Underground development

Oil, gas shales hold promise of more energy production, but rise in fracking also presents state policy challenges

by Ilene Grossman (igrossman@csg.org)

Oil and gas shales hold promise of more energy production, but a rise in fracking also presents state policy challenges. The Bakken formation in North Dakota is between 4,500 and 7,500 feet deep. Much of the newly available oil and gas in the U.S. Bakken oil is found in shale deposits. Getting to the oil in these deposits often requires the use of horizontal drilling (a process that is more expensive than vertical drilling but that also yields more oil and gas reserves) and hydraulic fracturing.

Once a well is drilled, steel pipe casing is installed, the pipe is encased in cement, and fracturing fluids are injected deep underground. The fluids are mostly water (about 90 percent) and sand (about 9.5 percent), but also contain chemicals. The fracturing fluids are injected at high pressure into the rock, and the oil or gas is released and pumped out.

In addition to the Bakken, there are several other current "shale plays" — formations known to contain accumulations of gas and/or oil — in the Midwest, according to the U.S. Energy Information Administration. The Bakken shale has largely been a source of increased oil production; in other parts of the region, fracking is expected to bolster the supply of natural gas.

The Antrim shale, for example, covers a good portion of Michigan, while exploration of the New Albany shale is beginning in southwest Indiana and southeast Illinois. Current shale plays

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Health & Human Services

Costly Medicaid errors spark state efforts to improve programs

According to data released by the U.S. Centers for Medicare and Medicaid Services, 81.8 percent of Medicaid payments were considered “improper” in fiscal year 2011.

And while this error rate has caused some concern about the program that covers more than 50 million people, it’s the fiscal tally that has turned heads: $21.9 billion.

The error rate isn’t necessarily an indicator of fraud. It measures any type of improper payment, including those due to fraud — but also those involving clerical error (such as improper coding), lack of proof of medical necessity, or incomplete documentation for participants who might actually qualify.

Under the 2002 Improper Payments Information Act, CMS conducts audits in 17 states each year (in a three-year process) to measure errors in three areas: fee-for-service payments, managed care and eligibility.

Typically, the national data are released to measure overall program performance, but in response to a congressional inquiry begun in January, the agency has for the first time made the state-by-state data widely available.

Nationwide, CMS research has found the lowest error rates in the managed-care sector, while the highest were reported in eligibility determinations. In the Midwest, total error rates ranged from 2.0 percent in Minnesota to 69.9 percent in Michigan.

So why do some states have drastically higher error rates than others? For starters, experts warn that the numbers can be misleading.

“Due to the variation in states’ sizes, overall program variations, and different ways that each state’s rate impacts the national rate,” the data should not be used to compare states’ Medicaid programs, the CMS cautions.

For example, some states have simplified eligibility processes to help ensure that those in need have access to care. This can result in improper or missing documentation for applicants, which counts as an error in the CMS review. But this does not necessarily mean these individuals were ineligible.

A National Association of State Medicaid Directors statement adds that “the composite and overall error rates are a poor measure of fraud, waste and abuse and the overall integrity of (state) Medicaid programs.”

Still, CMS is requiring that states use the data to design “corrective action plans” that address program areas and prioritize cost-effective ways to improve performance.

These plans typically focus on error prevention. Ohio, for example, submitted a plan last year aimed at educating Medicaid providers on proper paperwork coding, documents needed to prove medical necessity, and procedures for issuing prescriptions. Michigan’s 2011 plan included efforts to better monitor providers’ questions and to educate providers through direct letters and a newsletter.

But some proponents of Medicaid reform say that simply avoiding more mistakes isn’t enough. They see the error rates — and the significant costs associated with them — as evidence that the program is in need of an overhaul.

Passenger Rail

Advocates look to turn around recent trends in rail funding

After two years of minimal investments in passenger rail, advocates of improving the region’s intercity and interstate rail system are hoping to convince the U.S. Congress to reverse this recent course in federal funding.

