Energy mix of the future?

State legislation, plans of some Midwest utilities envision power sector that emits much less carbon — or none at all

by Heny Grossman (grossman@csg.org)

The mix of electric power generation has changed dramatically over the past decade or so in much of the 11-state Midwest — more wind power and more natural gas plants, for example, and much less reliance on coal.

Will the shift be even more dramatic in the years ahead?

That is the vision laid out in new legislative proposals this year in states such as Illinois and Minnesota, as well as in recent plans unveiled by some utility companies themselves.

“We have seen the cost of renewable energy drop dramatically in the state, and we see wind now outcompeting natural gas, and even existing coal plants,” Minnesota Rep. Jamie Long says. “So there is a strong economic case for moving toward clean energy.”

His state currently is one of six in the Midwest with some type of renewable energy portfolio standard, or RPS — typically a requirement that utilities get a certain percentage of their power from renewables such as wind, solar, or other sources defined in law. (See the table on page 6 for RPS laws by state.)

Most states in the region, including Minnesota, either have surpassed or are on track to meeting their RPS. An October 2018 study from the Lawrence Berkeley National Laboratory reported that only Illinois had not met its interim RPS targets.

Some legislators, though, say the time has come for their states to require more of their electric power providers and to start thinking bigger. Much bigger.

“[It’s] an opportunity to create many more jobs in our state and also deal with climate issues,” he says.

This year’s HF 2208 (of which Long was a lead sponsor) called for a new standard in Minnesota of 100 percent by 2050, meaning the state would get all of its electric power from renewable energy. The measure also would have set interim goals of 55 percent by 2030 and 80 percent by 2035.

“We’ve seen the cost of renewable energy drop dramatically,” Minnesota Rep. Jamie Long

Already under Minnesota law, when needing to add generation capacity, utilities must opt for energy efficiency and clean energy sources before turning to fossil fuel plants.

Under this year’s legislative proposal, too, fossil fuel power only would have been added if the utility could prove that this was the only way to provide affordable, reliable electricity.

And as is the case with Minnesota’s current RPS, the 2019 legislation would have set more-stringent mandates for the state’s largest utility, Xcel Energy. HF 2208 did not pass this year, but even before it was introduced, Xcel Energy had announced a sweeping new plan of its own: End all coal use in the upper Midwest by 2030, cut carbon use by 80 percent by 2030, and deliver 100 percent carbon-free electricity by 2050. (The utility’s service area includes customers in Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.)

That announcement, along with those of other utilities in the Midwest, signal the potential for a major shift in the region’s mix of sources for electric power.

100% renewables by 2050?

Technology advances and lower costs

A mix of new technologies and policies already has transformed how the Midwest gets its electric power — away from coal and toward sources such as natural gas and renewables. Even bigger changes may lie ahead, as envisioned by some legislative proposals and the plans of utilities themselves.
Education

After year of weather-related school closures, states consider ‘amnesty’ laws, virtual learning

School closings due to harsh winter weather are nothing new for the Midwest. But this past school year, heavier-than-usual snowfall and a polar vortex led to more shutdowns than usual in some parts of the region, and opened up discussions this year about state laws to help districts adjust. Among the options considered by legislatures: one, provide “amnesty” to districts during especially bad weather school years, meaning they’re eligible for greater use of virtual learning.

Earlier this year, legislators in Michigan (HB 4206) and Minnesota (SF 1743) adopted versions of an amnesty law; in both instances, the measures provide a one-year exception to the state’s mandatory number of instructional days (see map). States and local districts typically take into account the need for a certain number of “snow” or “emergency” days in school calendars. Under Illinois law, for example, five such days are built into the calendar. And once those five days have been used, the state allows a district to request that any additional school-day closures beyond its control not be made up.

Legislative discussions this year in Illinois centered on the use of “e-learning” days: Rather than school being canceled due to weather, students work at home with remote assistance from a teacher. Prior to this year, e-learning in Illinois was limited to a few districts participating in a state-run pilot project.

“Others wanted to try the e-learning option as well,” Illinois Sen. Jennifer Bertino-Tarrant says. All districts will now have that chance under SB 28, a bill sponsored by Bertino-Tarrant and signed into law in June.

“E-learning is a valuable tool,” she says. “We just need to make sure there are clear standards in place to prevent abuse of the program.”

Those state standards include meeting the specific needs of special-education students and English learners and ensuring that non-electronic materials are made available to students who do not have access to e-learning technology.

Illinois’ regional superintendent of education must verify that any local e-learning plan meets the state guidelines.

According to Bertino-Tarrant, the impetus for SB 28 was to clarify and update the state’s definition of an instructional day, but e-learning became a part of discussions on the bill, with school administrators urging legislators to provide a local option.

Some administrators view e-learning as a better alternative to adding days at the end of the school year due to potential conflicts with graduations, family vacations or school construction projects. Along with Illinois, states such as Indiana, Minnesota and Wisconsin also allow “virtual learning” to be used to make up for a canceled day of school. Minnesota’s 2017 law (HF 2), for example, permits online instruction to take the place of up to five canceled school days.

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CSG MIDWEST ISSUE BRIEFS

Issue Briefs cover topics of interest to the various groups and policy committees of CSG Midwest, which provides staff support to the Midwestern Legislative Conference, Great Lakes-St. Lawrence Legislative Caucus, Midwest Interstate Passenger Rail Commission and Midwestern Radioactive Materials Transportation Committee.

Health & Human Services

Minnesota hikes license fees for opioid makers to raise more money for treatment programs

Some states grappling with their ongoing opioid crises have tried to make manufacturers pay for treatment and prevention programs by levying a per pill fee or an excise tax based on an opioid’s potency.

Minnesota, which in May became the first Midwestern state to levy a fee on opioid manufacturers, took a different approach. HF 400 creates a new license category for makers of “opiate-containing controlled substances” and sets the fee to get one at between $55,000 and $250,000.

