AFTER DEATH OF GEORGE FLOYD, PUSH FOR STATE-LEVEL CHANGE INTENSIFIES

Proposals seek new police training, protocols and ways to prosecute misconduct cases

Eight minutes and 46 seconds. That’s how long Minneapolis police officer Derek Chauvin knelt on George Floyd’s neck while three other officers stood by and watched as Floyd died. Twelve rounds. That’s how many shots were fired by three Louisville, Ky., police officers into the home of Breonna Taylor as they executed a no-knock search warrant, killing her as she slept.

Twenty rounds. That’s how Tamir Rice was when he was shot and killed by a Cleveland police officer while holding a pellet gun in a public park. Twelve years old. That’s how old George Floyd was when he was shot and killed by police officer Derek Chauvin while three other officers stood by and watched as Floyd died.

The times we are in now should be treated no differently,” he adds, “when we see injustices happening that should never happen in a civilized and equal society.”

“The death of Eric Garner [was] one of the many incidents that drove the reform,” says Weihua Li of The Marshall Project, a nonprofit, nonpartisan news organization that covers the U.S. criminal justice system. After Garner’s officer-involved death in 2014, Li says, “it was impossible for his family to obtain disciplinary records of the officer who killed him — until those records were leaked.”

That will change as the result of New York’s new law. In the Midwest, legislation has been introduced in many state capitols since the May 25 death of George Floyd. In one of those states, Iowa, a comprehensive police-reform measure already had been passed and signed into law by mid-June.

IOWA REFORMS ADOPTED SOON AFTER FLOYD’S DEATH

Going as far back as the Civil War, House Majority Leader Matt Windschitl says, Iowa has been a national leader in the fight for racial parity and justice. (His home state, for example, sent more citizens to fight in the Civil War, on a per capita basis, than any other state.)

“The times we are in now should be treated no differently,” he adds, “when we see injustices happening that should never happen in a civilized and equal society.”

This year’s response in Iowa was going as far back as the Civil War, on a per capita basis, than any other state. In the Midwest, legislation has been introduced in many state capitols since the May 25 death of George Floyd. In one of those states, Iowa, a comprehensive police-reform measure already had been passed and signed into law by mid-June.

Iowa reforms adopted soon after Floyd’s death

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This year’s response in Iowa was the passage of HF 2647. The new law bans chokeholds by law enforcement, unless the officer “reasonably believes” that a

Legislation on police reform, race following death of George Floyd — May 25-June 30 (See page 7 for details)

Availability to public of records on police misconduct

• Bill introduced and signed into law
• Bills and/or resolutions introduced
• No bills or resolutions (legislatures not in session in May or June)

CONFIDENTIAL

Limited

Available to public

Source: WNYC Radio review of relevant statutes, court cases, and interviews with attorneys and experts

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Wisconsin schools’ use of physical restraint, seclusion will get more state scrutiny under new law

by Tim Anderson (tanderson@wisc.org)

A newly passed Wisconsin law that eliminates the use of prone restraints in schools also will require schools to report seclusion incidents.

“Let them have ownership and don’t try to jam anything through,” says Sen. Luther Olsen, a Republican from Waukesha.

“Let them have ownership and don’t try to jam anything through,” says Sen. Luther Olsen, a Republican from Waukesha.

“This legislation makes needed regulatory improvements to the way our schools use physical restraint and seclusion that I believe will result in a safer and more welcoming educational environment for all students,” Olsen said.

Out-of-city schools can physically restrain students only if a student poses a safety threat. But according to the investigation, in many cases, students were getting “isolated timeouts” for disobedience or refusing to do schoolwork.

There also was a push this year in Illinois to get new legislation passed. HB 3975 and SB 2315 would have outright banned the use of seclusion, and some lawmakers wanted an immediate end to the use of prone restraint. These measures did not pass.

Compared to their peers, students with disabilities are much more likely to be physically restrained or secluded by schools, according to a February 2019 report of the U.S. Government Accountability Office.

In addition to the new ban on prone restraint, Wisconsin will require its schools to report data on the use of restraint and seclusion to the state Department of Public Instruction.

In addition, schools must convey a “evidence-based instruction” on positive behavior supports and interventions, as well as techniques that prevent or reduce the use of physical restraint.

“Let them have ownership and don’t try to jam anything through,” says Olsen, adding that “work must continue because it is likely to cause pollution and other natural resources.”

Enbridge’s use of the existing dual pipelines is prohibited; two lower courts have affirmed these rulings.

The court issued a ruling that stopped operations on one part of the dual pipeline, the east leg where the structural damage had been reported.

The court, though, allowed for use of the west line.

With the continued operation of this pipeline, the risk of severe and lasting environmental damage to Michigan’s most important natural resource continues to grow every day,” Nessel said, adding that “work must continue toward complete removal of Line 5 from our waters.”

Nessel also made it clear that continued operation would violate the public trust doctrine, as well as the Michigan Environmental Protection Act, which states that pollution prevention or destruction of water and other natural resources.

Legal fight continues over operation of 67-year-old pipeline that carries oil, gas across Straits of Mackinac

by Tim Anderson (tanderson@wisc.org)

Despite an agreement reached in late 2018 between the state of Michigan and the owner of a pipeline that carries light crude oil and natural gas across the Straits of Mackinac, a legal fight between the two sides is showing no signs of ending.

Line 5 runs 645 miles from Superior, Wis., to Sarnia, Ontario. That includes a four-mile stretch of dual pipelines that cross the Straits (which connects lakes Michigan and Huron) on top of the lakebed.

Built in 1953, Line 5 moves 540,000 barrels of natural gas liquids every day; 65 percent of the homes in Michigan’s Upper Peninsula are heated by the propane carried by Line 5, according to Enbridge, the Canadian company that owns and operates the pipeline.