The Midwest Interstate Passenger Rail Commission sent a letter in April to select federal lawmakers seeking more recent trends in federal funding.

But since then, funding has run dry: Congress provided no new dollars in fiscal years 2011 and 2012. As of May 2011, seven Midwestern states — Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota and Wisconsin — had been awarded roughly $2.6 billion for 35 projects. Most of that funding is being used to improve or develop four key interstate rail corridors: Chicago to St. Louis to Kansas City; Minneapolis/St. Paul to Duluth; Chicago to Omaha; and Detroit/Pontiac to Chicago.

High-speed service has already begun on portions of the Detroit-to-Chicago route and is expected soon on parts of the Chicago-to-St. Louis line. States are also using HSIPR funds to buy new equipment and conduct studies of possible new routes, such as Kansas City-to-Oklahoma City and Minneapolis/St. Paul-to-Duluth.

President Barack Obama’s budget request for fiscal 2013 includes $2.5 billion for HSIPR. However, congressional opposition that led to a zeroing out of funding will likely again affect upcoming budget negotiations.

The president has also requested $500 million for TIGER, a competitive grant program that funds various modes of transportation, including passenger rail. In the Midwest, passenger rail and transit stations have received TIGER grants. During the first three years of TIGER funding, $2.6 billion has been awarded for 172 projects.

Amtrak’s $2.2 billion request for FY 2013 includes operating, capital and debt-service expenses; Obama has proposed $1.5 billion.

Amtrak is seeing record ridership, and ticket sales and other revenues account for 85 percent of operating costs. However, it still relies on federal funding for some needs, such as replacing an aging fleet of rail cars that are an average of 27 years old.

Issue Briefs cover topics of interest to the various groups and policy committees associated with the Midwestern Office of The Council of State Governments. Located in suburban Chicago, CSG Midwest provides staffing services for the Midwestern Legislative Conference, Great Lakes Legislative Caucus, Midwest Interstate Passenger Rail Commission and Midwestern Radioactive Materials Transportation Committee. More information is available at www.csgmidwest.org.
Economic Development

Minnesota report details impact of angel-investment tax credits; tweaks to program considered

In an effort to spur job growth, states have increasingly focused on encouraging angel investment in young, entrepreneurial firms that hold the promise of high growth and high profits in emerging business sectors.

Last year, about 100 businesses in Minnesota benefited from the state’s Angel Tax Credit Program, which lawmakers passed in 2010. Through the program, nearly $16 million in credits were issued to investors who put about $64 million into early-stage tech companies in 2011, according to a report by the Minnesota Department of Employment and Economic Development.

One goal of the program is to help the state compete for high-tech, high-growth businesses with neighboring states — particularly Wisconsin, which has had a similar tax credit since 2005. The Minnesota initiative gives “angel” investors a 25 percent tax credit for funding high-tech start-up firms with fewer than 25 employees.

Since the program’s inception, the report states, 162 jobs have been created by Minnesota businesses that raised money from investors receiving the tax credit. Medical device and equipment firms and software businesses topped the list of sectors benefiting from the credit.

In April, the Legislature was considering a bill that would encourage more investment throughout the state. SF 2355 would increase the tax credit from 25 percent to 40 percent for those who invest in businesses in greater Minnesota — areas outside the Twin Cities metro region.

“I know first-hand from the great businesses we have in Olmsted County that the greater Minnesota community is ripe with innovative, entrepreneurial ideas. We can bolster those job creators’ efforts by making it easier for them to secure capital from investors,” says Republican Sen. Carla Nelson, sponsor of the bill. “Jobs are our number one priority this legislative session — this bill is a step in the right direction and contributes to the economic prosperity of our statewide community.”

Minnesota lawmakers were also considering other measures related to the state’s angel investment tax credit and venture capital.

SF 2290 would require that more information be disclosed about the companies receiving investments, such as contact information and the type of business. It would also restrict investors from eligibility if the company goes public within 180 days of receiving the money.

HF 1823 would create a $76 million program providing tax credits to insurance companies that invest in state-certified venture-capital funds. Those funds would then make cash investments in Minnesota businesses.

