



MINUS FEDERAL ACTION, STATES RAMP UP
ACTIVITY ON CONSUMER DATA PRIVACY

New laws are taking effect this year in a handful of states outside the region; enacted and introduced measures lay out mix of new consumer rights and business obligations

by Tim Anderson (*tanderson@csg.org*)

One reality about serving in the nation's laboratories of democracy: On some issues, the lab can get shut down at any time, if a federal measure passes and includes preemption language.

Consumer data privacy appears to be one of those issues.

Minus action by the U.S. Congress, state legislators across the country have been crafting bills to establish new privacy protections for their constituents amid growing concerns about how companies collect, use and sell consumer data.

As of early 2023, five states (none in the Midwest) had consumer data privacy laws in place, often mirroring each other in many ways in order to avoid a "patchwork" of laws and definitions. At the same time, these

enacted measures have enough substantive differences to get the label of "business friendly" or "consumer friendly."

Since 2021, legislation has been introduced in most Midwestern states, and last year, measures were approved in three legislative chambers (see map).

Many proposals will be under consideration this year as well, all while lawmakers watch for a breakthrough in the nation's capital, where congressional leaders came closer than ever in 2022 to agreeing on a comprehensive federal law.

"I expect that whatever I get passed here in Minnesota is eventually going to be preempted by federal legislation," says Rep. Steve Elkins, whose long professional background in data management and information technology made him a natural fit to be a point person on the issue.

"But I also expect the legislation that we're passing in the states is going to have a heavy influence on what Congress eventually does. That's what I view as the long-term legacy of the work that we're doing now — identify the issues, flesh them out, and then write good legislation that Congress can use as a model."

David Stauss, a leading national

expert on states' work on consumer data privacy, agrees that all of this work of states is shaping the direction of federal policy. He points to laws taking effect this year in the "3 C" states (California, Colorado and Connecticut) as examples.

"Everybody realizes that a 50-state approach to privacy law would be a mess," says Stauss, a partner at Husch Blackwell LLP and co-leader of the firm's privacy and data security practice group.

"What I think the advantage of the state approach right now is it allows things to be tried, rules to be proposed and changed. Also, it ingrains certain concepts and sets floors [on privacy rights] for what will happen at the federal level."

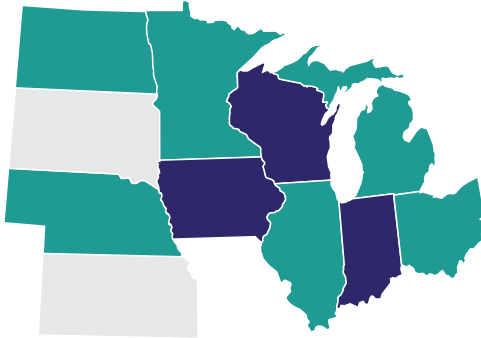
ONE STATE LEADS TO ANOTHER

In the meantime, Elkins believes this year's implementation of new privacy laws in a handful of states will give momentum to legislative proposals in other states, including his own.

He recounts a recent experience of logging into the site of a national hotel chain.

"I went to update my [membership] profile, and there was an option that says, If you're a resident

LEGISLATIVE ACTIVITY IN MIDWEST ON
CONSUMER DATA PRIVACY SINCE 2021
(AS OF JANUARY 2023)



- Bill(s) introduced; during last biennium, bill(s) introduced and passed by one legislative chamber, but did not advance in second chamber
- Bill(s) introduced during last biennium, but did not advance

Sources: Husch Blackwell LLP State Privacy Law Tracker and CSG Midwest research

NUMBERS ON CONSUMER DATA PRIVACY
BILLS IN U.S. STATE LEGISLATURES

5	# OF U.S. STATES WHERE COMPREHENSIVE BILLS HAVE BEEN SIGNED INTO LAW (NONE IN THE MIDWEST); MOST ARE TAKING EFFECT FOR FIRST TIME THIS YEAR
60	TOTAL # OF COMPREHENSIVE BILLS INTRODUCED IN U.S. STATE LEGISLATURES IN 2022 — UP FROM 29 IN 2021, 24 IN 2020, 16 IN 2019 AND TWO IN 2018

Source: International Association for Privacy Professionals



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IN THE MIDWEST, THE THRESHOLD FOR AMENDING CONSTITUTIONS VARIES WIDELY FROM STATE TO STATE

How high should the bar be set for adding to or changing a state’s constitution?

It’s a question that some political leaders in **Ohio** say is worth re-examining in their state, one of five in the Midwest where constitutional amendments don’t need legislative approval before appearing before voters for final passage. Their idea: Raise the bar, via a constitutional change requiring citizen-initiated/petition-based amendments to get 60 percent of the statewide vote, rather than a simple majority. Proponents unveiled their proposal near the tail end of last year and are pursuing its passage in 2023. They cite several reasons for the higher threshold, including to protect the Ohio Constitution from “special interests and out-of-state activists.”

In 2018, **South Dakotans** rejected a legislatively referred proposal that would have required constitutional amendments to get 55 percent of the statewide vote. The proposal was based on a Colorado law. This past year, the South Dakota Legislature sought voter approval of a 60 percent requirement for any ballot measures that increase taxes. This proposed amendment failed as well.

Once a proposed citizen-initiated or legislatively referred amendment reaches the ballot, it only needs simple-majority approval in most U.S. states. However, there are exceptions — for example, Colorado’s 55 percent threshold, a two-thirds vote in New Hampshire, and a 60 percent vote in Florida, according to *Ballotpedia*.

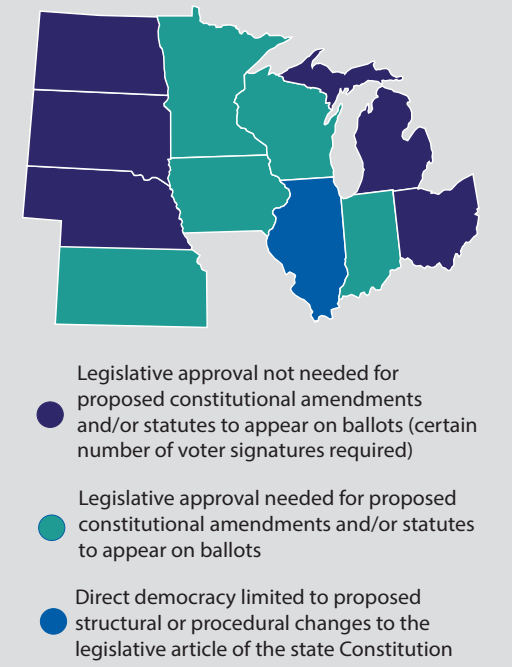
In the Midwest, a few states have slight variations on the simple-majority requirement. In **Illinois**, a constitutional amendment gets passed in one of two ways: approval by three-fifths of the people voting on the question or a majority of all those who voted in the election. The latter requirement also applies in **Minnesota**. In **Nebraska**, only a simple-majority vote is needed, but with a stipulation that the number of votes in favor of the amendment equal at least “35 percent of the total votes cast at such election.”

States also are split on the threshold for legislatures to refer constitutional amendments to voters — super-majority votes in Illinois, Nebraska and Ohio (three-fifths) and **Kansas** and **Michigan** (two-thirds). The region’s six other states require only simple-majority votes for legislative referrals, though approval by successive legislatures is needed in **Indiana**, **Iowa** and **Wisconsin**.

In 2022, a total of 14 proposed constitutional amendments appeared before voters in eight Midwestern states. According to the nonpartisan, nonprofit research group Open Secrets, the five proposals generating the most spending were:

- 1. A citizen-initiated amendment in Michigan guaranteeing a right to an abortion (\$46.4 million); it passed.
- 2. A legislatively referred amendment in Illinois guaranteeing a right to collective bargaining (\$14.5 million); it passed.
- 3. A citizen-initiated amendment in Michigan to enshrine certain voting rights and policies (\$14.1 million); it passed.
- 4. A legislatively initiated amendment in Kansas to declare no state constitutional right to an abortion (\$13.2 million); it did not pass.
- 5. A legislatively referred amendment in South Dakota establishing a super-majority requirement for ballot measures that increase taxes (\$2.7 million); it did not pass.

OVERVIEW OF DIRECT DEMOCRACY PROVISIONS IN STATE CONSTITUTIONS: HOW PROPOSALS GET TO THE BALLOT



NEW ILLINOIS LAW REQUIRES STATE TO DIVEST FROM RUSSIAN BANKS AND COMPANIES

Late in 2022, **Illinois** joined **Minnesota** and a handful of other U.S. states where legislatures have passed laws requiring pension and other investment funds to divest from Russian banks and companies.

Both of the signed bills from the Midwest received unanimous legislative approval. Under Minnesota’s HF 4165, legislators are requiring a complete divestment within 15 months of enactment of the law; it was signed early last year and applies to the countries and businesses of Russia and Belarus. Minnesota’s measure also calls for state agencies to terminate any existing contracts with Russian and Belarus entities and not enter into new ones.

Along with adding statutory language for the state to divest from Russia and Belarus, Illinois’ HB 1293, signed into law in December 2022, includes several other provisions:

- State colleges and universities must disclose endowments and donations provided by Russian companies.
- A new state-level task force will work to close loopholes in state law and practices that individuals, including Russian oligarchs, can exploit to launder money via purchases of high-end real estate.
- Another task force will explore policies to protect Illinois elections from possible Russian or other foreign interference.



Other state-level responses to the Russian invasion of Ukraine have included divestment-related executive orders from governors, directives from state treasurers, and independent actions from pension and investment boards.