But there has long been opposition to any pipeline across Line 5—about its age and location in the waters of the Great Lakes, as well as reports that the pipeline has spilled at least 1.1 million gallons of oil since 1968.

The agreement from 2018 seeks to address those concerns through an infrastructure upgrade. Construct a tunnel in the Straits of Mackinac starting in 2021, complete the project by 2034, and then relocate the Line 5 pipeline inside the new tunnel.

(Enbridge would pay for the project.) This agreement is the result of a measure passed by the Michigan Legislature, as well as subsequent deals reached between Enbridge and then-Gov. Rick Snyder.

Only a few weeks after that law was passed, though, Gov. Gretchen Whitmer and Attorney General Dana Nessel took office, both have said they want the line shut down.

Whitmer demanded just that in June, after Enbridge alerted the state that an anchor support on one of the dual pipelines had incurred significant damage.

In a letter to Enbridge, Whitmer requested that operations only resume once a third party assessed the damage and the company implemented preventative measures.

Nessel then sought a temporary restraining order in state court requiring Enbridge to cease all transport operations. In early July, the court issued a ruling that stopped operations on one part of the dual pipeline, the east leg where the structural damage had been reported.

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Since taking office, Nessel has initiated two lawsuits involving Enbridge and Line 5. The first challenged whether the 2018 law had been properly enacted; two lower courts in Michigan said the legislative actions were constitutional.

The second lawsuit seeks to end Enbridge’s use of the existing dual pipelines. The attorney general argues that continued operation violates the public trust doctrine, is a public nuisance, and violates the Michigan Environmental Protection Act because it is likely to cause pollution impairment and destruction of water and other natural resources.

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Agriculture & Natural Resources

South Dakota amends its siting laws to try untangling varying county special, conditional use zoning rules

by Carolyn Orr (cor@strawridgefarm.us)

A s the Midwest’s policymakers have wrestled this year with the COVID-19 pandemic’s health and economic impacts, many have given health care (and other) businesses limited immunity from civil lawsuits, as long as they have made good-faith efforts to comply with public health guidelines during the crisis.

Gubernatorial executive orders initially provided such immunity in Illinois, Iowa, Kansas and Wisconsin, according to the American Tort Reform Association. But legislators in Iowa, Kansas and Wisconsin opted to enshrine that protection in state law.

Iowa’s SF 2338, signed in mid-June, provides a “safe harbor” from civil liability for people and businesses if they were acting in “substantial compliance” with state and federal health guidelines at the time of alleged exposure or potential exposure to COVID-19.

“It’s protection for businesses that are following prescribed practices to the best of their ability given the myriad of protections being advised,” says Iowa Rep. Gary Carlson, chair of the House Commerce Committee, who served as House manager for HF 2338. “Our feeling was, companies that are doing their best to meet a national need shouldn’t be subject to some kind of liability because of that.”

“As a whole country,” he adds, “we’re learning as we go.”

As part of Kansas’ recently enacted HB 2016, adult care facilities “shall have an affirmative defense to liability” in COVID-19-related civil actions against them if they are in compliance with “public health directives” and state statutes.

Likewise, legislators strengthened immunity protections for all health care providers — for example, for decisions that these providers made after delay or withholding services “as a direct response to any [declared] state of disaster emergency.” (The new law notes, however, that these new protections do not cover negligent or reckless decisions by providers.)

Similarly, Wisconsin’s AB 1038 (signed in mid-April) gave health care professionals and providers (as “their employees, agents or contractors”) immunity from civil liability for “certain actions or omissions committed during, or within, 60 days” after Gov. Tony Evers’ March 12 declaration of a state of emergency expires.

The eight states with COVID-19 siting laws that apply to livestock facilities’ “operations” are Iowa, North Dakota, South Dakota, Nebraska, Kansas, Illinois, Michigan and Wisconsin.

The other states and the District of Columbia are working on siting laws. But in 2017, all eight states had siting laws in place.

Each state adopted its siting law in response to situations that threatened, or did threaten, the siting of livestock facilities.

This has resulted in different approaches to the permitting process.

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Most states in the Midwest entered a new fiscal year in July, the unknowns about FY 2021, and beyond, far outweighed the knowns. Will more federal assistance be made available to help close budget shortfalls? How big will those shortfalls be? Will the economic effects of the COVID-19 pandemic be felt the entire fiscal year? "It’s been very hard for states to forecast given the uncertainty of the public health emergency," Shelby Kerns, executive director of the National Association of State Budget Officers, said during a webinar of The Council of State Government’s Midwestern Legislative Conference.

But she told legislators of one unmistakable fiscal reality: “States will be grappling with the impact of COVID-19 for years to come.”

The options to fix out-of-balance budgets fall into three broad categories: cut spending, raise revenue or tap into savings. But some of the specific strategies traditionally used by legislators may not be available this time around.

“With what’s different about this fiscal crisis in the public health emergency, which can limit or change some of the options,” Kerns said, “in addition to increased spending being required to respond to the pandemic, some cuts may be impossible, or at least unwise.”

During the Great Recession, many states cut reimbursement rates for Medicaid providers and reduced aid to local governments, which employ many first responders and other frontline workers.

Would such cuts be wise, or even possible, now?

Similarly, Kerns noted that during the two fiscal years of the Great Recession, state spending on K-12 education fell by nearly 8 percent. Some kind of cuts in this area would seem likely in FY 2021, simply because the funding of elementary and secondary schools takes up such a large portion of spending (more than one-third of expenditures in state general funds). Yet there will be pressures to spend more on education, due to concerns about the impact of this spring’s school closures on academic achievement and the push to boost student access to broadband and e-learning devices.

**PATHS TO BALANCED BUDGETS**

According to Kerns, most governors were asking state agencies to plan for cuts of 4 percent, 10 percent or 15 percent in FY 2021. Projected declines in revenue for the fiscal year have ranged widely in different states, anywhere from 4 percent to 40 percent — a sign of how uncertain this fiscal period is.

