Time to bail on cash bail?

A growing number of states are scrutinizing current systems, and exploring alternatives such as use of risk-assessment tools

by Mitch Arvidson (marvidson@csg.org)

Bail, in its most ideal form, serves two purposes.

First, it maintains the American ideal of innocent until proven guilty by allowing suspects to continue their daily lives as normally as possible while they await further court actions. Second, it incentivizes the accused to attend future hearings or face financial consequences.

But in recent years, the downsides of the nation’s cash bail system have state legislators, judges and other policymakers taking a closer look at their laws, as well as considering possible alternatives. Outside the Midwest, California and New Jersey have adopted some of the nation’s most significant changes. In this region, meanwhile, state or local reforms have either been proposed or implemented in every state.

States have used a variety of methods for exploring, and sometimes changing, their systems: for example, bills signed into law in Illinois, Indiana and Nebraska; the use of a legislative study committee in Wisconsin; and initiatives led by the state supreme courts of Kansas and Ohio.

However states get there, two interconnected policy changes are typically part of these legislative- or judicial-led initiatives: first, eliminate or curtail the use of cash bail in misdemeanor or low-level felony cases; second, replace cash bail with a risk-assessment tool to guide judges’ decisions on whether to release or detain a suspect.

Factors behind the reform push

Why would states consider sweeping changes to a cash bail system that has been in place for so long?

Illinois Sen. Elgie Sims Jr. says he was motivated in part by the chance to reduce the number of people accused of nonviolent crimes being held in jails.

The Bail Reform Act (SB 2034 of 2017) has allowed for that reduction to occur in Illinois, he says, while giving important decision-making powers back to the judiciary.

“It gives judges the opportunity to use their discretion and their better judgment,” Sims says of SB 2034, a bill he sponsored as a member of the Illinois House.

In Wisconsin, Sen. Van Wanggaard helped lead a recent legislative study of his home state’s bail system. One of his end goals: Ensure that public safety plays a larger role in bail decisions.

“For instance, an individual has threatened to hurt citizens or victims once they get out,” he says. “It’s not so much about them thinking about fleeing, whether or not they’re a flight risk, but it should be the public safety issue.”

Under the current system, he adds, “judges don’t really have to consider [public safety] as a primary reason when you start talking about bail.”

Nancy Fishman, project director of the Vera Institute of Justice’s Center on Sentencing and Corrections, identifies four drawbacks with the cash-bail system currently in place in most states. The first is how it affects the accused differently.

“If the only thing that distinguishes the people who are innocent on the inside and the people who are innocent on the outside is money — the ability to pay — then you have a system that is built in inequities,” says Fishman, adding that this imbalance adversely impacts women and people of color.

Second, as the price of cash bail has steadily risen, the system has become a way of keeping people in jail instead of a way of allowing people to be released. Third, Fishman says, cash bail is not the best way of determining who needs to stay in jail.

According to the Prison Policy Initiative, more than 500,000 people in the United States were detained in jails before their trial in 2018. In some states, legislators and other leaders are examining whether changes in the current bail system could reduce that population while still preserving public safety.

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Health & Human Services

‘Tobacco 21’ bills beginning to find fertile ground in Midwest state legislatures

In early April, Illinois became the first Midwestern state — and the latest nationwide — to raise the minimum legal sales age for tobacco products from 18 to 21.

The logic is straightforward: The U.S. surgeon general reported in 2012 and 2014 that the younger someone is when they begin using nicotine, the more likely they are to become addicted to it. So, proponents say, raise the age.

Hence SB 345, approved by the Illinois General Assembly in mid-March and signed by Gov. J.B. Pritzker on April 7. (A similar bill was vetoed last year by then-Gov. Bruce Rauner, who said it would just push kids to get tobacco from neighboring states or unlicensed vendors.)

Opponents of so-called “tobacco 21” laws cite the freedoms of adulthood — if 18- to 20-year-olds can opt to join the military and risk their lives, for example, they should be able to choose whether to smoke.

Rep. Tommy Brann, sponsor of HB 4039 in the Michigan House, says his bill aims to prevent 18-year-olds from passing tobacco to their younger cohorts.

“Smoking is a bad habit and we all know that. If we push [the legal age] up to 21, you don’t have that 18-to-16 relationship,” he says.

“We used to have 18-year-olds who could drink, and we raised it back up to 21 because it got out of control,” Kathy Drea, the American Lung Association’s advocacy lead for the upper Midwest, says Illinois cities’ success with tobacco 21 laws prove that point.

In 2014, Evanston became the state’s first city to enact a tobacco 21 ordinance; from 2015 to 2017, tobacco use by youth there dropped by 37.5 percent. Chicago followed suit in 2016 and registered a 36 percent decrease in youth tobacco use in just one year, Drea says.

“When you see results like that, you have to act,” she adds.

A University of Michigan white paper issued in March notes that tobacco 21 laws seem to be grounded in solid science.

It cites a 2015 study by the Institute of Medicine (now the National Academy of Medicine) for the U.S. Food and Drug Administration which found that “increasing the [minimum legal age] for tobacco products will likely prevent or delay initiation of tobacco use by adolescents and young adults,” especially among 15- to 17-year-olds.

“The majority of underage people using tobacco products obtain them from social sources,” that study said.

Across the Midwest, tobacco 21 bills have been introduced in Indiana (SB 425), Minnesota (HF 33 and SF 463), and Nebraska (LB 149). Ohio Gov. Mike DeWine, in his proposed budget for the coming biennium, recommends raising the minimum legal tobacco sales age to 21.

Elsewhere, eight states already have tobacco 21 laws in place; as of early April, bills were awaiting gubernatorial action in New York and Washington.