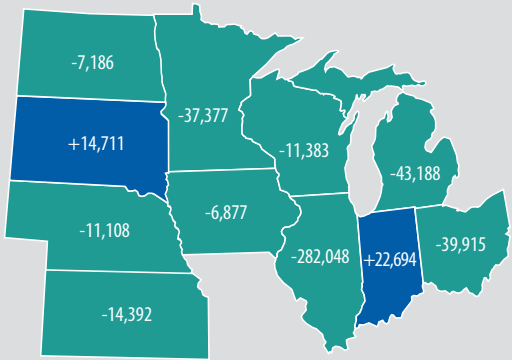
MIDWEST HAD NET LOSS OF MORE THAN 400,000 PEOPLE TO OTHER U.S. REGIONS BETWEEN 2020 AND 2022

During the first two years of this decade, **Illinois**, **Michigan** and **Ohio** lost population, and another six Midwestern states lagged behind the U.S. increase of 0.6 percent. Driving these trends are losses in people due to domestic migration: the movement of individuals from one U.S. state to another state.

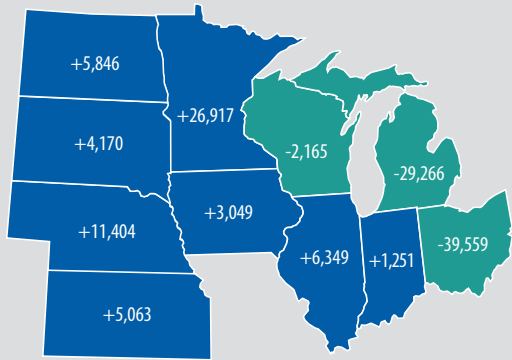
States in the U.S. South (led by Florida and Texas) gained more than 1.7 million people due to domestic migration between April 1, 2020, and July 1, 2022. Every other region experienced a net loss, including the Midwest, which had a net decline of more than 400,000 residents. In all, nine Midwestern states are losing population due to domestic migration (see the map), though Illinois stands out: Its net loss was third-highest in the nation, behind only California and New York, and accounted for 68 percent of the region’s total drop.

Along with domestic and international migration, population changes are determined by a state’s number of births compared to its number of deaths. Historically, most or all U.S. states have experienced “natural increases”: more births than deaths. In recent years, however, “natural decreases” have become more common. Between April 1, 2020, and July 1, 2022, the number of deaths exceeded births in 24 U.S. states, including **Michigan**, **Ohio** and **Wisconsin** (see map).

NET CHANGE IN POPULATION DUE TO DOMESTIC MIGRATION: APRIL 1, 2020, TO JULY 1, 2022



NET CHANGE IN POPULATION DUE TO # OF BIRTHS AND DEATHS: APRIL 1, 2020, TO JULY 1, 2022



Source: U.S. Census Bureau

Increase in population	No % change in population	Decrease in population
South Dakota: +2.6%	Kansas	Illinois: -1.8%
Indiana: +0.7%	North Dakota	Michigan: -0.4%
Iowa: +0.3%	Wisconsin	Ohio: -0.4%
Minnesota: +0.2%		
Nebraska: +0.3%		

Here are overall population changes in the 11-state Midwest between April 1, 2020, and July 1, 2022:

TWO MIDWEST LEGISLATORS LAY OUT PRIORITIES FOR CONSUMER DATA PRIVACY IN THEIR STATES

» CONTINUED FROM PAGE 1

of California or a couple of other states, you have these additional rights. Click here," Elkins says.

Increasingly, he believes Minnesotans will be asking: Why don't I have these same rights?

In his work on consumer data privacy, Elkins has used as a starting point the Washington Privacy Act. (As of early 2023, the state of Washington had not passed the measure, but other state laws, with the exception of California's, were modeled after it.)

Elkins expects his legislation this year to again rely on the Washington framework, while incorporating recent enhancements in other states as well as some of his own ideas in areas such as how "precise geolocation" is defined in statute.

What are Elkins' "must haves" for laws on consumer data privacy?

"They need to have things like the right to have an opt-out of having your data sold," he says.

"The right to know what data a company has about you. The right to correct inaccuracies in that data. The right to question decisions that have been made about you based on that data."

'WHAT ARE THE RULES?'

Like Elkins, Wisconsin Rep. Shannon Zimmerman came to the legislature as a "data guy." He and his wife started and successfully built up a language-translation company. More generally, too, Zimmerman embraces the value of "big data," as a means of improving the experience of consumers and the lives of people.

"As a guy who loves tech, I think we're living in the best times, this convergence of big data, AI and quantum computing," he says. "We're going to see cures to cancer, I hope, in my lifetime as a result of all this."

"But I think one of the things that has been overlooked is, what are the rules? What are the ethical considerations as it relates to personally identifiable information?"

That's where he believes state government, especially minus action at



the federal government, must step in, and Zimmerman lays out three pillars for how his state should set new rules in the area of consumer data privacy.

"Number one, I want a Wisconsin resident to be able to say to a data collector, what do you have on me? What have you collected? Number two, to whom have you shared or sold my private and personal information? And then, third, I, the consumer, should be able to say, 'No, stop, delete it.'"

The International Association of Privacy Professionals tracks legislative activity in states, comparing the measures based on their inclusion or exclusion of eight specific "consumer rights" and five "obligations" put on business.

The former category includes a consumer's right to opt out of sales, a right not to have his or her sensitive data processed without first opting in, and a right not to have automated decisions made about him or her without human input. Among the obligations on business: no discrimination against individuals who exercise their privacy rights and disclosure to consumers of data practices (see full list below).

NEW OBLIGATIONS ON BUSINESS

From the perspective of Caitriona Fitzgerald, for a law to be truly "consumer friendly," it must uproot a model that she believes puts an unrealistic burden on consumers to secure privacy rights from each and every business with which they interact online.

"Instead, put an obligation on the companies that they can only collect what is reasonably necessary for what service they're providing, and a few other limited services such as fraud prevention," says Fitzgerald, deputy director of the Electronic Privacy Information Center.

According to Fitzgerald, the five U.S. states with laws on the books have not met this "reasonably necessary" test; in contrast, the 2022 federal legislation did.

Minus this kind of blanket limit on data

"There are emerging technologies, through browsers or browser conventions, that can send a signal to a website, 'I want to opt out [of having my data collected].'"

David Stauss, partner at Husch Blackwell LLP

collection, Stauss says, some states have included statutory language that allows for a "universal opt-out mechanism."

"There are emerging technologies, through browsers or browser conventions, that can send a signal to a website, 'I want to opt out,'" he explains.

For consumers, this means not having to opt out every time, on every different company website.

Stauss notes, too, that some of the new state laws require businesses to obtain consent before collecting certain sensitive data. In its definition of "sensitive data," for instance, Connecticut includes race and ethnicity, religious beliefs, health conditions, sexual orientation, biometric and genetic information, a child's personal information, and the precise geolocation of an individual.

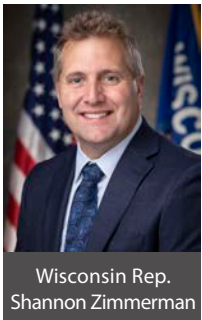
Another consideration for legislators: whether or not to require businesses to conduct data protection assessments.

"In a nutshell, the concept behind these provisions is that a business can be engaging in certain high-risk processing activities," Stauss says.

"So the states are saying you should conduct an analysis of your processing activity. You should consider factors to make sure that you're only collecting the information that you need to collect. You're getting rid of information after a certain time period. Those types of things."

PRIVATE RIGHT OF ACTION?

Stauss adds that no states have yet to "ring the bell" on giving consumers a right to private action. Consumer



advocates want individuals to be able to bring lawsuits for privacy violations, as opposed to relying on actions being initiated by state law enforcement.

Zimmerman balks at the idea of including such a private right of action in Wisconsin. "We already have a hyper-litigious society," he says.

His measure from 2022 (AB 957) also provided for a "30 day right to cure," in which Wisconsin companies that violate the state law are given the opportunity to fix the violation.

"If there is a second time, then the attorney general can say, 'We're going to now invoke action,'" he says.

The federal legislation from 2022 included a private right of action, Fitzgerald says, along with enforcement by federal and state authorities.

"There's an Illinois biometric privacy law that has a private right of action," she notes, "and that's just proven to be a really, really valuable tool."

The Illinois law dates back to 2008 and, among other provisions, requires entities to obtain written consent from an individual before collecting his or her biometric data. Individuals harmed by the violations have the right to pursue legal action.

Last year, in a class-action lawsuit involving more than 45,000 truck drivers, an Illinois jury brought a \$228 million judgment against BNSF Railway for violation of the biometrics statute, the *Chicago Tribune* reports. The suit centered on the railway's collection of fingerprint data from the truck drivers.

LEGISLATIVE PROPOSALS ON CONSUMER DATA PRIVACY: A MIX OF NEW CONSUMER RIGHTS AND BUSINESS OBLIGATIONS

CONSUMER RIGHTS

✓**Right to access** — Consumer can access information collected about him or her by business, and information shared with third parties

✓**Right to rectify** — Consumer can request that incorrect or outdated personal information be corrected but not deleted

✓**Right of delete** — Consumer can request deletion of personal information about him or her under certain conditions

✓**Right to restrict processing** — Consumer can restrict a business from processing personal information about him or her

✓**Right to opt out of sales** — Consumer can opt out of the sale of personal information about him or her to third parties

✓**Right to opt in** — Consumer must opt in before a business can process sensitive data

✓**Right against automated decision making** — Business cannot make decisions about consumer based solely on automated process without human input

✓**Right of private action** — Consumer can seek civil damages from business for violations of state privacy statute

BUSINESS OBLIGATIONS

✓**Opt-in consent as default** — Business must get opt-in consent for consumers at or below a certain age

✓**Notice/transparency requirements** — Business must provide notice to consumers about certain data practices, privacy operations and/or privacy programs

✓**Risk assessments** — Business must conduct assessments of privacy and/or security projects or procedures

✓**No discrimination** — Business cannot treat consumer who exercises privacy right differently than consumer who does not exercise right

✓**Purpose/processing limitation** — The collection/processing of personal information is restricted to specific purposes only

Source: The International Association of Privacy Professionals, which tracks state legislation on consumer data privacy and compares these measures based on a list of consumer rights and business obligations

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EDUCATION & WORKFORCE

States use different models to govern K-12 systems, and these structures are subject to change based, in part, on the will of legislatures

by Derek Cantù (dcantu@csg.org)

Schools across the region and nation are still reeling, to some degree, from the disruption that the COVID-19 pandemic had on students’ education.

