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INSIDE

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Down the funding road again

In states such as Iowa, Michigan and South Dakota, legislators appear closer to finding solutions to transportation shortfalls

by Tim Anderson (tanderson@csg.org)

As the new legislative year begins, a years-old problem will once again be on the minds and agendas of lawmakers in several of the Midwest's capitols: How can we raise more revenue for our ailing roads and bridges, and close shortfalls in our highway funds?

Early signs point to a busy, and potentially productive, few months ahead.

Governors in states such as Iowa, Michigan and South Dakota are backing some kind of revenue fix, business groups continue to support it, and legislatures have a host of policy alternatives to consider.

On top of those factors, gas costs have been falling for consumers, which could make a legislated increase in the gas tax more politically and economically palatable.

"I think the chances are very high that something gets done," says Iowa Sen. Tod Bowman, chair of the Iowa Senate Transportation Committee.

His state's current annual funding shortfall stands at $215 million, and that's just to address "critical" road and bridge needs. In a "pay as you go" state such as Iowa, closing this gap inevitably means some mix of higher taxes and fees.

"The most important part of getting this done is being able to explain the need," Bowman says. "Explain why this is imperative to the state of Iowa. That trumps everything else."

The support of Gov. Terry Branstad will be a big help in making the case, he adds.

Similarly, Sen. Mike Vehle and other legislative proponents in South Dakota were heartened by the budget address given by their state's governor.

"This is a year that we need to act to adequately fund our roads," Gov. Dennis Daugaard told lawmakers.

The Michigan Legislature, meanwhile, got a head start on the new year by passing a new transportation plan in late 2014. Its package provides an additional $1.2 billion a year for roads and bridges through a mix of revenue enhancers, including a 1-cent increase in Michigan's general sales tax.

But the plan was passed as a ballot proposal, not as legislation. As a result, voters will have the final say on the transportation package in May.

Between then and now, Bowman and Vehle are hoping their state legislatures will have passed bills of their own.

In South Dakota, a two-thirds vote in the Legislature will be required (due to language in the state Constitution on tax increases).

"We know how hard it is to keep coming back to this issue, year after year," Vehle says. "We haven't done anything [with a gas-tax increase] since 1999, and the feds haven't done anything since 1993. It's tough to do.

"So let's focus on passing something that not only works now, but works in the future."

With that in mind, a plan proposed by an interim legislative committee led by Vehle seeks longer-term fixes, in part by adding some new sources of revenue for roads.

One of those new sources would be a wholesale sales tax on gasoline. Historically, South Dakota has relied on a cent-per-gallon tax to fund its state roads, with license-plate fees and property taxes used for local roads.

Adding the wholesale tax to the mix, Vehle says, would allow state revenues to keep better pace with road-construction costs.

Wholesale vs. per-gallon taxes

An increasing number of state legislatures are considering adoption of some kind of wholesale sales tax. It is already part of the road-funding formula in Nebraska, and in Michigan, the ballot proposal would replace the state's per-gallon tax with one based on 14.9 percent of the average wholesale prices of gasoline and diesel.

One of the benefits of a wholesale tax is that state revenue would rise when gasoline and diesel prices increase. In contrast, minus legislative action, states' per-gallon gas taxes don't change. (Very few states tie their per-gallon tax to changes in inflation.)

The per-gallon tax is also becoming a less-dependable revenue source because

▶ PLEASE TURN TO PAGE 6

Trends in gas tax, cents per gallon, in Midwestern states*

State	2014	Increase since 1993
Illinois	20.1 cents	1.1 cents
Indiana	18 cents	3 cents
Iowa	22 cents	2 cents
Kansas	25.03 cents	7.03 cents
Michigan	19 cents	4 cents
Minnesota	28.6 cents	8.6 cents
Nebraska	27.3 cents	2.7 cents
North Dakota	23 cents	6 cents
Ohio	28 cents	7 cents
South Dakota	24 cents	6 cents
Wisconsin	32.9 cents	10.7 cents
Federal	*18.4 cents*	*0*

* Rates include the excise tax and other additional fees/taxes. Illinois, Indiana and Michigan also impose a sales or use tax. In Nebraska, the gas tax is based in part on the wholesale price of gasoline as well as a variable rate set by the Department of Roads to ensure adequate highway funding. Nebraska's tax rate in 2015 will be 26.5 cents.

Source: State & Local Finance Initiative (data from Federation of Tax Administrators and Federal Highway Administration)

Ideas to raise more revenue for state roads and bridges include using a portion of general sales-tax collections, raising the cent-per-gallon tax, and adopting a tax based on the wholesale price of gasoline and diesel.

Issue Briefs cover topics of interest to the various groups and policy committees of CSG Midwest, including the Midwestern Legislative Conference, Great Lakes Legislative Caucus, Midwest Interstate Passenger Rail Commission and Midwestern Radioactive Materials Transportation Committee.

Health & Human Services

27 states, CSG weigh in on U.S. Supreme Court case on Medicaid reimbursement rates

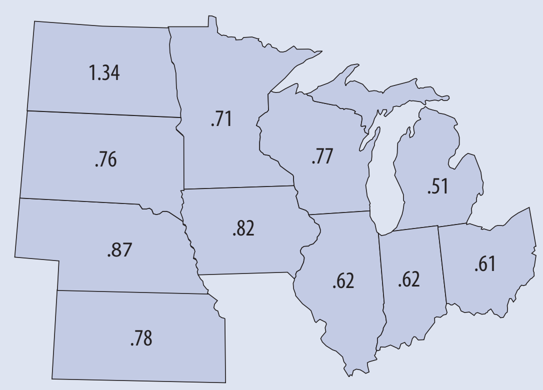
The U.S. Supreme Court began to hear arguments in January in a case that will decide whether providers have the right to sue states over Medicaid reimbursement rates. Given the potential implications for disputes between states and the federal government, The Council of State Governments has weighed in by filing an amicus brief.

Armstrong v. Exceptional Child Center comes from Idaho, where a group of Medicaid providers sued the state, claiming reimbursement rates should have been raised after costs had risen in their industry. (The state's health agency recommended an increase, but the Legislature failed to provide the necessary appropriations.)

Under federal law, Medicaid reimbursement rates must be "consistent with efficiency, economy and quality of care" and "sufficient enough to enlist enough providers." The law itself does not provide recourse for plaintiffs who argue a state is not in compliance.

But a federal appeals court found that the Supremacy Clause of the U.S. Constitution offers a different type of recourse: allowing plaintiffs to sue if they believe federal and state policies conflict. The appeals court found that Idaho must raise its Medicaid reimbursements to providers.

Medicaid-to-Medicare Fee Index: Medicaid fees for physician services relative to Medicare fees for services (2012)*



** All services (primary care, obstetric care and others) are included in the ratio. The index only accounts for fee-for-service Medicaid.*

Sources: Urban Institute and Kaiser Commission on Medicaid and the Uninsured

In its appeal to the U.S. Supreme Court, the state of Idaho argues that the U.S. Congress chose not to provide private parties with the right to force states to comply with the federal Medicaid statute. And the nation's highest court has agreed to consider this broad question: Do private parties have the right under the Supremacy Clause to sue states over Medicaid rates?

Twenty-seven other states (including all in this region except Illinois, Iowa and Minnesota) have supported Idaho's appeal, saying in a brief that the federal Medicaid statute simply offers criteria for states to accept federal funds — and is not an enforceable preemption of state policy. In essence, they say, the issue is between the state and the federal agency that oversees Medicaid compliance.

The brief says that many other states have been subject to "unwarranted" litigation due to the "misguided" interpretation of the Supremacy Clause.

In 2012, the Supreme Court heard arguments in *Douglas v. Independent Living Center of Southern California*, which considered a similar issue. But the case was dropped when the federal government found California's Medicaid program to be in compliance. Four dissenting judges would have ruled that there is no private right to sue under the Supremacy Clause.

But if the U.S. Supreme Court upholds the lower federal court's ruling in the current case, legal experts expect more such lawsuits to follow — not only over Medicaid, but potentially other cases involving an implied private right of action against states based on federal laws and the Supremacy Clause.

The Council of State Governments, along with the National Governors Association, filed an amicus brief with the Supreme Court in *Armstrong v. Exceptional Child Center* expressing concerns about the precedent of solving such disputes between states and the federal government in the courts.

"That is a recipe for increased federal-state conflict and for frustration of state attempts to achieve joint state-federal goals in new and creative ways," the brief says.

Brief written by Kate Tormey, staff liaison to the Midwestern Legislative Conference Health & Human Services Committee. She can be reached at ktormey@csg.org.

Economic Development

Ohio study: State must do more to bring minorities, women into innovation economy

For more than a decade, in part through its groundbreaking Third Frontier initiative, the state of Ohio has been placing a greater emphasis on policies that nurture entrepreneurship and expand its technology-based economy.

But in a November 2014 study, an Ohio Board of Regents panel suggests that the state needs a new focus: finding a way to involve more individuals from underrepresented groups, including minorities, women and people from rural areas, in the innovation economy.