The law also hikes licensure and registration application/ renewal fees for wholesalers and manufacturers of non-opioid drugs from between $150 and $235 to $5,000. Those steps will create $20.9 million in new annual revenue for local prevention and treatment programs, according to Session Daily, an online publication of the Minnesota House.

Rep. Dave Baker, whose son died in 2011 from a heroin overdose, says this licensing reform was overdue for something as dangerous as opioids and other potentially addictive substances.

Other states have levied or tried to levy taxes and per pill “impact fees.” For example, an Iowa bill (HF 208, which didn’t advance) would have created an excise tax of 5 percent on gross receipts for drugs, including opioids, sold wholesale to medical practitioners.

Proposals to tax opioids based on their potencies have been more prevalent in the Northeast, either through stand-alone legislation or governors’ budget plans. Baker says Minnesota legislators considered this approach, but decided it was too open to legal challenges. There were also concerns that a tax or per pill fee would just raise the cost of medical care as they would get passed on to insurance companies and — ultimately — consumers.

That’s a legitimate concern, says Alex Brill, CEO of Matrix Global Advisors, who wrote a January white paper, “State Opioid Taxes: Economic & Health Policy Implications,” for the group Women in Government.

The need for more money for treatment is understandable, but per pill fee or potency-based taxes are counterproductive because consumers pay only their insurance co-pay, Brill says. Drug makers will simply pass on the tax or fee to insurance companies, which will raise rates on everyone, he adds.

Baker says Minnesota spends about $230 million per year on addiction treatment, and the new law is a small step to helping provide more funding.

“This isn’t perfect, we’re going to keep working on this,” he says. “But for now, it’s a good start. It was time to do this in Minnesota.”

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State policies drive down Kansas’ juveniles-in-custody population

Three years ago, with their passage of SB 367, Kansas legislators remade the state’s juvenile-justice system.

A correctional facility for juveniles would soon close, the state would rely much less on “group homes” to house low-level offenders, and several alternatives to incarceration would be introduced into the system.

The result: Between 2015 and 2018, the monthly average of Kansas’ juvenile custody population dropped by 63 percent.

Rep. J. Russell Jennings, the chair of a legislative committee created through SB 367 to oversee implementation of the reforms, is hopeful that this sharp decline will lead to better long-term outcomes.

“The deeper you push young people into the system and congregate youth at a single place, the risk is that relatively low-needs youth, at a low risk of reoffending, are somewhat influenced by higher-risk offenders,” he says.

“So by keeping them at home and in their communities with community-based programs, you’ve limited the negative impact that can be realized in a correctional facility.”

A year prior to the law’s passage, the Kansas Department of Corrections found that more than half of the juvenile offenders housed in group homes, or “youth residential centers,” had recidivated, run away, or not completed required programming.

In response to findings like these, a legislative work group was formed to study Kansas’ system, learn of best practices in other states, and explore evidence-based research with groups such as The Council of State Governments Justice Center.

That work ultimately led to the passage of SB 367.

Along with the recent drop in Kansas’ juvenile confinement population, the number of juvenile arrests has fallen — by 29 percent between 2015 and 2017.

The Kansas Department of Corrections, meanwhile, has been able to save $30 million in operating costs, and these savings are being placed into a special fund — known as the “Juvenile Justice Evidence Based Practice” fund — to help cover the costs of in-home programming for juveniles.

By 2020, reinvestment in this fund is expected to reach $72 million. The alternatives to incarceration now being provided to juveniles include:

- family-based interventions and therapies;
- a cognitive-behavioral type of treatment that seeks to increase moral reasoning; and
- the delivery of immediate interventions for youths diverted from formal charges.

Jennings says money from the Evidence Based Practice fund also has increased the availability of mental health services.

“We made a conscious decision in 2016 to create a new level of service, which is a juvenile mental health crisis intervention placement option,” he notes.

“These are being regionally deployed and established to be able to provide assessment and stabilization services ... for kids who manifest some form of a mental health issue that renders them potentially dangerous to themselves.”

Agriculture & Natural Resources

By any name — “ecotourism” or “agritourism” — visits to rural Midwest hold economic promise

The term “ecotourism” is most often associated with visits to undisturbed natural areas, but perhaps it’s time to broaden that definition — to include enjoying the scenery and studying the plants and animals found on America’s farmlands.

A perfect example of this is occurring in west-central Kansas.

Tourists flocked this spring to the area’s ranches that provide a habitat to the lesser prairie chicken, a species of grouse known for the males’ elaborate dances while performing spring mating dances.

In 2018, the Kansas Department of Wildlife, Parks and Tourism worked with a few ranch owners to allow the public to view the birds on their property.

That work ultimately led to the Kansas Department of Wildlife, Parks and Tourism lists.

Whether it’s labeled “ecotourism” or “agritourism,” this type of visitor activity is possible in many of the Midwest’s rural areas. Pearce suggests that rural regions recognize what wildlife or agricultural attractions they have to offer, and then get them on tourism lists.

Rural legislators, Kansas Sen. Mary Jo Taylor says, can help lead the way for their communities.

“Ecotourism and agritourism are not mutually exclusive,” she adds, “and this activity [in Kansas] is a prime example of possible collaborations that legislators need to support.”

According to the U.S. Department of Agriculture, 5,300 farms across the Midwest participate in some form of tourism or recreation, bringing in $130 million to farm operators.

To open up their land to outsiders, farmers sometimes require state-level changes in permitting, zoning and land-use statutes, along with stronger liability protections.

Risk and liability are hard, if not impossible, to totally eliminate, but a number of states have laws to help reduce the risk. For example, in 2016, Ohio passed legislation (SB 75) protecting farmers from liability for injuries due to “risks inherent in an agritourism activity” on farms — a move designed in part to help agritourism operators secure private insurance for the new activities on their land.

