the means to watch their state government at work.
2. To provide elected and appointed officials and others who influence public policy with a direct conduit to citizens without filtering their points of view.
3. To provide the audience with frequent access to elected and appointed officials, governmental bodies, agencies and commissions, and other decision makers.
4. To provide students and educators with a working knowledge of Maine State government.
5. To adhere to broadcast production values that accurately convey the business of state government without editing, interpreting, or distorting the proceedings.

**Vetoes.** Governor Paul LePage vetoed 82 bills passed by the Maine Legislature during the First Regular Session this year. The next highest number of vetoes issued by a Maine Governor was 49 in 1977 when Independent James Longley was Governor. Governor LePage is a Republican while the Democrats control the Senate (19-15-1 [unenrolled]) and the House of Representatives (89-58-2 [Independent]-2 [unenrolled]). Of the 82 vetoes, 77 were sustained. The Maine Constitution requires a two-thirds vote of those present and voting in each house to override a Governor’s veto, and the Legislature provided that two-thirds in both the House and Senate on five bills: The biennial budget (LD 1509, Public Law 2013, chapter 368) and an energy bill (LD 1559, PL 2013, c. 369), both requiring a 2/3 vote to go into effect immediately; a bill to require a warrant to obtain cell phone location information (LD 415, PL 2013, c. 409)), a bill to change the document fees for county registries of deeds (LD 559, PL 2013, c. 370) and a Science, Technology, Engineering and Mathematics (STEM) education and workforce bill (LD 1132, PL 2013, c. 410).

**MARYLAND**  
Sherry Little  
During it 433rd session, the General Assembly of Maryland considered more than two thousand bills and resolutions from January to April, 692 of which were enacted. Most of the measures took effect October 1, 2013.

The Firearm Safety Act of 2013, which passed at the end of the 2013 session and became law on October 1, is comprehensive legislation that, with specified exceptions, bans any assault weapon, defined as an assault pistol, an assault long gun, or a copycat weapon; reduces detachable magazine capacity in the state from 20 to 10 rounds of ammunition for a firearm; and prohibits the possession or use of restricted firearm ammunition (sometimes called “cop killer bullets”) during or in relation to the commission of a crime of violence. The law also establishes, with specified exceptions, a new licensing scheme for handguns under the authority of the State Police. It a state and national criminal history records check with the submission of a complete set of fingerprints, as well as completion of a safety training course.

Other provisions define prohibitions applicable to possession of a regulated firearm, rifle or shotgun for people with mental disorders, including those who have been voluntarily admitted for more than 30 consecutive days or involuntarily committed to a facility. A process to apply for relief from firearms disqualification is also delineated in the law. There are registration requirements for people moving into the state and reporting requirements for lost or stolen firearms. There are also extensive licensing qualifications and recordkeeping requirements for firearms dealers and exemptions from criminal prohibitions, importation and storage activities for a licensed firearms dealer or manufacturer relating to assault weapons and detachable magazines.

Another new law establishes a Center for School Safety to operate as an independent unit of state government to provide a coordinated approach to safety issues. A separate center will be operated by the State Police. Also, local boards of education in conjunction with the State Board of Education must implement a comprehensive evaluation and reporting process related to each public school’s emergency management plan. Additionally, there is $25 million for statewide public school security improvements and a directive that counties and local education agencies give priority to installing controlled access measures in all public schools.

There are new laws that continue the implementation of the federal Affordable Care Act. The General Assembly and the governor also agreed to permit the trial use of medical marijuana through academic medical centers. In Maryland it will now be an affirmative defense, in a prosecution for the possession of marijuana or related paraphernalia, that the defendant was a caregiver and the marijuana or paraphernalia was intended for medical use by an individual with a debilitating medical condition.

Several enactments address the high unemployment rate of veterans and seek to ease the transition of military members and their families who move into the state. One law facilitates professional licensing for active military personnel, veterans and their spouses through the expedited issuance of business and health occupations licenses, registrations and certificates. Another law exempts honorably discharged veterans from paying out-of-state tuition at a public institution of higher education in the state if the individual resides in or is domiciled in the state. Additionally, public institutions of higher education must adopt guidelines on awarding academic credit for a student’s military training, coursework and education. An existing loan program for military reservists and National Guard personnel called to active duty, service-disabled veterans, and businesses that employ or are owned by these individuals was expanded to include all veteran-owned small businesses in the state.