"Ohio still has a long way to go," notes Regent Patricia Ackerman, who served as chair of the board's Inclusive Competitiveness Subcommittee.

And Ohio certainly isn't alone. Across the country, women, blacks and Hispanics are underrepresented in STEM-related fields. (See accompanying table. STEM stands for science, technology, engineering and math and is often associated with jobs in the technology-based economy.)

"An array of intentional strategies must be designed and implemented ***yesterday*** to attract, connect and nurture the potential of target populations within the underrepresented groups," Ackerman says.

Examples of the under-representation in Ohio include data showing that:

- women's share of college degrees in engineering and the computer sciences is less than 20 percent, and
- of all bachelor's degrees in the STEM fields, only 6 percent are held by blacks and 2 percent by Hispanics.

To close these and other gaps, the Board of Regents' study highlights a number of the "intentional strategies" that the state could pursue.

Employment in STEM-related fields (2011)

	% of people employed	% of people employed in STEM field
Female	47.5%	25.8%
Male	66.9%	70.8%
Asian	5.5%	14.5%
Black	10.8%	6.4%
Hispanic	14.9%	6.5%

Source: U.S. Census Bureau

One idea, for example, is to improve outreach under Third Frontier: the state's $2.1 billion initiative that aims to expand university- and technology-led research and innovation. The Third Frontier Commission is already required to target minority and rural populations, but Ackerman questions the effectiveness of this outreach to date. One idea, then, would be for the legislature to conduct an audit; another would be to mandate that a percentage of Third Frontier funding be earmarked for outreach to underrepresented populations.

The Board of Regents' study also calls for continued or expanded state support for two existing programs.

The first is the Choose Ohio First scholarships, which awards colleges and state businesses with programs that recruit and retain students in STEM fields. Some of those programs specifically target underrepresented groups. (The Ohio General Assembly created the scholarships.)

The second is Believe in Ohio, which promotes STEM education and an entrepreneurial mindset among high school students.

It gives young people the chance to receive mentoring from professionals in the STEM fields, as well as to compete for awards and scholarships by creating their own STEM commercialization and entrepreneurship plans.

Brief written by Laura Tomaka, staff liaison to the Midwestern Legislative Conference Economic Development Committee. She can be reached at ltomaka@csg.org.

Agriculture & Natural Resources

Relaxed U.S. trade policy with Cuba could mean huge economic upside for region's farm producers

At a time when commodity prices are the lowest in years, agricultural producers have been looking for ways to increase demand.

One answer to the market problem, it turns out, could be just 90 miles away from the U.S. border.

That is because agriculture — a major Midwestern strength — stands to be one of the biggest potential beneficiaries of President Obama's plan to ease economic and trade restrictions with Cuba.

The island country has a population of 11 million people and imports 80 percent of its food, and for many years, political and agricultural leaders have recognized the potential value of the Cuban market.

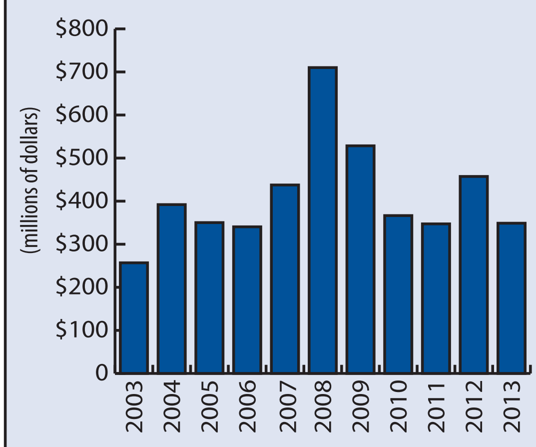
Back in 1999, for example, an Illinois delegation led by then-Gov. George Ryan went to Cuba and met with then-President Fidel Castro. One topic of conversation: the convenience and cost savings (compared to Cuba importing goods from other countries) associated with moving Illinois farm products by barge along the Mississippi River to the Gulf of Mexico for shipment to Havana.

Two years after Ryan's visit, the sale of U.S. agricultural commodities began when the U.S. Congress approved food sales, though with tight restrictions.

Those restrictions include a requirement that payments be in cash and made in advance (before shipping) through the use of third-party, nondomestic banks. These rules add costs and have priced certain products, such as U.S. wheat, out of the Cuban market.

Even so, since 2003, the United States has been the top supplier of food to Cuba. Sales of U.S. agricultural products to Cuba peaked at more than $710 million in 2008, with chicken, soybeans, soy products and corn topping the list of products. But while poultry sales have remained strong, grain sales have fallen because countries such as Brazil have allowed their grain to be bought on credit.

Value of U.S. agricultural exports to Cuba, 2003-2013



Source: U.S. Department of Commerce

A Texas A&M University study found that easing current trade restrictions would increase U.S. agricultural sales by $365 million annually. Most of that rise would be the result of more corn, soybeans and wheat going to Cuba.

These numbers, says Illinois Rep. Norine Hammond, helped lead the Illinois General Assembly to unanimously approve HR 185 in 2013. The resolution established a working group tasked with "improving Illinois business and trade exchanges with Cuba" and promoting a "more effective policy" between the United States and Cuba.

Paul Johnson, director of the group, says that "while the 11 million consumers in Cuba are relatively poor, liberalized rules for tourism and trade of their commodities should boost standards of living and demand."

Take the potential of increasing demand for U.S. wheat, for example. Because of the cumbersome banking requirements, most of Cuba's imported wheat comes from the European Union — more than 550,000 tons a year. If the rules are changed, European grain traders expect the United States to capture the entire wheat market. This would amount to 15 percent of the U.S. wheat crop.

Dry beans, peas, lentils and potatoes are also big parts of the Cuban diet. That creates opportunities for farmers in the northern tier of the Midwest as well.

President Obama's new approach addresses the regulations, rather than the laws, governing Cuban sanctions. He has relaxed travel rules so that U.S. firms will be able to train businesses and farmers, and has begun the process of removing Cuba from the State Department's list of sponsors of terrorism.

This, in turn, would remove a requirement that firms obtain a license from the Treasury Department to sell items to the Cuban government. Another expected change would allow the equipment used to produce food (rather than just food items themselves) to be sold to Cuba.

In addition, "cash in advance" will be redefined to mean "cash before title transfer," thus allowing U.S. companies to extend credit to the Cuban government or individuals.

Brief written by Carolyn Orr, staff liaison to the Midwestern Legislative Conference Agriculture & Natural Resources Committee. She can be reached at *corr@sarl.us*.

Midwest-Canada Relations

Despite trade rise under NAFTA, cross-border regulatory hurdles still hurting business, report says

In the 20 years since the North American Free Trade Agreement took effect, trade between the United States and Canada has tripled, but those gains have occurred despite ongoing — and often unnecessary — hurdles to cross-border business, according to a recent study by the Canadian Council of Chief Executives.

"The report is striking because it acknowledges that the NAFTA objective of a single market for goods and services hasn't been achieved," notes Christopher Sands, a senior fellow at the Hudson Institute.

Titled "Made in North America: A New Agenda to Sharpen Our Competitive Edge," the study offers several strategies to reach that objective.

One is to improve border operations so goods can travel more smoothly between the three North American countries. This is especially important to foster efficiency and growth in cross-border supply chains — small, mid-sized and large companies in the U.S., Canada and Mexico that make things together.

The auto industry is perhaps the most obvious example of this type of economic interconnectedness; car and truck components can cross the border six or seven times before a vehicle is completely assembled.

But getting these components across the border in a timely, seamless fashion remains a challenge. The three countries have been slowly chipping away at some of these delays, through the use of trusted-shipper programs (giving registered companies access to fast lanes) and electronic manifests that list the goods on a truck before it gets to the border.

U.S. trade with NAFTA partners, 1993-2013

Type of trade	1993	2013
Imports from Canada	$110.9 billion	$332.1 billion
Exports to Canada	$100.2 billion	$300.2 billion
Imports from Mexico	$39.9 billion	$280.5 billion
Exports to Mexico	$41.6 billion	$226.2 billion

Source: Congressional Research Service, "NAFTA at 20: Overview and Trade Effects," April 2014

The Canadian Council's study, however, says the promise of these initiatives has not yet been realized: "Many businesses complain that the trusted-trader programs ... demand significant investments but yield minimal benefit."

More information sharing (between the two governments and businesses) is needed to make these programs work better, the study's authors say.

Another strategy is to better align regulations, a move that Sands says is critical to making North America operate more like a single market.

"[It is] not because we want to deregulate and have a race to the bottom," Sands says, "but because there is a benefit if companies do not have to go through a lot of separate steps."

In fact, the U.S. and Canada are already in talks to harmonize regulations. For example, they are working on common safety standards for new vehicles as well as for the rail cars used to carry dangerous materials. And a joint regulatory approach to food safety could save time and money for producers and regulators.

Many of the report's recommendations focus on federal-led initiatives, but there also is a role for states and provinces. Improved border operations, for instance, are contingent on state and provincial governments making needed investments in infrastructure.

The report notes, too, the need for more skilled and trained workers. Many skilled trades require certification, but there currently are wide differences in how workers in these fields are trained and accredited.