Ohio’s SB 75 also limited local zoning authority over agritourism, and ensured that farmland would still be classified as an “agricultural use” for tax assessment purposes.

In the Midwest, most states have liability laws specific to agritourism; two exceptions, though, are Michigan and Iowa, where statutes on recreational-use liability apply.

Another consideration for states: What kind of legal protections should landowners have if visitors contract illnesses — for example, from physical contact with animals? Currently, only Ohio and Iowa have these types of liability protections in statute.
Illinois, Indiana and Iowa have legalized sports betting: Here is a look at what is in these laws, and what might lie ahead

1. Sports betting coming to casinos; in Illinois, stadiums can enter wagering game

With the signing of HB 1015 in May, Indiana became the first state in the Midwest to legalize sports betting. Iowa (SF 617) and Illinois (SB 690) soon followed.

In all three states, this activity will be allowed at existing gambling facilities — for example, casinos and horse tracks in Illinois, and casinos and “racinos” (horse tracks with casinos) in Indiana and Iowa.

Lawmakers in Indiana also legalized sports betting at “a facility that hosts sports events and holds a seating capacity greater than 17,000 persons.” This means betting windows and sports books could be added at or near venues such as Wrigley Field, Soldier Field and the United Center.

Under a pilot program, too, sports bets could be placed at retail locations that sell Illinois lottery tickets.

2. State laws take different approaches to betting online, and on college sports

Individuals will be able to place bets via the internet and their mobile devices in all three Midwestern states.

In Iowa, online wagering is allowed only if an individual has first completed in-person registration at one of the state’s licensed sports-betting facilities. In contrast, Indiana does not require this kind of in-person registration; the online wagering, though, will be done through the mobile platforms developed by the state’s casinos, racinos or off-track betting facilities.

According to the Chicago Tribune, during the first 18 months of the Illinois law, online or mobile wagering must be done through one of the state’s casinos or other facilities with a sports-betting license. Eventually, Illinois will make three online-only licenses available, at a cost of $20 million per license.

Another difference in the three laws is how they handle betting on collegiate sports. In Illinois, no betting is allowed on in-state college teams. There is no such prohibition in the other two states. However, in Iowa, in-play bets (wagers made within the game itself) on the state’s college athletes are prohibited. Indiana legislators left the regulation of all in-play betting to the state’s Gaming Commission.

3. States vary on estimates of revenue gains from new licensing fees and taxes

A mix of one-time licensing fees, an annual licensing fee and a tax on gross revenue (see table) will deliver sports-betting revenue to the three states. A legislative fiscal note on Indiana’s HB 1015 estimates that by fiscal year 2021, the state’s revenue gain will be $12.7 million. In Iowa, fiscal estimates put the increase from SF 617 (which legalized sports betting and fantasy sports) at between $1.8 million and $3.5 million. Illinois was projecting much higher revenue increases from its new law.

How much each state brings in will depend not only on tax rates, licensing fees and the extent of the gambling expansions, but on how many people choose to participate.

As of January, among the six U.S. states with new, active sports-betting markets, the total handle had reached $503 million (see table). This marked the first time that sports betting in Nevada had been eclipsed by the rest of the country, according to the American Gaming Association.

4. Legalized sports betting still a ways off in most other Midwestern states

Sports betting won’t be legalized in most other Midwestern states anytime soon. Many of the region’s legislatures have adjourned for the year, and in some states, voter-approved constitutional amendments would be required.

According to the American Gaming Association, legalization in 2019 still remained a possibility in Michigan and Ohio. Ohio’s HB 194 would allow sports wagering at casinos, racinos, and veterans and fraternal organizations, as well as on mobile and internet devices. The state would impose a tax of 10 percent on gross gaming revenue. This tax would generate an estimated $17.8 million in fiscal year 2021.

In three other Midwestern states, this year’s legalization bills only passed one legislative chamber (North Dakota’s HB 1254), stalled after committee passage (Minnesota’s SB 1894), or went nowhere after introduction (at least five such bills in Kansas). A proposed constitutional amendment in South Dakota would have allowed sports wagering in the town of Deadwood (where other forms of gambling already are legal). SJR 2 passed the Senate but was defeated in the House.

5. Future changes in federal law could impact state activity on sports betting

A new federal law on sports betting also is possible, and legislation introduced in late 2018 (the Sports Market Integrity Act) shows how the U.S. Congress might approach the issue:

• Establish federal standards on how states regulate sports wagering.
• Ban betting on college sports.
• Create a new legal framework for online sports wagering. States could authorize this activity, but only by individuals located within their borders. In order to offer interstate betting, states would need to be part of a compact approved by the U.S. attorney general.
• The U.S. Wire Act bars interstate sports gambling, but a 2018 U.S. Supreme Court decision allowed states to pursue legalized sports betting within their borders.

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A decade ago, Ami Wazlawik, now a member of the Minnesota House, was graduating from college at an inopportune time — in the middle of the nation’s Great Recession. “I was like everyone else,” she recalls, “looking for a job.”

Instead, she found community service, working with students for a school year as a part of Minnesota Reading Corps, an experience that had a lasting impact not only on the students she tutored, but on her own life.

Wazlawik says Reading Corps helped cement her commitment to being an active citizen, and is one reason she ran for public office.

And the program itself is often cited as a national model for how states can leverage the power of public service to address longstanding challenges or long-term goals.

Minnesota Reading Corps began a decade-and-a-half ago, with a legislative appropriation of $150,000 helping bring 24 AmeriCorps members to four Head Start schools. This past session, lawmakers provided an annual appropriation of $7.9 million.

“We’ve grown to 1,400 members, and we’re now in just about every nook and cranny of the state,” notes Audrey Suker, chief executive officer of ServeMinnesota, which serves as the state’s administrator of federal AmeriCorps funds.

