

STATELINE MIDWEST



MIDWEST

DECEMBER 2021 | VOLUME 30, NO. 11
THE COUNCIL OF STATE GOVERNMENTS | MIDWESTERN OFFICE

A RESET ON THE BALANCE OF POWERS

Legislative action in 2021 means more checks on governors during times of emergency

by Laura Tomaka (ltomaka@csg.org)

The COVID-19 pandemic has brought about unprecedented changes in nearly all aspects of social and civic life, and the functions and policies of state government have been no exception.

Never in the nation's history, for example, had all 50 states been under emergency orders at the same time — until 2020.

Requirements of residents to stay at home and limit the size of gatherings.

The forced closures of businesses and schools.

Mask and vaccine mandates.

These and many other pandemic-related decisions fell largely to the executive branch and governors, who had the legal authority to issue those emergency orders.

As the pandemic dragged on, though, questions about this kind of unilateral decision-making crept into the public discourse, and into the halls of state capitols.

"Clearly, COVID has been one area where legislatures have in a fairly direct way tried to rein in the executive branch, in a way that you have not seen much in the last generation," says Peverill Squire, a professor of political science at the University of Missouri and leading expert on state legislatures and the legislative institution.

In this region, in every state except Iowa and South Dakota, bills

"COVID has been one area where legislatures have in a fairly direct way tried to rein in the executive branch, in a way that you have not seen much in the last generation."

University of Missouri Professor Peverill Squire

were introduced in 2021 to address concerns about the length and breadth of governors' emergency orders and powers, as well as the inability of legislators to check or oversee those powers.

Measures were approved in nearly 20 U.S. states, including Indiana, Kansas, Michigan, North Dakota and Ohio.

"We have two different things going on simultaneously over the last 18 months," Squire says. "On one hand, we've seen these battles between the executive and legislative branches involve some clearly partisan battles between different parties holding different institutions."

"And on the other hand, we've also seen institutional differences of legislatures reacting to executive action on COVID, even though the same party controls both the governorship and both chambers of the legislature."

That mix certainly has been true in the Midwest.

The Republican-led legislatures

in Indiana, North Dakota and Ohio took steps to control the powers of Republican governors.

In Kansas, a compromise was reached in a state where partisan control is divided. And in Michigan, where control also is split, legislators teamed up with some citizens in the state (via the indirect initiative) to change the power dynamic.

Here is a closer look at the new laws in those five Midwestern states, as well as how they came to be.

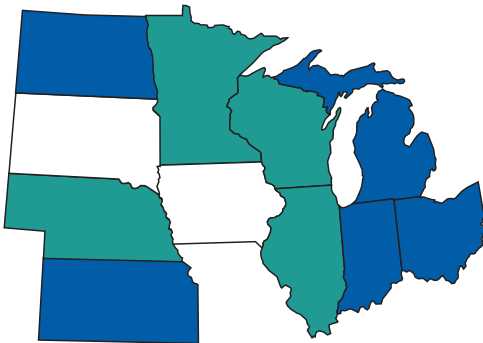
OHIO: 'IT CANNOT BE INDEFINITE'

In times of crisis or emergency, Ohio Sen. Robert McColley says, the executive branch needs the authority to act decisively and to be nimble.



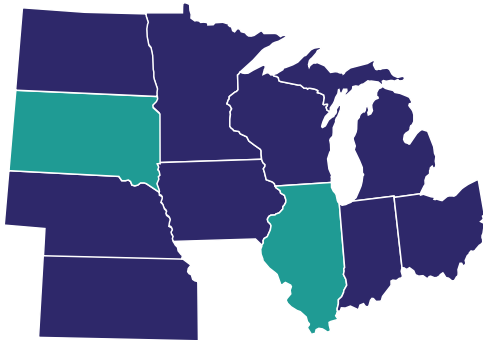
Ohio Sen. Rob McColley

LEGISLATION IN 2021 TO LIMIT EXECUTIVE'S USE OF EMERGENCY POWERS AND/OR ESTABLISH NEW LEGISLATIVE OVERSIGHT AUTHORITY



- Bills introduced and signed into law
- Bills introduced

DOES LEGISLATURE HAVE POWER TO TERMINATE A GOVERNOR-DECLARED EMERGENCY OR DISASTER DECLARATION? (SEE PAGE 6 FOR DETAILS ON STATE LAWS/APPROACHES)



- Yes
- No statutory language found

► COVER STORY CONTINUED ON PAGE 6

INSIDE THIS ISSUE

CSG Midwest Issue Briefs 2-3

- **Criminal Justice & Public Safety:** Most Midwestern states have safe harbor laws, but the levels of protection for victims of trafficking can vary widely
- **Health & Human Services:** From higher reimbursement rates to new pilot initiative on "dental homes," Minnesota is looking to improve access to oral health care
- **Agriculture & Natural Resources:** To boost ethanol production, states see need for more investments in a next-generation biofuels infrastructure
- **Education:** Wisconsin has long been a national leader on youth apprenticeships, and this "earn while you learn" policy strategy is gaining interest in other states as well

Capital Clips 4

- Illinois, Nebraska expand reach of anti-discrimination laws with new language on race-based hairstyles

Capital Clips 4

- Over the past year, several Midwestern states have enacted laws that aim to help victims of sexual assault
- An additional \$1 billion in federal funds is coming to this region to protect and restore the Great Lakes
- An attempt to legalize recreational marijuana in South Dakota ends with a state Supreme Court decision to overturn the voter-initiated constitutional amendment



Question of the Month 5

- In addition to the motor fuels tax, how do states raise revenue for road and highway projects?

Capital Insights 8-9

- **Profile:** Nebraska Sen. Dan Hughes
- **FirstPerson article:** Ohio Sen. Stephanie Kunze on a new, groundbreaking anti-hazing law in her home state



CSG Midwest News 10

- Kansas Sen. Carolyn McGinn installed as Midwestern Legislative Conference chair for next year

BILLD News & Alumni Notes 11

- Q & A with BILLD graduates: How has your profession or work outside the legislature shaped your perspective as a state lawmaker?

CRIMINAL JUSTICE & PUBLIC SAFETY

Bills in Wisconsin seek comprehensive ‘safe harbor’ protections for exploited, underage sex workers

by Derek Cantù (dcantu@csg.org)

A bipartisan group of Wisconsin lawmakers is attempting to change how the state’s criminal justice system treats minors who are arrested on prostitution charges.

Instead of criminal prosecution, AB 185 and SB 245 would grant children immunity under a so-called “safe harbor” model.

For Wisconsin, the issue of child trafficking and prostitution isn’t new. Six years ago, a nationwide human trafficking raid organized by the FBI resulted in Wisconsin having the third-highest number of children rescued from traffickers — with a majority occurring in Milwaukee. Around that time, a member of a Milwaukee-based anti-trafficking task force referred to the city as the “Harvard of pimp school.”

But Rep. Jill Billings, a chief sponsor of AB 185, says this issue isn’t isolated to just urban centers.

“Trafficking of children occurs in all 72 counties; in fact, in the last 15 months,

there were 99 substantiated reports to our Department of Children and Families of child sex trafficking,” she explains. “Half of those cases occurred in Milwaukee, while the other half occurred throughout the rest of the state.”

According to self-reported data documented by the National Center for Missing & Exploited Children, throughout 2020 there were 359 reported cases of children missing in Wisconsin, among which 19 are considered active.

According to Billings, part of the inspiration for her proposal came from seeing the effects of similar safe-harbor provisions in neighboring Minnesota.

Convictions of sex traffickers quadrupled with the new law in place, she says, as their victims were able to testify and assist in investigations without fear of prosecution.

Sarah Bendtsen Diédhiou of the Christian, anti-trafficking organization Shared Hope International says the true effectiveness of a safe harbor law is improving how children interact with the justice system.

“[It] oftentimes prevents re-exploitation,” she says.

“If you take a child who has experienced trafficking, victimization or exploitation, and from the outset you’re applying that mentality of not “What did you do?” but “What happened to you?,” not only can you start chipping away at some of the traumatic experiences that the child has had ... but you’re not adding to the trauma through that response.”

Bendtsen Diédhiou adds that there are

important distinctions between state laws that fall under the “safe harbor” banner (see map).

Some statutes, such as Minnesota’s, completely eliminate any criminalization of minors, including arrest charges, detention and prosecution. Other laws do not and/or present hurdles before an individual can access social services.

Sponsors of the Wisconsin bills are advocating for full non-criminalization.

“The monsters who force children into sex trafficking will no longer be able to use the threat of prosecution for prostitution as a way to keep kids in a cycle of abuse,” Sen. Alberta Darling, the chief sponsor of SB 245, said in a statement.

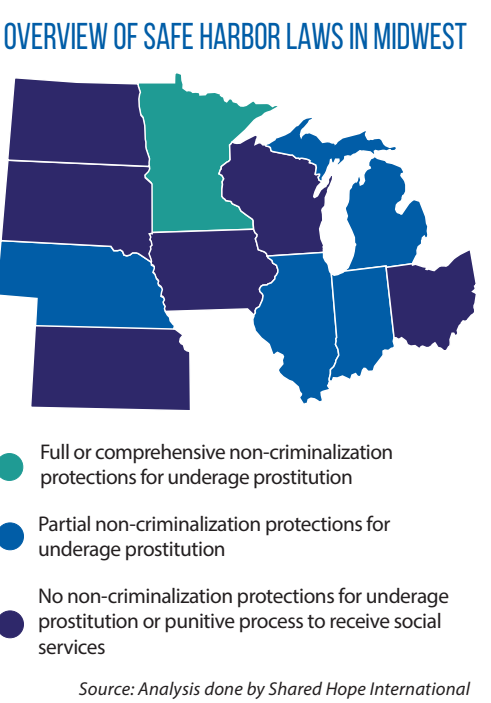
Also important to Billings: Don’t tie safe harbor to the child having to provide information against the trafficker.

“To keep a child safe, do we want to put them in charge of turning over this incredibly powerful, scary person that’s been in their lives, often when they’ve been groomed to not trust law enforcement?” she says.

“That’s just not a realistic expectation.”

Billings notes, too, that a criminal conviction can negatively impact a victim’s ability to later receive financial aid for college or find employment.

Beyond safe harbor, Wisconsin has and is continuing to introduce measures to help trafficking victims.