"Work on standardization would lay the foundation for mutual recognition of trades and professions across North America," the report concludes.

Brief written by Ilene Grossman, staff liaison to the Midwestern Legislative Conference Midwest-Canada Relations Committee. She can be reached at *igrossman@csg.org*.

In most Midwestern states, moderate revenue growth will shape new annual, biennial budgets

As state policymakers begin a new year of budget-making, most in the Midwest will be doing so under fairly strong and stable fiscal conditions.

Revenue collection is up in nearly every state in this region; with only a few exceptions, rates of growth for fiscal year 2015 are estimated to be between 2 percent and 5 percent (see table below). In most states, too, similar increases in revenue are being used as a foundation for the new annual or biennial budgets being crafted during this year's legislative sessions.

Across the country, the situation for states is "moderately improving," the National Association of State Budget Officers says in its December 2014 "The Fiscal Survey of States."

For fiscal year 2015, general-fund spending across all 50 states is expected to grow 3.1 percent. That will mark the fifth straight year of increases after the revenue downturns and budget crises of 2009 and 2010. An improved fiscal outlook has also helped lead to tax cuts in many states, including Indiana, Michigan, Minnesota, Nebraska, Ohio and Wisconsin in 2014.

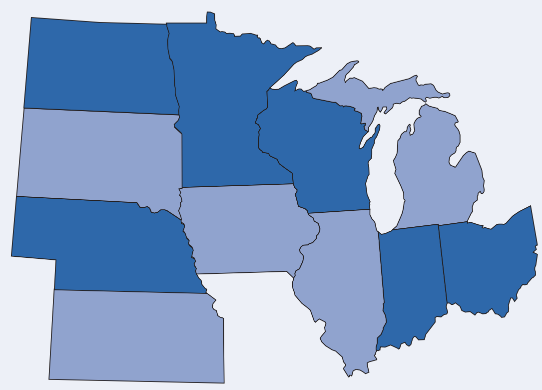
Still, most legislatures and governors are having to adjust to an era of less-robust growth. Over the past 35 years, increases in state budgets have averaged 5.5 percent per year, and states have not reached this figure for eight straight fiscal years.

Meanwhile, significant spending pressures remain, most notably in Medicaid. This public health-insurance program, funded by the states and the federal government, has been the fastest-rising line item in state budgets and now accounts to close to one-fifth of general-fund expenditures (see table in right-hand column).

A mix of increased spending demands and limited revenue gains means considerable fiscal challenges for states in the months ahead, the NASBO study concludes.

And in two Midwestern states, Illinois and Kansas, the challenges are especially difficult.

Annual vs. biennial budgeting in Midwest



State operates under annual budget cycle*

State operates under biennial budget cycle

* In Kansas, a biennial budget is used for some departments and agencies

Tough year ahead in Illinois, Kansas

On Jan. 1, Illinois' temporary increase in individual and corporate income taxes began to be rolled back. Those two changes in tax law will result in a revenue loss of nearly $2 billion in FY 2015 (equal to about 5 percent of total revenue for the state). The impact of this rollback becomes even more pronounced in FY 2016 — an estimated net decline in revenue of nearly $3 billion.

As a result, legislators and newly elected Gov. Bruce Rauner face some tough fiscal choices: extend the temporary tax increases in some way, find other means to raise revenue, or make up for the losses with budget cuts. According to *Crain's Chicago Business*, Rauner has asked state agencies to prepare their FY 2016 budgets with a 20 percent cut in spending.

In Kansas, general-fund revenues fell 10.8 percent between fiscal years 2012 and 2013 due in part to a series of legislated cuts to the state income tax.

State general-fund spending, by program area: 5-year trends show biggest changes occurring in Medicaid, higher education

Program area	FY 2014	FY 2010	Percentage-point change
K-12 education	35.0%	35.7%	-0.7
Medicaid	**19.1%**	**15.4%**	**+3.7**
Higher education	**9.4%**	**12.1%**	**-2.7**
Corrections	6.8%	7.2%	-0.4
Public assistance	1.4%	1.9%	-0.5
Transportation	0.9%	0.8%	+0.1
Other	27.4%	27.0%	+0.4

Source: National Association of State Budget Officers, "The Fiscal Survey of States"

More recently, a $280 million gap in the current budget had to be closed due to a downgrade in FY 2015 revenue projections. In December, Gov. Sam Brownback announced three strategies to fix the deficit: a reduction in state pension contributions, a 4 percent cut in funding for state agencies, and a transfer of money from various funds (including the state's highway fund) to the general fund.

The Legislature will have to address an even larger FY 2016 budget deficit during this year's session.

"Without new revenue, lawmakers will need to cut approximately $669 million just to keep the general fund solvent in FY 2016," former Kansas budget director Duane Goossen writes in his blog *kansasbudget.com*.

"That would be more than a 10 percent cut to every single item [in the budget], on top of the cuts the governor already imposed in FY 2015."

Another factor in Kansas is an ongoing legal challenge to the state's funding of K-12 education. In late December, a state District Court ruled that the state's school-finance system was "constitutionally inadequate."

Revenue picture in the Midwest: Yearly growth in most states between 2% and 5%

State	Summary of conditions and trends
Illinois	Early estimates for fiscal year 2015 predicted an overall revenue decline of close to $1.4 billion compared to FY 2014 figures. That 3.9 percent drop is due mostly to a scheduled rollback of a temporary increase in the income tax. (The state's flat rate was raised from 3 percent to 5 percent; it fell back to 3.75 percent on Jan. 1.)
Indiana	General-fund revenue is expected to grow between fiscal years 2014 and 2015, but not as much as previously thought. The latest forecast, released in December, predicts an increase of 2.3 percent. Earlier forecasts projected growth of more than 3 percent.
Iowa	If current projections hold, Iowa's revenue growth in fiscal year 2015 will be among the strongest in the Midwest. Revenue in the state's general-fund is expected to increase 5.7 percent between FY 2014 and 2015. That is a slight rise over previous revenue estimates for the current fiscal year.
Kansas	Between fiscal years 2013 and 2014, general-fund revenue dropped by 10.8 percent — due in part to income tax cuts made by the Legislature. Tax collections will rebound in FY 2015. The state's latest revenue estimates show an increase of 2.0 percent; previous forecasts had predicted growth of 5.7 percent.
Michigan	Unlike other Midwestern states, Michigan's fiscal year begins on Oct. 1. (It starts on July 1 in most states.) Preliminary year-end estimates for FY 2014 show that revenue in the state's two main funds (general and school aid) fell 1.5 percent from the previous year. But healthy revenue growth is predicted for FY 2015 — an increase of 4.6 percent.
Minnesota	Driven by strong income tax collections, legislators will have more revenue to work with this year as they craft the state's next biennial budget. The most recent forecast (released in November) estimates total revenue of $41.9 billion for fiscal years 2016 and 2017. That is an increase of 6.4 percent from the current biennium.
Nebraska	Over the next two fiscal years, revenue in Nebraska is projected to grow annually by about 5 percent. These estimates of growth, released in October, are higher than previous forecasts. In addition, revenue growth is expected to exceed 6 percent between fiscal years 2014 and 2015.
North Dakota	In the state with the nation's fastest-growing economy, revenue growth is expected to surpass 12 percent when the budget biennium ends on June 30. And looking ahead to the next two-year budget cycle, general-fund revenue is expected to increase 16.7 percent.
Ohio	During the first five months of fiscal year 2015 (July through November), collections for the state's general revenue fund were outpacing FY 2014 figures by 3.5 percent. One big driver of this growth has been a steep rise in sales tax collections. Compared to previous estimates for FY 2015, Ohio's total tax receipts are up 2.2 percent.
South Dakota	As part of his proposed budget for fiscal year 2016 (released late last year), Gov. Dennis Daugaard projects an increase in ongoing tax revenues (one-time tax receipts excluded) of 4.4 percent. Between FY 2014 and 2015, a more moderate increase, 2.0 percent, is expected.
Wisconsin	If current estimates hold, and without any changes in tax policy, tax revenues will grow by well over $1 billion in the state's next biennial budget: $392 million in fiscal year 2016 (2.7 percent increase) and $618 million in FY 2016 (4.1 percent increase). The rate of revenue growth from FY 2014 to 2015 is expected to be higher — 5.0 percent.

Source: CSG Midwest (using data collected from governor's offices, state budget offices, and legislative budget and fiscal offices)

Legislative immunity: An age-old, misunderstood protection

by Kate Tormey (ktormey@csg.org)

From time to time, a legislator makes headlines by invoking "immunity" when he or she is stopped by law enforcement. The news stories almost always bring up this question: Do lawmakers really have a "get out of jail free" card?

The answer is, almost always, "no." Most states have in their constitutions privilege for legislators, but the actual protections can be misunderstood by law enforcement, the public and lawmakers alike.

Legislative privilege has historical roots that date back to 17th-century Britain, says Steven Huefner, a professor at The Ohio State University. That tradition eventually took hold in the United States, but today, the immunity language in state and federal constitutions has very little relevance.