Agriculture & Natural Resources

Proposed EPA information-gathering rule has livestock industry, states up in arms

The U.S. Environmental Protection Agency has proposed a significant policy change that has sparked opposition from livestock owners and some state officials.

In order to satisfy terms of a 2010 settlement with environmental groups regarding Clean Water Act implementation, the EPA intends to require all facilities defined as large Concentrated Animal Feeding Operations (CAFOs) to report farmers’ names, farm locations and detailed manure-handling information. The information would be compiled in a publicly accessible database.

Many farmers are concerned that public access to the information (which before had not been so widely available) could threaten food safety, lead to increased trespassing and vandalism, and possibly endanger the privacy and security of the farmer’s family because the facility address is often that of the farmer’s residence.

The South Dakota Department of Environment and Natural Resources is recommending that the EPA allow states to continue to hold this data, rather than compiling a national database. EPA policy adviser Ellen Gilinsky says the agency understands the biosecurity and privacy concerns and is willing to work closely with the industry.

Dennis Fewless, director of the North Dakota Department of Public Health, opposes the rule, saying it interferes with state responsibilities and might exceed the EPA’s authority to demand that facilities submit information “required to carry out” Clean Water Act objectives. The rule would require information from all CAFOs; however, a 5th Circuit Court ruling last year limited the EPA’s regulating authority over CAFOs to those that actually discharge pollutants from their property.

North Dakota has already taken steps to achieve the goal of the proposed rule, and its actions could eventually serve as a model for EPA implementation of the rule in all states. The North Dakota Department of Health identified animal-feeding operations in the state using commercially available aerial images and, using state records, provided the EPA a list of the facilities and contact information for each.

At this point, the EPA has refused the state’s guidance on which facilities actually met the definition of a CAFO; joint EPA and state inspections were held to determine farms’ compliance with state and federal rules. Meanwhile, in Nebraska, Iowa and Kansas, the EPA is being criticized for conducting its own aerial surveillance to monitor discharges from CAFOs, a practice that some in the industry say compromises the privacy of farmers who feed livestock on their home property.

Tom Bauman, an official with the Wisconsin Department of Natural Resources, has a different problem with the rule. He says gathering information such as land application of manure on individual farms and ensuring that it is up to date would be a significant burden on states. Bauman says his department would gladly provide the EPA with the information it maintains on CAFOs, but doesn’t want to have to gather additional information.

Furhering opinions from state authorities might be related to how many CAFOs a state has. Whatever the final rule, it will require closer communication between state environmental agencies and animal operators.

<table>
<thead>
<tr>
<th>State</th>
<th>Credit (% of investment)</th>
<th>Maximum tax credit</th>
<th>Available funds (annual cap/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>25%</td>
<td>$500,000</td>
<td>$10 million</td>
</tr>
<tr>
<td>Indiana</td>
<td>20%</td>
<td>$500,000</td>
<td>$12.5 million</td>
</tr>
<tr>
<td>Iowa</td>
<td>20%</td>
<td>$50,000</td>
<td>$2 million</td>
</tr>
<tr>
<td>Kansas</td>
<td>20%</td>
<td>$250,000</td>
<td>$6 million</td>
</tr>
<tr>
<td>Michigan¹</td>
<td>25%</td>
<td>$250,000</td>
<td>$9 million</td>
</tr>
<tr>
<td>Minnesota</td>
<td>25%</td>
<td>$250,000/250,000²</td>
<td>$12 million</td>
</tr>
<tr>
<td>Nebraska</td>
<td>15%/40%³</td>
<td>$300,000/200,000⁴</td>
<td>$3 million</td>
</tr>
<tr>
<td>North Dakota</td>
<td>45%</td>
<td>$40,000</td>
<td>$3.5 million</td>
</tr>
<tr>
<td>Ohio</td>
<td>25%/30%⁵</td>
<td>$62,500/$90,000⁶</td>
<td>$45 million /program cap</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>25%/30%⁷</td>
<td>none set</td>
<td>$20.5 million</td>
</tr>
</tbody>
</table>