Also unclear is the extent to which states will get help from Washington, D.C., during the Great Recession, federal aid helped offset many state budget cuts.

“To date, that aid has been more focused on helping with increased expenditures from the public health crisis and not on assisting states with revenue losses,” Kerns said.

When the pandemic hit, state rainy day funds (both nationally and in some Midwestern states) were at an all-time high. Tapping into these funds will be one budget-balancing strategy for FY 2021. However, rainy day funds alone won’t be enough to fill the large shortfalls in FY 2021, and Kerns added that it’s best not to deplete these savings in a single year.

What about raising taxes? Kansas Sen. Carolyn McGinn said that option is out of the question in her home state due to concerns about the economic effects.

“We have small businesses that are just trying to survive,” she told fellow legislators on the webinar.

**VIEW FROM THE PROVINCES**

Also on the webinar, lawmakers learned about the economic slowdown occurring in Canada. In Ontario, in the months of March, April and May, one in three workers either lost their jobs or had their hours cut in some way. Ontario’s year-over-year economic GDP is expected to decline by 9 percent in 2020.

But that province’s government has one option available to the states: Run a deficit. (Every state in the Midwest has a statutory or constitutional requirement to act on budget-balancing measures.) Ontario’s deficit is projected to be $41 billion, or 5 percent of GDP; David West, chief economist and deputy officer of the Financial Accountability Office of Ontario, told webinar participants.

Provincial law does require the government to have a multi-year plan to balance the budget.

**RECENT FISCAL DATA AND ESTIMATES FROM THE MIDWEST**

**ILLINOIS**

Revenue collections for FY 2020 were $1.1 billion below last year’s levels. And for FY 2021, budget forecasters in May revised revenue estimates for the state general fund downward by a total of $4.2 billion — a drop of 10.4 percent compared to March estimates.

**INDIANA**

As of May, revenue collections in FY 2020 were $4.4 percent below collections at the same period in FY 2019. The indicator of the impact of COVID-19: Prior to the pandemic, forecasters expected $50 million in revenue in May from casino/racino activity; instead, Indiana got $50 million.

**IOWA**

In May, state forecasters revised their estimates for fiscal years 2020 and 2021 — both in a downward direction. They were still predicting higher year-over-year revenues between FY 2019 and 2020 (1.0 percent) but an actual drop between FY 2020 and 2021 (0.8 percent).

**KANSAS**

In April, revenue estimates for FY 2020 and FY 2021 were depressed by a combined $1.3 billion (10.8% and 5.8% in 2020 and 2021, respectively). For this calendar year, Kansas forecasters were predicting a 7.7 percent drop in gross state product.

**MICHIGAN**

Compared to the January 2020 forecast for revenue collections for the current fiscal year which ends Sept. 30, estimates in May were down 12 percent in the two largest funds (general fund and school aid). Michigan expects to collect $3 billion less than previously anticipated.

**MINNESOTA**

In early May, a budget deficit of $2.4 billion was being projected for the current biennium, which ends June 30, 2021. In July, Minnesota did report general fund revenue for FY 2020 as being slightly higher (0.8 percent) than that May forecast.

**NEBRASKA**

As of March 2020, actual revenue collections in the state general fund for FY 2020 were 8.8 percent higher than projections. But by the end of May, actual collections for FY 2020 were running slightly below previous projections (0.1 percent).

**NORTH DAKOTA**

General fund revenue was down 24 percent in May compared to previous projections for that month. However, actual collections for the current biennium were still surprising (by 2 percent) the numbers that legislators used last year in crafting North Dakota budget.

**OHIO**

Ohio ended the fiscal year for 2020 with a balanced budget, despite tax revenue collections falling $1.1 billion below estimates. A mix of cost-containment measures and fiscal controls were implemented in March to help balance the budget.

**SASKATCHEWAN**

The province closed the fiscal year in 2020 with a budget deficit of $519 million, the result of a steep revenue decline related to the COVID-19 pandemic. In the final three months of the fiscal year, Saskatchewan’s revenue declined by $946 million.

**SOUTH DAKOTA**

General fund collections in May were 19.1 percent below what had been forecast a year earlier. However, for the fiscal year ending in June, South Dakota was expected to have a budget that was either balanced or had only a small shortfall.

**WISCONSIN**

In June, revenue collections for the state general fund were $370 million lower (2.1 percent) than those in June 2019. State fiscal analysts cite two reasons why: the impact of the COVID-19 pandemic and the delayed filing date for income and franchise tax payments.
**QUESTION | Do states require privacy sleeves, return postage or a witness signature for absentee or vote-by-mail ballots?**

Entering this year, 29 states — including all Midwest states but Indiana — already allowed vote-by-mail or “no excuse” absentee voting, meaning a voter can request an absentee ballot without having to meet set criteria, according to the U.S. Election Assistance Commission.

But there has never been an election year quite like 2020. Due to the COVID-19 pandemic, absentee ballot applications were mailed to all registered voters in advance of primary elections in states such as Indiana (which also temporarily waived its “excuse” requirement), Iowa, Nebraska, North Dakota and South Dakota.

Under a recently enacted law in Illinois (SB 1863), every person who has voted over the past two years will be sent an application in advance of this November’s general election.

As a result of many states’ primaries being held during the COVID-19 pandemic, there already has been a historic rise in the number of people voting by mail in Iowa’s June 2 primary election, for example, more than 41,000 people voted absentee, dwarfing the previous mark of 38,000 from the 2016 primary. In North Dakota, all 53 counties opted for voting by mail in that state’s June 9 primary. 199,321 of the 196,000 ballots sent were returned by voters.