Examples include automatically connecting child sex workers with social service resources, creating an anti-trafficking task force, and dispensing educational materials to help hotel staffers and truck drivers better identify signs of human-trafficking activity.

North Dakota Rep. Shannon Roers Jones and Illinois Sen. Robert Peters serve as co-chairs of the Midwestern Legislative Conference Criminal Justice & Public Safety Committee. Nebraska Sen. John McCollister is the vice chair. Derek Cantù is CSG Midwest’s staff liaison to the committee.



HEALTH & HUMAN SERVICES

Minnesota is revamping its policies on oral health, including higher Medicaid payments for dentists

by Jon Davis (jdavis@csg.org)

In Minnesota Rep. Tina Liebling’s hometown of Rochester, some of the world’s best, cutting-edge medical care is delivered every day at the internationally renowned Mayo Clinic.

But for low-income people in her community, accessing the most basic of preventative services can be a challenge.

“If you’re on Medicaid, it’s hard to find a dentist who will take you,” Liebling says.

Her hope is that will change with a series of legislative changes now taking effect as part of HF 33, an omnibus health bill that passed during a special session in 2021.

According to Liebling, the new law’s provisions on oral health were years in the making.

Across Minnesota, chronically low reimbursement rates and a complicated rate structure have led to a shortage of dentists willing to accept Medicaid patients.



The challenge for Liebling and others was raising awareness about the problem and gaining enough support for a legislative solution.

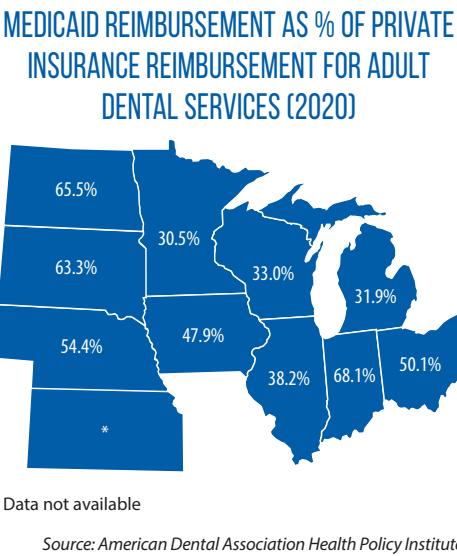
“It was building [momentum], and this year it finally came to a head,” she says.

Starting in January, reimbursement rates (set more than 30 years ago) will increase by 98 percent, and all dentists will be paid the same rates for the same services in two separate state-funded programs for low-income families.

Minnesota’s HF 33 also restores coverage of dental treatment for periodontal disease for adults (it had been discontinued, except for pregnant women, in 2010 as a part of budget cuts). Periodontal disease has been linked to chronic health conditions such as diabetes, heart disease and even dementia. Research shows that treatment can result in long-term savings.

Under the new law, too, more is being asked of the managed-care organizations that administer enrollees’ dental benefits.

For example, there is this new benchmark: In each managed-care plan, at least 55 percent of low-income enrollees (adults and children) should receive at least one dental visit during a



by the state as “medical homes,” and get reimbursed for overseeing the overall care and well-being of a patient.

Similarly, dental homes would help ensure access to preventative, comprehensive and continuous oral health care. The pilot project will test new payment models, incentives and delivery systems — with a statutory requirement that it focus on reaching “high-risk and medically and socially complex enrollees.”

Another Midwestern state also is advancing this idea; Michigan’s budget includes \$1.75 million for local health departments to partner with providers on “high quality” dental homes for seniors, children, adults in Medicaid and low-income people without insurance.

In a third state, one new home for dental services will be schools. Under SB 346, signed into law in July, the Illinois Department of Healthcare and Family Services will administer a school-based dental program that provides preventative oral-health services to students.

Iowa Rep. Shannon Lundgren and Minnesota Rep. Jennifer Schultz serve as co-chairs of the Midwestern Legislative Conference Health & Human Services Committee. The vice chair is Minnesota Rep. Bronna Kahle. Jon Davis is the CSG Midwest staff liaison to the committee.

coverage year. In addition, across all of the state’s managed-care plans, dental providers will now have access to a uniform credentialing process.

Legislators also want to explore new ways of connecting people to dental care. By February, they will receive recommendations on the design of a pilot project for “dental homes.”

It’s an idea that builds on a coordination-of-care model already used in other parts of Minnesota’s health system: Providers are certified

AGRICULTURE & NATURAL RESOURCES

Minnesota seeks to pump up use of E15 by investing in new biofuels infrastructure at service stations

by Carolyn Orr (carolyn@strawridgefarm.us)

Not only is the nation's ethanol production concentrated in the Midwest, so are the policies that have been adopted to grow this part of the agricultural economy.

One state that has consistently led the way — dating back to adoption of a first-of-its-kind incentive payment for ethanol producers in 1986, and the first E10 mandate in 2003 — is Minnesota.

And lawmakers there are now zeroing in on the need to support a next-generation biofuels infrastructure.

Earlier this year, they allocated \$6 million over the biennium for such infrastructure projects. One of the primary goals: Improve consumers' access to higher blends of ethanol, by increasing the number of Minnesota service stations that offer E15.

State dollars will go to retailers and distributors who install the underground storage tanks, piping, pumps and other equipment needed for fuels containing up to 25 percent ethanol.

"[It] is good for the farmers who grow the corn, good for the economies where ethanol is produced because of the jobs it produces, good for the environment because it reduces greenhouse gases, and good for the consumer because it reduces the cost of fuel," says Minnesota Rep. Paul Anderson, co-chair of The Council of State Governments' Midwest Legislative Conference Agriculture & Natural Resources Committee.

In his home state, too, many ethanol plants began as farmer-owned cooperatives, thus generating even-

WEB SESSION ON ETHANOL

The Midwestern Legislative Conference Agriculture & Natural Resources Committee recently held a virtual session on the future of ethanol and the Midwest's economy. A recording is available at csgmidwest.org. The MLC Economic Development Committee co-hosted this web event.

greater economic benefits for local economies and corn producers.

But the industry has faced challenges in recent years.

Two years ago, Minnesota Gov. Tim Walz noted that low market prices and changes in federal policy were slowing growth.

In response, he formed a Governor's Council on Biofuels, and one of the group's core recommendations (released in late 2020) was to upgrade the fuel-dispensing infrastructure — a necessity if Minnesota wanted to move to higher blends of biofuels. The council found, for example, that only 15 percent of the state's service-station sites were compatible with E15.

Other states in the Midwest also have recognized this infrastructure need and established their own grant programs (see map).

Another potential source of funding is a state's association of corn growers. Minnesota Corn is providing an additional \$1 million, on top of the \$6 million legislative appropriation.

The Kansas Corn Growers Association has a privately funded program as well,

says Josh Roe, the group's vice president of policy. (According to Roe, each plant in Kansas averages 45 employees, with salaries averaging more than \$59,000.)

In late 2021, another funding source became available: the federal government. The U.S. Department of Agriculture announced in December that \$100 million in grants would be available for the biofuels infrastructure, including blender pumps.

ETHANOL'S LINK TO LOW-CARBON FUEL STANDARD

Along with its emphasis on investing in infrastructure, the Minnesota Governor's Council on Biofuels is recommending that the state advocate for a low-carbon fuel standard (LCFS) across the Midwest. (Legislation to create such a standard for Minnesota alone was introduced but not passed this year.)

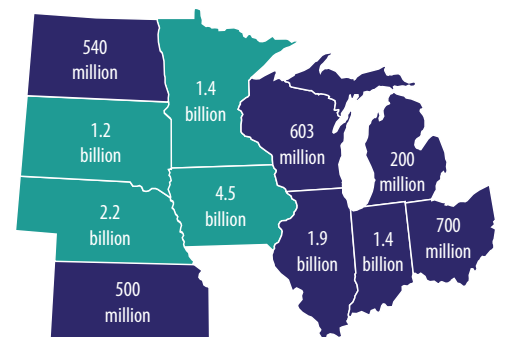
A few states outside this region already have adopted an LCFS.

California is targeting a 20 percent reduction in average carbon intensity from transportation fuels by 2030. To reach this standard, fuels are evaluated on their carbon intensity, and a series of market-based incentives (LCFS credits) are then used to encourage the development and use of low- or zero-carbon options.

The idea has particular appeal in the Midwest because ethanol and biodiesel would be among the low-carbon fuels.

The consulting firm ICF International has analyzed the potential impacts of

STATE OF ETHANOL IN THE MIDWEST: ANNUAL PRODUCTION CAPACITY (GALLONS PER YEAR) AND STATE-FUNDED INFRASTRUCTURE INCENTIVES/GRANTS*



- State incentives/grants for biofuels infrastructure
- No state incentive/grant program found

* All 11 Midwestern states are among the top 13 ethanol-producing states. The top three — Iowa, Nebraska and Illinois — account for more than half of total U.S. production.

Sources: CSG Midwest research, U.S. Department of Energy and state-specific information

a clean-fuels policy in Minnesota and Iowa, using a 15 percent reduction in carbon intensity by 2030 as an economic model. It found that such a policy would support 15,000 new jobs and generate \$946 million in employment income.

Minnesota Rep. Paul Anderson and Illinois Rep. Norine Hammond serve as co-chairs of the Midwestern Legislative Conference Agriculture & Natural Resources Committee. The co-vice chairs are Saskatchewan MLA Steven Bonk and Kansas Sen. Marci Francisco. Carolyn Orr serves as CSG Midwest staff liaison to the committee.

EDUCATION

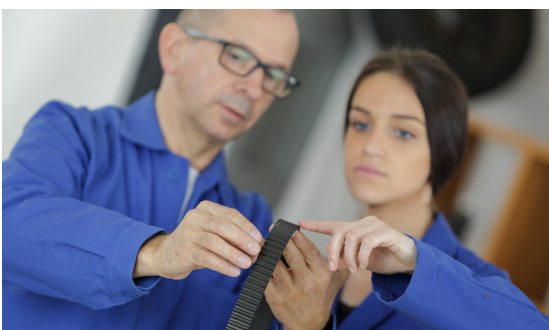
'Earn and learn': State support for youth apprenticeships is growing; Wisconsin already is a national leader

by Tim Anderson (tanderson@csg.org)

Last school year, more than 5,000 Wisconsin high school juniors and seniors earned \$28.7 million while they learned on the job — all while securing academic credits for high school graduation and often getting a jump-start on a postsecondary program.