On the 2022 National Assessment of Educational Progress, average student test scores in fourth- and eighth-grade math and reading fell in every Midwestern state — with one exception — compared to results from three years earlier. (Illinois’ fourth-grade math and reading scores were constant with 2019 averages.)

This decline in academic performance, combined with a mix of contentious issues and changing priorities in K-12 education, has led some lawmakers to take a closer look at how school systems are governed and policies are made.

PROPOSED OVERHAUL IN OHIO

In the Midwest, several different education governance models are used.

Wisconsin and North Dakota have independently elected state superintendents, a position enshrined in each state’s constitution. Indiana also had an elected state superintendent until 2021, when a legislative change (HB 1005 of 2019) made the top school official a governor-appointed rather than elected position.

Governors also have considerable control of state-level education leadership in Illinois, Iowa, Minnesota and South Dakota. In those states, the governors appoint members of the state boards of education and/or the chief state school officer (see maps).

Ohio has a hybrid model of sorts, a 19-member State Board of Education with 11 members chosen by voters and eight appointed by the governor.

This board is constitutionally required to exist, but Ohio Sen. Bill Reineke believes many of its powers and responsibilities should be moved to the governor’s office.

For years, he has advocated for a cabinet-level administrator that would have jurisdiction over key policy areas, such as K-12 standards and assessments, school district report cards, teacher evaluation systems, and the distribution of state aid.

The State Board of Education would retain authority over certain administrative duties.

Last year, Reineke sought this kind of overhaul in governance with SB 178. At the time, Ohio had been without a full-time state superintendent for over a year, and Reineke and others felt a lack of leadership had contributed to lower test scores and an increased need for academic remediation.

He says the proposal is partly about

improving accountability, by making the top school chief part of the governor’s cabinet, but also about modernizing the mission of Ohio’s K-12 education system.

The proposed cabinet-level position would oversee a “Department of Education and Workforce.” Along with adding “workforce” to the department’s

title, Reineke envisions creating a new division focused entirely on career and technical education.

“Currently we have 700-plus employees at the Ohio Department of Education,” he says.

“When I started this quest five years ago, there were three [staffers] in career tech. Today, we’re all the way up to 37, and I just feel like we should have

a larger percentage of people really focusing in on these programs.”

SB 178 passed the Senate in December 2022. Language from this legislation was ultimately included in a larger (and contentious) House bill (HB 151) that did not pass.

‘SING OUT OF SAME HYMNAL’

Paolo DeMaria, president and CEO of the National Association of State Boards of Education and a former Ohio state superintendent, says debates over education governance structures can sometimes be a manifestation of something else.

When SB 178 was debated on the Senate floor, for example, some proponents of the bill cited frustrations with unfunded state mandates and how a school-choice scholarship program was being carried out as justification for a new governance structure.

Twenty-five years ago, a high-profile debate over education policy in Minnesota led lawmakers to end their state’s structure and replace it with one unique in the Midwest — a governor-appointed, cabinet-level education commissioner, with no state board of education. Minnesota’s elimination of the governor-appointed board marked the first time any U.S. state had made such a move.

At the time, *Education Week* notes, one catalyst for this change was negative reaction to a board-approved policy known as the “diversity rule,” which required Minnesota districts to develop plans to address student achievement gaps along racial and ethnic lines.

Rep. Gene Pelowski — who voted for the bill at the time — says K-12 education policymaking in Minnesota today is dominated by the Legislature and the governor. He worries about the level of “meddling” that now comes from St. Paul.

“A one-size-fits-all [approach] on what is going to be done in the

classroom has probably done more harm to education than anything else, coupled with statewide testing,” he believes.

Regardless of the governance model, DeMaria notes, legislatures have significant authority over education practices.

“The fundamental question is, Are there certain governance models that are better than others? And the answer to that is ‘no.’”

Instead, he says, the emphasis should be placed on an effective sharing of responsibilities and goals.

“When I go to a state and I see the board, and the superintendent, and the governor, and the legislature all singing out of the same hymnal and working collaboratively on a common agenda, that’s where you actually [move forward],” says DeMaria, who cites Mississippi’s successful efforts over the past decade to improve literacy scores as an example.

CONTROVERSY IN NEBRASKA

Three Midwestern states — Kansas, Michigan and Nebraska — have all members of their respective state boards of education publicly elected. During the 2022 elections in Nebraska, there was heightened interest in these races.

That’s in large part because of a controversy which arose one year prior, when the Nebraska State Board of Education released draft

proposals for state health education standards. The first draft was met with heavy criticism due to the inclusion of learning goals centered around gender identity and descriptions of sexual acts starting in elementary grades. The second draft made significant changes, but the board ultimately voted to postpone implementation

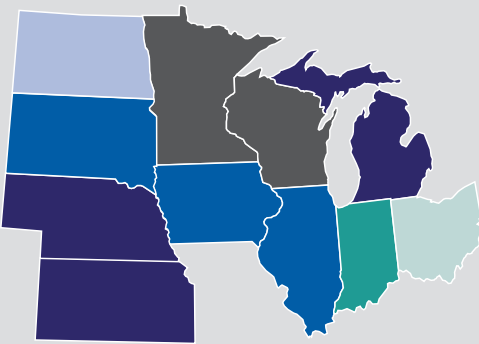
indefinitely. A significant legislative and political fallout ensued.

During Nebraska’s 2022 legislative session, an unsuccessful proposal (LB 768) sought to prevent the State Board of Education from adopting standards unrelated to reading, writing, math, science or social studies.

Meanwhile, a coalition of people opposing the 2021 sex education standards were able to transform a Facebook group into a political action committee that backed several candidates for the Nebraska State Board of Education. Most of those candidates won their election in November, resulting in a major change in the makeup of the board.

Derek Cantù serves as CSG Midwest staff liaison to the Midwestern Legislative Conference Education and Workforce Development Committee.

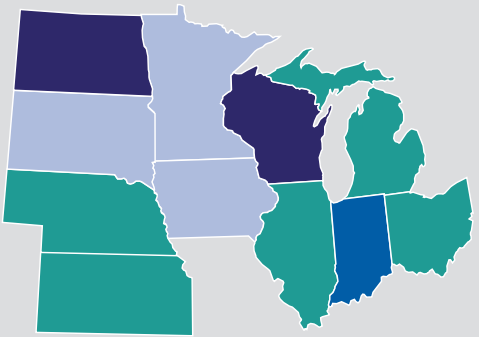
OVERVIEW OF STATE BOARDS OF K-12 EDUCATION IN THE MIDWEST



- All board members are appointed by the governor, with state Senate consent/confirmation
- All board members are appointed by the governor from a list submitted by various education groups
- Eight members are appointed by the governor, two are appointed by legislative leaders
- Eleven members are appointed by the governor with Senate consent, eight are elected by voters
- All board members are elected by voters
- State does not have a board of education

Sources: Education Commission of the States, Ballotpedia and CSG Midwest research

HOW TOP/CHIEF STATE SCHOOL OFFICERS ARE CHOSEN IN MIDWEST



- Appointed by the governor
- Appointed by the governor, with state Senate consent/confirmation
- Appointed by the board of education
- Elected by voters

Sources: Education Commission of the States, Ballotpedia and CSG Midwest research



AGRICULTURE & RURAL AFFAIRS

Citing food and national security concerns, legislators mull new limits on foreign ownership of farmland; Indiana is one of most recent states to act

by Carolyn Orr (carolyn@strawridgefarm.us)

Who owns the farmland in America's heartland? Since 2015, foreign ownership of U.S. farmland has increased by an average of 2.2 million acres a year, a trend that is getting more scrutiny from the Midwest's state legislators.

"I believe we need to address this issue of foreign land ownership now, before it turns into a food security and national security issue," South Dakota Rep. Gary Cammack says.

One idea under consideration in his home state: establish a board that would review proposed purchases of agricultural land and recommend whether the sales should be approved.

In advance of introducing the bill for this year's legislative session, Cammack worked on the proposal in late 2022 with other lawmakers and Gov. Kristi Noem.

It's not a new issue for state legislatures.

Forty-four years ago, South Dakota banned foreign residents and governments from ownership of more than 160 acres of farmland. The law, though, did not include corporations, and several foreign corporations now control more than 480,000 acres of South Dakota farmland.

States such as Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin also have restrictions of some kind that limit foreign ownership or investment in farmland.

In Canada, too, Alberta, Saskatchewan and Manitoba limit foreign ownership of agriculture property to small acreage.

Statutory language varies from state to state — for example, how farmland is defined, the types of foreign investors who are restricted under the law (nonresident aliens, foreign corporations, foreign governments, etc.), and the acreage limit set for foreign owners or investors.

Iowa, Kansas and Wisconsin have among the strictest prohibitions on foreign ownership of agriculture land. (Iowa is widely considered to have the nation's toughest ban.)

But even in these states, a foreign investor can use a trust, create a tiered entity, or enter into a partnership with a U.S. business or investor and establish a domestic company that acts as the purchaser.

INDIANA HAS NEW PARTIAL BAN ON FOREIGN PURCHASES

In 2022, legislation was introduced in several state legislatures to further restrict foreign ownership of land.

Few of these measures became law, but Indiana's SB 388 was an exception.

The bill's sponsor, Sen. Mark Messmer, worked closely with existing Indiana companies to revise the original proposal.

In its final, enacted form, SB 388 does not completely prohibit foreign business entities from owning all agricultural land, just that used for crop or timber production. Livestock, poultry and research facilities are exempted, thus ensuring the measure wouldn't impact existing research and genetic seed stock investments.

"That crop ground should be used to supply food and food security to our country first," says Messmer, who has expressed particular concern about land purchases being made by China.

"With an adversary of our country buying and controlling more agricultural land every year, it would eventually also become a national security issue."

Ultimately, SB 388 passed with only a single dissenting vote. Questions were raised, though, about the exemptions for livestock and research facilities.