Cigarette use among adults, youths (2017)

<table>
<thead>
<tr>
<th>State</th>
<th>Adults</th>
<th>Youth*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>15.5%</td>
<td>7.4%</td>
</tr>
<tr>
<td>Indiana</td>
<td>21.8%</td>
<td>N/A</td>
</tr>
<tr>
<td>Iowa</td>
<td>17.1%</td>
<td>9.9%</td>
</tr>
<tr>
<td>Kansas</td>
<td>17.4%</td>
<td>7.2%</td>
</tr>
<tr>
<td>Michigan</td>
<td>19.3%</td>
<td>10.9%</td>
</tr>
<tr>
<td>Minnesota</td>
<td>14.5%</td>
<td>N/A</td>
</tr>
<tr>
<td>Nebraska</td>
<td>15.4%</td>
<td>7.4%</td>
</tr>
<tr>
<td>North Dakota</td>
<td>18.3%</td>
<td>12.0%</td>
</tr>
<tr>
<td>Ohio</td>
<td>21.9%</td>
<td>N/A</td>
</tr>
<tr>
<td>South Dakota</td>
<td>19.3%</td>
<td>N/A</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>16.0%</td>
<td>7.8%</td>
</tr>
</tbody>
</table>

* Data are from the Youth Risk Behavioral Surveillance System. N/A denotes data not available from these states.

Source: U.S. Centers for Disease Control and Prevention

Education

Michigan incentive program for schools to buy locally grown food has expanded to 57 districts

Four years ago, Michigan legislators began funding a pilot farm-to-school project with at least two goals: One, get more fresh fruit, vegetables and legumes on the plates of K-12 students; two, open up new markets for local farmers.

On both counts, state officials and national leaders in the farm-to-school movement say, the Michigan experiment is showing signs of success.

“It is a gold standard program,” Helen Dombalis, senior director of programs and policy for the National Farm to School Network, says of Michigan’s 10 Cents a Meal for School Kids & Farms.

“Other states are looking at it as a model.”

Administered by the Michigan Department of Education, the program provides matching funds to school districts — equal to 10 cents per school meal — to purchase food products from nearby farms.

Over three school years, the number of students served through the pilot project has risen from 48,000 to 135,000, and the legislative appropriation for 10 Cents a Meal has increased from $250,000 to $575,000.

According to Dombalis, state incentives and grants are crucial for building networks that link local farmers (or distributors of their food products) with schools’ food service directors. Without the financial assistance, she adds, districts will tend to rely on traditional, large-scale supply chains — even if there are no extra costs for buying local.

During the current school year, 57 school districts in Michigan used the program to purchase 93 different fruits, vegetables and beans grown by 143 farms in the state (the pilot project currently is in place in five of Michigan’s 10 “prosperity regions”).

“In some of these communities, the school district is the largest restaurant in town,” Meghan McDermott, food and farming director for Michigan’s Groundwork Center for Resilient Communities, says about the value of schools as a customer for local growers.

In response to a statewide survey about the program, food service directors for Michigan’s schools said the greatest impact of 10 Cents a Meal has been increasing the variety of produce served to students. As part of the program, too, students take part in taste tests and nutrition education.

“In Michigan, we have been focusing on the idea of finding ways to support the ‘whole child, the whole learner,’” says Phil Chase, assistant director of the Department of Education’s Office of Health and Nutrition Services. “Part of that is better nutrition, because we know it can help with learning.”

Why does Michigan’s 10 Cents a Meal stand out as a national model?

“It has components of all of the things that other states have found fertile ground in Midwest states where comprehensive farm-to-school legislation has passed, as defined by the National Farm to School Network*

* To be deemed comprehensive, the legislation must fund: 1) state grants to assist schools in purchasing locally grown food; 2) farm-to-school coordinator positions, or 3) incentives for local procurement.

Dombalis says one reason is the use of a strong evaluation process: The Legislature receives an annual report on the program, and researchers regularly survey participants (students, districts and growers) and measure the impact on the local economy and on students’ food consumption.
Midwest-Canada Relations

After years of court cases, requests for proposals and bidding, work is underway for a new bridge at the busiest commercial crossing along the U.S.-Canada border. Approximately 7,000 trucks — carrying goods worth millions of dollars — already pass the border most days at Detroit and Windsor, Ont. All of these crossings are done now via the privately owned, 90-year-old Ambassador Bridge.

But with the scheduled opening of the Gordie Howe International Bridge in late 2024, a second option will be available for U.S. and Canadian firms.

The bridge (named after the Hall of Fame Canadian hockey player who starred for the Detroit Red Wings) will provide larger, modern capacity for both cargo and passenger traffic. “This new bridge across the Detroit River will be built by a group of nine firms, operate as a public-private partnership, and be jointly owned by the government of Canada and the state of Michigan. The bridge is expected to cost $2.7 billion, with Canada providing most of the upfront financing.”

Michigan will eventually pay for its share of the costs through money collected in bridge tolls. Another $1.7 billion will be required to maintain the Gordie Howe International Bridge during its first 30 years of operation. Owners of the Ambassador Bridge have filed five major lawsuits seeking to prevent this construction project. The Michigan Supreme Court dismissed one of those lawsuits in December; a final one remains active.

The owners have also appealed to President Trump to stop the project.
Getting out the youth vote: Four trends in turnout, state programs, and new laws and legislation

In 2018, there was uptick in turnout among young voters

After years of mostly declining participation levels among younger voters in midterm elections, a big change occurred in 2018 — turnout rates among the nation’s 18- to 29-year-olds soared. This trend occurred across U.S. states and regions, according to data collected and released in April by The Center for Information & Research on Civic Learning and Engagement. That data includes estimates from 34 U.S. states, including nine in the Midwest (see table). Between 2014 and 2018, the center notes, double-digit increases in younger-voter turnout occurred in Illinois, Indiana, Michigan, Iowa, Kansas, Minnesota, Nebraska and Ohio. In Minnesota, the rate reached 43.7 percent, highest in the nation.