Due to this increase, vote-by-mail policies are receiving increased attention and scrutiny. Here are research results from a recent CSG Midwest survey about policies in three key areas: the use of secrecy sleeves/envelopes, whether postage is prepaid for voters, and whether voters must provide a witness signature with their returned ballot.

**Secrecy sleeves/envelopes**

Iowa, Michigan, Minnesota, North Dakota and Ohio provide special “secrecy” sleeves or envelopes for voters to protect ballot secrecy in the mail or when opened for election judges to verify the ballot isn’t spoiled. Under Minnesota law, voters must be provided with an additional envelope or flap that “conceals the signature, identification and other information.” Other states leave the use of secrecy sleeves or envelopes to local election authorities; in Kansas, for example, this policy is left to the counties, says Deputy Assistant Secretary of State Katie Koupal.

**Prepaid postage**

A return envelope with postage prepaid means voters don’t have to pay just to have their ballot counted, thus making them easier to return. Indiana, Iowa, Minnesota and Wisconsin provide postage-paid envelopes for voters to return ballots. Michigan, Nebraska, North Dakota, Ohio and South Dakota do not. Illinois and Kansas leave the decision on prepaid postage to local election boards or counties, respectively. But Illinois’ SB 1863, which sets emergency rules for the 2020 general election, requires election authorities to accept “any vote by mail ballot returned with insufficient or no postage.”

**Witness signature**

While votes in all Midwest states must sign the return envelope so their signatures can be compared to ones already on file, Minnesota and Wisconsin require a witness signature attesting that the person who filled out the ballot is who he or she claims to be. Minnesota is waiving that requirement for its Aug. 11 primary election.

Four states require witness signatures (Indiana, Michigan and Nebraska) or affidavits (Illinois) if voters need assistance or make only a mark — for example, an “X” — instead of a signature. South Dakota requires a notary’s signature for absentee ballot applications if the voter doesn’t submit a notarized copy of his or her ID, but not for the ballots themselves, according to the nonprofit, nonprofit organization Vote At Home. Iowa, Kansas, North Dakota and Ohio do not require witness signatures.

**QUESTION OF THE MONTH**

Soon after the Court of Appeals ruling, Michigan Gov. Gretchen Whitmer reached a settlement with the plaintiffs (against the wishes of the state Legislature), agreeing to take the following actions:

- Propose legislation during her first term that provides $94.4 million in literacy-related programs and initiatives for the Detroit Public School Community District.
- Provide $280,000 for the student-plaintiffs to further their education or access a high-quality literacy program.
- Bolster the advisory role of the state Department of Education in helping school districts implement evidence-based literacy strategies, with a focus on reducing class, racial and ethnic disparities.
- Establish a Detroit Equity Task Force that will conduct yearly evaluations on literacy and provide state-level policy recommendations.

According to Rosenbaum, conditions in Detroit made it a clear choice to make the literacy-based challenge to substandard schools — the state had taken over the school system for an extended period of time, for example, and Detroit had the lowest literacy rate of any major U.S. school district.

But he adds that “you could throw a dart at the map, and you’d find in any state a school district where you have enrollment with mostly students of color and low-income families having to address the same challenges.”

Earlier this year, California settled a lawsuit brought by students, parents and advocacy groups. Unlike the lawsuit in Michigan, the California case centered on students’ right to access literacy under the state Constitution.

As part of the settlement, California agreed to spend $50 million on evidence-based literacy instruction at the state’s 75 lowest-performing elementary schools. It also will create a new statewide position to lead California’s work on literacy instruction.

The Michigan and California lawsuits were the first right-to-literacy cases of their kind, Rosenbaum said, but won’t be the last: “There are more of these cases coming.”

This year’s Midwestern Legislative Conference Chairman’s Initiative of Michigan Sen. Ken Horn is focusing on policies related to literacy. Stateline Midwest is featuring a series of articles on this subject throughout the year.

**RIGHT TO LITERACY? CASES CHALLENGE STATE SCHOOL SYSTEMS ON THESE GROUNDS**

by Tim Anderson (tanderson@csmg.org)

In their federal lawsuit against the state of Michigan, seven students of Detroit’s public schools told of buildings that were unsafe and of classrooms that were unfit for learning.

The smell of “dead vermin and black mold in hallways.”

Teachers abstain as many as 50 days a year.

Classes run by substitute teachers, professional or even the students themselves.

Out-of-date textbooks having to be shared by multiple students.

Classroom temperatures exceeding 90 degrees, or freezing cold other times of the year.

“The basic thesis of the case was that these were schools in name only, and they were not capable of delivering even basic literacy instruction,” says Mark Rosenbaum, director of Public Counsel, the largest pro bono law firm in the nation and an attorney for the student plaintiffs.

“As a result, the students were not being put in a position where they could better their circumstances or where they could be meaningful participants in a democracy.”

The evidence in this case: A vast majority of students in these schools fell below proficiency on reading and math assessments.

The legal argument: These students were being deprived of access to foundational literacy, a constitutional right under the Fourteenth Amendment. Earlier this year, a U.S. Court of Appeals agreed, overturning a decision at the district level that had sided with the state of Michigan.

“The role of basic literacy education within our broader constitutional framework suggests it is essential to the exercise of other fundamental rights,” the U.S. Court of Appeals wrote in April in its 2-1 decision.

“Most significantly, every meaningful interaction between a citizen and the state is predicated on a minimum level of literacy, meaning that access to literacy is necessary to access our political process.”

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Due to this increase, vote-by-mail policies are receiving increased attention and scrutiny. Here are results of a recent CSG Midwest survey about policies in three key areas: the use of secrecy sleeves/envelopes, whether postage is prepaid for voters, and whether voters must provide a witness signature with their returned ballot.