"The intent of the bill was to make sure that folks who may not have our food security and best interest in mind are not able to buy and procure that property. If the goal is to ensure food security, we are all of a sudden carving out huge holes in that effort," Rep. Justin Moed said during legislative hearings on the bill.

As of December 2021, foreign investors owned approximately 40 million acres of U.S. timberland and farmland, representing 3.1 percent of all U.S. agricultural land, according to a December study by the U.S. Department of Agriculture. That is a 60 percent increase from 2010.

Additionally, many of the largest agricultural companies in the United States are foreign-owned. JBS, the nation's third-largest meat producer, is a Brazilian company. Smithfield, the fifth-largest meat processor, and Syngenta, the fifth-largest seed and chemical company, are Chinese state-owned. Bayer and BASF, also leading agrochemical and seed companies, are German-owned.

According to the U.S. Department of Agriculture, Canadian investors own about one-third of the foreign-held agriculture land in the United States. "Foreign persons" from four other countries (the Netherlands, Italy, the United Kingdom and Germany) together hold another one-third.

In some cases, purchases have led to prime farmland not being used for food production. For example, driven in part by federal tax credits, foreign energy companies have purchased the land and then leased it for wind turbines.

Last year, a Chinese company purchased 370 acres of prime farmland just north of Grand Forks in North Dakota. The purchase was made to build a corn wet-milling



plant. A Chinese real estate group also bought 130,000 acres in Texas to build a wind farm.

These particular purchases raised alarm bells because of the locations, both of which are close to U.S. Air Force bases. The Grand Forks base, for instance, is central to the Air Force's drone technology, surveillance and reconnaissance research.

The interagency federal Committee on Foreign Investment completed a 45-day review of the purchases in North Dakota and Texas, and did not block either of them.

With these purchases, China owns approximately 1 percent of the foreign-held land in the United States. According to the USDA, China has multiplied its agricultural land purchases around the world by more than 10 times since 2009.

FEDERAL LAW REQUIRES REPORTING OF LAND BUYS

Forty-five years ago, U.S. Sen. Chuck Grassley of Iowa helped write the Agricultural Foreign Investment Disclosure Act. Under this law, foreign entities are required to report agricultural land purchases to the USDA.

The law calls for foreign entities to be fined for not complying with the reporting requirements. The last such fines were issued in 2014.

The USDA does not currently check for accuracy, and under-reporting is known to be an issue. Federal lawmakers have introduced additional legislation over the last few years requiring additional review of foreign investment.

One of Grassley's concerns is that foreign investors drive up land prices, making it harder for new and beginning farmers.

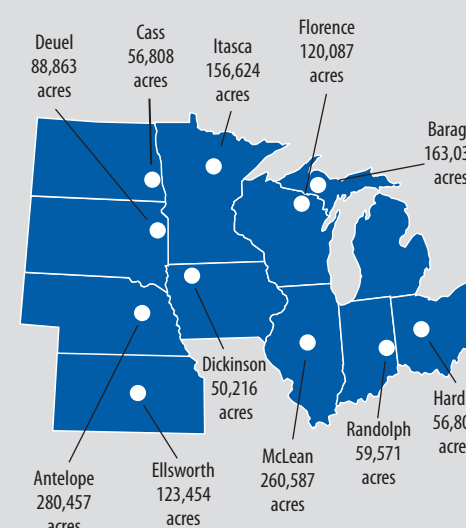
However, the USDA has investigated the overall impact of foreign investment on the rural economy. Looking at land and rental values in states with restrictions vs. those without foreign limitations, USDA researchers determined that there was no significant impact on agricultural land value as a result of foreign investments.

Article written by Carolyn Orr, who has long served as CSG Midwest staff liaison to the Midwestern Legislative Conference Agriculture & Natural Resources Committee. Carolyn is retiring from her role with the MLC. We will miss her and her contributions greatly. See page 10 for an article celebrating Carolyn's many years of work and leadership on state agriculture policy.

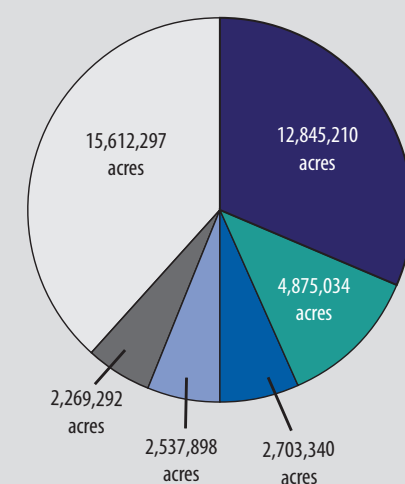
% OF ALL PRIVATELY OWNED AGRICULTURAL LAND IN THE MIDWEST OWNED BY FOREIGN INVESTORS

State	2021	2010
Illinois	2.8%	0.8%
Indiana	2.2%	0.6%
Iowa	1.6%	0.4%
Kansas	2.4%	0.7%
Michigan	5.8%	3.3%
Minnesota	1.6%	0.7%
Nebraska	1.7%	0.1%
North Dakota	0.9%	0.1%
Ohio	2.5%	0.6%
South Dakota	1.0%	0.2%
Wisconsin	2.1%	0.4%
United States	3.1%	1.2%

COUNTIES WITH HIGHEST # OF ACRES OF AGRICULTURAL LAND OWNED BY FOREIGN INVESTORS IN EACH MIDWESTERN STATE



FIVE LEADING HOME COUNTRIES OF FOREIGN INVESTORS WITH U.S. LAND HOLDINGS (ALL LAND, NOT JUST AGRICULTURAL)



- 1 Canada
- 2 Netherlands
- 3 Italy
- 4 United Kingdom
- 5 Germany

Source for all graphic data on this page: U.S. Department of Agriculture

ENERGY & ENVIRONMENT

A national scorecard on energy efficiency policies puts most Midwest states in bottom half, but Minnesota stands out as regional leader

by Jon Davis (jdavis@csrg.org)

An electrician by trade, Minnesota Sen. Jason Rarick was naturally drawn to energy topics after being elected to the Legislature in 2014.

It wasn't long before he got interested in the issue of energy efficiency, at first by helping a local electricity co-operative with a problem it was having with the state's existing conservation program.

"As I got into it more and more, I saw the benefits [of energy efficiency] for the entire state," he says.

That led to his sponsorship two years ago of the Energy Conservation and Optimization Act (HF 164) — a far-reaching measure that aims to modernize policy in an area where the state already is a recognized regional leader.

Among its key provisions:

- Increase the state's energy savings goal, from 1.5 percent to 2.5 percent.
- Give utilities more options in implementing their ratepayer-funded Conservation Improvement Programs (CIP), the state's longtime mechanism for ensuring a revenue source for energy-efficiency projects and incentives.
- Require investor-owned utilities to spend more on efficiency programs for low-income customers.

When the measure passed in 2021, it was hailed as one of the year's biggest breakthroughs by Minnesota's partisan-split Legislature.

"The best way to cut carbon emissions is to not make them in the first place," says Minnesota Rep. Zack Stephenson. A Democrat, Stephenson served as chief author of the House bill; Rarick, a Republican, was the lead author and sponsor in the Senate.

Minnesota stands out in a region where most states lag behind other parts of the country on energy-efficiency policies, says Martin Kushler, senior fellow at the American Council for an Energy-Efficient Economy (ACEEE).

Kushler believes the Midwest would benefit by trying to catch up.

"The economics are just so solid and

so good for customers," he says.

"The Midwest states are almost all entirely dependent on imported sources of fuel (oil, coal, natural gas); that's literally a dollar drain of billions of dollars a year from their states. If you can be energy-efficient, you're going to reduce that dollar drain."

"And that benefits everybody."

The ACEEE, a nonprofit research organization, produces an annual scorecard of all 50 states based on its analysis of policies in areas such as:

- building codes and appliance standards;
- the efficacy of utility-based public benefits funds, which provide long-term funding (via a surcharge on customers' electricity bills) to meet energy-conservation goals; and
- initiatives to improve efficiency in a state's transportation system as well as among state entities themselves.

The 2022 scorecard, released in December, ranks Minnesota 10th nationally, highest in the 11-state Midwest.

Illinois fell to No. 16 despite enactment of the Clean Energy Jobs Act in 2021, a sweeping law that puts the state on track for carbon-free electricity by 2045, provides new electric

vehicle adoption and manufacturing incentives, and includes new programs to help low-income residents with energy efficiency.

Michigan fell to 15th place, but was singled out as a "state to watch" due to the rollout of its "MI Power Grid" Initiative (see map for all Midwestern states' U.S. rankings).

MINNESOTA MODERNIZES ITS EFFICIENCY POLICIES

Minnesota earned its top regional ranking in part on the strength of the 2021 law. As part of the ECO Act's modernization of the state's long-standing Conservation Improvement Program, utilities now have the authority to include in their plans "efficient fuel-switching" — offering incentives and rebates to customers who change their fuel source to one that reduces energy use and greenhouse gas emissions.

The law also gives utilities more financial options to improve load management via projects that shift energy demand from peak times (when electricity is most expensive) to less-expensive times of the day.

Other provisions require efficiency improvements for public schools in a utility's plans and expand eligibility for programs serving low-income customers residing in multi-family buildings (five or more units).

Greater efficiencies through utility conservation plans is one way that Minnesota plans to meet its new,

and higher, overall energy-savings goal of 2.5 percent (previous annual electricity sales are used as a baseline to measure the savings).

Advances in building codes, savings from rate design, and infrastructure improvements also can contribute to this overall goal.

Enactment of the ECO Act ended a six-year journey that included its main legislative sponsors, Stephenson and Rarick, almost from the moments they joined their respective chambers. Both legislators say they're pleased with its implementation to date; neither expects any trailer bills in 2023.

Rarick says additional legislation is more likely to come as new energy storage technologies and fuels such as hydrogen emerge. "We may need to help things along" or allow utilities to adopt them, he adds.