“When you put this into the perspective of the past quarter century, a 10-point jump is pretty dramatic,” notes Abby Kiesa, the center’s director of Impact. Perhaps most significantly, too, the rise in turnout among younger voters eclipsed turnout increases among the general electorate.

Was 2018 simply an outlier year, or did it mark the beginning of an era in which more younger voters will participate?

“I think we have to be a little cautious in how we interpret last year’s results,” says professor Elizabeth Bennion, founding director of the American Democracy Project at the University of Indiana-South Bend.

She notes that the past election cycle had several turnout-boosting features — for example, young people’s strong feelings about the president, an unusually high level of peer-to-peer outreach (via social media platforms) about voting, and the decision by various national organizations (on issues such as gun control) to target participation by young people.

Yet still, a smaller percentage of younger voters cast ballots in 2018 than the general electorate.

The factors behind the ‘age gap’ in voter turnout

People who own homes, are married, pay property and income taxes, and feel a deep connection to their community are more likely to vote. Many teenagers and people in their 20s don’t match part or all of this profile — a fact that helps explain the longstanding age gap in voting rates, Bennion says.

“Young people also are less likely than older people to see voting as a civic duty,” she adds.

Another reason for the disparity: Candidates, political parties and other groups have tended to ignore this age cohort in their voter-mobilization campaigns.

“A young person doesn’t have a voting history, and doesn’t have a reliable partisan history, so for a long time, politicians were less likely to reach out to young people to vote,” Bennion says.

States go to schools to reach new, soon-to-be voters

Young people, though, are the focus of various state initiatives, often run through secretary of state offices. (The secretary of state is the chief elections official in every Midwestern state except Illinois and Wisconsin.)

Last year in Iowa, for example, close to 40,000 young people (many not yet of voting age) cast ballots at their local high schools as part of the Iowa Straw Poll, a mock election that included the races for governor and the local U.S. House seat. Candidates for these positions posted special video messages to students participating in the mock election.

The Minnesota secretary of state’s office runs a similar program known as Students Vote. Local schools decide on how the election will be held, but the secretary of state provides the ballots, lesson plans for teachers, and “I Voted” stickers for students.

“We want young people to think of themselves as voters even before they are eligible to vote,” Secretary of State Steve Simon says. In 2018, the Students Vote program had participation from 120,000 young people across 290 Minnesota high schools. Sixty-eight colleges, meanwhile, took part in the secretary of state’s College Ballot Bowl, in which campuses compete to get the most students registered to vote.

New laws remove voting obstacles for young people

In every state except North Dakota, individuals wanting to vote must be registered, and this can be an obstacle for young people who either haven’t voted in the past or who are living somewhere new.

Various new policies, though, have been implemented to make the process easier and more accessible.

Last fall, with passage of SB 425, Michigan joined other Midwestern states (all but South Dakota) in allowing for online voter registration. In recent years, too, Illinois and Michigan followed Iowa, Minnesota and Wisconsin in permitting individuals to vote on the same day that they register — on Election Day and/or during the state’s early voting period.

According to the Brennan Center for Justice, Illinois is one of 15 states that offers “automatic voter registration”. Individuals who interact with a government agency are automatically registered to vote, unless they choose to opt out. Simon is pushing for automatic voter registration in Minnesota, as well as the preregistration of 15- and 16-year-olds — when they get their driver’s license, for example, or as part of a civics class.

Article written by Tim Anderson, CSG Midwest publications manager, who can be reached at tanderson@csg.org. This year’s Midwest Legislative Conference Chair’s Initiative of Illinois Sen. Elzie Sims Jr. is “State Strategies to Build Civic Engagement.”

Estimates of voter turnout rates among 18- to 29-year-olds in 2018 elections

<table>
<thead>
<tr>
<th>State</th>
<th>Rate</th>
<th>% point change from 2014</th>
<th>Did rise in youth turnout exceed overall rise in turnout between 2014 and 2018?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>26.9%</td>
<td>+12.6 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Indiana</td>
<td>23.7%</td>
<td>+15.6 points</td>
<td>No</td>
</tr>
<tr>
<td>Iowa</td>
<td>34.7%</td>
<td>+12.6 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Kansas</td>
<td>25.5%</td>
<td>+11.9 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Michigan</td>
<td>32.7%</td>
<td>+17.4 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Minnesota</td>
<td>41.7%</td>
<td>+20.6 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Nebraska</td>
<td>26.8%</td>
<td>+13.0 points</td>
<td>Yes</td>
</tr>
<tr>
<td>North Dakota</td>
<td>**</td>
<td>**</td>
<td>**</td>
</tr>
<tr>
<td>Ohio</td>
<td>27.4%</td>
<td>+15.8 points</td>
<td>Yes</td>
</tr>
<tr>
<td>South Dakota</td>
<td>22.6%</td>
<td>+8.1 points</td>
<td>Yes</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>**</td>
<td>**</td>
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Sources:
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% of eligible voters, by age, who voted in 2014 (midterm election year) and 2016 (presidential election year)

- In every state except North Dakota, individuals wanting to vote must be registered, and this can be an obstacle for young people who either haven’t voted in the past or who are living somewhere new.
- Various new policies, though, have been implemented to make the process easier and more accessible.
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Michigan House has new committee to enhance bill deliberations

by Jon Davis (jdavis@csg.org)

The state with the strictest term-limits law in the Midwest is experimenting this year with a new committee in its lower chamber that provides an additional layer of legislative review.

The committee goes by a familiar name — Ways and Means — but is not dealing strictly with taxation and financial matters.