- Provide $280,000 for the student-plaintiffs to further their education or access a high-quality literacy program.
- Bolster the advisory role of the state Department of Education in helping school districts implement evidence-based literacy strategies, with a focus on reducing class, racial and ethnic disparities.
- Establish a Detroit Equity Task Force that will conduct yearly evaluations on literacy and provide state-level policy recommendations.

According to Rosenbaum, conditions in Detroit made it a clear choice to make the literacy-based challenge to substandard schools — the state had taken over the school system for an extended period of time, for example, and Detroit had the lowest literacy rate of any major U.S. school district.

But he adds that “you could throw a dart at the map, and you’d find in any state a school district where you have enrollment with mostly students of color and low-income families having to address the same challenges.”

Earlier this year, California settled a lawsuit brought by students, parents and advocacy groups. Unlike the lawsuit in Michigan, the California case centered on students’ right to access literacy under the state Constitution.

As part of the settlement, California agreed to spend $50 million on evidence-based literacy instruction at the state’s 75 lowest-performing elementary schools. It also will create a new statewide position to lead California’s work on literacy instruction.

The Michigan and California lawsuits were the first right-to-literacy cases of their kind, Rosenbaum said, but won’t be the last: “There are more of these cases coming.”

This year’s Midwestern Legislative Conference Chairman’s Initiative of Michigan Sen. Ken Horn is focusing on policies related to literacy. Stateline Midwest is featuring a series of articles on this subject throughout the year.

**STATELINE MIDWEST | JULY 2020**
suspect will use deadly force and can’t be apprehended in another way. HF 1647 also authorizes the Iowa attorney general to prosecute officer-involved death cases; previously, the local county prosecutor had to request the attorney general’s participation. Lastly, under this new Iowa law, police departments will not hire individuals previously convicted of a felony, and officers will receive annual training on de-escalation techniques and implicit bias.

Taken together, the bill’s sponsors say, these statutory revisions will help provide for meaningful change in policing.

How did the Iowa Legislature act so quickly, and in such a bipartisan fashion?

Windisch credits communication, early and often, between the state’s legislative leaders.

“That meeting led to many subsequent meetings with leaders from both chambers and both parties, including Gov. Kim Reynolds, to come together and craft the justice-reform legislation.”

Much more work remains to be done, on policing and overall disparities in Iowa’s criminal justice system.

As of 2017, Black Iowans were being incarcerated at a rate 9.5 times higher than White Iowans, the second-highest rate of disparity in the Midwest. Statistics like those led Gov. Reynolds to form a special statewide committee on criminal justice reform. Its recommendations, released in 2019, focused on how to reduce rates of recidivism by expanding services to individuals while in prison (behavioral health, treatment, education, etc.) and strengthening re-entry programs (transportation and workforce development, for example).

“The conversations are ongoing and will take time to properly identify what the next steps are moving forward,” Windisch says.

“Many times the best solutions can be found in our communities, and the way we look at and treat one another.”

MICHIGAN HOUSE, SENATE MOVE BILLS ON POLICE TRAINING

Three days after the death of George Floyd, Michigan Sen. Jeff Irwin introduced SB 945, which would require all incoming police officers to complete training on implicit bias, de-escalation techniques, and the use of procedural justice in interactions with the public.

Additionally, the bill would require officers to complete 12 hours of continuing education annually. SB 945 passed the Michigan Senate in just one week.

“Now, I believe that the language of SB 945 had been circulating since last year, but after Floyd’s death and the public outrage that followed, many senators were clamoring for action. That led to the legislation’s quick introduction and passage. But even if this measure on police training becomes law, Irwin says, it’s only a start.

“The four main categories I focus on are citizen oversight, independent investigations of police misconduct, demilitarization of police forces, and better training and accountability around [officers’] licenses and certification,” Irwin says.

“Policing in the United States is quite dispersive, with several hundred city police departments and county sheriff offices every state.”

Still, Irwin says, state governments can help drive many of the necessary reforms.

“IWe have a tremendous role when it comes to certification and licensing,” he says. “I also think the state has a role in moving toward practices to our local governments.”

As one example in his home state, he points to the addition of public members to the Michigan Commission on Law Enforcement Standards as a best-practice model for increasing citizen oversight and police accountability. (This state commission handles the licensing, and license revocation, of officers.)
VALUE OF INDEPENDENT INVESTIGATIONS, PROSECUTIONS

Months before George Floyd’s death, an 18-member working group in Minnesota (including two members of the Legislature) released 28 recommendations aimed at reducing deadly-force encounters with law enforcement. Among the ideas:

- Adopt use-of-force standards that make sanctity of life a core organizational value and that include requirements for de-escalation;
- Improve training and develop new models of response to de-escalate incidents involving individuals in a mental health crisis, and
- Create a specialized, independent unit within state government to investigate all officer-involved shootings and uses of force that result in death or severe bodily injury.

Minnesotan Attorney General Keith Ellison, a co-chair of that working group, says Floyd’s death “tragically highlights the importance” of adopting those 28 recommendations.

“What happened to George Floyd is of course tragic for him and our community, but the reason that it was so massively explosive is that it has become a common occurrence, an appalling condition that we see all too often,” he says.

“The murder of Philando Castile (in Falcon Heights, a suburb of St. Paul) is fresh in my memory, Jamar Clark (in Minneapolis) as well; and many others.” Ellison will be leading the prosecution of the officers involved in the Floyd case, at the invitation of Hennepin County Attorney Mike Freeman and at the request of Gov. Tim Walz.

“The only way to get compliance is to enforce the law; it is an indispensable part of the overall move to reform policy,” Ellison says. “Yet it’s not sufficient.” He wants to see quick legislative action.

“It is time to get some of this stuff into policy and not dawdle anymore,” he says of recommendations such as those proposed by the 18-member working group.