Stephenson, however, says he's open to further efficiency efforts during the 2023 session.

According to the Minnesota Department of Commerce, the Conservation Improvement Program generates at least \$4 in energy savings for every \$1 invested by utilities.

Typical CIP activities for residential customers include energy audits and incentives and rebates for energy-related improvements, from high-efficiency lighting, insulation and air sealing, to the purchase of new, more efficient furnaces, air conditioners and water heaters.

For business customers, utilities may offer rebates for high-efficiency boilers, chillers and rooftop units, motors, lighting and lighting control systems; they also provide design assistance for energy-efficient buildings and technical assistance to reduce the energy intensity of manufacturing processes.

MICHIGAN PREPARES POWER GRID FOR CLEAN ENERGY

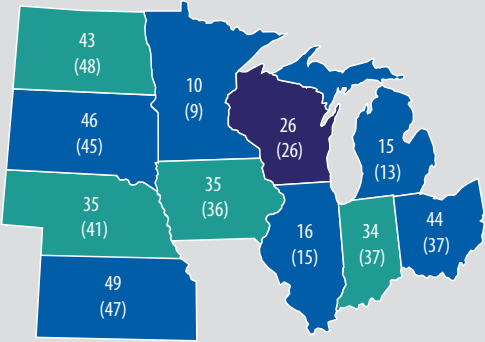
The MI Power Grid Initiative, launched in October 2019 by the Michigan Public Service Commission, aims to ease the transition to clean energy for customers, utilities and regulators by updating the commission's oversight of electricity.

"We're in the midst of a pretty significant energy transition, including from large, centralized plants to more distributed energy resources; for example, home solar systems that can add surplus energy back into the electrical grid," says Dan Scripps, commission chair.

One of the first steps under the initiative has been to analyze how the rise of distributed energy resources impacts the state's electrical grid and to explore potential regulatory responses. A report on next steps for the state will be finalized in 2023.

Jon Davis serves as CSG Midwest's staff liaison to the Midwestern Legislative Conference's newly formed Energy & Environment Committee.

MIDWEST STATES' U.S. RANKINGS ON ENERGY EFFICIENCY IN 2022 (2020 RANKINGS IN PARENTHESES)



Source: American Council for an Energy-Efficient Economy, "State Energy Efficiency Scorecard"

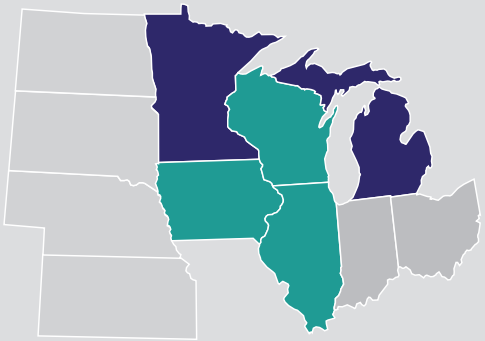
ESTIMATES OF POTENTIAL ACHIEVABLE ELECTRICITY SAVINGS, BY 2040, FROM ENERGY EFFICIENCY

State	Savings in gigawatt hours ¹	Savings as % of adjusted baseline sales from 2016
Illinois	7,223 GWh	5.9%
Indiana	8,439 GWh	6.7%
Iowa	3,404 GWh	5.9%
Kansas	2,769 GWh	6.0%
Michigan	9,921 GWh	7.5%
Minnesota	4,877 GWh	6.2%
Nebraska	2,020 GWh	5.7%
North Dakota	1,235 GWh	5.8%
Ohio	13,230 GWh	7.1%
South Dakota	827 GWh	5.9%
Wisconsin	6,449 GWh	7.5%

¹ One gigawatt hour equals 1 million kilowatt hours, enough energy to power 100 million LED light bulbs.

Source: Electric Power Research Institute, "U.S. Energy Efficiency Potential Through 2040" (2019 study)

OVERVIEW OF USE OF ENERGY EFFICIENCY RESOURCE STANDARDS, WHICH REQUIRE UTILITIES TO MEET STATE-DEFINED SAVINGS TARGETS*



State has savings target for electricity and natural gas; cost cap in place to limit spending

State has savings target for electricity and natural gas; no cost cap in place to limit spending

* The approximate average annual electric savings targets for 2020-2025 are as follows: 1.8% in Illinois, 1.3% in Minnesota, 1.0% in Michigan, 0.9% in Iowa, and 0.7% in Wisconsin. The state's policy covers all electricity sales in Michigan and Wisconsin. It covers 97% of sales in Minnesota, 89% in Illinois, and 75% in Iowa.

Source: American Council for an Energy-Efficient Economy, "State Energy Efficiency Scorecard"



CRIMINAL JUSTICE & PUBLIC SAFETY

Ohio begins new chapter in justice policy after passage of far-reaching bill in late 2022; priorities include reducing recidivism, improving reentry

by Derek Cantù (dcantu@csug.org)

Ohio's most recent attempt to improve its criminal justice system started with lawmakers gathering a "wish list."

Shortly after Sen. Nathan Manning was named chair of the Senate Judiciary Committee in 2021, he received marching orders from Senate President Matt Huffman to pass a good omnibus criminal justice bill.

From there, Manning and others met with multiple well-known stakeholders in the criminal justice policy realm to better understand what strategies could improve the justice system — be they new ideas, or ideas from older pieces of legislation that failed to pass.

"We didn't really have an agenda except for the fact that we really wanted, at least to a certain extent, to focus on collateral sanctions [hurting] people who have turned their lives around," he says.

"We want to help them become productive members of society and not have this necessarily hanging over their head and limit where they can get jobs."

All of those talks eventually materialized into SB 288, a measure passed in December during Ohio's lame-duck session. Although SB 288 incorporated several last-minute amendments, the core of the bill represented years of negotiations and work on its myriad provisions to reduce recidivism by easing the transition for people leaving prison.

Among the goals: increase opportunities for incarcerated individuals to earn time off from their sentences and ease the process for sealing or expunging criminal records.

Previously, the amount of time that an incarcerated offender could take off their sentence in exchange for obtaining earned credits could not exceed a length of days equivalent to 8 percent of their total sentence.

The ceiling is now 15 percent.

Credits can still be earned by participating in educational programs, vocational training and substance abuse therapy, as well as by securing a high school equivalency certificate.

"Ohio was either one of the lowest or possibly the lowest [in the country] in earned credit at 8 percent," Manning says.

The law also allows more than one eligible felony criminal record to be sealed at a time and caps filing fees at \$50. Fees are waived altogether if the applicant provides a poverty affidavit.

For those seeking to have their records expunged, the law creates an application process such as the one already used for record sealing. The chance to erase records, via expungement, can be a valuable alternative to sealing, Manning says.

"I've seen that as an attorney where we get a client's record sealed, for

somebody who is really turning their life around and even situations where maybe somebody wants to hire them, but for whatever reason they can't because the sealed record still comes up," Manning says.

Additionally, prosecutors now can personally apply to seal or expunge conviction records related to a low-level drug offense.

REENTRY 2030: CSG PART OF NEW NATIONAL INITIATIVE

Reducing recidivism also is the goal of Reentry 2030, a recently launched national initiative being co-led by the CSG Justice Center, the Correctional Leaders Association and JustLeadershipUSA.

"One of the challenges with reentry is that when people return, multiple systems touch them," says Nicole Jarrett, director of the CSG Justice Center's Corrections and Reentry Division.

"The way we typically think about reentry is that it's a corrections challenge or issue," she says. "But really, for successful reentry to happen, people need basics like housing. They need a job. If they have substance abuse needs, they need treatment."

Reentry 2030 asks state leaders and stakeholders alike to think about the logistics of reintegration more broadly, and to let shared data drive policymaking, Jarrett says.

In part, this evidence-based approach involves identifying barriers to employment and other essentials of well-being.

And it also means listening.

"There's been a growing movement around having people with lived experience share what the reentry process has looked like for them," Jarrett says. "People who've gone through it will be the first ones to tell you all the inefficiencies. ... They know because they're the common element across all of these well-meaning systems, and programs, and organizations."

The conversation on reentry and what it means for a former offender to find fulfillment needs to go beyond just reducing recidivism, she says, adding this means gaining a better understanding of existing racial and ethnic inequities in reentry success.

According to Jarrett, the new Ohio law's emphasis on encouraging participation in pre-release programming is promising.

The challenge for Ohio and other states, she adds, is finding ways to scale up correctional programming, remove long waiting lists for services, expand participant eligibility, and then continue rehabilitation post-release through community programming and employer partnerships.

STRANGULATION NOW A FELONY UNDER NEW OHIO LAW

SB 288 touches on many other aspects of Ohio's criminal justice system. For instance, lawmakers revised their laws in response to the epidemic of drug overdoses and deaths.

First, the new law expands "Good Samaritan" protections for individuals who seek help when witnessing an overdose. These individuals will not be prosecuted if drug paraphernalia is found on them by police responding to the overdose. Second, legislators decriminalized the possession of fentanyl test strips, which can be used to detect the presence of fentanyl (tied to many overdose deaths) in drugs.

Another part of SB 288 marks a legislative victory for lawmakers such as Sens. Nickie Antonio and Stephanie Kunze, who had long sought a change in the state's law on strangulation.

Now, strangulation in Ohio is considered a felony offense (it had not been prior to SB 288's passage), much as it is in 48 other states.

The result is increased penalties for domestic abusers.

Antonio says some resistance over the years to a statutory change stemmed from concerns that increasing the criminal severity of strangulation would unintentionally harm "boys roughhousing."

"This is so clearly not that," she adds.

Antonio referenced testimony in multiple committee hearings about the physical damage of strangulation, as well as the potential for future violence by people who commit the crime.

A study by Johns Hopkins

University, for example, found that a person who has been non-fatally strangled even once by his or her domestic partner is 750 percent more likely to later be murdered by that same partner.

Unlike previous bills where the focus was solely on domestic abuse cases, SB 288 includes tiered

penalties based on whether the perpetrator is related to the victim or is a repeat offender for all instances of strangulation.