Instead, the Michigan House Ways and Committee, instituted by Speaker Lee Chatfield for the current session, serves as a secondary review and approval authority for bills — after measures have emerged from most policy committees, but before they are sent to the full House for a floor vote. (The three exceptions to this new rule are for the Appropriations, Government Operations and Judiciary committees, all of which still can send bills directly to the House floor.)

“We operate like a rules committee in many other states,” says Rep. Brandt Iden, chair of the new Ways and Means Committee. But unlike rules committees that often set the terms of, and time for, debate on bills, the new committee in Michigan is focused on improving workflow, Iden says.

In previous sessions, backlogs of bill amendments and substitute bills often developed — sometimes amendments were added, or substitute bills offered while the sponsoring legislator was out ill and unable to respond or object on the floor — so bills would be sent back to committee, he says.

The new committee is designed to prevent this confusion by ensuring that a bill’s various stakeholders are all on the same page before the measure comes up for a floor vote. “The intent is to make the process smoother, ensure bills are ready for a vote, and to make the speaker’s job easier,” Iden says.

In Michigan, House members are limited to three, two-year terms in office. This year, about 40 percent of the state’s lower chamber is composed of legislators in their first year of service.

According to Iden, the committee will help Eubert institutional knowledge to newer legislators by having veteran lawmakers review their bills.

“This is really set up as a way to get an additional layer of support for new members when they introduce legislation, he says.

Members of the Ways and Means Committee are in their second or third terms, and many are ex-policy committee chairs who are already familiar with the overall legislative process. Iden, for example, served as chair of the House Regulatory Reform Committee during the 2017-18 session.

Designed to be flexible, the committee can meet every day, and can vote bills out on the same day as they’re brought up for discussion or can schedule a day or two of testimony, Iden says.

The committee also provides as a second chance for stakeholders to offer testimony if, for whatever reason, they cannot do so when a bill is heard in its original policy committee — a situation that’s already happened a couple of times, Iden adds.

Iden adds that he hopes the new committee survives when he and Speaker Chatfield, both of whom are in their final terms, leave office.

This Ways and Means Committee is a sensible thing to do in a legislature as severely term-limited as Michigan’s, says Gary Moncrief, a distinguished professor emeritus in Boise State University’s Department of Political Science and an instructor for CSG Midwest’s Bowhay Institute for Legislative Leadership Development.

“On the surface, the logic is pretty compelling to me. Six years is not a lot of time [for legislative service],” Moncrief says. “It’ll be interesting to see how it works out over the session.”

Capital Closeup is an ongoing series of articles focusing on institutional issues in state governments and legislatures. Previous articles are available at csgmidwest.org.
Growth in local jail populations fueled by rise in unconvicted inmates

For example, if a violent offender facing many years in prison has the financial means to pay for an expensive bail, he or she also probably has the means and incentve to skip town. Conversely, nonviolent offenders facing light sentences (community service, for example) would have little incentve to skip their future hearings if released from custody. But they may not be able to afford bail.

A fourth drawback, Fishman says, is that people who are unable to pay bail and spend any time in pretrial incarceration face long-term, negative consequences: “They're more likely to recidivate. There's long-term impact on their ability to work and take care of their familes.”

And these effects are not limited to a small number of people.

According to the Prison Policy Initiative, more than 500,000 people in the United States were detained in jails before their trial in 2018. Over the last 20 years, all growth in the number of people held in local jails can be attributed to the pretrial detention of unconvicted individuals.

Two major changes outside Midwest

New Jersey was one of the first states to shift away from cash bail with its passage in 2014 of SB 946. This legislation eliminated cash bail for most crimes, instead establishing non-monetary bail alternatives for release. (Under a constitutional amendment passed by New Jersey voters that same year, judges also can deny bail completely to certain high-risk defendants.)

Under SB 946, when an individual is booked into a county jail after arrest, a recommendation on whether he or she should be released is based on a Public Safety Assessment. The tool in the pretrial process.

Implementation of California’s SB 10 has been delayed, however: Its opponents gathered enough signatures for the vote to decide on its fate in a 2020 referendum.

Three new laws in Midwest

Since 2017, legislatures in at least three Midwestern states have passed bills related to cash bail and/or the use of risk-assessment tools to determine an arrestee’s likelihood of committing a new criminal offense or failing to appear in court. Here is a summary of each of these new laws.

**NEBRASKA’s LB 259**

Passed two years ago with overwhelming support in the unicameral legislature, LB 259’s goals include reducing overcrowding in local jails and preventing the pretrial detention of people who have been charged with low-level offenses and are too poor to post bonds. The bill’s sponsor, Sen. Matt Hansen, noted in a column last year for the Lincoln Journal Star that more than half of the jail population in Nebraska’s largest counties was made up of pretrial detainees unable to afford bail.

LB 259 gives jurisdictional authority to county courts to determine the competency of a defendant to stand trial and his or her ability to pay bail or fines. Judges also must consider a defendant's finances when setting the price of bail, fines and fees. Furthermore, LB 259 increased the credits that individuals could earn per day toward their debts, from $90 to $150. If, for example, a person receives a $150 ticket for possession of an open container of alcohol and they are held in custody for failure to pay, one day in custody would be equivalent to paying the ticket.
#### ILLINOIS’ SB 2034

The Illinois Bail Reform Act (SB 2034 of 2017) set in statute a presumption that the conditions of release for individuals arrested for nonviolent misdemeanors or low-level felonies “shall be non-monetary” and least restrictive as possible, while still assuring a defendant’s appearance at future proceedings. In addition, courts are expected to consider the defendant’s socio-economic status when setting conditions of release or imposing monetary bail. SB 2034 also authorizes the Illinois Supreme Court to establish a risk-assessment tool to help determine pretrial release decisions.