Capital Closeup

"It's a bit of a historical anachronism from when there existed a 'civil arrest' to detain people. We no longer even have that in any meaningful sense; if you're being arrested by the police, they have probable cause [for criminal arrest]," he says.

But the provision still grabs headlines today. In Minnesota, for example, controversy arose last year over "legislative immunity" cards carried by lawmakers. A bill was introduced to clarify that certain crimes, including drunken driving, are not covered by the state Constitution's privilege clause.

The Minnesota attorney general issued an opinion stating that legislators already are not immune from arrest for any criminal activity, making the bill unnecessary. (The secretary of state, who was in charge of issuing the cards, eventually decided to stop providing them.)

"Legislative privilege was never meant to provide an immunity against criminal conduct," Huefner says. "It was to prevent [members of the Parliament] from being harassed by the crown and court."

But while legislators usually are not immune from arrest, there is a form of privilege that Huefner says is "underappreciated" and far more relevant: protection against being questioned about statements made or actions taken while carrying out their duties.

Huefner spent six years in the U.S. Senate advising members about their rights under the "speech or debate" clause of the U.S. Constitution. Forty-three states have similar provisions in place, he says.

The general goal of such provisions is to protect legislators from having to answer questions in a court of law about what they have said or done in the course of their work.

"They allow legislators to do their work without fear that a hostile executive or judicial branch, or a constituent, is going to make a particular legislator defend their work in court," Huefner says, "or be faced with a subpoena to respond to hostile questioning."

Without such protections, for example, lawmakers could be subject to litigation from a constituent with grievances over a particular bill.

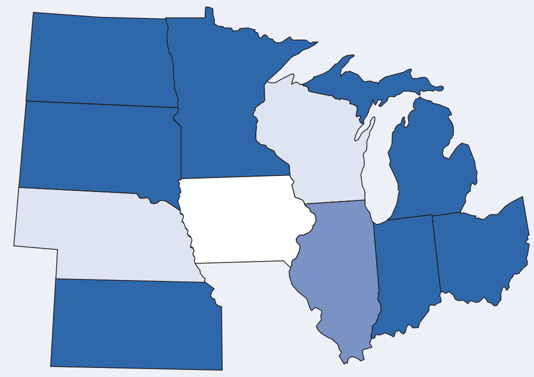
"That is an untenable way for us to govern," according to Huefner.

At the federal level, the U.S. Constitution has been interpreted to protect statements made not just on the chamber floor, but during committee hearings, speeches and other essential legislative work.

States' constitutional "speech and debate" protections vary in scope, largely depending on the era in which they were written (see table).

Even in states with similar constitutional language, Huefner adds, differences can arise in how the courts interpret these legal protections for legislators.

'Speech or debate' protections for legislators in state constitutions



- Constitutional language is essentially identical to the U.S. Constitution's speech and debate clause
- Constitution gives immunity for words spoken or used during debate
- Constitution protects individuals from being liable for legislative statements but not necessarily from being compelled to testify
- No constitutional language granting legislative privilege

Source: Professor Steven Huefner, The Ohio State University

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

QUESTION OF THE MONTH

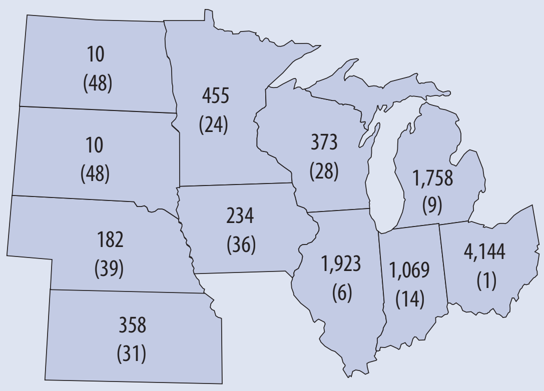
QUESTION: What laws do states have in place to regulate the sale of scrap metal?

As the value of copper, steel, scrap iron and other metals has risen over the past several years, so too has the number of cases involving scrap-metal theft. This, in turn, has led legislators in states such as **Michigan**, **Minnesota** and **Ohio** to pass measures that aim to crack down on scrap-metal thieves.

Under Michigan's HB 4593, for example, scrap-metal sales valued at $25 or more are no longer eligible for instant cash; sellers must instead receive payment in the mail. The bill was signed into law in April 2014. Thieves may still be able to sell scrap metal by going to a number of different dealers, but the process will at least be much more time-consuming. The measure, too, allows larger sales to be traced because the seller must provide identifying information. And purchasers must take photos or video and maintain records, in the event of a later investigation.

Statewide reporting systems can help deter thieves who go from dealer to dealer to sell scrap metal. In Minnesota, dealers must now file a daily report of all transactions using an automated system (HF 1214). They also post a sign informing "all patrons that transactions are reported to law enforcement daily."

Metal-theft insurance claims in Midwest, 2011-13 (U.S. rank)



The U.S. total (including the District of Columbia) was 41,138.

Source: National Insurance Crime Bureau

As the result of legislation (SB 193) passed in Ohio in 2012, scrap-metal dealers can no longer accept certain metals such as burned copper wire. This was a response to instances in which thieves would take down the wiring used in communications systems, burn the plastic covering off the copper, and then sell the wire.

Here is a summary of some of the more common state strategies used to help prevent scrap-metal theft.

- Require purchasers to see a valid ID from the seller and to get proof of ownership. The seller may also have to provide fingerprints.
- Limit the size of the cash payment to a seller for some or all scrap metals, cap the number of transactions by a seller, or require a waiting period before a seller receives payment.
- Require scrap-metal dealers and recyclers to maintain records of their purchases and report transactions to an electronic database.
- Require scrap-metal recyclers and dealers to be licensed or registered.
- Increase penalties for scrap-metal theft and establish enhanced penalties for dealers who knowingly accept stolen government property.

Article written by Ilene Grossman (*igrossman@csg.org*), CSG Midwest assistant director. Question of the Month highlights an inquiry sent to the CSG Midwest Information Help Line. To request assistance, please contact us at *csgm@csg.org* or 630.925.1922.

CONTINUED FROM PAGE 1

States mull new wholesale sales tax on gas as well as increases in per-gallon tax

fewer miles are being driven, and in cars that are more fuel-efficient.

"It's not producing the revenue that it did 10, 20 or 30 years ago," says Richard Auxier of the State & Local Finance Initiative, a program of the Urban Institute and Tax Policy Center.

Search for a more permanent fix

In a November 2014 study, Auxier documents the demise of the per-gallon gas tax. On a per-capita basis, U.S. state and local motor fuel taxes fell 10 percent from 1993 to 2011 (adjusted for inflation); in comparison, total state and local tax revenue increased 21 percent over that same time period.

And as a percentage of the price of gasoline, state and federal taxes have fallen from 28 percent of the total (in 2000) to 12 percent (in 2013). That leaves legislators with one of three options, Auxier says: raise motor fuel taxes, tap into other revenue sources (tolls and sales taxes, for example), or don't fully address their state's road and bridge needs.

The wholesale tax, then, is one way to either raise more revenue immediately, or to at least allow road funding to increase over time.

Bowman says such a tax will receive serious consideration in Iowa this year, but he notes that there are potential downsides. Over the past year, for example, the price of gas has dropped, meaning state revenues for roads would have fallen with a lower wholesale price. On the flip side, dramatic increases in the price could lead to sticker shock at the pump.

"We would need some type of floor [to prevent these fluctuations]," Bowman says.

The Michigan proposal includes such a provision. For example, it would not allow the new levy to increase by more than 5 cents per gallon above the rate of inflation. It also protects against revenue declines due to falling wholesale gas prices.

How to increase transportation funding: Policy options for states

✓ ***Raise the cent-per-gallon tax on the purchase of gasoline and diesel:*** This is the traditional source of revenue for roads and bridges, but it has not kept pace with states' transportation needs and construction costs. One idea would be to allow for automatic increases in the tax based on changes in inflation.

✓ ***Adopt a tax on the wholesale price of gasoline and diesel:*** This type of tax allows state revenue to increase with rises in gas and diesel prices. It is already part of Nebraska's road-funding formula, and Michigan will replace its current per-gallon tax with this type of tax if voters approve a ballot proposal in May.

✓ ***Increase other transportation-related fees or taxes:*** Other common revenue sources for transportation include: sales taxes on fuel purchases; sales taxes on car rentals and vehicle purchases; registration, license and title fees; and tolls.

✓ ***Tap into other general sources of state revenue:*** In recent years, Kansas, Nebraska and Wisconsin legislators have directed a portion of general sales-tax revenue to highway projects and other state infrastructure needs. Michigan's $1.2 billion transportation plan (to be decided by voters in May) calls for a 1-cent increase in the sales tax.

✓ ***Explore newer funding models:*** One idea is to explore more public-private partnerships (an example of this is the New International Trade Crossing connecting Detroit and Windsor, Ontario). Another is to charge motorists based on vehicle miles traveled (VMT). Later this year, Oregon begins a full-fledged, voluntary VMT program.

In addition to adding a wholesale tax, South Dakota's initial legislative proposal still counts on the state's traditional revenue source for roads. Starting in 2017, for example, the per-gallon gas tax would increase by 2.5 percent annually over a 10-year period.