The Legislature’s first chance to act after Floyd’s death came during a special session held in late June. A House measure, dubbed the Minnesota Police Accountability Act (HF 93), would have banned chokeholds and warrior-style training, as well as required changes to how officer-involved deaths are prosecuted (power given to the state attorney general) and how use-of-force cases are investigated.

The Minnesota Senate passed bills banning chokeholds and neck restraints, establishing a duty to intervene and report if an officer sees excessive use of force, and requiring officers to consider the sanctity of life before using deadly force,” he says.

No final agreement between the Democrat-led House and Republican-led Senate was reached before the end of the June special session.

Unlike most years when the Minnesota Legislature would have already adjourned (due to the pandemic for the year), though, lawmakers may come back to St. Paul multiple times in order to approve, or deny, Gov. Walz’s peacetime emergency declaration related to COVID-19. Ellison says he remains hopeful for meaningful legislative action this year.

He suggests that legislators look at reducing the scope of qualified immunity (the doctrine that grants government officials, including police officers, immunity from civil lawsuits as long as they did not violate “clearly established” law) and establishing independent investigations for use-of-force cases involving police.

For example, one of the Minnesota working group’s recommendations is to create an independent, specialized unit within the state’s Bureau of Criminal Apprehension. This unit would investigate all officer-involved shootings and uses of force that result in death or severe bodily injury.

“Make sure the investigation and prosecution are viewed to be independent and not based on any prior relationship that might lead people to believe there are some folks who are above the law,” Ellison says.

MINNESOTA: MANY BILLS, NO FINAL AGREEMENT

Under the House-passed Minnesota Police Accountability Act (HF 93), the state would ban chokeholds and warrior-style training. It also would change how officer-involved deaths are prosecuted (power given to the state attorney general) and use-of-force cases are investigated (by an independent unit of state government).

The Minnesota Senate passed bills banning chokeholds and neck restraints, establishing a duty to intervene and report if an officer sees excessive use of force, and requiring officers to consider the sanctity of life before using deadly force.

Both chambers also included more mandatory police training. However, none of these bills passed during the special legislative session in June.

OHIO: REVIEW BILLS’ IMPACT ON RACIAL GROUPS

Two Ohio resolutions introduced in June (SCR 14 and HCR 31) would declare racism a public health crisis and request the formation of a working group to promote racial equity. HB 690, meanwhile, would require that human impact statements be completed by Ohio’s Legislative Service Commission on all criminal justice bills. The purpose: Determine if these measures would have a disproportionate impact on a racial or ethnic group. Finally, HB 703 would impose mandatory psychological testing of police officers and create a disciplinary database.

SASKATCHEWAN: IMPROVE POLICE OVERSIGHT

The Government of Saskatchewan introduced legislation in June to improve police oversight. One key provision: When someone suffers a serious injury or death while in police custody, or as a result of the actions of an officer, turn over the investigation to the province’s Public Complaints Commission — a five-member, non-police body.

WISCONSIN: GOVERNOR UNVEILS NINE BILLS

Gov. Tony Evers and Lt. Gov. Mandela Barnes released drafts of nine bills that, among other provisions, would ban chokeholds, establish statewide use-of-force standards, require de-escalation training by police, and prohibit no-knock warrants. Evers declined to convene a special session; so consideration of these bills must wait until 2021.

As of the end of June, the Indiana, Nebraska, North Dakota, South Dakota and Wisconsin legislatures had not met in session since the death of George Floyd. The Nebraska Legislature is meeting in regular session this summer.

AFTER GEORGE FLOYD: EARLY LEGISLATIVE RESPONSES IN MIDWEST’S LEGISLATURES (AS OF JUNE 2020)*

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<tr>
<th>STATE</th>
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<td>Illinois</td>
<td>HB 3926</td>
<td>Establishes a duty to intervene and report if an officer sees excessive use of force, and requiring officers to consider the sanctity of life before using deadly force</td>
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<tr>
<td>Minnesota</td>
<td>HB 4999</td>
<td>Requires a special prosecutor to be assigned to all death cases involving a law enforcement officer</td>
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<tr>
<td>Wisconsin</td>
<td>91</td>
<td>Establishes a duty to intervene and report if an officer sees excessive use of force, and requiring officers to consider the sanctity of life before using deadly force</td>
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Kansas native shares his views on legislative leadership, the importance of communication, and the effects of the COVID-19 pandemic on his home state

by Laura Kliewer (lkliewer@csg.org)

Blaine Finch has always been up for taking on a policy challenge. In fact, it’s one of the perks of the job of state legislator that he likes the most.

“You feel good when a bill passes, it gets to the governor’s desk and you know that it is going to make a difference in the lives of people who are affected by it,” he says. He refers to it as striving for “bests” for Kansans — in the area of juvenile justice, for example, he helped lead an overhaul of the system that has since led to dramatic reductions in incarceration rates, saved money, and allowed for greater investments in community-based services.

Today, though, Finch and other policy leaders are having to make the best of an especially challenging period in state government.

“In Kansas, we had built up $1 billion surplus, and overnight saw it turn into a $300 million deficit,” he says. “No one yet knows how long the recovery will be, whether we’ve seen the bottom of the trough and we’ll bounce back, or whether there is more to come.”

Amid all of this uncertainty, though, Finch is sure of one thing — his desire to be one of the Kansas leaders helping his state through the COVID-19 pandemic and its impacts.

His interest in government dates back as far as he can remember, and by the time he was 19 years old, Finch was serving on the City Commission in his hometown of Ottawa. A year later, he was the mayor. Finch was elected to the Kansas House in 2013 and is now the chamber’s speaker pro tem.

In a recent interview with CSG Midwest’s Rep. Finch discussed legislative leadership, his leadership style, and his perspective on the economic and policy challenges ahead for the state of Kansas. Here are excerpts from that conversation.

Q: From an institutional perspective, what do you view as some of the biggest challenges for the Legislature, its leaders and its members?