In April 2017, the state Supreme Court adopted a statewide policy statement encouraging circuit courts to establish pretrial services agencies that help judges make bail determinations. Furthermore, Illinois’ highest court formed a Pretrial Practices Commission to conduct a comprehensive review of the state’s pretrial detention system and to make recommendations for change by December.

Sen. Sims says he has taken away three lessons from his work on SB 2034, and some of the changes that have come since its passage.

#### Potential for future legislative action

Between August 2018 and February of this year, a bipartisan, 14-member group of state legislators, judges, district attorneys and others studied Wisconsin’s policies on bail and pretrial release. “It gives us a little more direction [compared to the traditional legislative process] when we work through a study committee,” says Sen. Wanggaard, who served as chair of this Wisconsin Joint Legislative Council group.

“We were able, over that period of time, to have six separate meetings. We heard from different experts in the field and we were able to ask if this really answered all of our questions. And if not, who else do we need to bring in for our next meeting?”

The committee’s final report recommends that the Joint Legislative Council propose an amendment to the Wisconsin Constitution. This constitutional revision would, in turn, allow for policy changes related to the pretrial release or detention of arrestees. For example, all suspects would be “presumed” to be eligible for release, though judges would still weigh factors such as risk to the community and failure to appear in court.

Also, under the constitutional amendment, any law authorizing circuit courts to deny release prior to conviction would have to:

- specify the circumstances under which an accused may be denied pretrial release;
- limit the amount of time a suspect may be denied release prior to conviction; and
- require courts to conduct pretrial detention hearings.

The Wisconsin committee also has proposed three additional bills related to bail and pretrial risk assessments. These measures could only take effect, however, with passage of the constitutional amendment.

Various bail-related measures have been introduced in Michigan, Minnesota, Ohio and North Dakota in recent years. None has passed. The bills in Ohio (HB 439 of 2017) and North Dakota (HB 1258 of 2019) would have created pretrial risk-assessment programs, while a package of bills last year in Michigan (HB 6455-6463) would have completely overhauled the cash bail system. Minnesota’s HB 741 and SF 67 were introduced earlier this year; they would limit the use of cash bail for certain offenses.
As a child, Matt Huffman campaigned for his father, a local county prosecutor in Ohio, and shook hands with a future president (Richard Nixon, in 1968, while holding up “Huffman for Prosecutor” signs with his eight siblings). By age 31, he was serving on the City Council in his hometown of Lima.

But as much as politics has always been a part of Huffman’s life, the policies of state government — and the legislative work behind them — have captured much of his interest since joining the General Assembly in 2007.

“I guess my passion has been to solve seemingly complex problems,” he says. That has led him in a whole range of directions, from his role in revamping the state’s redistricting process to require bipartisan support for new political maps, to addressing changes in the state’s voting and gambling laws.

“Those were things that were sort of foisted upon me,” he says, joking that “when the leaders think there are problems nobody wants to deal with, they say, ‘You go deal with that, Huffman.’”

The Ohio native has held several leadership positions himself while in the legislature. In the House, he served one term as Republican majority leader and another as speaker pro tempore; earlier this year, Huffman’s Senate colleagues chose him as majority floor leader. (Because of legislative term limits, Huffman left the House in 2014. He successfully ran for a Senate seat two years later.)

In a recent interview with CSG Midwest, Sen. Huffman discussed his views on leadership, policy priorities for the state and his Senate district, and some of his most valued legislative accomplishments. Here are excerpts.

Q: You’ve served for some time in both the Ohio House and Ohio Senate. How is it different for you now serving in the Senate?
A: [The difference] is substantial, and the first reason is no more complicated than there are fewer people [33 members vs. 99 in the House] .... Because of that, I think you have a little bit different mindset over here. There’s a tendency to slow down, and you get a better chance to look at things. You’re not trying to please as many people by passing a bill, which often turns out to be one of the things you try to eliminate later when you find out that it wasn’t such a good idea after all.

Q: What do you view as being your biggest accomplishments during your tenure in the Ohio General Assembly?
A: I think the most impact that I’ve had is in the changes to expand school choice. All the time, I have people I don’t know write me letters or call and talk to me about how the ability of their child to go to a different school in certain circumstances saved their child, or something to that effect. They don’t particularly care what goes on in the halls of government; they only care about their family and their neighborhood and their community. So I think that’s been among my biggest accomplishments.

Q: You’ve described your seven-county Senate district in west-central Ohio as “heavily agricultural, but also ‘very rich in manufacturing.’” What are some of the challenges that you’re trying to address for your district?
A: Our biggest problem right now is that we have jobs, but we don’t have enough people. So we’re trying to import people and make sure that the homegrown products of our schools stay home after they go off to college. But it’s a good problem to have, and I think it really speaks well of the folks who are running businesses in west-central Ohio that the economy is thriving.

Q: What are you focusing on this legislative session?
A: One of the problems that we face, and one that governments always face, is looking at the vestiges of policies that don’t work today. The last General Assembly, the legislature passed the Public School Deregulation Act (SB 216). The public school superintendents, who maybe aren’t so crazy about my school-choice legislation, really liked this bill. It basically went back and looked at either a lot of bad legislation or policy rules that had been adopted over the years, and were still somehow part of the system. We changed that [with SB 216].

I’m continuing to work on that and also doing it for our joint vocational schools, and we’re going to look to do that for small businesses as well. Just because we’ve been doing something for many years doesn’t mean it’s a good idea. Let’s look at innovative ways to do things, but at the same time, let’s also stop doing things that really aren’t very helpful to the constituency you’re trying to serve.