¹ The federal criteria for classification as a large CAFO are based on the number of animals in a facility: swine, 1,000; dairy cattle, 1,000; beef cattle, 1,000; sheep, 2,000; and turkeys, 100. ² The federal criteria for classification as a large CAFO are based on the number of animals in a facility: swine, 1,000; dairy cattle, 1,000; beef cattle, 1,000; sheep, 2,000; and turkeys, 100. ³ Some states set different limits on CAFOs. ⁴ Some states set different limits on CAFOs. ⁵ Some states set different limits on CAFOs. ⁶ Some states set different limits on CAFOs. ⁷ Some states set different limits on CAFOs.

Brief written by Laura Tomaka, CSG Midwest staff liaison for the Midwestern Legislative Conference Economic Development Committee. She can be reached at ltomaka@csgr.org. The committee’s co-chairs are Ohio Rep. Ted Celeste and South Dakota Sen. Mike Vehle.

Source: CSG Midwest research

Number of large Concentrated Animal Feeding Operations (CAFOs) in Midwest

<table>
<thead>
<tr>
<th>State</th>
<th>Number of Large CAFOs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nebraska</td>
<td>75</td>
</tr>
<tr>
<td>Iowa</td>
<td>410</td>
</tr>
<tr>
<td>Kansas</td>
<td>235</td>
</tr>
<tr>
<td>Minnesota</td>
<td>194</td>
</tr>
<tr>
<td>North Dakota</td>
<td>178</td>
</tr>
<tr>
<td>Ohio</td>
<td>446</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>862</td>
</tr>
</tbody>
</table>

* The federal criteria for classification as a large CAFO are based on the number of animals in a facility: swine, 1,000; dairy cattle, 1,000; beef cattle, 1,000; sheep, 2,000; and turkeys, 100.

Source: U.S. Environmental Protection Agency and state environmental agencies

Brief written by Carolyn On, staff liaison to the Midwestern Legislative Conference Agriculture and Natural Resources Committee. She can be reached at con@csgr.org. The MLC committee’s co-chairs are North Dakota Sen. Tim Flakoll and Kansas Sen. Carolyn McGinn.
Pew: States need to better evaluate tax incentive programs

While every state offers some kind of tax incentive to spur economic development, about half of the states are failing to determine whether these programs are effective, according to a report recently published by the Pew Center on the States.

The study looked at all 50 states’ economic development tax incentives and found that no state regularly and rigorously tests whether the programs are having the intended effect.

However, the organization considers 13 states to be “leading the way,” including Iowa, Kansas, Minnesota and Wisconsin. These states are leaders either because of the scope of their analysis (reviewing all programs instead of just some), the quality of their analysis or their efforts to integrate evaluations into policymaking.

The report cites, for example, the recent decision in Wisconsin to scale back a film tax credit after an evaluation determined it was ineffective.

“Tax incentives are policy choices with significant implications, especially at a time when most states are trying to rebuild their budgets and many have not regained the private-sector jobs lost during the Great Recession,” the report says. “If states do not base decisions on evidence, they could have less money to spend on other critical services.”


4 steps states can take for effective evaluations

- Inform policy choices — Build evaluation of incentives into policy and budget deliberations to ensure lawmakers use the results
- Include all major tax incentives — Establish a strategic and ongoing schedule to review all tax incentives for economic development.
- Measure economic impact — Ask and answer the right questions using good data and analysis
- Draw clear conclusions — Determine whether tax incentives are achieving the state’s goals

Evidence counts: How well states are evaluating tax incentive programs

When can and do bills enacted into law actually take effect?

It is a question that usually merits scant attention outside the walls of state capitols, but over the past two years, the institutional issue has become part of the bigger story over the future of public employee union laws in the Midwest.

The drama first played out last year in Wisconsin, after lawmakers passed and the governor signed a bill limiting collective bargaining rights. The Legislative Reference Bureau subsequently published the act, a move that proponents thought marked the bill’s effective date, the Milwaukee Journal Sentinel reported at the time.