They did so by participating in the state's nationally recognized youth apprenticeship program.

In his home district, Rep. Loren Oldenburg has seen young people take advantage of this "earn and learn" opportunity by working in the mechanics shop of a local auto dealer or by getting early, hands-on experience in careers such as agriculture, manufacturing, hospitality and banking.



"Here in our rural areas, we can get our young adults into the workforce sooner, and in career areas that they might like," he says. "And that can be the difference in them staying here."

Wisconsin is ahead of most states on youth apprenticeship. Its program dates back 30 years, with state policy and grants providing the foundation for coalitions of school districts, labor organizations and industry groups to work on locally run initiatives.

The idea is catching on in other states.

In a recent web event of The Council of State Governments' Midwestern Legislative Conference, lawmakers learned how states such as Iowa and Michigan are making a greater commitment to youth apprenticeship.

In Iowa, it began as a pilot project in one high school in 2018, and has since expanded to 60 schools covering 19 different occupational areas. The Legislature is now appropriating nearly \$4 million to help start or maintain local youth apprenticeships, and it also passed a bill in 2021 (HB 847) giving school districts greater funding flexibility to share the costs of employing work-based learning coordinators.

Michigan, long a policy leader on

registered apprenticeships for adults, is now making similar opportunities available to 16- to 24-year-olds. As part of a federal grant, Michigan has secured \$5 million to build what it is calling a "youth apprenticeship readiness network" of schools, employers, and labor and business organizations.

Together, these groups will create more than 1,000 new youth apprenticeships. The state wants at least 124 of the participants to be youths with disabilities.

These young Michigan apprentices will earn industry-recognized credentials in sectors that need more skilled workers and that offer pathways to high-wage careers. (Examples include advanced manufacturing, construction, energy, health care and information technology.)

In Wisconsin, state-level support comes first and foremost from a \$6 million grant program overseen by the Department of Workforce Development.

Legislators have developed a list of 16 career clusters that must be offered to students, and state statute also sets performance targets for grant recipients: for example, at least 60 percent of the students should be offered a job at the place where they received two years of on-the-job training.

WEB SESSION ON YOUTH APPRENTICESHIP

In November, the Midwestern Legislative Conference Education Committee held a virtual session for state lawmakers on youth apprenticeships. A recording is available at csgmidwest.org. The MLC Economic Development Committee co-hosted this event.

Since joining the Legislature, Oldenburg has prioritized an expansion of youth apprenticeship, and he says two recent legislative actions will help. First, Wisconsin raised the reimbursement rate for local programs from \$900 to \$1,100 per apprentice. Second, the recently enacted AB 220 (sponsored by Oldenburg) requires schools with a youth apprenticeship program to provide information about it to parents and students.

South Dakota Sen. Jim Bolin and Ohio Sen. Hearcel Craig serve as co-chairs of the Midwestern Legislative Conference Criminal Justice & Public Safety Committee. Tim Anderson is CSG Midwest's staff liaison to the committee.

TWO MIDWEST STATES ADD ANTI-DISCRIMINATION LANGUAGE TO SCHOOL, EMPLOYMENT LAWS

Bills to ban discrimination based on hairstyles associated with race became law this year in **Illinois** and **Nebraska**, placing them among a baker’s dozen states nationwide to have done so since California’s CROWN (Creating a Respectful and Open World for Natural hair) Act was enacted in 2019.

Illinois’ SB 817, known as the Jett Hawkins Act — named for a 4-year-old boy who was sent home from his school because his braids violated the dress code — bans schools from creating hairstyle-based dress codes. It takes effect at the start of 2022.

Nebraska’s LB 451 amends the state’s Fair Employment Practice Act by expanding the definition of race to include “characteristics such as skin color, hair texture, and protective hairstyles,” and defining those styles as including braids, locks and twists. Signed in early May, SB 451 does not prevent law enforcement agencies or the Nebraska National Guard from “imposing its own dress code and grooming standards.”

Michigan (HB 4275) and **Wisconsin** (AB 141/SB 251) are among the states where related bills were pending as of late 2021. In the U.S. Congress, the CROWN Act would make discrimination based on natural and protective hairstyles associated with people of African descent a prohibited form of racial or national-origin discrimination.



NEW LAWS IN PLACE TO CLEAR AND PREVENT BACKLOGS OF UNTESTED RAPE KITS

Several Midwestern states enacted laws in 2021 to process backlogs of sexual assault evidence kits — so-called “rape kits” — and/or prevent backlogs from building anew.

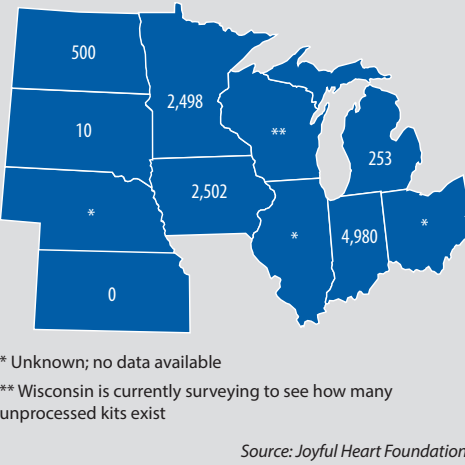
Kit tracking systems were created in **Iowa** (HF 426), **North Dakota** (SB 2281) and **Wisconsin** (SB 71 and SB 94). **Ohio**’s fiscal year 2022 budget allocates up to \$1 million to state and local law enforcement agencies to handle sexual assault kits. In addition, a new **Illinois** law (HB 1739) requires the collectors of evidence (medical facilities and law enforcement agencies) from a sexual assault survivor to notify him or her about the state’s existing tracking system.

Wisconsin’s new laws require annual reports on law enforcement compliance and create civil and criminal immunity for health care professionals conducting consensual or court-ordered sexual assault forensic exams. North Dakota is now requiring annual reports on tested and untested kits; information will be posted on the attorney general’s website.

In 2021, Iowa completed a six-year effort, the Iowa Sexual Assault Kit Initiative, to find and test all untested kits collected before April 2015. As a result of the initiative, Attorney General Tom Miller says, 1,606 kits had been tested, resulting in four new criminal charges and two new convictions.

The Joyful Heart Foundation lists six essential state actions to end backlogs: 1) annual statewide inventories to identify untested sexual assault evidence kits; 2) mandatory submission and testing of backlogged kits; 3) mandatory submission and testing of newly collected kits; 4) an electronic tracking system for victims to follow the status of their kits; 5) a right for victims to be informed about the status of their kits; and 6) appropriation of adequate state funding to implement these changes.

ESTIMATED # OF BACKLOGGED SEXUAL ASSAULT EVIDENCE KITS IN MIDWEST



MORE THAN \$1 BILLION IN ADDITIONAL FEDERAL FUNDING COMING TO PROTECT GREAT LAKES

A big boost of federal funding is coming over the next five years to help Great Lakes states and communities protect the largest freshwater system in the world.

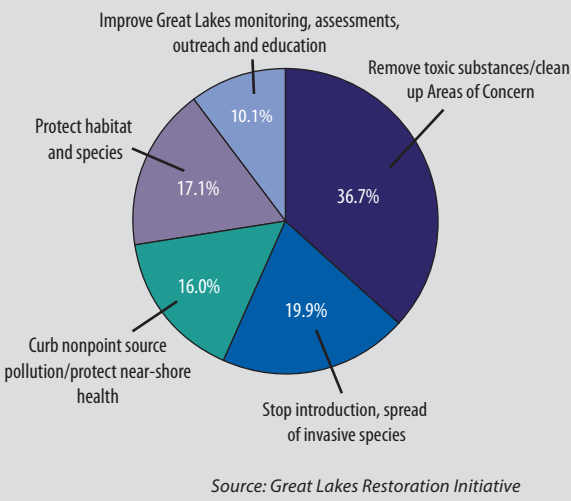
The recently enacted Infrastructure Investment and Jobs Act includes an additional \$1 billion for the Great Lakes Restoration Initiative, the 11-year-old program that funds projects related to five priority areas: toxic substances and Areas of Concern; invasive species; nonpoint source pollution impacts on near-shore health; habitats and species; and foundations for future restoration actions (see pie chart for the funding breakdown).

The inclusion of this money in the larger infrastructure package caps a historic year in federal Great Lakes policy and funding. In early 2021, the U.S. Congress passed legislation reauthorizing the GLRI through fiscal year 2026 with gradual increases in funding — from \$375 million in 2022 to \$475 million in 2026. A total of \$3.8 billion went to the initiative between 2010 and 2021, including \$330 million in the most recently completed fiscal year.

The U.S. Environmental Protection Agency cities several accomplishments since the GLRI’s inception:

- the delisting of six Areas of Concern (toxic “hot spots” in different parts of the Great Lakes basin) and acceleration of cleanup work in other AOCs;
- the start of projects to control invasive species on more than 178,000 acres in the Great Lakes region;
- a projected reduction of more than 1.5 million pounds of phosphorus runoff; and
- the protection, restoration or enhancement of more than 440,000 acres of coastal wetlands and other habitat.

HOW MONEY FROM GREAT LAKES RESTORATION INITIATIVE WAS USED IN 2021*



SOUTH DAKOTA SUPREME COURT SNUFFS 2020 MARIJUANA LEGALIZATION AMENDMENT

The **South Dakota** Supreme Court ruled in November that an initiated amendment to legalize recreational marijuana was unconstitutional. Voters had approved the measure in 2020.

Justices upheld an earlier Circuit Court ruling that the amendment violated the state’s single-subject rule, itself a constitutional amendment approved by South Dakotans in 2018 (“No proposed amendment may embrace more than one subject.”)

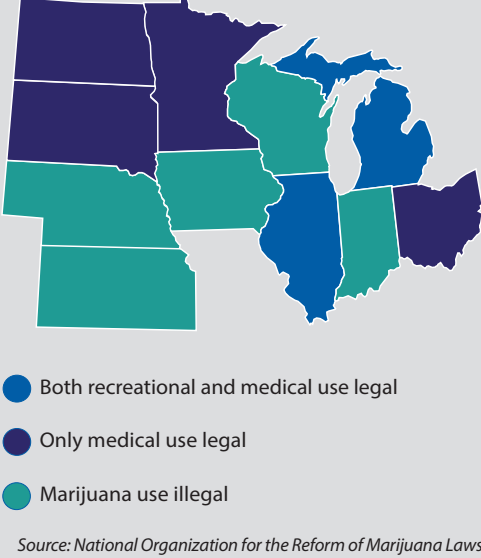
Justices said the proposal covered at least three distinct subject areas: legalization and regulation of marijuana, access to medical marijuana, and the cultivation and sale of hemp. In November 2020, 54.1 percent of voters approved the amendment. A lawsuit seeking to overturn it was filed two weeks later by a county sheriff and a highway patrol officer. A separate voter-approved initiated measure legalizing medical marijuana in South Dakota still stands.