A: I think one of the biggest challenges is communication. I see a lot more occasions where people come together and try to find the best way forward for the state, but what gets covered (in the media) are the people on either extreme who are willing to be loud or put out a message that is negative toward the other side. In reality, I think that is the exception, not the rule.

We try to help our members as they communicate to put out facts about the legislation that they have voted on, the measures that come before them. … When there are things that we can work together on with the executive branch, or our Senate colleagues, we want to talk about those. And when we disagree, we want to make sure that it is not a personal disagreement. Talk about where we disagree in a way that doesn’t harm relationships.

Q: How would you describe your leadership style?

A: As a good leader, you have to be a good listener. You try to take in as much input from as many different people as you can. You try to collaborate. And then I try to take all that input, synthesize it down, and put some kind of proposal together. I try to take those differing inputs from people and say, “OK, where do we agree? What kind of legislation can we move forward with?”

So that is probably my leadership style, a mix of being collaborative and also decisive at some point.

Q: To date, what have been the biggest challenges for Kansas and the Legislature in responding to the COVID-19 pandemic?

A: The first and biggest challenge is how you keep people safe. How do you practice public health in a way that people will listen and follow and keep them safe? The second big challenge we have in Kansas is the same everywhere: How do you maintain your economic strength? How do you keep people either working or get them timely unemployment benefits? What do you do to ensure that the recovery is as safe and as fast as possible so that people aren’t damaged, and businesses aren’t damaged?

And then for us in Kansas, we face another unique challenge, which is that our emergency management statutes were written in 1975. We’ve not had a human pandemic affect Kansas since then. And in fact, there is no specific provision for human pandemics in our law. We have a provision for animal pandemics, but we have no provision for human pandemics. So, how do you deal with a legal framework that is not really built for this type of challenge, and then how do you adjust it so that you can work through this type of environment?

Q: You’ve also talked about the pandemic’s immense fiscal impact. Above and beyond that, what do you see as some of the lasting effects?

A: I think the notion of public health and how we do that (in terms of public policy). I know that many states are trying to figure out what the right balance is — to give public health officers power to keep people safe but not so much power that we lose our way of life or our ability to continue to function, to thrive economically.

I think we’re going to face myriad challenges. Despite every good effort to do virtual education, it’s not the same as being there in the classroom. So, what lasting academic impacts will we have when kids return to school, if they can return to school, in the fall?

We’re going to be wrestling with the lasting impacts of this pandemic for a long time to come. … All of that being said, I do think Kansans, and Midwesterners overall, are some of the most resilient people in the country, and we will find a way to get through it, to make whatever adjustments we need to make and come out of this better and stronger, and able to do the work we need to do.

“...You would think [based on media coverage] we’re always at each other’s throats and always arguing, but there is a lot more that is discussing and asking, ‘What is important to your folks back at home, and how do we put this together in a way that does the most good for the most people?’”
Package of bills seeks to improve access, empower Wisconsin’s rural residents

“I want to enable municipalities to establish their own internet service in order to serve their citizens.”

by Wisconsin Rep. Don Vruwink

Electricity lines spread across rural Wisconsin between 1930 and 1940, and most farms were electrified by the early 1950s, thanks to the Rural Electrification Administration. Established in 1935, the REA gave incentives to private utilities, cooperatives and local governments to provide electricity to rural customers. These investments were necessary to keep our rural communities vibrant and on par with our cities.

Today’s challenge in rural America is to extend high-speed internet to every household, farm and business. High-speed internet enhances quality of life and economic opportunities. It connects people in their homes with doctors and other health care professionals. It allows people to conduct business, work from home and take online classes. Students at all grade levels are at a disadvantage without reliable high-speed internet service. Businesses of all size—from mom-and-pop operations to large manufacturers—are at a competitive disadvantage compared to their urban and suburban counterparts.

Government is increasingly requiring people to conduct business via the internet, including applications for unemployment compensation; registering a deer during the Wisconsin deer hunt, registering for college courses; and applying for health care assistance.

The importance of broadband in Wisconsin has taken on a greater importance than ever before. For example, the COVID-19 pandemic has compelled schools to rely on learning via the internet. Throughout the state, school districts are grappling with how to provide devices and internet access to students without them. These children live in both cities and rural areas. They are disproportionately low-income and students of color.

Some of my constituents tell me that when they are working from home, they are competing for internet access with their children who are doing online classes. When parents lose their jobs and are trying to cut expenses, internet service may be on the chopping block.

A ROLE FOR GOVERNMENT

I believe government’s role is to nudge internet service providers to expand their infrastructure so every household and business has access to reliable, high-speed service. I support partnerships between private internet providers and municipalities.

If a private provider declines to act, I want to enable municipalities to establish their own internet service in order to serve their citizens.

During the past legislative session, my colleagues and I introduced six bills aimed at improving the broadband infrastructure. One bill, SB 836, would remove current statutory barriers that prevent municipalities from constructing and operating their own broadband infrastructure. Under our legislative proposal, if a municipality decides to embark on such a project, it could apply for a broadband expansion grant from the state to fund up to 50 percent of the cost of hiring a broadband director.

We dubbed our second proposal “Fiber to Farms” (AB 655); it would prioritize Wisconsin’s broadband expansion grants to farms. (Current law gives priority to projects that satisfy various requirements, but does not prioritize farms.)

I disagree with the idea that family farms need to “get big or get out.” Family farms don’t need to get bigger; they need access to markets suitable for small farms and access to precision agriculture practices. And for that, they need access to reliable, high-speed internet service.

Our third measure is SB 835, dubbed “Dig Once” because it would enable municipalities, counties and the state Department of Transportation to require contractors to install empty conduit lines on right-of-way highway projects and sidewalk projects. The empty conduit lines would then be available for future fiber optics expansion. In addition, if the owner of a structure within 300 feet of a right-of-way project requests it, an internet service provider must offer service to the structure.