Additional laws, which have garnered considerable public attention, authorize primary enforcement of the use of handheld cell phones by drivers operating motor vehicles and require that anyone riding in a motor vehicle, now including someone in a rear seat, wear a seat belt or be in a child safety seat. The later law is enforceable only as a secondary action. Both of these measures were effective on October 1.
The last official action of the 97th Missouri General Assembly took place on September 11, with the annual veto session focused on 29 gubernatorial vetoes. A modern-day record of 10 veto override motions (9 bills and an appropriation item) were approved, although two major override attempts came up short. House Bill 253 had covered a wide range of state tax issues, including reductions of business and individual income tax rates, tax amnesty provisions, and the streamlined sales and use tax agreement. The governor vetoed the bill on constitutional and budgetary grounds. The veto override motion failed by 15 votes to receive the necessary two-thirds majority on a 94-67 vote.

Another vetoed bill, HB 436, would have attempted to nullify federal gun laws and bar publication of the name of any gun owner. The override motion came one vote short in the Senate, failing on a 22-12 vote. Both the president pro tempore and the majority floor leader voted against the override, with the former stating, "My love of the Second Amendment does not trump my love for the First."

Among the 10 successful overrides were bills to: limit punitive damages for injured miners by a certain lead-mining company (HB 650); allow public governmental bodies to conduct votes via video-conferencing (SB 170); eliminate the current ban on foreign ownership of farmland by allowing a limited amount as approved by the state Department of Agriculture (SB 9); prevent uninsured motorists from collecting noneconomic damages from an insured driver in an accident (HB 339); and continue appropriation for a certain vocational education school.

Prefiling bills for the next legislative session begins December 1. Convening the first regular session of the 98th General Assembly will occur on January 8, 2014.

The legislature is currently in the interim period between regular legislative sessions (the Texas Legislature meets 140 days for a regular session every two years, plus for any special sessions called by the governor, each of which may last up to 30 days). The most recent regular session ended May 27, 2013, and the first of three special sessions immediately followed. The most recent special session ended August 5, 2013. No further special sessions are currently anticipated.

Funding for public education, water infrastructure, and transportation infrastructure dominated much of the regular and special sessions, as did regulation of abortion.

Legislative committees have not yet received interim charges from the speaker of the house of representatives and the lieutenant governor. The Texas Legislative Council has begun work on interim projects, including assorted legal research projects and the continued revision of the Special District Local Laws Code, in which local laws creating various special districts are being codified.

Biennial elections, scheduled to be held in November 2014, before the next regular legislative session convenes in January 2015, are expected to bring an unusual amount of turnover in Texas government, as Governor Rick Perry—the state’s longest serving governor—has indicated that he will not seek reelection, and the current state comptroller (also a statewide elective office) has announced her plans to retire on the expiration of her term. Additionally, Chief Justice Wallace Jefferson, the first African American chief justice of the state’s highest civil appellate court, will step down this fall after 10 years’ service in that position.
Legislative proposals in this area are very likely in the 2014 General Assembly session.

WASHINGTON
Jeffrey Mitchell

It took the regular session plus two special sessions for the Legislature to wrap up its 2013 work. The 2013 regular session began with the Legislature facing a current level budget shortfall of approximately $900 million, even though recent quarterly revenue forecasts have greatly stabilized, providing much less change than forecasts in prior years. This shortfall was caused in part by expiring taxes and a court decision impacting estate tax revenues. The Legislature also had to address a state Supreme Court ruling--McCleary v. State, 173 Wn.2d 477 (2012)--holding that the state is not meeting its constitutional requirement to amply fund K-12 education.

To address McCleary, the 2013-15 K-12 operating budget contains $982 million in enhancements for basic K-12 education. This was primarily achieved by various fund transfers and revenue redirections as opposed to the enactment of new revenue. The state Supreme Court, as part of its decision in McCleary, has retained oversight in the form of a report by the Legislature to the court within 60 days after the operating budget is signed into law. The report is designed to help the court monitor compliance with its decision to ensure full funding of K-12 education by 2018. The most recent report was submitted at the end of August.

Several notable policy bills were enacted by the Legislature in 2013.

E2SSB 5912 imposes stricter restrictions on drunk drivers. Under the new law, repeat offenders will be booked into jail on their second offense. They must install an interlock ignition device on their car within five days of their release, and some will be required to participate in an electronic alcohol monitoring program.

The Legislature enacted several significant revenue-related bills, with one specifically addressing a state Supreme Court decision impacting state estate tax revenues.