To provide more funding for South Dakota's local roads, license plate fees would be increased by 10 percent. In addition, the interim committee's draft legislation calls for a new 7-cent tax on dyed diesel fuel (used in farm and construction equipment).

Those local roads are essential to the state's No. 1 industry: agriculture.

"If you produced it, a road moved it," Vehle often says in his speeches to rural audiences.

Local roads and bridges are currently in much worse shape than the state highways, Vehle says. For example, more than a quarter of the county bridges in South Dakota have been deemed structurally deficient; the price tag to fix them is well over $200 million.

To begin addressing this need, the interim committee suggests establishing a bridge fund. To qualify for funding, counties would need to impose a "wheel tax" (most already do) and have a road and bridge plan in place.

In Iowa, other road-funding proposals have included raising the per-gallon gas tax or applying the state's sales tax to gas purchases. Bowman says he is keeping an open mind to all of these funding alternatives, but with an eye toward finding a permanent solution by the time the legislature adjourns for 2015.

"My hope is we have something that keeps us from having to come back two or three years later and say, 'We need more.'"

A CSG WELCOME TO THE MIDWEST'S NEW STATE LEGISLATORS

5 WAYS TO MAKE THE MOST OF YOUR MEMBERSHIP IN THE COUNCIL OF STATE GOVERNMENTS

Network with colleagues while learning from prominent policy experts and speakers at one of our regional or national meetings. Please mark your calendar to join us from July 12-15 in Bismarck, N.D., for the family-friendly Midwestern Legislative Conference Annual Meeting — the only conference designed for and by legislators serving the 11-state Midwest. The 2015 CSG National Conference will take place Dec. 10-13 in Nashville, Tenn. For more information, visit www.csgmidwest.org and www.csg.org. CSG also regularly holds policy academies and in-state workshops for legislators on issues ranging from education, health and transportation policy to Great Lakes protection and economic development.

Hone your leadership skills by participating in the Bowhay Institute for Legislative Leadership Development, or BILLD, the premier program for Midwestern state lawmakers in their first four years of service. Applications (available at www.csgmidwest.org) for this year's program are due April 8. The program will be held Aug. 21-25 on the campus of the University of Wisconsin.

Read our publications to learn how other states are working to address critical policy issues. Each month, you will receive *Stateline Midwest*, a newsletter produced by CSG Midwest that reviews policy trends and innovations in the region's capitols. You will also receive *Capitol Ideas*, our bimonthly national magazine covering state governments and the people who serve in them.

Take advantage of online resources such as the CSG Knowledge Center (knowledgecenter.csg.org), a comprehensive collection of state-by-state data, policy briefs, articles and information on trends in state government. The Knowledge Center houses CSG's "The Book of the States," considered the "encyclopedia" of state government. Policy research done by CSG Midwest is also available at *www.csgmidwest.org*.

Turn to CSG for customized research assistance through our Information Help Line. We regularly answer research questions on a wide variety of topics. For assistance, call us at 630.925.1922 or email CSG Midwest at csgm@csg.org.

Many states appear ready to revamp transportation funding in 2015; long-term fixes at federal level less likely

CSG policy expert Sean Slone previews the year ahead in U.S. state legislatures and in Washington, D.C.

After a slow year in 2014, discussion and action on transportation funding is expected to ramp up this year in state legislatures across the country.

Sean Slone, the program manager for transportation policy at The Council of State Governments, has been reporting on the twists and turns in this critical policy area for CSG since 2008.

Below, he answers questions about the year ahead, and explains why state policymakers should brace for more gridlock in the nation's capital over federal transportation policy.

"These state activities aren't necessarily the result of federal uncertainty or the expectation that the federal transportation [program] might one day go away. States have acted expecting they will continue to have a strong federal partner."

Sean Slone, CSG program manager for transportation policy

Q: What kind of transportation funding problems and shortfalls are we currently seeing at the federal level?

A: Congress last summer approved an extension of the 2012 surface transportation authorization legislation known as MAP-21 and patched up the depleted federal Highway Trust Fund with $10.8 billion from the general fund and other available funds.

But it was a short-term fix (one of 21 short-term measures over the last several years) that is expected to allow states to reimburse contractors for work on transportation projects only through May (just as the construction season begins in many states).

Beyond that and if nothing is done, the trust fund faces a $160 billion deficit over the next 10 years just to maintain existing programs. The Congressional Budget Office has estimated that a new six-year authorization bill, which was at one time the norm, that keeps spending at FY 2014 levels would cost $330 billion and require at least $100 billion of additional revenue.

Q: What can states expect from the U.S. Congress with regard to transportation funding?

A: Despite low gas prices of late, I think it's unlikely we'll see Congress approve a gas tax increase. The federal gas tax was last raised in 1993 and has never been adjusted for inflation, which has led to the predicament we're in with the Highway Trust Fund.

But the chairman of the House Transportation and Infrastructure Committee, Rep. Bill Shuster, recently ruled out a gas tax increase or another kind of user fee to pay for a new authorization bill.

Despite some pockets of support in Congress, an increase doesn't appear to have widespread support. And the Obama administration has never gotten behind a gas tax increase. A more likely scenario that some have mentioned is that a longer-term transportation authorization bill could emerge as part of a larger corporate tax reform deal.

But the chances of a new Congress just getting their sea legs pushing a major package like that through before May also seem slim. So come May, we could see another short-term, temporary extension of indeterminate length to buy time.

The problem is, the further we get into 2015, the politics of the 2016 election starts to play a role and could make a long-term bill even more difficult.

There are also those on Capitol Hill who would like to see the federal government scale back its role in transportation and largely leave up to states the jobs of raising the revenues and deciding what to spend them on. It's unclear yet whether that approach will gain additional support.

Q: Looking broadly across the country, how have states fared in trying to address their own funding shortfalls in transportation?

A: After a couple of years of relatively little activity, 2013 was a busy year for states when it comes to transportation funding. Six states (Virginia, Maryland, Massachusetts, Vermont, Pennsylvania and Wyoming) approved major transportation funding revamps and many others either produced smaller initiatives or tried and were ultimately unsuccessful.

By comparison, 2014 was a quieter year because of elections and a variety of local issues. It should be noted that in many cases, these state activities we have seen aren't necessarily the result of federal uncertainty or the expectation that the federal transportation program might one day go away entirely.

States have acted expecting they will continue to have a strong federal partner. They have acted because they wanted to address their own backlogs of projects, because they were tired of only being able to pay for debt service on past projects, because they wanted to take advantage of economic development opportunities to move their states and communities forward or for a variety of other reasons.

Q: What have been some of the common state strategies to raise more revenue?

A: We've seen everything from more or less straight-up gas tax increases to more complex everything-but-the-kitchen-sink approaches involving swapping one tax for another and incorporating a variety of other strategies.

To get those passed, it helps to have the governor and legislative leaders become champions for the legislation. It helps to make the benefits known to the public of increased infrastructure investment and to make them aware of the local projects that can be funded in their communities.

And it helps to build coalitions of diverse stakeholders who can get behind the effort.

Q: What kind of year do you expect in state legislatures?

A: If the early indicators are correct, 2015 could see a large number of states take action on transportation funding. You have a number of states that have gone through extensive planning processes over last summer with study committees and special commissions to come up with recommendations for lawmakers to consider this year.

You've got a number of states that have been in the conversation for the last several years and that now appear poised to move forward in 2015.

Q: In some of our Midwestern states, we've seen legislatures turn to the sales tax as a way to raise more revenue for transportation. Is this occurring nationwide?

A: Sales taxes are certainly a part of the conversation on transportation funding around the country, but especially in the Midwest.

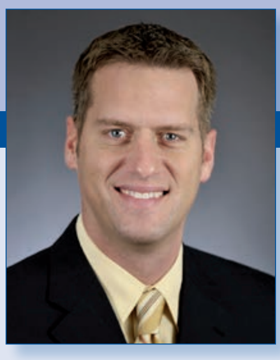
A 5 percent sales tax on fuel purchases is one of the things being talked about in Iowa. Gov. Mark Dayton in Minnesota has proposed a wholesale sales tax on gas. Gov. Scott Walker in Wisconsin has suggested a sales tax might be a more stable transportation funding mechanism for his state. On the other hand, Governor-elect Bruce Rauner in Illinois has argued that raising the state sales tax would be regressive and hurt competitiveness.

The package agreed to by the Michigan Legislature, and that will go to the voters this May, involves both increasing the retail sales tax and applying a wholesale percentage tax on gas while eliminating the current fixed sales tax on gas.

There are a variety of ways to employ a sales tax to help fund transportation, and they all have their potential advantages and disadvantages. You can apply a sales tax to gas, you can draw on revenues produced by broad-based retail sales taxes, or you can allow localities to pass local-option sales taxes to fund local projects.

In transitioning to a sales tax, policymakers hope to create a more predictable revenue source that can more accurately reflect inflation and shield them to some degree from the declining revenues due to declines in driving that gas taxes have faced.