However, Wisconsin Secretary of State Doug La Follette delayed publishing the act due to a court order, and under state law, his office must do so before a law can take effect. Another three months elapsed before La Follette published the bill, following a state Supreme Court ruling that overturned the lower court order.

Like Wisconsin, every state in the Midwest has its own unique set of laws and practices for determining the effective date of bills (see table).

Under the Ohio Constitution, for example, 90 days must elapse before a bill signed into law can take effect. That delay gives time for opponents to collect enough signatures to force a statewide referendum on enactment of the law — which is exactly what happened last year after passage of SB 5, a measure that curtailed collective-bargaining rights for public employees. Though it passed the legislature and was signed by the governor, SB 5 never took effect.

Ohioans voted it down in November.

There are exceptions. In Iowa, the state's usual 90-day delay: With a two-thirds vote in the House and Senate, certain spending measures can take immediate effect, as can "emergency laws necessary for the immediate preservation of the public peace, health, or safety."

In Michigan, a bill generally does not take effect until 90 days after the end of the legislative session. However, the state Constitution provides that a bill can be given immediate effect by a two-thirds vote of both houses. And this year, a legal dispute has surfaced in that state over whether the legislative process being employed.

Use of the immediate-effect clause is nothing new in Michigan, nor is the practice in the House of using a "rising vote." Members in favor of giving the bill immediate effect rise in support, and the presiding officer determines whether sufficient support exists.

However, House Democrats say they have requested, and have been denied, record roll-call votes. Such votes, they say, would have shown that the majority didn’t meet the two-thirds requirement on two controversial union-related bills. House Republicans counter that the Constitution does not specify which type of votes must be taken, thus leaving such matters to the discretion of the Legislature.

In early April, a Michigan circuit court judge granted the House Democrats’ request for a preliminary injunction. A week later, the state Court of Appeals overturned the injunction, allowing the two laws to take effect while the court heard the case.

Article written by Tim Anderson, who can be reached at tanderson@csg.org. Capitol Closeup is an ongoing series of articles done by CSG Midwest highlighting institutional issues in state government and Legislatures. Past articles are available at www.csgmidwest.org.

**Recent legislative, legal disputes focus public attention on state laws determining effective date of bills**

**Time lag: State laws in Midwest on when bills signed into law can take effect**

<table>
<thead>
<tr>
<th>State</th>
<th>Effective dates</th>
<th>Details, exceptions and emergency clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>For bills passed prior to June 1, effective date is Jan. 1 of next year; for bills passed after May 31, effective date is Jan. 1 of next year</td>
<td>Effective date of bills passed after May 31 can be earlier upon vote of three-fifths of members in each house</td>
</tr>
<tr>
<td>Indiana</td>
<td>Uniform effective date is July 1 of year bill was passed, but effective date can be changed through vetoing in bill</td>
<td>An act cannot take effect before being published and circulated in all counties, unless legislature declares an emergency</td>
</tr>
<tr>
<td>Iowa</td>
<td>Unless otherwise stated in bill, act takes effect on July 1 of year bill was passed</td>
<td>For bills approved by governor on or after July 1, effective date is 45 days after such approval</td>
</tr>
<tr>
<td>Kansas</td>
<td>Most common effective date is July 1 of the year bill was passed</td>
<td>Legislature can delay effective date or specify that act takes effect on publication in the Kansas Register (published weekly)</td>
</tr>
<tr>
<td>Michigan</td>
<td>No act can take effect until expiration of 90 days from end of session in which it was passed</td>
<td>Measure can take effect immediately with two-thirds votes in each house</td>
</tr>
<tr>
<td>Minnesota</td>
<td>If effective date is not specified in bill, act becomes effective Aug. 1 of year it was passed</td>
<td>Spending bills take effect July 1</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Bill goes into effect three months after Legislature adjourns unless date is specified in bill</td>
<td>Legislature can include emergency clause for bill to take immediate effect; two-thirds vote required</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Law generally takes effect Aug. 1 of year it was passed</td>
<td>Spending measures take effect July 1; emergency measures take effect immediately with two-thirds votes in each house</td>
</tr>
<tr>
<td>Ohio</td>
<td>90 full days must elapse before an enacted law takes effect</td>
<td>Exemptions for certain spending bills and laws needed to preserve “public peace, health or safety”; two-thirds vote required</td>
</tr>
<tr>
<td>South Dakota</td>
<td>If later effective date is not specified, bill takes effect July 1 of year it was passed</td>
<td>Emergency measures can take effect immediately with two-thirds votes in each house</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>New laws take effect on day after they are published by secretary of state (unless later date is specified in bill)</td>
<td>Law’s publication date must be no more than 10 working days after date of enactment</td>
</tr>
</tbody>
</table>