Elsewhere in the Midwest in 2021, bills to legalize and regulate medical marijuana were introduced in **Indiana** (HB 1026), **Kansas** (HB 2184 and SB 92) and **Nebraska** (LB 474) but failed to advance. A proposed constitutional amendment to legalize recreational marijuana also stalled in Nebraska’s Unicameral Legislature.

Two Midwestern states currently legalize the recreational use of marijuana: **Illinois**, as the result of a bill approved by the General Assembly and signed by the governor in 2019; and **Michigan**, because of a voter-approved ballot proposal from 2018.

According to the *Chicago Sun-Times*, total tax collections on marijuana sales had reached \$563 million in Illinois as of late 2021. One-quarter of the revenue from excise taxes has been earmarked for a grant program that targets help for communities harmed by violence, excessive incarceration and economic disinvestment. Money also is going to local governments, the state’s general fund and budget stabilization fund, and substance abuse programs.

MARIJUANA LAWS IN MIDWEST (AS OF DECEMBER 2021)



MULTI-MEMBER LEGISLATIVE DISTRICTS: HARDER TO FIND, BUT STILL IN USE

by Tim Anderson (tanderson@csg.org)

At one time, multi-member districts were a common feature of representation in U.S. state legislatures. Voters would elect two, three, four, or even five or more legislators to represent them. In the 1970s, for instance, a single legislative district in Indiana had 15 representatives. And up until the 1980s, every Illinois resident had three state representatives.

Over the past half century, these kinds of variations have largely disappeared from the nation's electoral landscape: Most states now only have single-member legislative districts.

Exceptions remain, however, including the continued use of multi-member districts in North Dakota and South Dakota, where one legislative district typically includes one senator and two at-large representatives.

It's an arrangement that can lead to more orderly redistricting maps, simplify election administration, and allow legislators within a shared district to work together on local issues of concern. But some unique considerations also come into play when a state's political map gets redrawn every 10 years.

A CHANGE IN NORTH DAKOTA

This year, the North Dakota Legislative

Assembly created four single-member House districts in two areas of the state with Native American reservations. It did so by creating sub-House districts in two separate Senate districts.

This split will prevent the votes of Native Americans from being diluted in a larger, multi-member district, and increase the chances of individuals from the Fort Berthold and Turtle Mountain reservations being elected to office. Lawmakers approved this new plan during a special session in November.

Preceding that session were extensive deliberations by the joint legislative Redistricting Committee, briefings from legislative staff, and testimony from members of the public.

That testimony included pleas from the tribal nations and Native American rights groups to establish single-member sub-districts. Legislators learned, too, that the state may be legally bound to create them.

Over the past 10 years, population numbers on the Fort Berthold and Turtle Mountain reservations increased, and now exceed what would constitute a majority of votes in a House sub-district. This threshold has been critical to courts in determining whether a state's use of multi-member districts contravenes U.S. law.

"The overriding consideration of the Redistricting Committee and members of the Legislative Assembly was our belief we would be in violation of the federal

Voting Rights Act if we did not split the districts," says Rep. Bill Devlin, who served as chair of the committee.

'PROTECT MINORITY RIGHTS'

Section 2 of this 1965 federal law bans electoral practices that minimize the voting strength of racial or language minority groups.

One of the results of this prohibition: the fall of multi-member districts because of their tendency to dilute the votes of minority citizens. Across the country, a series of legislative-initiated or court-ordered changes occurred following enactment of the Voting Rights Act. (Starting in 1967, too, the U.S. Congress began requiring single-member districts in the U.S. House.)

South Dakota preceded North Dakota in establishing single-member House districts in specific areas of the state. It first did so after the 1990 Census, carving out two sub-districts "in order to protect minority rights."

There were subsequent legislative attempts to return to all multi-member districts, including adoption of such a plan in 1996. It was overturned by the state Supreme Court on the grounds that a mid-decade redrawing of the maps was unconstitutional.

In the next decade, South Dakota found itself at the center of a much-watched case involving redistricting and the Voting Rights Act — *Bone Shirt v. Hazeltine*.

Alfred Bone Shirt and others challenged the state's legislative map in federal court, saying that the votes of Native American

voters had been packed into a single Senate district. Bone Shirt prevailed, and a new court-drawn map included creation of an additional sub-House district with a majority Native American population.

"It increased Native American representation by one member," says Bryan Sells, a civil rights lawyer who worked on the *Bone Shirt* case. "It's not a lot, but it's important to those voters. It gives a little greater voice and a seat at a table to an important constituency that has been historically discriminated against."

Today, like North Dakota, South Dakota has a handful of single-member, sub-House districts. Still, multi-member House districts remain the norm in those two states, while non-existent in most others.

Could multi-member districts become more prevalent again?

Some advocates for changes in election law hope so, albeit in a different form that they say would actually increase minority representation.

Under the proposed Fair Representation Act (HR 3863) now before Congress, multi-member U.S. House districts would be used in every state with more than one representative. If implemented along with proportional ranked-choice voting, proponents say, multi-member districts would lead to a greater diversity of candidates, including minorities, winning office.

Capital Closeup is an ongoing series of articles focusing on institutional issues in state governments and legislatures. Articles are available at csgmidwest.org.



QUESTION OF THE MONTH

QUESTION | In addition to motor fuel taxes, how are states raising funds for transportation-related projects?

All states use a mix of state money – with a motor fuel tax and borrowing being two common features — along with federal highway funds to pay for road and highway projects. Over the past several years, that mix has changed in some Midwestern states as the result of new laws and the use of new financing options.

Illinois, for example, launched its six-year, \$45 billion Rebuild Illinois infrastructure plan in 2019 with the passage of four different bills (SB 1939, SB 690, HB 142 and HB 62). Many types of capital projects are being funded (schools, state facilities, water infrastructure, etc.), but more than \$25 billion is going to roads and bridges.

Along with raising the state's gas tax and sales tax on motor fuels, legislators tapped other revenue sources — higher motor vehicle registration and title fees, an increase in the cigarette tax, and some dedicated revenue from an expansion of legalized gambling.

As part of Illinois' legislative package, too, an annual \$100 vehicle registration "surcharge" for electric vehicles was put in place.

Legislatures across the Midwest have implemented EV surcharges, typically a flat rate established in state statute. One exception is **Michigan**. There, the EV charge is tied to changes in the state's fuel tax; and increases by \$5 for every cent of increase in the fuel tax above 19 cents per gallon.

Michigan's EV fee also varies depending on a vehicle's weight (currently \$135 or \$235). It was

enacted as part of a much larger, \$1.2 billion transportation-funding measure signed into law in 2015. This seven-bill legislative package raised Michigan's vehicle registration fees and motor fuel taxes while designating \$600 million in state general funds annually for road and bridge projects.

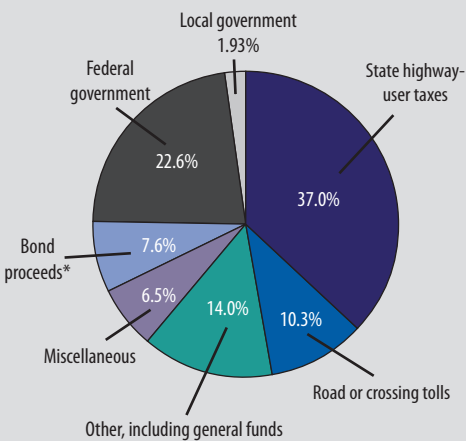
Nebraska is halfway through a 20-year period during which one-quarter of 1 percent of its state sales tax is being used to help fund road and highway projects (LB 84 of 2011).

In 2006, **Indiana** signed a 75-year, \$3.8 billion lease of the Indiana Toll Road to fund a 10-year road and highway improvement plan. Under the agreement, a private consortium of Australian and Spanish companies was allowed to maintain the road and collect tolls. (The consortium filed for bankruptcy in 2014, citing lower than expected toll revenue, and was sold the next year to an Australian firm.)

Another financing option for states: a federal bond program known as GARVEE (Grant Anticipation Revenue Vehicles), which pledges future federal highway funding to pay upfront for projects. According to the Federal Highway Administration, **Ohio** and **North Dakota** are among the 26 states that have tapped GARVEE bonds. (Enabling legislation by states is required.)

North Dakota issued \$51.5 million worth of GARVEE bonds in August 2005 for highway and bridge projects; they were backed by the state's highway fund and came due last year. Shannon L. Sauer, chief financial officer for the North Dakota

SOURCES OF STATE HIGHWAY FUNDS (2019)



* Excludes bonds issued to refund previously issued bonds.

Source: Federal Highway Administration

Department of Transportation, says the state's strong credit rating allowed the GARVEE bonds to be sold at a reasonable interest rate.

"As it turned out, the bonds were a hit with the market and, in fact, the bonds were sold at a premium," she says.

Question of the Month response by Jon Davis (jdavis@csg.org), policy analyst and assistant editor for CSG Midwest, which provides individualized research assistance to legislators, legislative staff and other government officials. This section highlights a research question received by CSG Midwest. Inquiries can be sent to csgm@csg.org.



5 MIDWEST STATES HAVE LAWS RESHAPING POWERS OF LEGISLATIVE, EXECUTIVE

CONTINUED FROM PAGE 1

“But it absolutely cannot be indefinite,” he adds. “If it’s indefinite, then the executive branch is essentially occupying two branches of government and becoming the legislature.”

Since the early days of the pandemic, McColley began thinking about ways to find a better balance in his home state: an executive branch with enough power to protect the public health in times of emergencies, but with adequate legislative limits and oversight in place.

“The problem began when it became apparent that not only was the executive branch acting outside of what many of us believed its statutory or constitutional authority to be, but that we didn’t have an apparent end or plan in sight for when things would return back to normal,” he says.