Those members receive specialized training on how to deliver evidence-based interventions to young students (prekindergarten to third grade) who struggle with reading. Independent studies show that the program has a positive impact on students’ achievement levels.

Wazlawik saw the effects firsthand. “It was more than just those improvements in reading where you saw a difference,” Wazlawik says. “With that one-on-one attention, these students have a caring adult to talk to. And when they start seeing success, in an area where they have really struggled, that really boosts their confidence.”

One lasting memory for Wazlawik: Seeing one of her students smile for the first time, because the child’s parents were so proud of the progress being made.

Individuals such as Wazlawik who take part in Reading Corps, Math Corps (another ServeMinnesota initiative that works with fourth- to eighth-grade students) and other AmeriCorps programs are more than volunteers. They get paid a stipend, receive health insurance, are eligible for education scholarships, and are expected to work long hours.

Wazlawik calls it “public service work.”

Just as Minnesota ranks high on rates of volunteerism (see map), the state stands out for the amount of public-service work being done in the state. Another example of this is the Conservation Corps, which has young people involved in a wide range of projects — whether it’s improving trails, helping with invasive species management or responding to natural disasters.

“What makes us unique is that we have a rich and supportive model within state government,” says Mark Murphy, executive director of Conservation Corps Minnesota and Iowa. According to Murphy, the Corps’ budget includes a mix of state and federal dollars, but funding mostly comes from its “fee-for-service partners” — state and local agencies that hire the Corps for environmental-stewardship projects.

“It provides a low-cost labor force that also includes a social good, which is national service,” Murphy says.

According to Kaira Esqate, chief executive officer of America’s Service Commissions, states and their legislatures can play a critical role in fostering a culture of community service:

• improve civic education in the schools;
• allocate state funds to expand service opportunities and secure additional federal dollars (Minnesota does this via its appropriations for Reading Corps and Conservation Corps, for example);
• provide benefits and incentives for individuals who participate in community service (scholarships, tuition discounts, tax credits, etc.); and
• give State Service Commissions the flexibility they need to receive state appropriations and private funds in order to better leverage federal funds.

This year’s Midwestern Legislative Conference Chair’s Initiative of Illinois Sen. Elgie Sims Jr. is “State Strategies to Build Civic Engagement.” Articles on this topic will appear throughout the year in Stateline Midwest.
are helping fuel this vision of an energy transformation, but state policies also have intentionally sought to foster renewable development—from the aforementioned portfolio standards, to financial incentives, to changes in how power is purchased.

Three years ago, Illinois legislators made major statutory changes (SB 2814) in an attempt to kick-start the development of homegrown renewable energy and to meet the state’s RPS, which requires that 25 percent of the state’s retail electric sales come from renewable sources by 2025.

That 2016 law offers some of the most aggressive renewable energy incentives in the country, and also has stood out for its focus on in-state production (rather than relying on out-of-state energy to meet the RPS) and for financing projects of smaller scale and in low-income communities.

Various bills this year in Illinois would take an even more aggressive approach to renewable-energy development. For example, under the Clean Energy Jobs Act (SB 2134 and HR 3624), Illinois’ RPS would be increased to 45 percent by 2030 and 100 percent by 2050.

If a measure like this passes, Illinois would be the first Midwestern state with a clean-energy or RPS goal of 100 percent, but not the first in the country. California, Hawaii, New Mexico, New York and Washington have these laws in place (with target dates of 2040, 2045 or 2050), and an executive order calling for 100 percent clean electricity is in place in New Jersey (by 2050). Illinois Sen. Cristina Castro, sponsor of SB 2134, says that along with setting a new high in the country, the goal is to have lower-income communities and communities of color be part of the state’s energy transformation—“giving them the tools to take part in the programs we are helping fuel.”

Illinois, Ohio proposals aim to ensure nuclear power is part of states’ energy futures

Nuclear power has long been an integral part of the energy mix in some Midwestern states, and completely absent in others (see table). Though a carbon-free source of electricity, nuclear generation has typically been seen as separate from “renewable sources” such as wind and solar. But in seeking to achieve “clean energy” standards, and to save their existing sources of nuclear generation, states such as Illinois and Ohio have been re-examining their laws on this power source.

Illinois’ embrace of nuclear power

Three years ago, Illinois legislators passed a bill (SB 1583) classifying nuclear as “green energy” and creating “zero emission credits” for plants that produce this power source. The rationale: These plants should receive state support for providing a carbon-free source of energy. Further, these payments, which come from the bills of electric customers, were seen as necessary to keep two of Illinois’ nuclear reactors up and running. The state subsidizes about $235 million a year for 10 years.

This year in Illinois, the legislative focus has been on potential changes to how energy is procured in the wholesale market. Under HB 2863, the Illinois Power Agency, an independent state entity, would take over this process (in northern Illinois), which right now is handled by PJM, a multi-state, regional grid operator.

This switch, supporters of HB 2861 say, is necessary to ensure that procurement in the wholesale energy market reflects Illinois’ low-carbon goals.

It would benefit producers of renewable energy and nuclear power

In May, the Ohio House passed legislation (HB 6) to create a Clean Air Fund and provide financial assistance to the state’s two nuclear plants. Without this state support, the operator of these two plants, which employ more than 4,000 people, has said the facilities will close by 2021.

Funding would come from a $1 surcharge on residential electric bills, raising a projected $198 million annually. Though most of this money would support the nuclear plants, six large-scale solar projects would receive assistance as well. As a protection for ratepayers, HB 6 includes language limiting the subsidies in the event of rises in electricity prices.

Natural gas production in the Utica and Marcellus shale plays has helped bring down prices in Ohio. Across the country, too, the availability of cheap natural gas has caused some utilities to shut down nuclear reactors in favor of gas plants, or to invest in new gas-fired plants rather than nuclear-generating facilities.