Q: How would you describe your leadership style and your approach to legislating?
A: My style has a little bit to do with being the fifth of nine children. I’m the middle child. I really believe that for most problems, there is a reasonable solution that most people will agree with.”
Emerging contaminants demand sustained state policy response

PFAS contamination in Michigan has led to extensive testing, remediation

by Michigan Rep. Mary Whiteford (Mary.Whiteford@house.mi.gov)

Michigan has been a national leader in managing and mitigating PFAS contamination in drinking water. Our interagency response team is fielding questions from communities across the nation and around the globe about how to best handle PFAS contamination. I am proud of our state’s commitment to environmental protection. But we can’t stop here. The safety and protection of our state’s drinking water is and continues to be a top priority.

PFAS stands for per- and polyfluoroalkyl substances — a family of human-made chemicals used widely in the industrial, food and textile industries, as well as in some firefighting foams, food packaging, cleaning products and other household items.

Some types of PFAS compounds, such as perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), have been phased out of the manufacturing process, but they still persist in the environment. That is because PFAS chemicals are incredibly stable and break down slowly in the environment. They also are highly soluble, easily transferring through soil to groundwater.

In different parts of our state, PFAS-contaminated sites have been confirmed, and these toxic chemicals have been detected in both private drinking wells and municipal water systems.

Up to $125 million authorized, so far

As we enter the next phase of our PFAS response, we will look to scientific experts to guide any necessary policy or regulatory actions. We are deepening our understanding of how these chemicals move through the environment, as well as their impact on water supplies and ecosystems.

We are also planning to conduct a human health assessment in northern Kent County. A health assessment is not a health study, but this assessment will tell our response team about the population exposed to PFAS and the magnitude of this exposure. The assessment may lead to a future health study, if we identify an elevated exposure due to an environmental source.

Over the last 14 months, the Michigan Legislature has authorized up to $125 million for PFAS cleanup and response, and we will continue to monitor the need for additional funds while assembling our next budget. Over these same 14 months, our Michigan PFAS Action Response Team has made tremendous progress in PFAS containment and response. Created via a 2017 executive order, this team includes participation from seven state agencies. Its task: Investigate sources and locations of PFAS, and protect drinking water and public health. Its accomplishments include:

• testing 100 percent of all Michigan’s public drinking water sources.
• testing drinking water at all schools and day care facilities with their own well-water sources.
• identifying 34 contamination sites and then following up with remediation activities.
• coordinating the response to affected communities, including supplying local residents with supplies of bottled water.
• testing fish and game in affected areas.
• collaborating with federal partners and pursuing the cleanup of U.S. Department of Defense sites (common source of contamination).

These accomplishments represent significant progress, but much work still needs to be done. Many unanswered questions about this class of chemicals remain. As chair of the House subcommittee that oversees appropriations for the Michigan Department of Health and Human Services, I will ensure that efforts to protect human health are a top priority.

We must continue to seek sound, science-based answers to key questions related to public health, environmental response and regulation to protect the health and safety of all Michigan families.

Rep. Mary Whiteford was first elected to the Michigan House in 2016. She is a 2016 graduate of CSG Midwest’s Bowhay Institute for Legislative Development (BILLD).

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 First Person article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or Anderson@csg.org.

Examples of three Midwest states’ PFAS-related standards or regulations*

<table>
<thead>
<tr>
<th>State</th>
<th>Standard or advisory value for perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA)</th>
<th>Groundwater protection standard of 70 parts per trillion for combined PFAS concentrations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michigan</td>
<td>Drinking water standard of 70 parts per trillion for combined concentrations of PFOS and PFOA</td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td>Groundwater protection standard of 70 parts per trillion for combined PFAS and PFOS concentrations</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>Health-based advisory values of 35 parts per trillion for PFOS and 27 parts per trillion for PFOS in water</td>
<td></td>
</tr>
</tbody>
</table>

* The U.S. Environmental Protection Agency sets a health advisory level (non-regulatory and non-enforceable) of 70 parts per trillion for lifetime exposure to PFOS and PFOA. In 2016, New Jersey became the first U.S. state to establish an enforceable limit on a PFAS chemical in drinking water. It set the maximum contaminant level for perfluorooctanoic acid (PFOA) at 15 parts per trillion.

Sources: International Technology & Regulatory Council and Water Quality Association

Health concerns spread over PFAS-contaminated sites, water supplies

Michigan has the Midwest’s highest number of sites known to be contaminated with the family of human-made chemicals known as PFAS, or per- and polyfluoroalkyl substances. But this pollution problem, and the risk it poses to public health, is shared by other states as well.

The sources of PFAS contamination include the use of these chemicals in firefighting foams at military bases and in the manufacture of various commercial and household products. For example, 3M’s disposal of these chemicals led to groundwater contamination in the Twin Cities area. In 2016, the Minnesota attorney general finalized an $850 million settlement with the company.

Between 2013 and 2015, under a program of the U.S. Environmental Protection Agency, all of the nation’s large public water systems tested their treated tap water for certain PFAS chemicals. A subsequent study led by Harvard University researchers found contaminations in 194 water systems, with detections concentrated in 13 states, including Illinois, Minnesota and Ohio in the Midwest.

“The extent of tap water contamination is likely much greater,” the Environmental Working Group has said, noting that the EPA program did not test private wells or many small water systems. The EPA refers to PFAS chemicals as “contaminants of emerging concern,” with the risks to human health not completely known. Health concerns include low birthweights, cancer, increased cholesterol levels and adverse effects on the immune system.