Chapter 8, Laws of 2013, 2nd sp.s. (2E2SHB 1971) significantly changes the taxation of the telecommunications industry. Prior to the passage of this legislation, a sales tax exemption applied to land line telephone service. Cellular phone service companies argued that the exemption should apply to residential cellular phone service as well, and challenged the applicability of the exemption in court. The 2013 legislation eliminates the sales tax exemption for all residential telephone service thereby extending state and local sales tax to all telephone service. The legislation also repeals dedicated taxes for the Washington Telephone Assistance Program, which provides subsidies for low-income telephone service, and the Telephone Relay service, which provides subsidies for telecommunication service for the deaf and hard of hearing. These programs are now funded out of the state general fund. The legislation also requires retailers of prepaid wireless service to collect the state and county Enhanced 911 taxes.

Last, the legislation establishes a state universal service program to help offset expenses for high cost phone service in rural areas.

On October 8, 2012, the state Supreme Court in In re Estate of Bracken, 175 Wn.2d 549 (2012), held that certain types of marital trust property are not subject to the Washington estate tax. The total fiscal impact from this decision was estimated to be $160.1 million for the 2013-15 biennium, with approximately $100 million associated with anticipated and pending refund requests. With the enactment of Chapter 2, Laws of 2013, 2nd sp.s., (EHB 2075), the Legislature restored the application of the estate tax to this marital property. The legislation also included a new tax exemption for certain small business interests, an annual inflationary adjustment to the $2 million general exclusion amount, and an increase to the top four estate tax rates.

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E2SSB 5882 is an omnibus bill that creates or extends fifteen new tax preferences (i.e. tax credits, exemptions, deductions, etc.), and also creates new transparency and accountability provisions that will apply to the enactment of future tax preferences. Future tax preferences will be subject to an automatic ten year expiration date unless an alternate expiration date is provided and tax preference legislation must provide explicit intent language, metrics, and data sources to measure the effectiveness of the tax preference.
Two state-wide initiatives appeared on the November ballot. Initiative Measure 517 (failed) addressed the initiative and referendum process with three main components: First, it would have established protections for persons who are gathering signatures or those signing initiatives or referenda, making it the crime of disorderly conduct to interfere or retaliate against a person collecting signatures or signing an initiative or referendum. Second, it would have required that any state or local initiative with the necessary signatures be submitted to voters — even if there has been a successful pre-election challenge. Third, it would have allowed an initiative to be submitted up to 16 months before the election as opposed to 10 months. Initiative Measure 522 (failed) would have required most raw agricultural commodities, processed foods, and seeds and seed stocks, if produced using genetic engineering, to be labeled as genetically engineered when offered for retail sale. In other words, foods sold at retail would have to be labeled as containing genetically-engineered ingredients.

WEST VIRGINIA

Mark McOwen

Since the first regular session of the 81st Legislature concluded April 17, 2013, the Legislature’s monthly interim study meetings continue and will conclude immediately before the next regular legislative session. Among the nearly 100 topics assigned for study are aging watershed dams and channels; distribution of power to rural communities; Feed to Achieve and senior food vouchers; higher education funding issues; funding issues for local health departments, volunteer fire departments, libraries and the State Park system. Others include issues arising from declining revenues from lottery and gaming; tolls and other revenue sources for highway maintenance and construction; leasing of horizontal gas wells; governance of health and human resources agencies; implementing new public education reform legislation; and implementing the expansion of Medicaid. A complete list of study topics may be found at the Legislature’s website.

On June 15, Delegate Richard Thompson resigned as speaker of the House of Delegates. Only one time has this happened before in West Virginia. Concurrently with his resignation, he accepted a gubernatorial appointment as the state Secretary of the Department of Veterans’ Assistance. On June 18, the House convened and elected Delegate Timothy R. Miley to serve the unexpired term as Speaker of the House of Delegates for the 81st Legislature. He is the 56th speaker of the state, which celebrated its sesquicentennial this summer. Members are not up for election this year. The second regular session of the 81st Legislature will convene January 8, 2014 for 60 days. To monitor legislative activity, please visit the West Virginia Legislature’s website at http://www.legis.state.wv.us/. For toll-free access, dial 1-877-56LEGIS.

State Correspondents

We are fortunate to have a dedicated and reliable group of regional and state correspondents who supply us with state news, articles and other input for The Legislative Lawyer. The Legal Services Staff Section thanks all of you for your effort. If you would like to contribute to this column, please contact kae.warnock@ncsl.org for more information.

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