Even the newest nuclear plants in the United States have now been operating for more than 30 years, and only a few applications have been filed to build new ones. In the Midwest, Iowa’s only nuclear plant is scheduled to be shut down in 2020. Twelve nuclear reactors in the region have been or currently are being decommissioned.
Michigan’s ‘clean energy goal’

Along with Illinois, Michigan is the other Midwestern state that made a dramatic change in energy policy three years ago.

“The 2016 law moved us away from a discussion about renewable targets and into a broader discussion about how reliability, affordability and sustainability all come together,” Dan Lauwers, chair of the Senate’s Energy and Technology Committee, says. (The bills were SB 437 and SB 438.)

The law established a new RPS (15 percent by 2021) and a broader “clean energy goal”; that at least 35 percent of Michigan’s electric needs be met through a combination of energy waste reduction (efficiency) and renewable energy by 2025. Along with these goals, the Legislature added a new set of incentives and cost-recovery mechanisms to help utilities invest in efficiency and renewable projects.

The state’s utilities, too, now must file long-term Integrated Resource Plans that are consistent with Michigan’s goals, Lauwers says. The Michigan Public Service Commission reviews and approves these plans, which include details on how the utilities will increase efficiency, deploy renewable sources of electricity, and meet demand and capacity needs (based on models and projections of needs for specific service areas).

Michigan’s economy and location mean the state has some unique energy challenges — lots of manufacturing activity with “significant baseload requirements,” Lauwers says, and limited transmission capabilities because the state is surrounded by water. That makes long-term planning essential, and also helps explain the state’s policy focus on reducing energy waste (via greater energy efficiency).

But as in other states, there is also a push in Michigan for greater renewable energy use, among policymakers, utilities and consumers alike.

“Companies will pay a premium so that they can say, as a marketing tool, that ‘100 percent of our energy is coming from renewable sources,’ so utilities are responding to that,” Lauwers notes.

After passage of the 2016 law, Michigan’s two largest utilities, Consumers Energy and DTE, reached agreement with environmental groups to go beyond the clean-energy goal in statute (35 percent by 2025). They pledged to reach 50 percent by 2030. In return, the environmental groups agreed not to pursue a 2018 ballot proposal that would have sought a more-stringent renewable energy standard.

These utilities believe they can reach the 50 percent goal through a combination of renewable development and energy-efficiency measures.

According to the Michigan Public Service Commission, the state’s focus on efficiency already has been paying off; in 2017, the energy waste reduction of programs saved nearly 1.6 million megawatt hours of electricity. These utilities spent $308.6 million on these programs; for every dollar spent, customers will save $3.51, the commission says.

The utility-run programs include rebates for purchases of new appliances, lighting and windows, as well as customized assessments of a customer’s energy use. Consumers also have the chance to finance the projects (in monthly installments on their utility bills) to make their homes more efficient.

On renewables side, the state’s two largest utilities have signaled their intent to rely more on these sources in the years ahead. That is particularly true of Consumers Energy, which says it will eliminate coal-fired plants by 2023 and reduce carbon emissions by 90 percent by 2040. In addition, the utility says it does not plan to make new investments in natural gas plants and will increase solar capacity.

On CSG-led trips, legislators learn challenges, policies behind Germany’s energy transformation

Over the past four years, state legislators from The Council of State Governments’ Midwestern Legislative Conference (MLC) have participated in trips to Germany to study that country’s major energy transition.

This plan is known as Energiewende. Among its intermediate and long-term goals:

- reduce greenhouse emissions by 40 percent by 2020 (as compared to emission levels in 1990);
- phase out the use of nuclear energy by 2022;
- reduce overall greenhouse emissions by between 80 percent and 95 percent by 2050;
- increase the share of electricity consumption from renewable sources of energy to at least 80 percent by 2050;
- reduce overall greenhouse emissions by between 80 percent and 95 percent by 2050.

Legislators on these CSG-led trips — hosted by the German Federal Foreign Office — get an on-the-ground look at changes in place or being planned under Energiewende.

“I was struck by how careful Germany’s approach to its energy transition appeared to be,” says Illinois Rep. Will Guzzardi, a part of the 2018 MLC delegation.

“It was centralized and thorough, touching all sectors of the German energy economy, and it was moving at both an urgent and deliberate pace,” Guzzardi says.

Another distinguishing feature is the consensus among Germany’s political parties and consumers to make the switch to a low-carbon economy, and to do so without the use of nuclear energy.

“The transition was (rooted in) a grassroots movement and not a top-down directive,” says Kansas Rep. Mark Schreiber, a part of the 2017 study trip. “As a legislator, I appreciate the public being involved and advocating for resolution to an issue.”

For many years, Germany has relied on nuclear energy and, especially, coal for power production. The switch to renewable sources (wind, solar and biomass) continues to be a challenge. For example, despite big increases in the use of renewables, Germany will fall short of some of its intermediate goals under Energiewende, says Katharina Umpfenbach of Ecologic Institute, an environmental think tank in Germany.

“In 2018, Germany’s greenhouse gas emissions were 30.8 percent below 1990 levels,” the notes. “Unless another economic crisis of the kind seen in 2008 hits the country, we will miss the [40 percent reduction] target by a significant margin.”

Germany’s goals under Energiewende encompass three sectors: electricity, heating and transportation.

“Transport stands out as the key culprit [in not meeting reduction targets],” Umpfenbach says, noting that “transport emissions in 2018 were almost exactly at 1990 levels.”

She cites at least three reasons for the lack of progress in this sector: 1) the options for reducing emissions are more costly, 2) lobbying by the auto industry has slowed policy changes, and 3) there has been rising demand for Germany for mobility.