Sites of toxic fluorinated chemicals in tap water and at industrial or military sites in Midwest

Source: Environmental Working Group and Northeastern University Social Science Environmental Health Research Institute

Known contamination site

Examples of three Midwest states’ PFAS-related standards or regulations*
Nonpartisan event for region’s legislators will be held July 21-24 in Chicago

The 74th Annual Meeting of the Midwestern Legislative Conference this summer will offer the region’s state and provincial legislators the chance to learn from each other and policy experts over four days in a welcoming, nonpartisan setting. And, through May 10, legislators can get a discount — by taking advantage of the meeting’s “early bird” registration rates. A link to registration can be found at csgmidwest.org. This year’s meeting will be held July 21-24. Here are some highlights:

• a featured luncheon presentation from Pulitzer Prize-winning historian and author Jon Meacham;
• an opening session on criminal justice reform featuring Equal Justice Initiative executive director Bryan Stevenson;
• sessions on agriculture, criminal justice and public safety, economic development, education, health care, Midwest-Canada relations, and state budgets; and
• plenary sessions on civic engagement (part of the MLC chair’s initiative of Illinois Sen. Elgie Sims Jr.) and future jobs for the Midwest’s workforce.

The event will include special evening events as well as daytime activities for the adult and youth guests of attendees. All legislators from 11 Midwestern states and four affiliate Canadian provinces are members of the nonpartisan MLC, which receives staff support from the Midwestern Office of The Council of State Governments.

Registration discount on MLC Annual Meeting available through May 10

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, self-stated legislation and interstate consulting services. The Midwestern Office supports several groups of state officials, including the Midwestern Legislative Conference, an association of all legislators in 11 states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. The Canadian provinces of Alberta, Manitoba, Ontario and Saskatchewan are MLC affiliate members.

Evening events for meeting attendees and guests

Opening Night Reception at the House of Blues
Family Night at the Adler Planetarium
State Dinner at the Shedd Aquarium

The Future of Work — Navigating the New Economy

This task force will examine myriad elements of the modern economy and how state workforces must evolve in the face of technology-driven trends. 

• Illinois Rep. Andre Thapedi (subcommittee co-chair);
• Indiana Sen. Mark Messmer;
• Iowa Sen. Amy Sinclair;
• Kansas Sen. Carolyn McGinn (national co-chair) and Rep. Tom Phillips;
• Nebraska Sen. Matt Hansen;
• North Dakota Rep. Corey Mock;
• Ohio Rep. John Patterson; and
• Wisconsin Reps. Joan Ballweg and Melissa Sargent

Healthy States — What Works?

This task force will focus on how states can improve health outcomes and reduce costs.

• Illinois Rep. Tom Demmer and Sen. Laura Fine;
• Indiana Rep. Ed Clere and Sen. Randall Head;
• Kansas Sen. Elaine Bowers and Rep. Susan Concannon (subcommittee co-chair);
• Michigan Sen. John Bizon;
• Minnesota Rep. Rena Moran;
• Nebraska Sen. Sara Howard;
• Ohio Rep. Brigid Kelly (subcommittee co-chair); and
• South Dakota Rep. Lee Qualm

CSG launches task forces on health care, the economy

July 21–24, 2019 • Chicago, Illinois

74TH ANNUAL MEETING OF THE MIDWESTERN LEGISLATIVE CONFERENCE

Event details

• Premier meeting for the Midwest’s state and provincial legislators
• Mix of sessions on public policy and professional development, as well as renowned speakers
• Visit csgmidwest.org or call CSG Midwest at 630.925.1922 for more information

25TH ANNUAL BOWHAY INSTITUTE FOR LEGISLATIVE LEADERSHIP DEVELOPMENT (BILLD)

August 9–13, 2019 • Minneapolis, Minnesota

Event details

• Leadership development program for legislators in their first four years of service
• BILLD Fellows chosen through competitive application process
• Applications available at csgmidwest.org
• Visit csgmidwest.org or call CSG Midwest senior program manager Laura Tomaka at 630.925.1922 for more information

CSG HENRY TOLL FELLOWSHIP PROGRAM

August 23–28, 2019 • Lexington, Kentucky

Event details

• One of nation’s premier leadership programs for state government officials
• Toll Fellows chosen through competitive application process
• Visit csg.org for more information

GREAT LAKES-ST. LAWRENCE LEGISLATIVE CAUCUS ANNUAL MEETING

September 13–14, 2019 • Chicago, Illinois

Event details

• Meeting for state and provincial legislators that focuses on protecting, restoring Great Lakes
• Visit greatlakeslegislators.org or contact Lisa Janairo at gllc@csg.org for more information

CSG NATIONAL CONFERENCE

December 4–7, 2019 • Puerto Rico

Event details

• Meeting for legislators and other U.S. state officials to explore myriad issues in state government
• Visit csg.org for more information
Learning to say ‘no’ — without guilt or fear

Pam Vaccaro is a nationally recognized expert in the field of time and priority management and is the founder and president of Designs on Time. She has trained hundreds of Midwestern legislators as a member of the BILLD faculty for the past 22 years.

Guest Author: Pam Vaccaro

1 The pleasant ‘no’

"Kate, I’m going to have to pass this year on the Arbor Day Parade." This ‘no’ is really a ‘yes’ in two ways. It shows respect and keeps open a possibility in the future. Caution: If someone does not return the respect to you by asking an inappropriate question such as "Why can’t you?" you are under no obligation to give a reason. Don’t fall for it.

2 The conditional ‘no’

"John, I’m unable to speak at the police officers’ meeting in April, but I can be there in May." This is perhaps one of the most useful and effective ways to say ‘yes’ by saying ‘no’ to the conditions as presented. Caution: The constituent or colleague making the request will appreciate you giving it your best try by moving to this next ‘no’ — the negotiated ‘no’.

3 The negotiated ‘no’

"Before we give up here, John, let’s see what else we can possibly do." Caution: There is a time when negotiating will need to stop before it turns into a ‘yes’ that you don’t want to really make.