Antonio credits the provision's inclusion in a larger omnibus bill as the reason it finally crossed the finish line:

"My hope is that with stopping it at the point of strangulation the very first time ... there are a lot of lives to be saved. And maybe the perpetrator can get some help, too [while being incarcerated]."

Derek Cantù is CSG Midwest's staff liaison to the Midwestern Legislative Conference Criminal Justice & Public Safety Committee.

OVERVIEW OF OTHER PROVISIONS IN OHIO'S RECENTLY ENACTED SB 288

✓ **STATUTE OF LIMITATIONS REMOVED FOR CONSPIRACY TO COMMIT, OR COMPLICITY IN COMMITTING, MURDER**

✓ **COUNTY CORRECTIONAL OFFICERS MAY CARRY AUTHORIZED FIREARMS WHILE ON DUTY, AND QUALIFIED IMMUNITY IS EXTENDED TO THOSE WHO DO; THESE OFFICERS MUST TAKE A TRAINING COURSE**

✓ **BODY CAMERA FOOTAGE FROM CORRECTIONAL AND YOUTH-SERVICES OFFICERS IS NOW PUBLIC RECORD (WITH SOME EXCEPTIONS)**

✓ **UNDERAGE DRINKING IS NOW A LOWER-LEVEL MISDEMEANOR**

✓ **CRIMINAL PENALTIES ESTABLISHED FOR HEALTH CARE PROFESSIONALS WHO FRAUDULENTLY GIVE HUMAN REPRODUCTIVE MATERIAL TO FERTILITY PATIENTS**

✓ **PENALTY INCREASED FOR AGGRAVATED VEHICULAR HOMICIDE OF A FIREFIGHTER OR EMERGENCY MEDICAL SERVICES WORKER**

✓ **TEXTING-AND-DRIVING BAN BROADENED TO INCLUDE THE HOLDING OF A CELLULAR DEVICE**

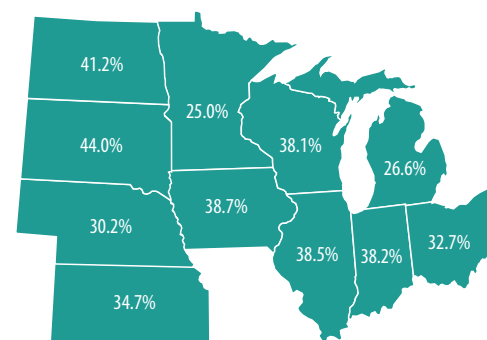
✓ **WARRANTS RELATED TO MANY VIOLENT-CRIME OFFENSES MUST BE UPLOADED TO A NATIONAL LAW ENFORCEMENT DATABASE WITHIN 48 HOURS OF ISSUANCE**

OF SENTENCED PRISONERS RELEASED FROM STATE AND FEDERAL CORRECTIONS SYSTEMS

State	2021	% change from 2020
Illinois	16,594	-19.4%
Indiana	8,816	-10.9%
Iowa	3,217	-32.5%
Kansas	3,354	-28.5%
Michigan	8,099	-22.7%
Minnesota	4,481	-23.7%
Nebraska	1,922	-21.6%
North Dakota	1,114	-8.7%
Ohio	16,844	-16.0%
South Dakota	3,724	-3.8%
Wisconsin	5,010	-16.8%
U.S. total	443,740	-19.3%

Source: U.S. Bureau of Justice Statistics

RECIDIVISM RATES OF PRISONERS IN MIDWESTERN STATES*



* Percentage is based on the most recent three-year re-incarceration rates produced and made available by the state as of October 2021.

Source: January 2022 analysis by Virginia Department of Corrections



PROFILE: WILL MORTENSON, MAJORITY LEADER OF THE SOUTH DAKOTA HOUSE

‘The person who has to be the most restrained is me’: Mortenson shares views on leadership, and lessons from predecessors, as he embarks on history-making term

by Jon Davis (jdavis@csg.org)

A decade ago, as a young policy analyst in the South Dakota governor’s office, Will Mortenson got his first up-close look at the work being done by lawmakers in his home state’s “citizen legislature.”

He immediately liked what he saw. “It was so intellectually stimulating and such a fun job of fresh challenges every day,” he recalls now. “Working with very capable people who were service-minded had a tremendous impact on me.”

Little did he know at the time, but Mortenson also was getting some early lessons on legislative leadership that he would be able to use himself one day — from caucus leaders such as David Lust and Russell Olson.

“I really thought those guys were working for their members and not asking the members to work for leaders,” Mortenson says, “and I think that’s the only way this job works.”

In late 2022, Mortenson’s legislative colleagues chose him to be House majority leader, a position that he takes on at age 34 and only in his third year in office. Mortenson, in fact, is the youngest leader of a Republican caucus in South Dakota history, as well as the first-ever tribal member to serve as majority leader in either the House or Senate.

But he also brings with him some unique experiences that have prepared him for the position, perhaps none more grave than last year’s impeachment of the state’s attorney general, who fatally struck a pedestrian while driving in September 2020. (The attorney general pleaded no contest to two misdemeanor charges in the case.)

Mortenson filed the resolution on impeachment and took the lead role in arguing the case before the full House. The attorney general ultimately was impeached by the House and removed from office by the Senate.

For his work on such a high-profile, highly emotional issue, Mortenson earned the respect of colleagues. And it gave him some perspective on leading the 63-member caucus.

“As I look at it, we’re going to be dealing with some tough topics in the coming years, but it’s hard to imagine one that had as much gravity and difficulty as that impeachment topic,” he says.

In a conversation with CSG Midwest, Mortenson shared his perspectives on leadership and his outlook for the 2023 session. Here are excerpts.

Q Who are some of the people who have shaped your views on leadership?



BIO-SKETCH: SOUTH DAKOTA REP. WILL MORTENSON

- ✓ elected House majority leader in 2022, first elected to the Legislature in 2020
- ✓ is a member of the Cheyenne River Sioux Tribe and is the first tribal member in state history to serve as majority leader
- ✓ is an attorney whose practice focuses on agriculture business and estate planning
- ✓ lives in the state capital, Pierre, with his wife, Shuree, and their two children: son, Augie, and daughter, Jules

“The number one thing the caucus leader can do is provide an example. ... I can’t go to one of my members and say, ‘Hey, that’s not how we treat each other’ if I’m treating people badly.”

A I’ve had the real privilege of watching some very capable and earnest majority leaders.

Probably my favorite was David Lust, who passed away way too early, last summer [at age 53]. He was the majority leader when I was working in the governor’s office and was somebody who was very smart, capable and very tough, and very funny.

I think that equal measures of those traits add up to a good leader. In the Senate, the leader at that time was a guy named Russell Olson. Those are the people who I look to as having done the job in a very forthright way. They were able to be of service to their caucuses. Those are two I would point to.

Q What lessons did you learn from your first term in office?

A Problems are just much better resolved in direct communication — rather than communication on social media or through traditional media.

I think that a primary driving force for anyone in the public sphere, but I would say particularly for lawmakers and political actors, is that they don’t want to be embarrassed. People will never forgive you if you embarrass them, and they will take steps they never would otherwise, whether that be out of anger or retribution or something.

So one key is that we always show restraint, whether things are going well for us or poorly, and that we really take care of one another in a collaborative body even if we are diametrically opposed.

We don’t want to do anything to try to embarrass each other or intentionally inspire overt malice against each other.

What does that look like? It means don’t succumb to your emotions and fire off a Tweet or a Facebook post, or don’t go find somebody from the press and try to bury the other guy. That just doesn’t work. That might make you feel better for 10 minutes, but it’s going to ruin a relationship for 10 years.

Q Has your perspective changed now that you are the majority leader?

A To some degree. I think the number one thing the caucus leader can do is to provide an example. I can’t go to one of my caucus members and say, “Hey, that’s not how we treat each other” if I’m treating people badly.

So the person who has to be the most restrained is me. The person who has to be the most consistent is me. The person who has to be the most fundamentally fair is me. Maybe that’s not how others view it, but that’s certainly the standard that I’m going to set for myself in the position of leadership.

They elected me majority leader not so that I could issue orders, but so that I could take orders and be a servant of the caucus, and be somebody who is working to make each of these members more effective in whatever direction they want to take us.

When the caucus holds a position, now that’s my position.

Q What are your personal goals for your first session as majority leader?

A My approach in year one, especially given that I am one

of the five youngest members of my body and I’m only in my second term, is to practice some restraint. I am not personally going to carry a large bill load. I am not going to try to be the primary influencer of our caucus agenda.

I am really going to lean on the leadership team more broadly and lead this in a collaborative fashion. One key is going to be just trying to keep people in the boat. That doesn’t mean they’re all rowing in the same direction, but I can provide a forum where people feel they’ve been treated fairly and that their voices have been given equal weight as a legislator, so that when we talk about caucus-wide priorities, we’re not talking about the priorities just of leadership, but indeed of the whole caucus.

Q As the first tribal member to be a majority leader, do you feel you’ll be setting an example for younger members in the state?

A I hope so. About 9 percent of our state’s population is tribally affiliated, and it’s spread across the state.

It’s been something in the DNA of South Dakota since before statehood. Whether you’re on or off the reservation, whether you’re a tribal member or not, I think that we do our best work when we realize that we’re all South Dakotans and that we can pull together.

In a lot of cases, because of the way tribal policy is set, the state has a tendency to say, “That’s in the feds’ portfolio, and there’s just nothing we can do.” Personally, we have three other tribal members in my caucus, and we’ve been pretty eager to say, “Where can we partner?”

PROFILE: JOHN ARCH, SPEAKER OF THE NEBRASKA UNICAMERAL LEGISLATURE



New leader believes a healthy legislative culture is built in two ways — members taking the time it takes to understand the issues, as well as each other

by Tim Anderson (tanderson@csg.org)

"Tell me your story. Why are you here?"

It's a question that John Arch encourages all 49 members of Nebraska's Unicameral Legislature to take the time to ask of one another, as a building block for stronger relationships and a healthier legislative institution.