His solution was SB 22, a bill that became law in March after the General Assembly successfully overrode a veto by Gov. Mike DeWine.

“We are not limiting the governor or the director of health from issuing any orders,” he says. “We are making it very clear that everything that the legislature is able to do is going to be after the [orders are in place].”

Under the new law, the duration of any governor-issued state of emergency is limited to 90 days, unless the legislature votes to extend it. And after 30 days of an emergency order being in place, legislators can terminate it.

The governor is barred from reissuing a state of emergency for 60 days after its expiration or termination, unless the legislature adopts a concurrent resolution in support of such a decision.

“The bill is meant to restore the natural balance and separation of powers in that the governor, or any of his departments,

“You don’t have any long-serving legislators [in Michigan], and they might feel they are losing control over state government.”

Matt Grossman, director, Michigan State University Institute for Public Policy and Social Research

can do only what their legislative scope of authority is,” McColley says.

During a state of emergency, too, a Ohio Health Oversight and Advisory Committee (made up of select senators and representatives) now has the authority to oversee actions taken by the governor and Department of Health.

In his veto message, DeWine said SB 22 “jeopardizes the safety of every Ohioan,” and called attention to another part of the law that generally blocks local health departments from banning mass gatherings or closing schools. (Now, these departments can only close a specific school with verified positive cases of a dangerous communicable disease.)

“[It] strikes at the heart of local health departments’ ability to move quickly to protect the public from the most serious emergencies,” DeWine wrote.

MICHIGAN: INDIRECT INITIATIVE TILTS BALANCE OF POWER

In neighboring Michigan, the Emergency Powers of Governor Act had been in place for more than a half century.

The 1945 law granted broad powers to the executive to declare an emergency and to “promulgate reasonable orders, rules and regulations as he or she considers necessary to protect life and property.”

Until last year, this decades-old statute received scant attention.

“Then [it] became incredibly relevant on the most important issue of the time,” says Matt Grossman, director of the Institute for Public Policy and Social Research at Michigan State University.

In an attempt to stem the spread of COVID-19 early in the pandemic, Michigan Gov. Gretchen Whitmer and the state Department of Health and Human Services used their powers to issue stay-at-home orders and close businesses.

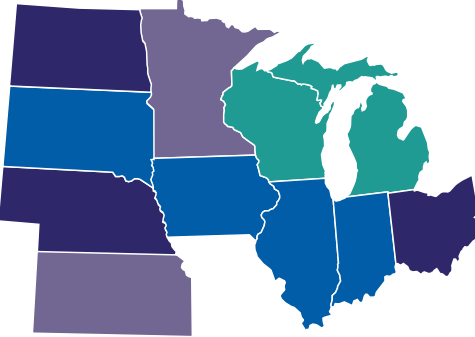
Opposition to some of Whitmer’s actions grew in the Republican-led Legislature, and an effort to repeal the Emergency Powers of Governor Act began.

As Grossman notes, legislators in Michigan had a somewhat unique institutional tool available to them: the indirect initiative.

Get enough citizens to sign a petition seeking a new law (or, in this case, the repeal of any existing one), and the Legislature can make the change via a simple majority vote. The governor has no veto power over an indirect initiative.

“It was envisioned more as something that would come from outside the

STATUS OF PUBLIC HEALTH EMERGENCY ORDERS IN MIDWEST (AS OF DEC. 9, 2021)*



- Active*
- Ended by governor’s decision in 2021 to lift/end emergency
- Ended by legislature
- Ended by state supreme court ruling

* Governors in Illinois and Iowa needed to renew the disaster declarations/emergencies in December in order for them to remain in place. The governor of Indiana extended the public health emergency through at least Jan. 1. South Dakota’s emergency order is in place until further notice.

Source: National Academy for State Health Policy

Legislature,” Grossman says. “Then the Legislature would get to decide on it, and it has been used in that way [in the past].”

In this case, according to Grossman, it was more of a legislative-led effort.

“I’m not trying to say that the complaints [weren’t] legitimate, but I just think it wasn’t only about a general encroachment of the governor’s power,” Grossman says about how the institutional battle also reflected partisan division in Michigan.

By July, enough valid signatures had been collected to send the indirect initiative to the Republican-led

STORY CONTINUED ON NEXT PAGE

HOW LEGISLATURES CAN TERMINATE A GOVERNOR’S EMERGENCY OR DISASTER DECLARATION: 4 EXAMPLES FROM MIDWEST

ADOPT CONCURRENT RESOLUTION BY FULL LEGISLATURE

Language in many states’ statutes gives legislatures the authority to terminate governors’ emergencies at any time via the introduction and passage of a concurrent resolution. **Indiana, Iowa, Nebraska, North Dakota** and **Wisconsin** are among the states with this language. For such a vote to occur, though, lawmakers must be in session. Many Midwestern states have legislatures that typically only meet for part of the year.

EMPOWER A SELECT GROUP OF LEGISLATIVE LEADERS TO ACT

Under **Iowa** law, when the Legislature is not in session, a bicameral, interim legislative steering committee is given the power to rescind a governor’s disaster emergency declaration. This year in **Kansas**, with passage of SB 40, the eight-member Legislative Coordinating Council (a mix of leaders from the House and Senate) was given the authority to extend or discontinue these orders of the governor.

HOLD A SPECIAL SESSION ON THE GOVERNOR-ISSUED DECLARATION

Many legislatures have the authority to call themselves into special session (see table on page 7). In two Midwestern states where such authority is more limited or ambiguous, new laws are in place allowing for special or emergency sessions during declared states of emergency. **Indiana**’s HB 1123 permits a session of up to 40 days, during which time the legislature can terminate a governor’s order. **North Dakota**’s HB 1118 authorizes the legislature to request that the governor call a special session. If that request is denied, an emergency order automatically expires after 30 days.

REQUIRE LEGISLATIVE ACTION FOR AN ORDER TO BE CONTINUED

States such as **Kansas, Michigan, Minnesota** and **Ohio** pair some kind of limitation on the length of an emergency order/declaration with a requirement that an extension of the order/declaration be approved by the legislature. A new law in Ohio, for instance, limits the duration of a governor-issued state of emergency to 90 days, unless extended by the legislature. And after 30 days, the legislature can rescind the order at any time.



CONTINUED FROM PREVIOUS PAGE

Legislature. From there, it took less than a week for lawmakers to repeal the 1945 law.

In Michigan, Grossman says, another factor in the recent power struggle between the legislative and executive branches is term limits, where lifetime service is capped at three two-year terms in the House and two four-year terms in the Senate.

“You don’t have any long-serving legislators, and they might feel that they are losing control over state government,” he explains.

“It’s less about the governor specifically and more just about the growth of state governments. There are huge departments making all kinds of decisions, combined with a legislature with less experience. You’re going to have that feeling that the administrative apparatus is making decisions without much input [or oversight].”

KANSAS: COMPROMISE RESULTS IN NEW LAW ON DISASTER DECLARATIONS

Kansas is one state where the two branches of government were able to reach a compromise on how to handle emergency declarations.

Under the agreement (SB 40), reached in March, Democratic Gov. Laura Kelly’s statewide disaster declaration was extended for at least an additional two months. But the measure also ultimately granted the power to end disaster declarations to the Kansas Legislative Coordinating Council, a joint committee of the state’s top legislative leaders.

The law stipulates that after an initial 15-day state of disaster emergency period, the authority to extend such a declaration rests with the council. An affirmative vote of five of the eight members is required for an extension, which can last up to 30 days. (There is no limit on how many times the council can vote to extend the state of disaster.)

In June, Kelly sought an extension through at least August; legislators denied her request. The disaster declaration was over in Kansas.



Kansas Gov. Laura Kelly

Leaders in the Republican-led Kansas Legislature applauded the modifications to the state’s Emergency Management Act, saying they ensured institutional checks and balances on the governor’s power.

In a statement issued after signing SB 40, Kelly noted that the measure had “provisions that I do not support and that could complicate our emergency response efforts.” However, she said the two-month extension of the disaster declaration was critical to managing the pandemic.

INDIANA: LEGISLATURE SEEKS POWER TO CALL SPECIAL SESSIONS IN EMERGENCY

In the Midwest, most state legislatures have the statutory authority to terminate a governor’s emergency declaration, either at any time or after a certain prescribed amount of days into the emergency order. This is typically done with passage of a concurrent resolution.

But what if the legislature is not in session?

In this region, most state legislatures only meet for part of the year. One option for these out-of-session periods: give the power to end emergency orders to a select legislative committee, an approach used in states such as Kansas and Iowa (see page 6 sidebar article).

A second option is for the legislature to call itself into special session. Such authority is common in states, but not universal.

The question of special-session authority led to a constitutional battle in Indiana between the Republican governor and the state’s part-time, Republican-led legislature.

Passed in April, HB 1123 allows the General Assembly to convene in a 40-day session during a declared state of emergency. In order to do so, the Legislative Council (made up of 16 legislators) would first need to adopt a resolution; only issues stated in the resolution could then be considered. During this session, lawmakers could terminate a governor’s emergency order.

INDOOR MASK MANDATES IN MIDWEST (AS OF DECEMBER 2021)		
State	Mask mandate?	Details
Illinois	Yes	Reinstated Aug. 26, 2021
Indiana	No*	Ended April 6, 2021
Iowa	No	Ended Feb. 8, 2021
Kansas	No**	Ended by all counties May 28, 2021**
Michigan	No	Ended June 22, 2021
Minnesota	No	Ended May 14, 2021
Nebraska	No	Ended December 2020
North Dakota	No	Ended Jan. 18, 2021
Ohio	No	Ended June 2, 2021
Saskatchewan	Yes	In place since Sept. 17, 2021
South Dakota	No	Never had mask mandate
Wisconsin	No	Ended March 31, 2021
* Masks are still required in schools.		
** State employees are required to wear masks. The decision on whether to require masks indoors was left to the counties.		
Source: National Academy for State Health Policy		

A veto by Gov. Eric Holcomb of HB 1123 was successfully overridden by the General Assembly.

Holcomb then challenged the law in court, arguing that Indiana’s Constitution only gives the governor, not the legislature, the power to call special sessions. In October, a Marion County Superior Court judge sided with the legislature, but the dispute ultimately will be decided by the state Supreme Court.