**Source:** Pew Center on the States
**QUESTION: What states have laws to provide compensation for individuals wrongly convicted of crimes?**

According to the Innocence Project, Illinois, Iowa, Nebraska, Ohio and Wisconsin are among the 26 U.S. states with laws to provide compensation for individuals wrongly convicted of crimes. Michigan would be added to this list under bills (SB 61, HB 4171) introduced earlier this year.

These state laws vary widely. In its December 2009 report “Making Up for Lost Time,” the Innocence Project found that compensation ranged from a maximum total of $20,000 (regardless of the number of years spent in prison) to $80,000 per year of wrongful imprisonment.

Under federal law, those wrongly convicted of federal crimes receive up to $50,000 per year of wrongful incarceration, plus an additional $50,000 for each year spent on Death Row; only five states (none in the Midwest) provide this level of compensation.

Several states deny funding to anyone who falsely confessed, pleaded guilty or was exonerated without the benefit of DNA testing. The Innocence Project also found that only 10 states (including Illinois) provided support services such as job training, educational waivers, housing assistance or health coverage.

Wisconsin’s law is the oldest in the nation, dating back to 1911. The original law allowed any person who served a term of imprisonment but claimed to be innocent to petition a claims board. If the board found it “clear beyond a reasonable doubt” that the person was innocent — and did not contribute to bringing about the conviction — it would determine the amount of compensation (not to exceed $1,500 per year, or $5,000 total). If the claims board found that the level of compensation was inadequate, it could submit a report to the legislature requesting a different amount. The law remains largely the same, although the maximum compensation is now $5,000 per year.

In Illinois, compensation for exonerees was increased in 2008 to a maximum of $199,150, and job search and placement services were added as well. The law also directs local public employment offices to provide a range of assistance to exonerees. Last year, mental health re-entry services were made available.

Under Nebraska’s 2009 law, exonerees are eligible to recover damages of up to $500,000 “found to proximately result” from the wrongful conviction and that have been proved based upon a preponderance of the evidence. In 2010, Ohio amended its compensatory structure so that individuals could recover 50 percent of the per-year amount owed within 60 days of the determination of wrongful imprisonment.

Post-conviction DNA testing is the primary factor in most modern exoneration cases. Between 1989 and 2010, there were 289 post-conviction DNA exonerations. The average length of time served by those who were found innocent through DNA testing was 13.5 years; 17 of those individuals served time on Death Row. The leading causes of wrongful convictions include eyewitness misidentification and false confessions.

**Terms of compensation in five Midwestern states**

<table>
<thead>
<tr>
<th>State</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>$85,350 for up to five years in prison, $170,000 for between five and 14 years, and $199,150 for more than 14 years</td>
</tr>
<tr>
<td>Iowa</td>
<td>$150 per day (or $18,250 per year) in prison, lost wages up to $25,000 a year, and attorney fees</td>
</tr>
<tr>
<td>Nebraska</td>
<td>$25,000 per year (maximum of $500,000)</td>
</tr>
<tr>
<td>Ohio</td>
<td>$40,310 per year in addition to lost wages, costs and attorney fees</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$5,000 for each year in prison (maximum of $25,000), plus attorney fees</td>
</tr>
</tbody>
</table>

*Source: The Innocence Project*
Concerns about fracking center on volume of water and types of chemicals being used

are also in parts of Nebraska, Kansas and South Dakota.