4 The considered ‘no’

"Kate, let me think about my participation in the parade." Many times we say ‘yes’ too quickly. How do we know it wasn’t a true ‘yes’? We quickly wish we had said “no.” Caution: Avoid an irremovable breach in trust (and loss of future support) by getting back with an answer. Do not give a ‘no guts no’ — when avoidance of conflict or lack of courage replaces respect. What to do: Add, “I’ll get back to you by noon tomorrow, Kate.”

5 The assisted ‘no’

"Kate, I’m going to have to pass this year on the Arbor Day Parade. May I suggest my assistant Becky come? She is quite the ‘ham’ and would love marching." Caution: Ask Becky first!

Finally, one bonus suggestion: There are times you simply need to be compliant and say “yes.” You might just be in for a really nice surprise!

Join us in Chicago as BILLD celebrates 25 years of leadership training

This year marks the 25th anniversary of the Bowhay Institute for Legislative Leadership Development, or BILLD, provides annual training on leadership and professional development for newer state legislators from the Midwest. This page highlights key upcoming BILLD dates, provides updates on alumni of the program, and features articles by BILLD faculty and others on topics related to the work of state legislators.
New Indiana law gives governor more control over education policy

Starting in 2021, North Dakota and Wisconsin will be the only two Midwestern states with chief state school officers elected by voters. Indiana legislators accelerated their state’s switch in governance structure with this year’s HB 1005, which replaces the position of school superintendent in two years with a governor-appointed secretary of education. (The change had been scheduled to take effect in 2025.)

Gov. Eric Holcomb says the move will make plain to Hoosiers that he and future governors are responsible for administering education policy and should be held accountable for the results.

According to the Education Commission of the States, three governors in the Midwest already appoint the top chief school officer in their respective states: Iowa, Minnesota and South Dakota. (Senate confirmation of the appointments is required in each state.)

In Illinois, Kansas, Michigan, Nebraska and Ohio, the state’s chief school officer is appointed by a board of education. Voters in Kansas, Michigan and Nebraska elect members of these state boards. In Illinois, the governor appoints the members, with confirmation required by the state Senate. Ohio’s State Board of Education is a mix of elected and appointed members.

South Dakota adopts pipeline protest law, faces legal challenge

In anticipation of new protests over the Keystone XL pipeline, South Dakota lawmakers adopted two bills (SB 189 and 190) in March known as the “pipeline package.”

According to the Sioux Falls Argus Leader, the state, or a third party in partnership with the state, can now sue “riot boosters.” These individuals would have to pay damages equal to “three times a sum that would compensate for the detriment caused.”

The American Civil Liberties Union of South Dakota filed suit in federal court soon after passage of the pipeline package. It says the measure fails to adequately describe what speech or conduct would qualify as “riot boosting” and, as a result, is unconstitutional.

Elsewhere in the Midwest, Iowa legislators in 2018 enacted a law (SF 2235) to punish sabotage of “critical infrastructure,” including oil pipelines. In 2017, North Dakota increased penalties for rioting, expanded the scope of criminal trespass onto private property to include “when notice against trespass is clear from the circumstances,” and banned protestors from concealing their faces. This year, legislators approved SB 2044, which enhances punishments for protests that encroach on or near pipelines and other “critical infrastructure.” Similar bills have been proposed in Illinois (HB 1633), Indiana (SB 471) and Ohio (SB 33).

Kansas Legislature boosts school funding, eyes end to legal battle

A nine-year-old constitutional dispute in Kansas over how, and how much, the state spends on its schools may finally be coming to an end.

In early April, Gov. Laura Kelly signed SB 16, which provides Kansas public schools with an additional $90 million a year.

In 2018, Kansas legislators approved a plan to gradually increase per-pupil spending from $4,900 to $5,545 over a five-year period — at a cost of $575 million. In a decision last year of the Kansas Supreme Court, however, the justices ruled that the Legislature’s school-funding law remained unconstitutional because it did not account for inflationary changes. The additional $90 million per year covers those costs, The Wichita Eagle reports.

In May, the Kansas Supreme Court is expected to hear oral arguments in the case, which dates back to 2010 and has centered on plaintiffs’ contention that K-12 school funding is neither adequate nor equitable. In its 2018 decision, the Kansas Supreme Court, however, the justices ruled that the Legislature’s school-funding law remained unconstitutional because it did not account for inflationary changes. The additional $90 million per year covers those costs, The Wichita Eagle reports.

In the Midwest, for the 2015-16 school year, the state’s portion of total revenues for K-12 education (local and federal revenues being the other sources) ranged from a low of 24.1 percent in Iowa to a high of 66.8 percent in Minnesota.

North Dakota legislators repeal law that limited Sunday shopping

Starting in August, North Dakota stores will have the option of being open for business on Sunday mornings, the result of a legislative change this year that repealed the state’s longstanding “blue” laws.

HB 1097 was signed in March by Gov. Doug Burgum. He hailed the measure as supporting “freedom, fairness and local control,” as well as a way to help the state’s Main Street businesses compete with online retailers.

Previous repeal efforts had failed, The Bismarck Tribune reports, and this year’s vote on HB 1097 was close in the North Dakota House: 25-21. (The bill passed the Senate by a vote of 56-35.) The state’s sales restrictions have applied to the hours between midnight on Saturday and noon on Sunday. North Dakota Code has a 44-point list of “items prohibited from sale or rental” during this time frame — from clothes and household appliances, to hardware and musical instruments. Opponents of HB 1097 argued that North Dakota’s Sunday morning sales ban has ensured time for family and worship.

In recent years, the Indiana and Minnesota legislatures ended state prohibitions on the Sunday sale of carryout alcohol. Bars of some kind on the Sunday sale of motor vehicles remain in place in Illinois, Indiana, Iowa, Michigan, Minnesota and Wisconsin.

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