In the electricity sector, one big obstacle is the distance between where much of the country’s wind power is produced (in northern Germany) and where many industries are located (in the southern region).

Furthering the problem, Rep. Guzzardi notes, is Germany’s electricity grid, which wasn’t designed to transmit renewable power effectively.

What’s needed, he says, is “some sort of scalable model for energy storage.”

For now, Germany still relies on coal-fired generation — some of it from lignite, the most carbon-emitting type of coal. In particular, lignite is mined in some poorer regions of the country, where jobs are scarce. Shutting down mines in these depressed areas has proven to be difficult.

Still, some coal plants in Germany have been shut down, and current plans call for a gradual end to the use of this energy source by 2038. The country’s recommendations for closing existing plants include very generous funds for coal-mining regions, as well as compensation schemes for industry to shield them from any electricity price hikes, Umpfenbach says.

Schreiber says these tough decisions about the future of coal reflect a broader point about implementation of Energiewende: Germany now is at the point “where the harder decisions [on energy policy] must be made which affect jobs and industries.”
Kansas Rep. Tom Sawyer

With time in office dating back to 1987, minority leader says some keys to legislative success remain the same: Be pragmatic, seek bipartisanship

by Laura Kliewer (lkliewer@csg.org)

As a young man, Tom Sawyer hadn’t thought much about the work of the legislature in his home state of Kansas. But then a job at the local clerk’s office — where he was tasked with keeping track of state statutes affecting the county — opened his eyes, and changed his life. "It showed me the importance of state government,” he recalls, “and the effect that the legislature has on people.”

Sawyer soon ran for a House seat (only two years out of college), and what’s followed is a remarkable legislative career — 26 non-consecutive years in office, including one stint as majority leader and two stints as minority leader, the legislative position that he currently holds.

Over the years, he has left legislative service three times, sometimes figuring he wouldn’t come back. In the late 1990s, Sawyer ran for governor and, after losing that race, became chair of the Kansas Democratic Party.

But when the House seat in his Wichita district opened up in 2002, Sawyer decided to run for office again and won, ultimately serving until 2009, when he was appointed to the State Parole Board.

Three years later, with his service on the Parole Board done, Sawyer was out of state government and politics. And as the candidate filing deadline approached in 2012, he discovered some old campaign signs in his garage and thought about getting rid of them.

“But then I said, ‘Ah, you never know, I’ll throw them in the attic,’” Sawyer recalls.

As it turns out, he would need those signs sooner rather than later, because the state’s new political maps had drawn the sitting Democratic candidate out of his legislative district. Party leaders needed someone else to run, and there was one obvious choice.

“When they tried to recruit me to run again, I was on a ladder painting my house,” Sawyer recalls.

That marked the start of Sawyer’s third return to his home away from home — the Kansas House of Representatives. In a recent interview with CSG Midwest, Rep. Sawyer reflected on his time in the Kansas Legislature and his approach to leadership.

Q: Thinking about the last time you served as minority leader, in the 1990s and now, how has it been different for you?

A: I think the biggest difference is all the change in communication. When I was minority leader before, we didn’t have emails, we didn’t have texting. … So, it was a very different world, communication-wise. We relied more on the press and in person. We relied less on the telephone.

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Now, oh my gosh, I’ll say something in the mic and will sit down and someone will text or email me right away. It’s immediate. And people are spreading the word on Facebook and on Twitter. … We rely much less on newspapers and TV.

Q: What about any changes in the policy issues in Kansas?

A: Some have changed, but a lot have stayed the same. We still have some of the same concerns about privacy that we had back then. The budget and the funding of schools is always going to be an issue. When I ran back in 1986, one of my issues was eliminating the sales tax on food, and we still have that tax. It’s funny how some of the issues have remained the same over the years.

Q: This is your first year back as minority leader, and Kansas also has a Democrat in the governor’s office for the first time in a while. Have you noticed any changes this session as a result of having a Democrat as governor?

A: Of the 84 Republicans currently in the House, only five have served under a Democratic governor, even though the last one was only eight years ago. … None of the Republican leadership of our House has served under a Democratic governor, so it’s kind of a whole new role for them.

You still have the responsibility to govern, but you now have to figure out how to cast yourself in response to the governor of a whole different party. This session was very different in that it started off very slow. Everyone was kind of trying to feel out their new role. It took a little time, but people came together, and we got a bipartisan school finance bill passed.

Q: Overall, during your years in the Legislature, what would you say have been some of your biggest legislative accomplishments?

A: We passed a school finance bill in 1992 when I was majority leader. The school finance formula in that bill has basically stood the test of time. The basic formula we passed is still constitutional; it’s just not been funded. It’s sound, the formula itself. There have been a lot of attempts over the years to change that, but it never happens. It’s still basically an intact formula.

Secondly, what we did in 2017, undoing the Brownback tax experiment [of making cuts in state income and business taxes]. And that was great, too, because it was bipartisan, and we actually had to override the governor’s veto, both the House and Senate. That was an amazing accomplishment, to get that kind of strong support to override the governor. It took all session, and it was a lot of work.

Q: As far as your leadership style, I have heard colleagues describe you as having “incredible pragmatism.” Do you agree with that assessment?

A: I do. I think even during the time I was in the majority, it was a 63-62 majority. So you pretty much had to work with Republicans. We didn’t have any margin. So early on, I had good relations with Republicans and got used to working with Republicans to solve problems. And you can do that in the minority. When I first became minority leader, my first four years, we had a Democrat as governor, but my last four, Bill Graves, a moderate Republican, was the governor. We talked virtually every day even though we were from different parties because we had about 30 moderate Republicans and 44 Democrats. In a lot of ways, under Governor Graves, it felt almost like I was majority leader again, because we were able to pass so many things with a bipartisan coalition.