NORTH DAKOTA: ‘TIME FOR LEGISLATURE TO WEIGH IN’

North Dakota also has a part-time state legislature, where lawmakers typically meet once every two years. The number of session days is limited to 80 per biennium.

So even though the state’s Disaster Act of 1985 allowed the legislature to terminate a governor’s emergency or disaster declaration, there was an institutional problem for this branch of government: the declaration could be in place for a long time before the next scheduled session.

“I sincerely doubt quite honestly that when that change was made in 1985, anyone thought one of these [declarations] would go for months and months and months on end,” Rep. Bill Devlin said earlier this year during floor debate on HB 1118, which he sponsored.

Signed into law in April, the bill includes two significant changes to the North Dakota Disaster Act.

First, a public health-related emergency declaration by the governor is limited to 60 days. The legislature then would have the power to rescind or extend the state of emergency beyond 60 days.

Second, whenever a state of emergency is issued, legislative leaders could request that the governor call them into special session.

If the governor fails to call special session within seven days, an emergency order automatically expires after 30 days. If the special session is held, the legislature could end, rescind or modify the emergency order.

“I think the governor does need to have the ability to declare an emergency,” North Dakota. Sen. Dick Dever says. “But after 30 days, I think it’s not an emergency anymore. There’s time to weigh in with the legislature and determine what the path forward should be.”



North Dakota Sen. Dick Dever

LEGISLATURES IN THE MIDWEST

FULL-TIME OR PART-TIME LEGISLATURE?*

Full-time

Full-time “lite”

Hybrid

Part-time “lite”

Part-time

* State legislatures are categorized based on the following “capacity” factors: time spent by lawmakers on legislative work compared to a full-time job, compensation levels, and the size of legislative staff support.

Source: National Conference of State Legislatures

AUTHORITY TO CALL SPECIAL SESSIONS OF STATE LEGISLATURE

State	Authority to call session
Illinois	Governor or presiding officers of both legislative chambers
Indiana	Governor can call session; as of December, dispute was before state Supreme Court about legislative authority under 2021 law
Iowa	Governor or two-thirds of members of each legislative chamber
Kansas	Governor or two-thirds of members of each legislative chamber
Michigan	Governor
Minnesota	Governor
Nebraska	Governor or two-thirds of members of Unicameral Legislature
North Dakota	Governor and legislature (latter only if legislature has not reached constitutional cap of 80 session days for biennium)
Ohio	Governor or presiding officers of each legislative chamber
South Dakota	Governor or two-thirds of members of each legislative chamber
Wisconsin	Governor or legislature by majority vote of legislative organizing committees or majority votes in each legislative chamber (called “extraordinary” session when called by legislature)

Source: The Council of State Governments’ The Book of the States.”

TERM LIMITS ON SERVICE IN STATE LEGISLATURES IN MIDWEST

Lifetime limits

Limits on consecutive terms

None



PROFILE: NEBRASKA SEN. DAN HUGHES, CHAIR OF THE LEGISLATURE'S EXECUTIVE BOARD

Nebraska native reflects on the positive impact that legislative service can have on lawmakers themselves, as well as the traits for effective legislating

by Tim Anderson (tanderson@csg.org)

After seven years on the job, Nebraska Sen. Dan Hughes has come to think of legislating as the “ultimate self-improvement program.”

You have to be curious enough to know at least a little about a lot, he says, while becoming a respected expert for the legislative body in select policy areas.

You must learn the art of persuasion and how to become an effective public speaker.

You need the judgment to appreciate why certain policies and practices have long been in place, but also know when to push for change.

And Hughes puts one skill perhaps above all else: the ability to build meaningful, trusting relationships among legislative colleagues, especially in the nation’s smallest state legislature (49 members in Nebraska) and the only one without party caucuses.

“I’m a much better person because of my time in the Legislature,” he says.

Likewise, the chance to better his home state and community is what led Hughes to a life of public service.

“My folks were always engaged in our community and active in our church, so that idea of giving back was really just an automatic to me,” says Hughes, a lifelong resident of rural southwest Nebraska.

“Once you learn you can make a difference if you get involved, it’s always something you want to do.”

He spent more than decade on his local school board, and also became a state and national leader on farm policy through his leadership role on the Nebraska Wheat Board and chairmanship of U.S. Wheat Associates.

For many years, joining the part-time, “citizen” Unicameral Legislature was in the back of Hughes’ mind (his uncle had unsuccessfully sought a seat decades ago). And when his children came home to take over day-to-day operations of the family farm, the time had come to run.

Hughes won election in 2014 and 2018, and is now entering his final year in the term-limited Unicameral Legislature. His last two years of service are being spent as chair of the Executive Board, the powerful committee that oversees institutional issues related to legislative operations and governance.

In a recent interview with CSG Midwest, Sen. Hughes reflected on legislative service and leadership, as well as the approach that Nebraska took to continuing legislative operations through the COVID-19 pandemic.

Here are excerpts.

Q You’ve talked about needing that balance of appreciating why things in state government



BIO-SKETCH: NEBRASKA SEN. DAN HUGHES

- ✓ elected by peers in 2020 to serve as chair of Unicameral Legislature Executive Board; previously was chair of Unicameral Legislature’s Natural Resources Committee
- ✓ has been member of Legislature since 2015
- ✓ is a farmer and businessman whose family has had same piece of land in southwest Nebraska for nearly 100 years
- ✓ once served as chairman of U.S. Wheat Associates
- ✓ resides in Venango, Neb., with wife, Josie; they have two children, Ashley and Tyler

“Once you learn you can make a difference if you get involved, it’s always something you want to do.”

are the way they are, but also being ready to push for change. How have you applied that to your work as a legislator?

A Like everyone, I came in wanting to get certain things done. Otherwise, why would anyone run?

So at first, you want to step up and hit a home run. But you quickly find that on big issues, you’ve got to take singles and doubles where you can. That means sometimes being willing to nibble around the edges. Because if it’s a big problem or issue, the ripple effect of any legislation is going to be huge.

An example of that here is property taxes. I can say, “We’re going to fix the system by doing A, B and C.” But then there is the rest of the alphabet, and that’s the ripple effect. So you nibble around the edges. In Nebraska, our economy has been really good through COVID, so we have had revenue to work with and we have taken that opportunity on property taxes. There will be significant relief for Nebraskans in the year ahead. So that’s been a positive step, even if we haven’t completely solved the problem.

Q Based on your experience, what do you see as the attributes of an effective legislator?

A First and foremost, you’ve got to commit to building relationships with your colleagues. I like to equate it to political capital, and that comes from the goodwill that you’ve built up — from having good friends, from your demeanor and how you handle yourself, from working closely on an issue in committee with colleagues, from lending your expertise to others.

For me, for example, I’m one of only

four or five true farmers in the Nebraska Legislature. So on an agriculture issue, my colleagues will come to me with questions, and I want to give them answers they can trust. That industry credibility helps, and we learn to rely on each other. We’ve got bankers, teachers, insurance professionals. That’s the beauty of a citizen legislature.

That’s how we all build that bank account of political capital, and then we can choose where to spend it. But you have to earn it first to cash it in.

Q What is the approach that you and other leaders have taken to managing the Unicameral Legislature through the COVID-19 pandemic?

A Early on, we decided that we had to follow the health directives of Lincoln and of Lancaster County. So there weren’t a lot of individual decisions on our part. The health officials made recommendations on policies such as mask mandates, social distancing, and what happens if a member tests positive. We followed them.

At the same time, we made accommodations in 2020 to finish our session and developed some protocols. For example, a member who was exposed [to the virus] and who didn’t yet have two negative tests could still participate in debate, in person. But we had rules for the member to be in the balcony, away from the rest of the legislative body.

We also had plexiglass barriers installed during the 2020 session [between the desks of senators on the floor of the Legislature]. Those were removed for the 2021 sessions. By then, the vaccines were available. But we still limited the number of people who could

be on the floor of the Legislature, and interactions with lobbyists were still somewhat limited.

So we’re not back to the old days, and maybe we never will be, but we are now much more back to normal than we were in 2020. And that has been very nice.

Q Are there any new ways of doing business that might continue beyond the pandemic?

A In Nebraska, any bill that’s introduced by a senator gets a public hearing [in committee]. So that means we probably have more interactions with the public than some states. And there is concern from some members of the public who want to testify, but who are disabled or who are immunocompromised.

The concern is about being exposed in a large room with a large group of people. So I think we’re going to continue to have accommodations so that members of the public can submit testimony and have their voices heard without having to come to the Capitol.

Q What do you see as the most important issues for the Legislature in the year ahead?

A We’ve got a lot of federal stimulus money that has come to the state. Fortunately, too, the Nebraska economy continues to do well, so we also have additional funds that give us more flexibility to address issues beyond the federal stimulus.

Anytime you have money to spend, you have a lot of people with different ideas on how to do it. That will be a challenge for us. We need to make sure we invest wisely.

FIRST PERSON: OHIO EMERGES AS NATIONAL LEADER ON PREVENTING HAZING AND ITS TRAGIC CONSEQUENCES

Collin's Law mixes stiffer penalties with comprehensive anti-hazing campus plan



by Ohio Sen. Stephanie Kunze
(Stephanie.Kunze@ohiosenate.gov)

"Three years ago my family was awoken in the middle of the night to find two police officers and a chaplain who were there to tell us that our beautiful 18-year-old son, Collin, was found dead at 45 Mill Street in Athens, Ohio.

"We knew the address immediately. We knew it was the address of Collin's fraternity house. That's all we knew.

"In the months to follow, we began to learn more about the details that led to Collin's death, and we learned that for the last weeks of Collin's life, Collin had endured extreme, tortuous hazing.

"He was beaten, he was belted, he was water boarded, and he was forced drugs and alcohol. Since that most horrific night, our family, both individually and collectively, has experienced the most painful type of heartbreak imaginable, because of hazing."

~ Kathleen Wiant

Collin's mother, Kathleen Wiant, and the Wiant family are my constituents.

I was introduced to them shortly after the death of Collin, and worked with them over the past three years to create legislation that would increase penalties for hazing, enhance education of the dangers of it, and bring more transparency to instances that take place on our college campuses in Ohio.

I am inspired by the strength and determination that Kathleen showed during the time we worked together on this issue. That included her impactful testimony to our General Assembly.

"We don't want another family to go through the pain and loss our family has experienced. ... No family should ever have to go through what our family has gone through."