"We all have a story of what brought us here, of why we decided to serve," he says. "Sit down and just ask that one question of each other, without any kind of agenda."

"When you hear that senator speaking on the floor [of the Legislature] or in committee meetings, it's going to make much more sense. And maybe you'll think, if I had that same story, I may believe the same way. You don't have that same story, of course, but you can at least understand it."

Arch became speaker in early 2023.

The top leadership post in Nebraska's nonpartisan Unicameral Legislature is unique, and doesn't carry some of the powers of speakers in other U.S. state legislatures — Arch, for instance, doesn't lead a party caucus or control who leads committees.

But as speaker, he does have important leadership roles to play, from the scheduling of bills and adherence to the rules, to the overall workflow and functioning of the legislative body.

And to operate most effectively, Arch believes, the 49 members must be committed to this: "Talking with each other, not about each other."

"Having that kind of healthy culture is something as speaker that I hope to influence," he says.

"For us, as legislators, one thing we can control is our behavior toward one another. We need to be very cognizant of that, on the floor and in private conversations, because maintaining [public] respect for the legislature is largely dependent upon our own behavior."

A FAST RISE TO LEADERSHIP

In Nebraska's term-limited Legislature, leadership comes quickly. Only four years ago, Arch was a new legislator himself, elected after running for public office for the first time in his life.

"It took me a long time from when I was first asked to get to a place where I finally decided to do it," he says.

"Ultimately, I saw it as a great platform to do even more for people."

"And I've never regretted that decision."

Though a political novice at the time, Arch jokes that a long career in health care administration was an ideal training ground for work in the legislative arena.

"You've got a number of people who

BIO-SKETCH: NEBRASKA SEN. JOHN ARCH

- ✓ unanimously chosen speaker in early 2023 by his legislative peers; first elected to the Legislature in 2018
- ✓ previously served as chair of the Unicameral Legislature's Health and Human Services Committee
- ✓ worked for 34 years in health care administration, including as executive vice president and director of the health care division of Boys Town
- ✓ married to wife, Brenda, for more than 44 years; they have two children, Cameron and Nicholas, and five grandchildren

are well-educated, strongly opinionated, independent thinkers — and you need to somehow get them to form as a team and move forward," Arch says.

And that's how he describes his experiences as a health care executive.

Arch served as executive vice president of health care and director of the National Research Hospital and Clinics at Boys Town, the famed Nebraska organization founded more than 100 years ago as an orphanage by Father Edward Flanagan that today provides an array of services to at-risk youths and families.

Not surprisingly, soon after joining the Legislature, Arch gravitated toward a leadership role in health care — for example, helping turn temporary, COVID-19-related rules into permanent laws that expanded access to telehealth services.

He became chair of the Unicameral Legislature's Health and Human Services Committee in his first term as a senator, and now starts his second as speaker. In a recent interview with CSG Midwest, Arch shared his views on leadership and effective legislating. Here are excerpts.

Q In your experience, what are the components that allow a legislature and its members to work at their best?

A In my mind, there are two. One is that we need to commit to understanding the issues. Sometimes we jump too fast to the solution, and so we end up debating a solution, which we don't agree on, before really understanding the [underlying] issues together. There are lot of things we can agree on if we take the time.

The second component, I would say, is relationships. We have to move beyond just talking about what we agree or disagree on. When you understand the other person, and you see [him or her] as someone who has a family, has fears and anxieties, has hopes and dreams, you will find a way to sit down and talk to the person, and not about the person.

"Find a way to sit down and talk to the person, and not about the person."

Q Is there a specific example or two where you've seen the Nebraska Legislature working well in those ways?

A I'd say our work on telehealth was one. When COVID hit, some of the rules in our state were set aside and waived for a period of time, and then we saw what could happen with these different regulations in place.

So we took time to see what should be kept after COVID. What had worked well? We spent the interim bringing all the parties together, understanding the perspective of providers and insurance companies and patients.

What we found was that telehealth lent itself very well to mental and behavioral health care. A large part of our state is rural, and many people have to drive a long way to get care.

In the end, we were able to come to agreement on a bill that we believe not only improves access to care, but maybe even saves lives when people are in crisis.

Q What advice do you give to newer legislators, based on what you've learned about the legislative process?

A It really comes down to one word: listen.

There is so much to learn when you come to the Legislature, so many issues. It's hard to take it all in. If you listen, you have a better chance of making good, reasoned judgments on what comes before you.

Listen carefully in those committee hearings. Listen to the opposing views. Be a good student, and you will become a much better legislator. I hope that's

what people would say about how I have approached being a legislator.

Q How did your professional career in health care leadership and at Boys Town prepare you for the Legislature?

A It was a huge help, because after 27 years with Boys Town, I at least understood some of the policy implications in areas like child welfare and juvenile justice and health care. You're learning so much when you first get here, so having any kind of head start on some policy pieces is a benefit.

Q What did you learn about the role of state government through helping the children and families you served at Boys Town?

A On the health care side, the government has the ability to set up systems in the state to support people who want to do the work. That's a lot of what we tried to do with the new law on telehealth.

Then there are the people in the United States who truly struggle to care for themselves because of where they are in life. I think back to Father Flanagan, when he came to Omaha, he found children on the street living in cardboard boxes.

Nobody wants to live in a society like that.

So how do we help those who cannot help themselves? I certainly look at children that way. The state government can play a very meaningful role in helping those who are unable to care for themselves. That's where I focus a lot of my attention.

MICHIGAN SEN. ROGER VICTORY SETS IMPROVING FOOD SECURITY AS MLC CHAIR’S INITIATIVE FOR 2023

Policy options for states to improve food security is the focus of the Midwestern Legislative Conference Chair’s Initiative of Michigan Sen. Roger Victory. Throughout Victory’s yearlong tenure as chair, the MLC will develop resources and programming to support the initiative as well as the work of state and provincial legislators in this policy area.

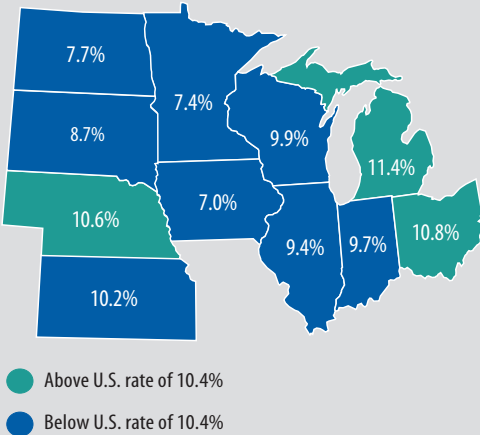
According to the U.S. Department of Agriculture, in 2021, more than 10 percent of U.S. households were not “food secure.” This means they did not have access, at all times, to enough food for an active, healthy life for all household members.

“Improving food security throughout our communities has the potential to positively impact the lives of the people we serve and promote generational change and growth,” Victory says.



Michigan Sen. Roger Victory

% OF HOUSEHOLDS IN MIDWEST THAT ARE “FOOD INSECURE” (AVERAGE OF 2019-2021)



Source: U.S. Department of Agriculture

MLC ESTABLISHES SIX BINATIONAL, INTERSTATE COMMITTEES FOR BIENNIUM

The Midwestern Legislative Conference will support six interstate, binational policy committees over the next two years. The MLC Executive Committee approved the new committee lineup in late 2022.

- Agriculture and Rural Affairs
- Education and Workforce Development
- Energy and Environment
- Criminal Justice and Public Safety
- Health and Human Services
- Midwest-Canada Relations

State and provincial legislators from across the Midwest serve on these committees, which allow members to work together on common issues and to learn from one another as well as leading policy experts.

Each committee meets and hosts sessions at the MLC Annual Meeting, which will be held this year from July 9-12 in Detroit. Most members are selected by appointing authorities in their respective legislative chambers. That appointment process is now underway. The work of these committees is supported by CSG Midwest and its policy analysts, whose research appears regularly in *Stateline Midwest* (see pages 3, 4, 5 and 6 of this edition) and at csgmidwest.org.

CORRECTION

A table in the December 2022 edition of *Stateline Midwest* that listed state income-tax structures should have identified Minnesota as a graduated-income-tax state. CSG Midwest regrets the error.

‘GRATEFUL TO ALL’: A MESSAGE FROM RECENTLY RETIRED CSG MIDWEST DIRECTOR MIKE MCCABE

As a new biennium begins and with this year’s legislative sessions now well underway, 2023 also marks a time of transition and new beginnings, both for the Midwestern Legislative Conference and here in the CSG Midwestern Office.

Led by Michigan Sen. Roger Victory, a new team of officers is guiding the work of the MLC, and soon, new Executive Committee members and leaders of the MLC’s policy committees will assume their duties.

These transitions serve as an annual reminder to me of just how fortunate The Council of State Governments is to be led at both the regional and national levels by an ever-evolving cast of dedicated individuals — leaders who willingly devote countless hours of their time and energy to promoting excellence in state government.

After almost 38 years at CSG, I continue to be inspired by the leaders and members whose shared commitments to public service and government excellence are the lifeblood of our organization.

And, as I retire, I am so grateful for the privilege I have enjoyed to work closely with so many outstanding leaders and public servants during my tenure as director of CSG’s Midwestern Office. To each of you, I extend my heartfelt thanks — for your leadership, your vision and your example, but also for your friendship, your support and your commitment to CSG’s mission.

Finally, I want to acknowledge and thank the many CSG staff colleagues — both near and far, past and

present — with whom I have been fortunate to work along the way.

To David Adkins and CSG’s outstanding national and regional staff teams across the country, as well as those who work within the CSG Justice Center and our affiliated organizations, it has been an honor and a privilege to call you colleagues while sharing with you the wonderful experience of working for CSG. I could not have found a better place to spend my career, and I am grateful to all.

And to my closest fellow staffers here at CSG Midwest (both former and current), no words can adequately express what you have meant to me through the years. It has truly been a joy to work by your side, and I will always be grateful for your friendship.