So I’m used to working across the party lines. I think the people want us to come here and solve problems, and that’s what I try to do. I’ll work with anybody who wants to do that. It’s worked well over the years.
FIRST PERSON
A FORUM FOR LEGISLATORS AND CONSTITUTIONAL OFFICERS

Protecting free speech on campus

New South Dakota law requires colleges, universities to protect diversity of ideas and freedom of speech, and report those efforts to legislators

by South Dakota Rep. Sue Peterson (sue.peterson@sdlegislature.gov)

Upon its founding in 1915, the American Association of University Professors adopted a "Declaration of Principles" that stated, in part: "It is not the least service in which a college or university may render to those under its instruction, to habituate them to looking into not only patiently but methodically on both sides, before adopting any conclusion upon controverted issues." This is not always the case on today's college campuses.

But in South Dakota, HB 1087, enacted into law this year during our 2019 legislative session — will ensure those principles are being met at our state's postsecondary schools.

We know from studies that as a group, the professors at our nation's colleges and universities are much more likely to identify themselves as Democrats rather than Republicans.

But as the American College of Trustees and Alumni (ACTA) notes, "This lack of diversity in political registration might not be a crisis if it were not for the fact that some of the ideals that encourage intellectual openness command less allegiance in academe than they once did."

Based on its research, the ACTA concludes that "one simply cannot claim any longer that faculty are not importing politics in the classroom [in a way] that affects students' ability to learn."

In addition, some leaders of our universities have turned against traditional subjects, and too often substitute fringe courses for what should be the mainstay of the college curriculum. If left uncorrected, this shift will result in generations of future students not even knowing their own history.

In order to restore the type of fair and quality education that Americans expect from their universities, a paradigm shift must occur on campuses. Significant resources must be devoted to the serious teaching of American constitutional history, our Founding Fathers, The Great Books, Western Civilization and conservative political thought, as well as hiring faculty to carry out this important mission.

This is not a radical idea. Parents want their children to understand these subjects and know history. Fair-minded liberals agree that it's not a serious education if only one side of an issue is presented.

Ask more of college leadership

In South Dakota, we decided to take a stand against the one-sided trend in academia. With adoption of HB 1087, South Dakota became the first state in the nation to adopt an aggressive statute to advance intellectual diversity on the state's campuses.

Based on feedback from legislative colleagues in other states, South Dakota won't be the last. Universities should fully expect more laws to be enacted requiring intellectual diversity and should begin preparing reforms to meet the expectations of taxpayers. Now is the time for a restoration of a traditional college education where a marketplace of ideas is freely discussed and debated, and where these ideas rise and fall on their own merit.

A key element of HB 1087 is the required annual reporting from each of our universities providing a full accounting of what is being done to promote intellectual diversity and free speech on campus, as well as any incidents or events where free speech or intellectual diversity was hampered and how the incident was resolved.

The University of Chicago's statement on free speech (often referred to as "The Chicago Statement" or the "Chicago principles") is included in our statute to make it clear that we expect our campuses to be home to vigorous and open debate — that this debate will not be shut down because someone might be offended.

The legislation also abolishes "free speech zones," which have been used as a vehicle to inhibit campus free speech, and establishes all outdoor areas as designated public forums.

HB 1087 ensures that student groups are treated fairly and without discrimination related to funding requests, provides for free association, and gives student groups control of their own membership and leadership requirements.

After a long series of exchanges with the Board of Regents over the past year, South Dakota legislators are emphatic that they expect dramatic change on campus, including new programs designed to promote a full range of viewpoints in the classroom. This includes the classical curriculum, as well as a redirection to teaching American history.

South Dakotans, and people all over our nation, want to see higher education reformed.

It's time for college presidents and governing bodies to make and implement substantive changes. HB 1087 provides flexibility to university leaders to make these changes. If they do not, and the current system is allowed to persist, legislators will revisit the issues involved and pass more-stringent legislation.

An important part of the success of this reform effort in South Dakota was the unwavering support of newly elected Gov. Kristi Noem, who has seen up close the ideological imbalances on our campuses.

I urge legislators around the country to work with their governors and take up this cause. Spread the word, and be on the lookout for South Dakota's first-ever intellectual diversity and campus free speech reports, which are due this December.

Rep. Sue Peterson was the prime sponsor of HB 1087. She is chair of the South Dakota House Government Operations and Audit Committee. She is a 2018 graduate of CSG Midwest's Bowhay Institute for Legislative Leadership Development (BILLID).

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 Midwest Legislative Conference. Responses to any First Person article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 608.925.1922 or tanderson@csg.org.

Now is the time for a restoration of traditional college education where a marketplace of ideas is freely discussed and debated, and where ideas rise and fall on their own merit.
Eight state legislators from Midwest chosen as 2019 CSG Toll Fellows

Eight state legislators, three judges and one cabinet secretary will be part of this year’s CSG Henry Toll Fellowship class from the Midwest. Named after the founder of The Council of State Governments, Toll is one of the nation’s premier leadership development programs for state government officials. Participants from across the nation are chosen through a competitive selection process. This year’s program will be held Aug. 23-27 in Lexington, Ky.

Photos of the eight Midwestern state legislators chosen to be part of the 2019 Toll class can be found below. Joining them from this region will be North Dakota Southeast Judicial District Judge Cherie Clark, Minnesota District Court Judge Jamie Cok, South Dakota Department of Human Services Secretary Shawnie Rechtenbaugh, and Ohio Sixth District Court of Appeals Judge Gene Zmuda.

North Dakota hosts legislative study trip on energy

A group of binational state and provincial legislators from the Midwest traveled to North Dakota in June for a study trip that explored the state’s big changes in energy production. Most of the participating legislators were members of the Midwestern Legislative Conference’s Energy Subcommittee (a subcommittee of the MLC’s Midwest-Canada Relations Committee).