Sadly, the family of Stone Foltz, a sophomore at Bowling Green State University who passed away from hazing in March, experienced that pain.

We heard from the Foltz family as well, along with the powerful words of Tyler Perino, a young man who survived a hazing incident.

From their stories came our mission:

stop hazing on college campuses and prevent other families from losing loved ones.

Together with my colleague, Sen. Theresa Gavarone, we worked with a wide range of stakeholders on crafting and refining a bill called "Collin's Law." Along the way, we heard and learned from prosecutors, police, university leaders, the North American Interfraternity Council (representing 58 national fraternities), and the National Panhellenic Conference (representing 26 national sororities).

The end result: SB 126, legislation that was signed into law earlier this year and that has the potential to make Ohio a national leader in anti-hazing reform.

ENDING THE HAZING CULTURE

Collin's Law contains a more strict set of criminal penalties that will help to curb hazing culture by deterring individuals and organizations.

Under SB 126, an instance of hazing resulting in serious physical harm is now a third-degree felony, and the criminal penalty for recklessly participating in or permitting hazing is now a second-degree misdemeanor.

In addition, we now have new reporting requirements for school administrators and employees, faculty members and others. For them, the failure to report a hazing incident is a fourth-degree or a first-degree misdemeanor (a more serious charge occurs if the hazing incident caused serious physical harm).

We also have directed our chancellor of the Ohio Department of Higher Education to develop a statewide plan for preventing hazing.

This plan will have two critical components.

One is new guidelines for anti-hazing education and training on our college campuses — for students, school administrators and faculty, as well as organizations recognized by, or operating under the sanction of, an institution.

Two, the chancellor will develop a model anti-hazing policy and distribute it to all institutions of higher education in Ohio.

In turn, each of these institutions must have its own anti-hazing policy in place. (Use of the chancellor's model policy is one option.) All student organizations will receive the policy, which will be posted on a university's website. These schools also will provide students with an online or in-person educational

program on hazing.

Taken together, our new statewide plan emphasizes the importance of hazing-prevention education, intervention strategies, accountability for violations, and public acknowledgment when incidents occur.

Our goal with this legislation was not only to enhance penalties, but to push for a change in campus culture. Increased consequences for hazing show how serious we as a state will take hazing. The education pieces in Collin's Law help our colleges and universities recognize the signs and dangers of hazing.

Parents and students deserve and need access to information on the behaviors of organizations sanctioned for hazing.

Universities will now be required to have a website where parents and students can access this information so they can make educated, informed decisions about what organizations to join, or not join.

Had this provision been in effect when Collin was pledging a fraternity, his family would have been able to see that his fraternity had previously sent a pledge to the emergency room. The cause was a pledging activity that led to a gash in his head requiring eight staples.

Working on this law has been a challenging and emotional experience, both as a legislator and as a mother of college-aged children myself.

The bravery and courage of the Wiant, Foltz and Perino families has been inspiring. They are truly the heroes in ensuring that their stories are seen and heard to effect change.



HOW OHIO'S RECENTLY ENACTED COLLIN'S LAW DEFINES HAZING AND PUNISHES THE BEHAVIOR

DEFINITION

"Coercing another, including the victim, to do any act of initiation into any student or other organization or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse."

PUNISHMENT

- third-degree felony for hazing (including coerced consumption of alcohol or drugs) that results in serious physical harm
- second-degree misdemeanor for recklessly participating in, or permitting, hazing
- second- or fourth-degree misdemeanor for failing to report hazing

One of the things that I am most grateful for is the fact that more than 25,000 students from universities across Ohio voiced their support for Collin's Law. I believe this is the generation that will end the barbaric practice of hazing, and deliver on my hope that no other family will be awoken to that knock at the door.

Stephanie Kunze is currently serving her second term in the Ohio Senate and previously was a member of the state House of Representatives.

One of the things that I am most grateful for is the fact that more than 25,000 students from universities across Ohio voiced their support for Collin's Law

SUBMISSIONS WELCOME

This page is designed to be a forum for legislators and constitutional officers. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csg.org.

GREAT LAKES POLICY FOCUS OF JANUARY MEETING IN CHICAGO; REGISTRATION OPEN FOR STATE, PROVINCIAL LEGISLATORS

The binational, nonpartisan Great Lakes-St. Lawrence Legislative Caucus will meet Jan. 21-23 in Chicago.

Details on the meeting, including information on registration, COVID-19 protocols, and travel stipends for members of the caucus, are available at greatlakeslegislators.org.

With staff support from CSG Midwest, the GLLC offers a wide array of activities and resources for legislators — for example, in-person institutes, web-based sessions on the Great Lakes, legislative trackers on water policy, and the opportunity for policy advocacy and leadership.



At the upcoming meeting in Chicago, state and provincial legislators will take part in a series of sessions on Great Lakes policy and science.

Illinois Rep. Robyn Gabel and Minnesota Rep. Jennifer Schultz serve as GLLC chair and vice chair, respectively. They are part of an Executive Committee of legislators from each of the Great Lakes’ 10 jurisdictions (eight U.S. states and two Canadian provinces) that leads the caucus. Membership is free and open to all state and provincial legislators serving in the Great Lakes and St. Lawrence River region.

CSG MIDWEST COMING TO REGION’S CAPITOLS FOR VISITS WITH LEGISLATORS

The Council of State Governments is planning to resume its in-person visits to state and provincial capitols in early 2022 to learn about the interests and needs of legislators that the nonpartisan organization serves. Every legislator in 11 Midwestern states and the Canadian province of Saskatchewan is a member of CSG’s Midwestern Legislative Conference. (Alberta, Manitoba and Ontario are affiliate members.) If you’re interested in scheduling a meeting, please contact your CSG Midwest staff liaison at 630.925.1922 or at the email addresses below:

- **Illinois:** Mitch Arvidson (marvidson@csq.org)
- **Indiana:** Derek Cantù (dcantu@csq.org)
- **Iowa:** Derek Cantù (dcantu@csq.org)
- **Kansas:** Laura Kliewer (lkliewer@csq.org)
- **Michigan:** Laura Kliewer (lkliewer@csq.org)
- **Minnesota:** Mitch Arvidson (marvidson@csq.org)
- **Nebraska:** Tim Anderson (tanderson@csq.org)
- **North Dakota:** Laura Tomaka (ltomaka@csq.org)
- **Ohio:** Laura Tomaka (ltomaka@csq.org)
- **Saskatchewan:** Mike McCabe (mmccabe@csq.org)
- **South Dakota:** Jon Davis (jdavis@csq.org)
- **Wisconsin:** Jon Davis (jdavis@csq.org)



MIDWEST’S LEGISLATORS MEET IN DECEMBER, INSTALL NEW LEADERS FOR COMING YEAR

Kansas Sen. Carolyn McGinn will head Midwestern Legislative Conference

The Midwestern Legislative Conference Executive Committee has installed the nonpartisan organization’s four officers for 2022 and accepted the province of Saskatchewan’s invitation to host the MLC Annual Meeting in 2025.

These and other action items were taken in December, when the Executive Committee met in New Mexico in conjunction with The Council of State Governments’ National Conference.

State and provincial legislators serve on this committee, which oversees the overall work of the MLC — a nonpartisan association of all legislators in 11 Midwestern states as well as the Canadian province of Saskatchewan. (Alberta, Manitoba and Ontario are affiliate members.) CSG Midwest provides staff support to the MLC.

NEW MLC CHAIR: CAROLYN MCGINN

Kansas Sen. Carolyn McGinn will serve as MLC chair in the year ahead. She has been a member of the state Legislature since 2005 and is a respected leader on policies ranging from transportation and water, to budgeting and local government. McGinn will lead the state of Kansas’ work in hosting the 2022 Annual Meeting. The event will be held July 10-13.

The MLC’s other three officers are Michigan Sen. John Bizon, first vice chair; Ohio Sen. Bill Reineke, second vice chair; and South Dakota Sen. Gary Cammack, immediate past chair.



Kansas Sen. Carolyn McGinn, chair of the Midwestern Legislative Conference for 2022, hands a plaque of appreciation to South Dakota Sen. Gary Cammack, now immediate past chair, for his service to the MLC during the MLC Executive Committee’s meeting at the CSG National Conference in Santa Fe, N.M.

MLC’S RETURN TO CANADA

Saskatchewan became a full member of the MLC in 2019. It previously was a longtime affiliate member, and first hosted an MLC Annual Meeting in 2005. As a full member, the province is now part of the regular rotation of jurisdictions hosting MLC annual meetings. Saskatchewan will host again in 2025, preceded by Kansas (2022), Michigan (2032) and Ohio (2024).

NEW PROGRAM FOR MIDWESTERN LEGISLATORS PROVIDES LINK BETWEEN SCIENCE, PUBLIC POLICY

A new program series that brings state legislators to the intersection of science and policy was launched in November by CSG’s Midwestern Legislative Conference and Science is US.

Twenty-one legislators from 10 states traveled to St. Paul, Minn., to take part in the inaugural ELEVATE event. (ELEVATE stands for Enhancing Lives and Economic Vitality with Technology and Evidence.)

- **Illinois** — Sen. Dale Fowler and Rep. Joyce Mason
- **Iowa** — Sens. Adrian Dickey, Kevin Kinney, Janet Petersen and Annette Sweeney
- **Kansas** — Sens. Elaine Bowers and Carolyn McGinn
- **Michigan** — Sens. Ken Horn and Sylvia Santana
- **Minnesota** — Reps. Paul Anderson and Kristin Bahner
- **Nebraska** — Sen. Carol Blood
- **North Dakota** — Reps. Corey Mock and Shannon Roers-Jones
- **Ohio** — Reps. Paula Hicks-Hudson and Joe Miller
- **South Dakota** — Sen. Reynold Nesiba and Rep. Tim Reed
- **Wisconsin** — Reps. Katrina Shankland and Lisa Subeck.



THE FIRST ELEVATE CLASS

Together, these legislators took part in a series of interactive sessions with scientists and subject-matter experts. Issues covered included: cybersecurity, infrastructure, education and workforce development, and public-private partnerships to foster growth in the bio-economy.

The MLC, a nonpartisan association of legislators from the Midwest, plans to hold additional ELEVATE sessions. Science is US is an initiative of the American Association for the Advancement of Science. Its goal is to promote science and evidence-based decision-making in public policy.