The logic of using revenues from a broad-based sales tax is that you can capture some of the folks who don't drive but still benefit from the transportation system. One of the problems many transportation analysts have with sales taxes is that they are less transparent and less of a true user fee than the per-gallon gas tax. Most Americans already don't have a good understanding of how much they pay in gas taxes, where that money comes from and where it goes. Sales taxes would seem to make that picture even hazier.



Minnesota Speaker Kurt Daudt

Continuing a quick rise to leadership, Daudt takes on top post; goals include tackling achievement gap, attracting high-wage jobs

by Kate Tormey (ktormey@csg.org)

When Kurt Daudt arrived in St. Paul as a freshman legislator, so many things seemed totally new.

But many things seemed familiar, too. He'd already spent more than a decade serving in local government in his district, about an hour north of the Twin Cities. He says that experience was a big factor in his election as assistant majority leader — in his first term.

And Daudt soon received another promotion, this time to minority leader in just his second term, the first Minnesota lawmaker to do so in more than 100 years. But he didn't stop there: Daudt is now speaker of the Minnesota House, after Republicans won majority of the chamber in November. At age 41, he's the first speaker since the 1930s to assume the role of speaker in his third term.

Daudt says that some of his colleagues were likely surprised by his quick rise to leadership, especially given his young age. (In fact, one of Daudt's fellow lawmakers had been his teacher in high school.)

But he works to make sure his age and relatively short tenure aren't an obstacle to doing his job well.

"I joke with people that one of the bad things [about being speaker this quickly] is that I don't have the institutional knowledge of the legislature; but the good side is that I don't have the institutional knowledge of this place," he says. "I am not bound by history or stuck on having to do something because we have always done it that way."

Throughout his career in public service, Daudt says he's relied on the work ethic that he developed growing up on a family sheep farm. After attending the University of North Dakota in hopes of becoming an airline pilot, Daudt returned home to take over his grandparents' farm.

Daudt has drawn, too, upon on his experience as a local elected official at the township and county levels, where he dealt with everything from rural roads to administering human-services programs.

"When I came into state government, I quickly remembered that sensation that you can't know everything about everything," he says. "You have to learn really quickly who you can trust and who you can't, and how to process information in a way you can make a decision about it."

In his first term, Daudt's interests drew him to welfare reform. He sponsored a bill to prevent electronic benefit cards from being used at casinos or to purchase alcohol or tobacco. In the beginning, Daudt says, the bill was quite controversial; but he is proud of the bipartisan compromise that was reached.

As speaker, Daudt will miss having committee assignments that offer him the chance to work on specific policy issues — but he does look forward to tackling a number of "big picture" issues as leader of his chamber. Last month, CSG Midwest interviewed Daudt about his goals and priorities for this session. Here are some excerpts from the interview.

Bio-sketch: Speaker Daudt

- ✓ elected to Minnesota House in 2010
- ✓ previously served 12 years in township and county governments
- ✓ served as minority leader last biennium; first lawmaker in more than 100 years to hold position during only second term in office
- ✓ first third-term legislator to serve as speaker since 1930s
- ✓ represents district where he was raised (about an hour north of Twin Cities)

Q: You've said that as speaker, you hope to shift how your chamber looks at policymaking. What is your approach?

A: It has long been a frustration of mine how the legislative process works. ... Legislators show up on the first week of session and they introduce solutions in bill format, then they spend five months trying to convince you that's the solution to the problem. But no one really starts with the problem organically (what causes the problem? how did we get here?) then looks at all the possible solutions to decide the best way to navigate out of that problem.

Often, we become reactive instead of proactive; we respond to what special interest groups think we should do instead of doing what's right for Minnesotans. ... I want to try and encourage and inspire people to circle themselves around the problems Minnesotans care about and try to find the best way to solve them.

Q: You're now the leader not just of your caucus but of the entire chamber. How will you approach your new job description?

A: As long as we all focus on solving problems, I think that takes the pressure and intensity off whether that Republican is right and that Democrat is wrong or vice versa. I hope we can come to the table together to solve those problems really honestly. It's not easy to do because there is so much pressure from outside groups, and they donate a lot of money to campaigns, which makes it particularly difficult.

I am not going to have all of the answers. I am someone who is very collaborative. I want to get all of the smartest people in the room, regardless of what party or geographic area they're from, or whether they are a man or a woman. I don't care about any of that. I want the people who are passionate about these issues working on them.

We all make immense sacrifices to do what we do: low pay, long hours and time away from home ... time away from your job and making less money because you're doing this. I want to make sure this is worth it for people. It's worth it when you feel you are making a difference and working on things you really care about. ...

I know I'm a little optimistic in my hope to change how the legislature functions, but you know what? If you don't try you're certainly not going to be successful.

Q: Addressing Minnesota's achievement gap is one of your top priorities. Can you talk about why you're so passionate about the issue?

A: We have a great education system and great educators and schools, but for some reason we have the highest, or the second highest (it varies from year to year) achievement gap in the country. What that means is that our lower-income and minority students are not getting the same education as our white and middle- and higher-income students are getting. To me, that is absolutely a disgrace.

I have become pretty passionate about this issue and it's one that I want to tackle over the next two years. The key is finding really good bipartisan solutions, and that is one of the great things about this issue. It has to be bipartisan because number one, we have divided government in Minnesota right now. Number two, the problem is biggest in Democratic districts — primarily the Minneapolis and St. Paul areas — so we really need to have buy-in from those members.

Q: In November, Minnesota Management and Budget forecast that the state will have a $1 billion surplus next year. How does that affect your plans for the coming session?

A: It is good news, but there are mixed messages in that news. ... About three-quarters comes from expenditures being lower than expected; only about a quarter comes from revenues being higher than expected.

And for the first time in 10 forecasts, or five years, they downgraded the revenues for the next biennium — by about $400 million. We hope that that's not a downturn in the economy, because we've had very steady economic growth coming out of the recession. Gas prices have plummeted even more since that November forecast, and we think that will have a very good stimulating effect on the economy, as well as leaving more money in family budgets to spend, resulting in higher sales-tax revenue.

Q: How will you measure 'success' in the coming biennium?

A: My hope is that we can get a good budget passed and work to help the economy grow. ... But I look at things beyond a two-year cycle [even though] our default is to look at things in two years. We owe it to ourselves and to Minnesotans to think longer term: where do we want to be 20 years from now, and does this [policy] help us move in that direction?

I know it's hard to do that in a state where the majority in the House has flipped back and forth [in each of the past four] election cycles. You tend to see things go different directions every two years, and I hope to get away from that by encouraging folks to bring forward solutions that can get broad bipartisan support.

Building better incentives

Indiana joins rising number of states in scrutinizing tax incentive programs to ensure they actually drive economic development

by Indiana Senate Majority Floor Leader Brandt Hershman (Senator.Hershman@iga.in.gov)

After the Great Recession, many states were forced to take a fresh look at their financial practices. This includes Indiana, which has used this opportunity to make balanced budgets, healthy financial reserves and a pro-growth tax climate part of our state's identity.

Indiana's renewed commitment to fiscal responsibility has created ideal conditions for economic development and afforded our state the ability to invest in public services such as education and infrastructure that spur further growth.

As chair of the Senate Committee on Tax and Fiscal Policy, one of my top priorities has been encouraging growth through a simpler, more transparent tax system. To achieve that goal, I've advocated that the state place heightened scrutiny on the tax incentives we offer, so that the legislature can make sure Hoosiers are getting good results from the policies we've enacted.

I've heard from people who say Indiana should pull back on tax incentives, while others want to see Indiana offer more of them to compete with neighboring states.

A common-sense, data-driven approach

Our state's approach to date reflects Hoosier common sense: We recognize that some financial incentives for employers are necessary and effectively help the economy, but we have been deliberate in establishing those incentives.

Still, any tax incentive can outlive its usefulness. Policies that were once effective in encouraging growth or attracting jobs could lose their appeal due to changes in the economy. The only way to know for sure is to be data-driven and vigilant.

In 2012, the Indiana General Assembly passed a law calling for Indiana's Commission on State Tax and Financing Policy to study all income tax credits during the years 2012 to 2013. As a result of this study, lawmakers were able to eliminate nine ineffective, underutilized tax incentives during the 2013 legislative session.

> A new law in Indiana creates a permanent, cyclical study of all of the state's economic development incentives. This review will include all of the benefits claimed, the economic return on investment, and the policy goals of each tax incentive.

This was a common-sense, data-driven initiative that served as a way for Indiana to determine which tax incentives were actually helping Hoosiers and employers and which were essentially ineffective.

Due to the benefits of this type of study, Indiana enacted a law during the 2014 legislative session creating a permanent, cyclical study of all of Indiana's economic development incentives.

This review is required to include the amount of benefits claimed, the economic return on investment, and the policy goals for each tax incentive.

The motivation behind this legislation is not to raise taxes by eliminating incentives, but instead to create revenue-neutral reform that offsets eliminated incentives with smarter ones or across-the-board rate cuts.

My advice to advocates of revenue-neutral tax reform in other state legislatures is that you must earn and maintain the public's trust, verifying that you're not seeking to raise taxes.