Along with visiting a gas plant, an oil-drill rig and a coal-gasification plant, participants traveled to a town in the Bakken shale region where the population has almost tripled since North Dakota’s oil boom began. While there, legislators learned how the government has adjusted to this growth and the need for more housing, schools and other amenities.

On a trip to Bismarck State College, participants heard about the 12 different programs within the school’s National Energy Center of Excellence.

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Legislators from across region awarded BILLD Fellowships

A bipartisan group of state legislators from the Midwest has been selected to take part in a one-of-a-kind leadership program. This year’s Bowhay Institute for Legislative Leadership Development will be held Aug. 9-13 in Minneapolis, marking the 25th straight year in which CSG Midwest’s Midwestern Legislative Conference has offered leadership training to its members: legislators from 11 states in this region as well as from the MLC’s four affiliate provinces.

BILLD is designed for legislators in their first four years of service. Photos of the state and provincial legislators selected to take part in this year’s institute can be found below.

In all, more than 95 lawmakers applied for a BILLD fellowship. Selections were made in May by the BILLD Steering Committee, a bipartisan group of legislators from all 11 Midwestern states.

This committee oversees the entire application process; it also provides guidance on fundraising and development of the BILLD curriculum. Nebraska Sen. Sara Howard and Minnesota Rep. Laurie Halverson serve as the committee’s co-chairs; Iowa Sen. Amy Sinclair and Indiana Rep. Holli Sullivan are the co-chairs.

The five-day institute includes sessions led by the Midwest’s current legislative leaders; policy experts at the University of Minnesota’s Humphrey School of Public Affairs; and some of the nation’s foremost thinkers on media relations, negotiation, conflict resolution and consensus building.

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The 2019 Class of BILLD Fellows
Iowa governor gets more power over selection of Supreme Court judges

A legislative change in Iowa’s process for selecting Supreme Court judges will put more power in the hands of the governor.

SF 638, signed into law in May, alters how the 17-member State Judicial Nominating Commission will be appointed. The governor now has the authority to choose a majority of commission members, nine of the 17. The remaining eight appointments will come from elections held among the state’s lawyers. Under previous Iowa law, the commission was split evenly — eight gubernatorial appointments and eight elected by the state’s lawyers, with a sitting state Supreme Court justice serving as the final member.

Iowa’s State Judicial Nominating Commission plays a crucial role in who gets selected to the Supreme Court. It selects three potential nominees, with the governor then choosing one individual from that list. This type of merit-based selection process is used in four other Midwestern states: Indiana, Kansas, Nebraska and South Dakota. Iowa is the region’s only state where the governor has control over the majority of commission selections.

In the Midwest’s six other states, voters fill vacancies on the supreme court via elections (either statewide or, in the case of Illinois, by judicial district).

Indiana law is first in the Midwest to let patients sue for ‘fertility fraud’

Indiana has become the first Midwestern state to allow patients to sue doctors for “fertility fraud” — including instances when a woman being treated for infertility is given the health care provider’s own sperm or ovum without permission.

Under SB 174, signed by Gov. Eric Holcomb in May, “civil fertility fraud” is classified as a Class 6 felony. The new law sets the statute of limitations at either 10 years after the child’s 18th birthday or 20 years after the procedure was performed, or within five years of discovering the fraud via DNA tests. Successful plaintiffs will be entitled to the costs of fertility treatment, as well as compensatory and punitive damages.

The case of an Indianapolis fertility specialist using his own sperm to impregnate more than 50 women without their consent has received national attention, and helped lead to lawmakers’ actions this year.

In 1995, California became the first state to make fertility fraud a crime, and Texas Gov. Greg Abbott signed SB 1259 in early June. It classifies fertility fraud as sexual assault punishable by between 180 days and two years in a state jail (and an optional fine up to $10,000).

North Dakota adopts first-of-its-kind plan to bolster cybersecurity

North Dakota is the first U.S. state to authorize a central, shared-service approach to cybersecurity across all parts of state government, says Gov. Doug Burgum, who signed SB 2170 into law in April.

Legislators also invested more than $15 million in the new biennial budget to add more cybersecurity personnel and enhance protective software.

With this new unified approach, all of the state’s executive branch agencies, courts, schools, cities and counties will have a common cybersecurity strategy — as overseen by the North Dakota Information Technology Department. Previously, the state had more than 400 entities responsible for their own strategies.

North Dakota’s statewide network (STAGEnet) has about 252,000 daily users. Nationally, cybersecurity makes up between 1 percent and 2 percent of a state’s total information technology budget, according to a study released in 2018 by the National Association of Chief Information Officers. That same study listed the three top barriers to states addressing their cybersecurity challenges: 1) lack of a sufficient budget; 2) inadequate staffing; and 3) the increased sophistication of cyberthreats.

Recreational marijuana legalized in second Midwestern state

Illinois has become the first state in the nation to legalize the sale and use of recreational marijuana through an act of the legislature.

Sent to the governor for signing in early June, HB 1438 was being hailed by its legislative sponsors as marking a new era in Illinois public policy and as a “model for other states in its commitment to equity and criminal justice reform.”

According to the Chicago Tribune, beginning next year, Illinois residents 21 and older will be able to legally possess up to 30 grams of cannabis, 5 grams of cannabis concentrate, or 500 milligrams of THC contained in a cannabis-infused product.

HB 1438 sets aside a portion of new revenue from legal marijuana to address substance-abuse programs and mental health services, as well as initiatives that seek to reduce gun violence and expand employment opportunities. Included in the bill, too, is language to promote minority involvement in the cannabis industry and expunge certain cannabis offenses.

Eleven U.S. states have legalized recreational marijuana, including Michigan. In that state, voters approved a statewide ballot initiative in 2018. Approval by voters, rather than legislatures, has been the path to legalization in most states. In recent years, ballot initiatives have failed in North Dakota and Ohio.