The Council of State Governments was founded in 1933 as a national, nonpartisan organization to assist and advance state government. The headquarters office, in Lexington, Ky., is responsible for a variety of national programs and services, including research, reference publications, innovations transfer, suggested state legislation and interstate consulting services. The Midwestern Office supports several groups of state officials, including the Midwestern Legislative Conference, an association of all legislators representing 11 states (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin) and the Canadian province of Saskatchewan. The provinces of Alberta, Manitoba and Ontario are MLC affiliate members.

BILLD ALUMNI NOTES:
GRADUATES LEADING ON
HIGHER EDUCATION

REGIONAL LEADERSHIP

Ohio Rep. **Rick Carfagna** (BILLD Class of 2019) was elected chair of the Midwestern Higher Education Compact during the organization's annual meeting in November.

MHEC brings together Midwestern states to develop and support best practices, collaborative efforts and cost-sharing opportunities. Through these efforts it works to ensure strong, equitable postsecondary educational opportunities and outcomes.



In addition to Rep. Carfagna, several BILLD alumni serve as MHEC commissioners or alternate commissioners.

- Rep. **Jack Jordan**, Indiana (class of 2017)
- Former Sen. **Teresa Lubbers**, Indiana (class of 1998)
- Former Sen. **Allen Schmidt**, Kansas (class of 2012)
- Sen. **Lynne Walz**, Nebraska (class of 2019)
- Rep. **Brandy Pyle**, North Dakota (class of 2017)
- Rep. **Erin Healy**, South Dakota (class of 2019)
- Sen. **Reynold Nesiba**, South Dakota (class of 2018)
- Rep. **Marli Wiese**, South Dakota (class of 2019)

STATE-LEVEL LEADERSHIP

In several Midwestern states, legislatures have committees dedicated specifically to higher education policy and/or finance. Here is a list of BILLD graduates who served on these committees in 2021.

ILLINOIS

Rep. **Carol Ammons** (class of 2018) | Rep. **Kelly Burke** (class of 2013) | Sen. **Dale Fowler** (class of 2018) | Rep. **Elizabeth Hernandez** (class of 2010) | Sen. **Laura Murphy** (class of 2019) | Sen. **Chapin Rose** (class of 2003) | Rep. **Justin Slaughter** (class of 2021)

KANSAS

Rep. **Valdenia Winn** (class of 2002)

MINNESOTA

Rep. **Sondra Erickson** (class of 2000) | Sen. **John Jasinski** (class of 2019) | Rep. **Ron Kresha** (class of 2014)

NORTH DAKOTA

Sen. **JoNell Bakke** (class of 2009) | Rep. **Karla Rose Hanson** (class of 2018) | Rep. **Zach Ista** (class of 2021) | Sen. **Dave Oehlke** (class of 2007) | Rep. **Brandy Pyle** (class of 2017) | Sen. **Jim Roers** (class of 2021) | Rep. **Cynthia Schreiber-Beck** (class of 2015)

OHIO

Rep. **Rick Carfagna** (class of 2019) | Rep. **Stephanie Howse** (class of 2016) | Sen. **Rob McColley** (class of 2015) | Sen. **Bill Reineke** (class of 2016)

Please submit Alumni News to Laura Tomaka, CSG Midwest program manager for BILLD. She can be reached at ltomaka@cs.org.

Q & A WITH BILLD ALUMS: HOW HAS YOUR WORK OR
JOB OUTSIDE OF THE LEGISLATURE IMPACTED YOUR
WORK AS A LEGISLATOR?

INDIANA SEN. MIKE CRIDER | BILLD CLASS OF 2015
Retired law enforcement officer for the Indiana Department of Natural Resources



“The organizational skills and communication skills that I learned as the senior Indiana conservation officer, in the role of [DNR] director of law enforcement, have been valuable in my service as a state senator. But it was following my retirement, when I worked as disaster-preparedness coordinator and security director at my local hospital, that the focus of my legislative efforts took shape. I saw firsthand the challenges that those with mental health and addiction problems face as they attempt to find resources to help them. I also saw the impacts of domestic violence and sexual assault. I have tried to make the systems those folks interact with provide better support and/or more opportunities for justice in their cases. That is the value of citizen legislatures: We bring the experiences of our lives outside of the statehouse to the discussions that occur inside as we attempt to implement good public policy.”

OHIO REP. PAULA HICKS-HUDSON | CLASS OF 2021
Attorney; news reporter; former mayor and city council member



“As an attorney, one is trained to first determine the issue or question, as well as research the issue/question by looking at the perspective of the history and present status of the law. ... This process has helped me navigate the legislative process. However, my job as a news reporter has been the most helpful in all of my endeavors. A reporter’s job is to be the eyes, ears, and sometimes the nose for readers of news. We need to answer the who, what, when, why and how questions for every story. I was taught to approach an assignment from the perspective of what the person who reads the article needs to know to be informed. While it is sometimes hard to take one’s self out of the picture, it is important to be as unbiased in reporting the facts, nothing but the facts. In the legislature ... I try to answer those same five questions. I look to see how the legislation will work on the ground level for the people of Ohio. I firmly believe that I need a global perspective for the entire state. I represent an urban area, with diverse social and economic demographics in northwest Ohio on Lake Erie. But I know that the issues that affect my constituents are the exact issues that affect constituents in southeast rural Ohio with their majestic hills.”

SOUTH DAKOTA REP. OREN LESMEISTER | CLASS OF 2019
Farmer/rancher; agriculture product retail sales; agricultural cooperative



“With the experiences that I have, I am able to educate and bring a different perspective to the more urban legislators that may have little or no experience with the rural aspects of life, just as they teach me about things that I do not have to deal with on an everyday basis. My biggest goal as a legislator is to make sure I educate, or at least have a conversation, about the effect that proposed legislation may have on rural lifestyles. And I want to become educated on how that legislation may affect urban lifestyles. That is the biggest hurdle to overcome — finding a way to have a conversation with opponents. My father always said, ‘If you argue with someone, both walk away mad and nothing becomes of it. If you disagree with someone and talk, you still may learn something.’ If you have a conversation about your differences, not only may you learn something you didn’t know, but you may find common ground or a way to solve the issue. We need more conversations in this country, now more than ever.”

IOWA REP. SHANNON LUNDGREN | BILLD CLASS OF 2018
Small-business owner: restaurant, catering business; travel agency



“We opened our restaurant in 2006, and it wasn’t long before we realized that our state and federal legislators were completely out of touch with what keeps families like ours up at night. One of the major drivers in my running for office was the state’s passage of the Iowa Smokefree Air Act. We were already looking at becoming a smoke-free establishment, but what really irritated me was that the state granted the casinos an exemption from following the law. From our vantage point, the little guy was getting stepped on again, and the big guy got what he wanted. It seemed like a pattern that continued to repeat itself. Once elected to the Iowa House of Representatives, I immediately knew that I would lead my district by being completely in touch with my constituents. To this day I still physically work in my restaurant, serving the public. As a citizen legislator, I can easily keep my finger on the pulse of what is concerning to my family, friends and neighbors. I’m a real person, representing real people.”

BILLD Steering Committee Officers | Co-Chairs: Illinois Rep. Anna Moeller and Iowa Sen. Amy Sinclair | Co-Vice Chairs: Michigan Rep. Ann Bollin and Kansas Rep. Jarrod Ousley

Through the Bowhay Institute for Legislative Leadership Development, or BILLD, CSG Midwest provides annual training on leadership and professional development for newer state and provincial legislators from this region. This page provides information related to the BILLD program, leadership development and legislative leadership. CSG’s Midwestern Legislative Conference BILLD Steering Committee — a bipartisan group of state and provincial legislators from the Midwest — oversees the program, including the annual selection of BILLD Fellows.

STATELINE MIDWEST

THE COUNCIL OF STATE GOVERNMENTS | MIDWESTERN OFFICE

CSG EVENTS

CSG Midwestern Legislative Conference Virtual Events for Legislators

Visit csgmidwest.org and csg.org to find dates of upcoming webinars and view recordings of past webinars on public policy, professional development and leadership training.



MLC

Great Lakes-St. Lawrence Legislative Caucus Annual Meeting

January 21-23, 2022 | Chicago, Ill.

Contact: Mike McCabe ~ mmccabe@csg.org
630.925.1922 | greatlakeslegislators.org



GREAT LAKES
GLLC
ST. LAWRENCE
LEGISLATIVE CAUCUS

Midwestern Legislative Conference Annual Meeting

July 10-13, 2022 | Wichita, Kan.

Contact: Cindy Andrews ~ candrews@csg.org
630.925.1922 | csgmidwest.org



CSG Midwest Henry Toll Fellowship Program

August 26-30, 2022 | Lexington, Ky

Contact: membership@csg.org
859.244.8000 | web.csg.org



Henry Toll Fellowship
THE COUNCIL OF STATE GOVERNMENTS

Bowhay Institute for Legislative Leadership Development

August 27-31, 2022 | Madison, Wis.

Contact: Laura Tomaka ~ ltomaka@csg.org
630.925.1922 | csgmidwest.org



BILLD

CSG National Conference

December 7-10, 2022 | Honolulu, Hawaii

Contact: membership@csg.org
859.244.8000 | web.csg.org



STATELINE MIDWEST

Stateline Midwest is published 11 times a year by the
Midwestern Office of The Council of State Governments.

Annual subscription rate: \$60
To order, call 630.925.1922

CSG Midwest Office Staff

Michael H. McCabe, Director
Tim Anderson, Publications Manager
Mitch Arvidson, Program Manager
Derek Cantù, Policy Analyst
Jenny Chidlow, Marketing and
Administrative Services Manager
Jon Davis, Policy Analyst and Assistant Editor

Ilene K. Grossman, Assistant Director
Laura Kliewer, Senior Policy Analyst
Christina Luporini, Administrative Assistant
Laura A. Tomaka, Senior Program Manager
Kathy Treland, Administrative Coordinator and
Meeting Planner

NONPROFIT
ORGANIZATION
U.S. POSTAGE PAID
FOX VALLEY, IL
PERMIT NO. 441



MIDWEST

December 2021

The Council of State Governments, Midwestern Office
701 E. 22nd Street, Suite 110 | Lombard, IL 60148-5095
Phone: 630.925.1922 | Fax: 630.925.1930
Email: csgm@csg.org | csgmidwest.org

CHANGE SERVICE REQUESTED