Indiana's strong reputation as a taxpayer-friendly state has aided our efforts in reviewing and streamlining our tax system. In recent years, we've capped property taxes, eliminated the inheritance tax, and reduced income taxes for individuals and corporations.

This track record helped instill trust in legislators and the decisions we make on behalf of Hoosiers.

Be prepared for pushback

Of course, when discussions arise about the tactful elimination of state tax exemptions, there will be some pushback.

For example, during the 2014 session, I proposed a bill to phase down Indiana's corporate income tax rate to 4.9 percent — the second lowest rate in the nation. In conjunction with this proposal, I suggested eliminating a handful of Indiana's tax exemptions, though the tax cut would have outweighed the revenue gain from the exemption eliminations.

This was not well received by some groups that benefit from the current exemptions. For example, colleges lobbied fiercely to keep the College Contribution Tax Credit, even though there's little evidence that it stimulates more giving to colleges.

Ultimately, Indiana's strong fiscal position allowed us to reduce the corporate income tax even without the offset from eliminating exemptions.

This example shows that the easy part is reviewing tax incentives and exemptions to identify the excess. Reforming the system of incentives is the difficult job. Even in a state philosophically inclined to tax reform, overcoming the entrenched beneficiaries of tax incentives is an uphill battle.

However, in the future, I will continue to support proposals that attempt to rid Indiana of ineffective and unused tax incentives.

I believe that Indiana is on the right track in carefully studying and considering our already modest system of tax incentives. This legislation is just one example of the many improvements Indiana has made to our tax system to entice employers and better serve all Hoosiers.

Indiana Sen. Brandt Hershman, a Republican from Buck Creek, was first elected in 2001 and currently serves as majority floor leader.

Three strategies for successful evaluations of tax incentives

More and more states are realizing the importance of evaluating their tax incentives for economic development. The Pew Center on the States, which has studied the issue in depth, has identified three key strategies for successful evaluations:

✓ ***Develop a schedule:*** Regular evaluation of tax-incentive programs helps identify which ones are effective, and which are not working for a state. According to Pew, frequency of evaluation must balance the need for up-to-date information with the time required for rigorous analysis. Indiana, for instance, passed legislation in 2014 under which it will evaluate its incentives every five years.

✓ ***Measure the results:*** Rigorous evaluations help states determine whether the incentives actually encourage businesses to create jobs and make investments that otherwise would not have been made. They also measure how the incentives affect the broader state economy, not just the firms getting them. According to Pew, it is crucial that evaluators have experience with program evaluation or economic analysis and the ability to make impartial, nonpartisan policy recommendations. In Indiana, the General Assembly's nonpartisan research staff will perform the evaluations, while other states might place the responsibility in the hands of a university research center or the state department of revenue.

✓ ***Inform policymakers:*** The main reason for evaluating tax incentives is that it helps policymakers make more-informed decisions and ultimately improve economic development policy. Indiana, for example, is among the states that will hold legislative hearings to discuss the evaluation results and make policy recommendations based on them.

Submissions welcome

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

CSG will again deliver vital leadership training to state officials in 2015

BILLD, a leadership program for newer legislators from the Midwest, has trained close to 700; many graduates are now leaders in their legislatures

Each summer, a select group of Midwestern legislators gathers in Madison, Wis., to take part in the only leadership training program designed exclusively for the region's newer lawmakers: the Bowhay Institute for Legislative Leadership Development, or BILLD.

Applications are now available for the 2015 Bowhay Institute, which will be held Aug. 21-25.

The five-day program includes a mix of sessions on public policy, professional development and leadership skills. These sessions are led by nationally renowned policy experts, legislative leaders from the Midwest, and specialists in areas such as media training, consensus building and time management.

Close to 700 regional lawmakers have now completed the 21-year-old leadership program. Many BILLD graduates have gone on to hold key leadership positions in their legislatures; others are now serving in the U.S. Congress and in other state government positions.

The highly interactive curriculum is designed for legislators in their first four years of service. Another important aspect of BILLD is the opportunity it affords participants to meet and work with lawmakers from across the region.

CSG Midwest conducts the annual program in partnership with The Robert M. La Follette School of Public Affairs at the University of Wisconsin-Madison.

Applications for this summer's program are due April 8. They are available at *www.csgmidwest.org.*

A bipartisan committee of legislators from 11 Midwestern selects each year's class of BILLD Fellows and also oversees the program.

The BILLD Steering Committee is led by two co-chairs, Indiana Rep. Ed Clere and Ohio Sen. Cliff Hite, and two co-vice chairs, Minnesota Sen. Roger Reinert and Nebraska Sen. Kate Sullivan.

BILLD checklist: Things to know

- ✓ the only leadership program designed exclusively for newer state legislators from the Midwest (in their first four years of service)
- ✓ close to 700 graduates, including many now in key legislative leadership positions
- ✓ competitive application process; deadline to apply is April 8
- ✓ program will be held Aug. 21-25 in Madison, Wis.

Toll Fellows, CSG's national leadership program and "intellectual boot camp," includes participation from rising leaders in all three branches of state government

Applications are also now available for Toll Fellows, The Council of State Governments' longstanding leadership program.

Named in honor of CSG's founder, Henry Wolcott Toll (a state legislator from Colorado from 1922 to 1930), the Toll Fellowship Program is one of the nation's premier professional-development programs for state government officials.

The intensive, six-day "intellectual boot camp" is for emerging leaders in state executive, legislative and judicial branches across the country.

This year's program will be held Aug. 28-Sept. 2 in Lexington, Ky.

The program's agenda includes a lineup of dynamic speakers and sessions designed to stimulate personal assessment and growth while providing networking and relationship-building opportunities.

While each year's program is unique, previous programs have included sessions on leadership personality assessment, media training, crisis management, appreciative inquiry, adaptive leadership and much more.

Past graduates have gone on to serve as governors, secretaries of state, chief justices, leaders of state houses and senates, and members of the U.S. Congress.

Toll Fellows are chosen by a panel of program alumni in a bipartisan competitive selection process; 12 applicants are chosen from each of CSG's four regions.

Applications are due April 15 and available at *www.csg.org/leadershipcenter*.

Toll Fellows checklist: Things to know

- ✓ each Toll class includes 48 of the nation's top officials from the executive, legislative and judicial branches of state government
- ✓ graduates have gone on to serve as governors, as chief justices and as members of the U.S. Congress
- ✓ competitive application process; deadline to apply is April 15
- ✓ program will be held Aug. 28-Sept. 2 in Lexington, Ky.

Nebraska Sen. Beau McCoy now CSG's chair-elect

Nebraska Sen. Beau McCoy will serve as chair-elect for The Council of State Governments in 2015 and is in line to become next year's CSG chair.

He joined the leadership rotation after fellow state legislators chose him to become a national leader in CSG, the only organization serving all three branches of U.S. state governments.

The nonpartisan, regionally based organization's leadership structure includes a mix of state legislators and governors. Along with Sen. McCoy, current officers are Nevada Gov. Brian Sandoval, CSG president; New York Sen. Carl Marcellino, CSG chair; and Nevada Sen. Kelvin Atkinson, vice chair.

CSG's services and activities include leadership development, assistance with interstate compacts, federal advocacy on behalf of states, and interstate policy training and research.

Nebraska Sen. Beau McCoy

In 2014, McCoy served as chair of the Midwestern Legislative Conference, a regional association of all legislators from the 11-state Midwest. (Four Canadian provinces are affiliate members.) CSG Midwest provides staff support for this regional group, which in 2015 will be led by North Dakota Sen. Tim Flakoll.

McCoy has been a member of the Nebraska Unicameral Legislature since 2009.

CSG's mission and values

- "champion excellence in state government for the common good"
- pursue the priorities of member states
- be nonpartisan and inclusive
- engage leaders from all three branches of government
- have a regional focus, national presence and global reach
- be a respected and trusted source for best practices and policy expertise
- convene leader-to-leader interactions and foster leadership development
- facilitate multistate solutions
- advocate for states in the nation's federal system of government
- adhere to the highest ethical standards
- respect diversity and act with civility
- partner and collaborate with others

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

Registration now open for Midwestern Legislative Conference Annual Meeting

Premier event for region's legislators will be held July 12-15 in North Dakota

Registration is now open for the Midwestern Legislative Conference Annual Meeting, the only event of its kind designed to meet the needs and serve the interests of all legislators from the Midwest.

The four-day event will begin July 12 in North Dakota's capital city of Bismarck.

Every policy session and committee meeting at the event will focus on the Midwest and its states, and legislators will also be given ample opportunity to network with and learn from one another.

This year's featured speakers include astronaut Buzz Aldrin, leading national pollster John Zogby and Clint Hill, the former Secret Service agent (and a North Dakota native) who was in the presidential motorcade when John F. Kennedy was assassinated.

Anne-Marie Slaughter, the former policy planning director for the U.S. Department of State (the first woman to hold that position) and current CEO and president of the New America Foundation, will give the keynote address on "Big Ideas for a New America."

The meeting will also offer professional-development training for legislators and will include policy sessions on issues ranging from state budgets and early-childhood education to energy and public health.