I know how lucky I am to have shared this journey with you.

Special thanks to Dr. Carolyn Orr, the MLC’s longtime agriculture policy consultant, who always made us better and who also wrapped up her work for the MLC earlier this year. And best wishes to the new director of CSG’s Midwestern Office, Laura Tomaka. I could not have asked for a better successor, and I’m thrilled to know that the Midwestern Office is in such capable hands.

With Laura at the helm and an incredible team in place — Ilene, Laura K., Tim, Jon, Mitch, Derek, Jess, Jenny, Kathy and Christina — CSG Midwest remains committed to assisting leaders across the region in building a better future for our states and provinces.



WELCOME TO A FAMILIAR FACE: LAURA TOMAKA

Laura Tomaka has been selected by the Midwestern Legislative Conference Executive Committee as director of the Midwestern Office of The Council of State Governments.

Consistent with the recommendation of an eight-member search committee, her candidacy was unanimously approved by the full MLC Executive Committee in December.

“Laura clearly rose above the other candidates with her energy and her competence,” says Kansas Sen. Carolyn McGinn, immediate past chair of the MLC, who spearheaded the search committee’s efforts. “She impressed us with her vision ... she will bring fresh new ideas to take

CSG/MLC to even greater heights.” Laura first joined the CSG Midwest staff in 1996, most recently serving as director of policy and professional development.

Over the years, Laura has provided staff support to numerous MLC policy committees and other entities including, since 1997, serving as lead staffer in support of the MLC’s Bowhay Institute for Legislative Leadership Development, one of CSG Midwest’s most successful programs.

In her new role, she will lead the efforts of the CSG Midwest staff team in support of the MLC and other regional networks of state officials. Laura will also contribute to CSG’s national mission as a member of its senior management team.



CONGRATULATIONS AND THANK YOU TO CAROLYN ORR

After more than two decades of service to CSG, including almost 20 years as the Midwestern Legislative Conference’s agriculture policy consultant, Dr. Carolyn Orr has retired.

A farmer and certified animal scientist who owns and manages a diversified crop, livestock and aquaculture farm in Indiana, Carolyn began providing lead staff support to the MLC Agriculture and Natural Resources Committee in 2005. She also served as lead staffer for the Great Lakes-St. Lawrence Legislative Caucus Task Force on Nutrient Management.

“It has been an incredible honor to work with Carolyn for over a decade,” says Illinois Rep. Norine

Hammond, most recent co-chair of the MLC Agriculture and Natural Resources Committee. “Her expertise and vast knowledge of all things agriculture is unparalleled.”

Following a stint as an employee on CSG’s national headquarters staff, Carolyn embarked on a consulting career that included work with each of CSG’s four regional legislative conferences. She also helped to establish the nonpartisan State Ag and Rural Leaders group and served as its founding staff director for 17 years.

“Carolyn will be dearly missed by CSG,” said Rep. Hammond. “I am confident she will continue to do great things as she continues her journey.”



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 THE
WAY IN THEIR STATES

One marker of success of the Bowhay Institute for Legislative Leadership Development (BILLD) has been the ascension over the years of many graduates to leadership positions.

This year is no exception.

Sessions began with more than 50 BILLD graduates in legislative leadership positions of some kind, including 18 alumni serving as the top caucus leader, majority floor leader, and/or presiding officer in a chamber. Congratulations to these BILLD graduates on their leadership selections.

SENATE PRESIDENT OR HOUSE SPEAKER



Illinois Senate President
Don Harmon |
Class of 2005



Indiana House Speaker
Todd Huston |
Class of 2016



Iowa Senate President
Amy Sinclair |
Class of 2016

MAJORITY OR MINORITY CAUCUS LEADER



Wisconsin Senate Minority Leader
Melissa Agard |
Class of 2014



Minnesota House Minority Leader
Lisa Demuth |
Class of 2021



Indiana House Minority Leader
Phil GiaQuinta |
Class of 2009



North Dakota House Majority Leader
Mike Lefor |
Class of 2015



South Dakota House Minority Leader
Oren Lesmeister |
Class of 2018



Michigan Senate Minority Leader
Aric Nesbitt |
Class of 2012



South Dakota Senate Minority Leader
Reynold Nesiba |
Class of 2018



Kansas Senate Minority Leader
Dinah Sykes |
Class of 2017



Iowa Senate Minority Leader
Zach Wahls |
Class of 2021

MAJORITY CAUCUS FLOOR LEADER



Michigan Rep.
Abraham Aiyasash |
Class of 2022



Ohio Sen.
Rob McColley |
Class of 2015

SENATE PRESIDENT PRO TEMPORE OR
HOUSE SPEAKER PRO TEMPORE



Indiana Rep.
Mike Karickhoff |
Class of 2011



North Dakota Sen.
Donald Schaible |
Class of 2012



Wisconsin Sen.
Patrick Testin |
Class of 2018



Iowa Rep.
John Wills |
Class of 2016

BILLD ENTERS 28TH YEAR OF TRAINING
LEGISLATORS FROM THE REGION; DEADLINE TO
APPLY FOR A 2023 FELLOWSHIP IS APRIL 17

5-day leadership program is for lawmakers in first four years of service

For the 28th year, a select group of legislators from across the Midwest will gather for five days of intensive leadership training. Would you like to be one of them? If so, plan to apply for a BILLD fellowship between now and the deadline of April 17.

The Bowhay Institute for Legislative Leadership Development is a signature program of The Council of State Governments' Midwestern Legislative Conference (MLC). Since it began 28 years ago, nearly 1,000 legislators have gone through the program. Many have gone on to serve as leaders in their legislatures and state executive branches; others are now members of the U.S. Congress.

BILLD's highly interactive curriculum includes a series of leadership training courses, policy seminars and professional development workshops.

Thirty-nine fellowships will be awarded this year to state and provincial lawmakers. The program's competitive application process is overseen by the MLC's BILLD Steering Committee, a bipartisan group of legislators from each of the MLC member states.

2023 BILLD Program: Things to Know

- When:** August 18-22
- Where:** Madison, Wisconsin
- What is covered?** A BILLD fellowship covers the cost of tuition, meals and lodging. Each Fellow also is eligible for a partial stipend to offset the cost of travel to and from Madison.
- When to apply?** Now through the application deadline of April 17
- How to apply?** Visit csgmidwest.org for details on the application process and to find the online application



BILLD

HOW TO MAKE THE MOST OF CSG: A PRIMER FOR
THE REGION'S NEWLY ELECTED LEGISLATORS

In the 11-state Midwest, close to 400 legislators are new to the job in 2023.

BILLD and other training programs are among the many ways that The Council of State Governments supports all legislators, as part of CSG's mission of championing excellence in state government across all three branches. Here is an overview of how to make the most of your CSG membership.



GET ACTIVE IN THE MLC AND
OTHER INTERSTATE GROUPS

If you are a legislator from the Midwest, you are a member of CSG's binational, nonpartisan Midwestern Legislative Conference. Along with its Annual Meeting and other events, the MLC has six binational, interstate policy committees of legislators. It also offers policy and professional development training.

The MLC is led entirely by state and provincial legislators from the Midwest. Becoming an active member of the MLC opens up new leadership, networking and learning opportunities to you.

CSG also provides staff support to many other interstate groups — in this region, for example, the Great Lakes-St. Lawrence Legislative Caucus, the Midwest Interstate Passenger Rail Commission, and the Midwestern Radioactive Materials Transportation Committee.



LEARN AND COLLABORATE WITH
COLLEAGUES AT CSG EVENTS

CSG regularly holds in-person and virtual events for state lawmakers and other leaders to learn from each other as well as top policy experts.

For legislators in this region, the premier event is the Midwestern Legislative Conference Annual Meeting, a binational gathering of hundreds of state and provincial legislators. This year's MLC Annual Meeting will be held July 9-12 in Detroit. Learn more at csgmidwest.org.

The CSG National Conference will be held Dec. 6-9 in Raleigh, N.C. Other notable events include BILLD (see above), the Great Lakes-St. Lawrence Legislative Caucus (Sept. 8-9 in Québec City), and CSG's Toll Fellowship Program (Aug. 16-20 in Lexington, Ky.). A listing of virtual and in-person events can be found at csgmidwest.org and csg.org.



ADVANCE POLICY IN YOUR STATE
WITH THE HELP OF CSG

CSG helps legislators advance public policy across many issue areas. The CSG Justice Center has assisted state leaders across the country with implementation of evidence-based strategies to improve their justice systems. The National Center for Interstate Compacts builds on CSG's long history of promoting multi-state problem solving and cooperation, and the CSG Center of Innovation helps legislators identify best practices and future opportunities to address policy challenges.

CSG Midwest also provides individualized research assistance to all state legislators and legislative staff. Please contact us at csgm@csg.org if you have a policy question.

Lastly, CSG electronic newsletters, online resources and publications such as *Stateline Midwest*, *Capitol Ideas* and "The Book of the States" keep leaders up to date on trends in state government while also providing useful comparative research and data.

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

Midwestern Legislative Conference Annual Meeting

July 9-12, 2023 | Detroit, Michigan

Contact: Jenny Chidlow ~ jchidlow@csg.org
630.925.1922 | csgmidwest.org



Bowhay Institute for Legislative Leadership Development

August 18-22, 2023 | Madison, Wisconsin
Application Deadline: April 17

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



BILLD

Great Lakes-St. Lawrence Legislative Caucus Annual Meeting

September 8-9, 2023 | Québec City, Québec

Contact: Jessica Lienhardt ~ jlienhardt@csg.org
630.925.1922 | greatlakeslegislators.org



GREAT LAKES
GLLC
ST. LAWRENCE
LEGISLATIVE CAUCUS

Midwest Interstate Passenger Rail Commission Annual Meeting

September 18-20, 2023 | Normal, Illinois

Contact: Laura Kliewer ~ lkliewer@csg.org
630.925.1922 | miprc.org



CSG National Conference

December 6-9, 2023 | Raleigh, North Carolina

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



The Council
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