Under SB 838, the Broadband Grant Integrity Act, provisions would be added to state law to ensure that grant recipients live up to the promises they make in grant applications. For example, grant recipients must guarantee specific minimum download and upload speeds. If those or other conditions are not met, the state would recoup the grant dollars.

In addition, our Legislative Audit Bureau would conduct performance evaluations to ensure compliance.

The Broadband Truth in Advertising bill (SB 837) would make it easier for consumers to compare broadband services by requiring providers to use standardized labeling (similar to food labeling). SB 837 also defines broadband as a minimum of 25 Megabits per second while downloading and three Megabits per second while uploading, or the federal definition of broadband, whichever is greater.

The final bill, AB 995, would improve mapping of our internet infrastructure. It requires electrical utilities to survey their residential and business customers to identify what internet service is available to them. Electric utilities would be reimbursed for the surveys. The information gleaned from this mapping will give us a better understanding of gaps in our broadband infrastructure. The bill also would increase grant funding by $100 million for one fiscal year.

The Legislature didn’t act on any of these bills.

One measure did pass the Assembly: AB 344, which repeals a property tax on infrastructure that is used to provide internet service in rural and under-served areas. Reducing the cost of the physical infrastructure will provide an incentive to cooperatives and other small providers who want to expand rural coverage but are priced out of doing so.

As ranking member of the Assembly’s Rural Development Committee, I led my Democratic colleagues in giving unanimous approval to this bill, which was signed into law earlier this year. My colleagues and I will continue to try to advance the other bills in the upcoming session.

Wisconsin Rep. Don Vruwink is the ranking member on the Assembly’s Committee on Rural Development. He was first elected to the Legislature in 2016.
Virtual meetings also will include business sessions for binational caucus.

- Task Force on Nutrient Management, of which he is chair.

**SEPTEMBER SESSIONS: SAFE DRINKING WATER AND NUTRIENT POLLUTION**

- The Sept. 1 session will feature Dr. Mona Hanna-Attisha and Elin Betzazuo speaking on “Assuring Access to Safe, Affordable Drinking Water.” It will include a report from the caucus’s Task Force on Lead. This group of state and provincial legislators has led development of an action plan and model policy to keep the region’s supply of drinking water safe from lead contamination.

- The topic of the Sept. 21 session is “Improving the Management of Nutrients in the Region.” It will include a discussion of binational efforts to reduce nutrient runoff. Wisconsin Sen. Andre Jacque also will brief participants on the work of the caucus’s Task Force on Nutrient Management, of which he is chair.

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Q & A WITH BILLD ALUMS: WHAT HAS THE COVID-19 PANDEMIC TAUGHT YOU, OR REINFORCED TO YOU, ABOUT YOUR ROLE AND WORK AS A STATE LEGISLATOR?

First, especially in times of crisis, people look to elected leaders for clear direction. When it comes to keeping people safe, it is important to listen to facts, not political rhetoric or games.

Second, we must have a continuity-of-government plan in place, to the fullest extent possible. We must implement remote participation to ensure the government can do the people's work even during times of crisis.

Finally, the pandemic exposed significant gaps in both economic and social areas that require swift legislative action to address immediate needs and to ensure we are better equipped to meet similar needs in the future.

The past few months have furthered my belief that state and local governments truly have significant influence over the day-to-day lives of the people we represent, more so than even the federal government. As state legislators, we have direct input on policies and programs that people have relied on to deal with and survive during COVID, while also forming close partnerships with the locals who provide the services to citizens.

Two things that the COVID-19 pandemic has reinforced to me about the role and work of a state legislator are the importance of being adaptable and being willing to compromise. My biggest long-term concern is to try and not overreact to the pandemic so that we can make the best policy decisions that will not overreact to the pandemic so that we can make the best policy decisions that will compromise.

The pandemic has reinforced my belief that constituent service is just as important as legislative work. Certainly at the beginning of the pandemic, and even now, many constituents didn't know who to approach for assistance.

It's our role as state legislators to help our constituents navigate the complex layers of government and identify services available to them. Constituents might not remember the bills you authored or sponsored, but they do remember who helped them when they needed it the most.

ILLINOIS SEN. ELGIE R. SIMS, JR.
BILLD CLASS OF 2014
Illinois Sen. Elgie Sims serves as chair of the Criminal Law Committee and vice chair of the Judiciary Committee. After serving eight years in the Illinois House (where he was chair of the Judiciary-Criminal Committee), Sims was appointed to the Senate in January 2018 to fill a vacancy. Sims' district includes portions of the South Side of Chicago and the city's south suburbs.

Sims is a practicing attorney, and one of his ongoing legislative priorities is to make communities safer places to live. In 2018, he sponsored legislation that extended the state's Commission on Police Professionalism. While a member of the House, he helped pass legislation that overhauled the state's cash bail system.

Many other BILLD alumni hold leadership positions in their respective legislatures on policy and appropriations committees related to the judiciary, criminal justice and corrections.

COMMITTEE CHAIRS
- Kansas Rep. Fred Patton, class of 2016
- Minnesota Rep. John Lesch, class of 2004

COMMITTEE VICE CHAIRS
- Kansas Rep. Brad Ralph, class of 2019
- North Dakota Rep. Karla Rose Hanson, class of 2018
- Ohio Sen. Nathan Manning, class of 2017
- South Dakota Rep. Timothy Johns, class of 2014

COMMITTEE RANKING MEMBERS
- Indiana Sen. Susan Glick, class of 2011
- Iowa Sen. Kevin Kinney, class of 2015
- Iowa Rep. Mary Lynn Wolfe, class of 2011
- Iowa Rep. Wes Breckenridge, class of 2019
- Ohio Sen. Cecil Thomas, class of 2015

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


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