Special daytime activities are being planned for the spouses, adult guests and children of attendees, and the meeting's evening events (one at Fort Lincoln State Park, the other at the newly renovated Heritage Center & State Museum) will give participants the chance to meet and network with legislative colleagues from the Midwest.

An early-bird registration discount is available through May 5. Registration can be completed at *www.csgmidwest.org*.

Please call the CSG Midwest office at 630.925.1922 with questions about the meeting or registration.

About the 2015 MLC Annual Meeting

- will feature policy sessions on issues of importance to states in the Midwest, including agriculture, regional economic development, education, energy and health care
- will include acclaimed speakers such as astronaut Buzz Aldrin and political pollster John Zogby
- will offer numerous activities for the children and adult guests of attendees
- will provide ample opportunity for legislators to learn from and network with colleagues from other Midwestern states

70th CSG MIDWEST ANNUAL MEETING
MIDWESTERN LEGISLATIVE CONFERENCE
BISMARCK, ND | JULY 12–15, 2015

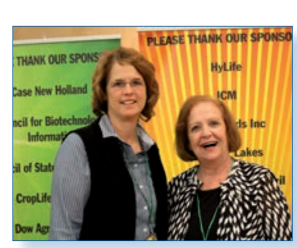
Midwestern legislators join leadership team of group serving agriculture, rural leaders

More than 30 state and provincial legislators from the Midwest took part in a three-day national meeting in January that focused squarely on agricultural and rural policy.

The annual summit is organized by State Agricultural and Rural Leaders. SARL's members include leaders of agricultural and rural policy legislative committees in all 50 states. The Council of State Governments is a sponsor of the Ag Chairs Summit.

Former Iowa Rep. Annette Sweeney is the organization's treasurer, and Ralph Eichler, member of the Manitoba Legislative Assembly, is SARL's secretary.


Legislators at the State Agriculture and Rural Leaders summit, including Iowa Sen. Rita Hart (left) and Iowa Rep. Helen Miller (middle), discuss policy issues and share ideas to common challenges.


Kansas Sen. Carolyn McGinn (left) and Illinois Rep. Norine Hammond (right) were elected to the board of State Agriculture and Rural Leaders.

Kansas Sen. Carolyn McGinn and Illinois Rep. Norine Hammond were elected to the organization's board at the January meeting. (Former South Dakota Sen. Larry Rhoden is the immediate past president of SARL.)

At the summit, Gary Doer, Canadian ambassador to the United States, spoke to participants about one of the most controversial issues in agricultural trade: country-of-origin labeling. Lawmakers from both countries had the chance to discuss the future of the requirements as well as their impact on state and provincial economies.

The agenda also included sessions on protecting pollinators, sustainability in agriculture, state policies on veterinary medicine, and the maintenance of rural roads. Throughout the meeting, attendees heard from leading policy experts and government officials.

CSG MIDWEST

CALENDAR

UPCOMING MIDWESTERN LEGISLATIVE CONFERENCE AND THE COUNCIL OF STATE GOVERNMENTS EVENTS

70TH ANNUAL MEETING OF THE MIDWESTERN LEGISLATIVE CONFERENCE
July 12-15, 2015
Bismarck, North Dakota

Contact: Gail Meyer (*gmeyer@csg.org*)
630.925.1922
www.csgmidwest.org

21ST ANNUAL BOWHAY INSTITUTE FOR LEGISLATIVE LEADERSHIP DEVELOPMENT (BILLD)
August 21-25, 2015
Madison, Wisconsin
Application deadline: April 8

Contact: Laura Tomaka (*ltomaka@csg.org*)
630.925.1922
www.csgmidwest.org

HENRY TOLL FELLOWSHIP PROGRAM
August 28-September 2, 2015
Lexington, Kentucky
Application deadline: April 15

Contact: Kelley Arnold (*karnold@csg.org*)
800.800.1910
www.csg.org/LeadershipCenter/TollFellows.aspx

GREAT LAKES LEGISLATIVE CAUCUS MEETING
September 25-26, 2015
Buffalo, New York

Contact: Lisa Janairo (*ljanairo@csg.org*)
920.458.5910
www.greatlakeslegislators.org

CSG NATIONAL CONFERENCE
December 10-13, 2015
Nashville, Tennessee

Contact: Kelley Arnold (*karnold@csg.org*)
800.800.1910
www.csg.org

71ST ANNUAL MEETING OF THE MIDWESTERN LEGISLATIVE CONFERENCE
July 17-20, 2016
Milwaukee, Wisconsin

Contact: Gail Meyer (*gmeyer@csg.org*)
630.925.1922
www.csgmidwest.org

CAPITOL *CLIPS*

In Ohio, new law likely to end use of speed, red-light cameras

In one of the last bills it passed in 2014, the **Ohio** General Assembly has placed new restrictions on local governments' use of cameras to detect and enforce traffic violations.

SB 342, signed into law in December, requires a police officer to be present at the location where a traffic camera is in operation. According to *The Columbus Dispatch*, this statutory change is expected to make the use of red-light and speed cameras financially infeasible for Ohio cities.

At least one state in the Midwest, **Wisconsin**, has an outright ban on the use of red-light and speed cameras, according to the Governors Highway Safety Administration. Last year, **South Dakota** legislators passed HB 1100, which prevents state and local governments from entering into a contract with a "private corporation" for the purpose of using red-light cameras.

Other Midwestern states do not have bans on traffic cameras. And in **Illinois** and **Iowa**, some local governments have adopted ordinances or programs to operate these devices. The use of these traffic cameras in an Iowa border town led the South Dakota Legislature last year to pass HB 1122, which restricts the state from sharing information with other states seeking to enforce civil penalties in traffic-camera cases.

Michigan adopts 'nexus' law to collect taxes from online sales

Michigan has become the latest state to try and do more to collect taxes from online sales, a move spurred in part by concerns that Main Street businesses have been put at a competitive disadvantage. According to *mlive.com*, SB 658 and SB 659 extend Michigan's sales and use taxes to out-of-state companies with a "nexus" or physical presence in the state.

The Michigan Retailers Association pushed for the two bills, saying that online retailers such as Amazon have been getting a "6 percent price advantage" over brick-and-mortar sellers (the state's sales and use tax rate is 6 percent).

In this fiscal year alone, an estimated $444.5 million in taxes from online purchases and other remote sales went uncollected, a Michigan House Fiscal Agency analysis found. But the impact of SB 658 and SB 659 on state revenue will depend in part on the response of large online retailers. Will they, for example, remove their nexus and physical presence in Michigan by eliminating affiliate partners or shutting down warehouses?

According to the Institute for Local Self-Reliance, Amazon already collects sales taxes in about half of the U.S. states, including **Indiana**, **Kansas**, **Minnesota**, **North Dakota** and **Wisconsin**. In these states, Amazon has a physical presence (a warehouse or other facility) and/or the legislature has adopted an "affiliate nexus law."

New oil regulations in North Dakota aim to improve rail safety

In August of last year, monthly oil production in **North Dakota** reached yet another milestone. For the first time, more than 35 million barrels of oil were being produced. Just seven years ago, monthly production in the state was below 4 million barrels.

Over the past several years, too, a big change has occurred in how North Dakota's oil is transported. Most of it now moves out of the state by rail rather than pipeline, and this shift has raised safety concerns inside and outside of North Dakota — especially in light of recent serious accidents and explosions involving oil tanker cars in the United States and Canada.

In December, North Dakota's three-member Industrial Commission adopted new regulations to address some of those concerns. The state will now require well operators to meet a series of standards for the conditioning equipment that they use to separate volatile gases from crude oil, *The Bismarck Tribune* reports. The penalty for noncompliance will be up to $12,500 per day, and in his proposed biennial budget, North Dakota Gov. Jack Dalrymple calls for more staff to enforce the regulations.

According to the Association of American Railroads, as of mid-2014, about 750,000 barrels of oil were being shipped out of North Dakota by rail every day.

Illinois boosts minimum pay for jurors, reduces jury sizes in civil trials

Illinois will soon go from having the Midwest's lowest minimum rate of pay for jurors to one of the region's highest. The change is the result of SB 3075, passed by the General Assembly and signed into law in December.

Starting in June, jury compensation in Illinois must be at least $25 on the first day and $50 for each subsequent day. Counties are responsible for paying the jurors, and under the old law, they could pay as little as $4 per day.

Illinois' new $50-a-day rate will match the pay already given to jurors in **North Dakota** and **South Dakota**, according to the National Center for State Courts. (Fifty dollars is the highest daily pay rate in the Midwest.) The region's lowest minimum rates are now in **Iowa**, **Kansas** and **Ohio** ($10 per day). It is common, too, for jurors to have at least a portion of their travel expenses reimbursed, and in **Minnesota**, they are eligible for up to $50 in child care expenses.

Illinois legislators also made another change with SB 3075. In civil trials, the number of jurors deciding the case will be six instead of 12. Proponents of this change said it will help offset the cost of higher juror compensation; they also noted that 38 other states already allow for six-member juries.

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Stateline Midwest

January 2015
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