And then there is the huge potential for natural gas exploration and discovery in the eastern part of Ohio.

According to a recent study by the Ohio Shale Coalition — a partnership of local chambers of commerce and other groups — total economic output from Utica shale development, currently at $2.91 billion, is expected to rise to $9.6 billion by 2014.

Development of the Marcellus shale play, which lies above the Utica formation, is further along in Ohio and neighboring states. It may be one of the largest gas discoveries in the world, covering 95,000 square miles and potentially holding more than 400 trillion cubic feet of natural gas, according to energyfromshale.org.

Shale exploration, in fact, has already proven to be a boon for Ohio’s steel industry, according to the online newsletter EnergyWire (the steel is needed for the piping to line the wells), and this increased demand for steel as well as other goods has contributed to a drop in Ohio’s overall unemployment figures.

Still, there remain many questions and concerns about fracking, and states are just beginning to address them through new regulations and legislation.

In Ohio, for example, Republican Gov. John Kasich ordered a temporary moratorium on the drilling and use of wastewater wells within a five-mile radius of a site in Youngstown, where there has been a series of earthquakes. State and federal officials are investigating the possible link between the seismic activity and the underground injection of waste from fracking operations.

The overall level of uncertainty about the impact of fracking has led some lawmakers in Ohio and Michigan to propose broader moratoria, until more state and federal environmental studies can be completed.

Mimus such bans, states are considering legislation to increase oversight, require more disclosure, and establish new rules and standards for fracking operations.

Various proposals, for example, would require new testing of the wells before they are used, set new guidelines governing the treatment and disposal of fracking fluids, and mandate reporting and disclosure of the chemicals contained in these fluids.

Role for states: Proposals focus on fracking oversight, disclosure

The U.S. Environmental Protection Agency is also tightening its oversight of hydraulic fracturing.

Beginning in June, the first federal air-quality rule is scheduled to take effect for natural gas wells that are hydraulically fractured.

It will require the operators of these wells to employ technologies that prevent the release of harmful emissions.

In announcing the new rule, the EPA said it was following the lead of states that have already instituted similar requirements.

The federal agency, meanwhile, continues to research the link between fracking activity and the contamination of groundwater.

In North Dakota, state regulators say an increased emphasis on well testing and inspections has helped prevent the threat of such contamination.

“We really stepped up the evaluation of the well

**Bills introduced and passed in Midwestern states in 2012 on hydraulic fracturing (as of April)**

<table>
<thead>
<tr>
<th>State</th>
<th>Bills</th>
<th>Description/details</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>HB 3897</td>
<td>establish new requirements of owners/operators: mechanical integrity tests of casing, disclosed of chemicals used, proper storage and handling of well stimulation fluid, among other provisions</td>
<td>voted down by committee</td>
</tr>
<tr>
<td></td>
<td>HB 3939</td>
<td>prohibit fracking in designated state areas</td>
<td>not passed out of committee</td>
</tr>
<tr>
<td></td>
<td>HB 5853</td>
<td>establish new reporting requirements (volume of water and chemicals used) with provisions to protect trade secrets</td>
<td>not passed out of committee</td>
</tr>
<tr>
<td></td>
<td>SB 3280</td>
<td>establish new reporting requirements (volume of water and chemicals used) with provisions to protect trade secrets</td>
<td>signed into law</td>
</tr>
<tr>
<td></td>
<td>HB 1107</td>
<td>require new rules for reporting and disclosure of hydraulic fracturing treatments, including volume of fluids and description of additive products used</td>
<td>signed into law</td>
</tr>
<tr>
<td></td>
<td>HB 1085</td>
<td>require owners/operators to get environmental compliance plan approved by state; plan must include well depth, list of chemicals to be used and waste generated, and analysis of impact on surrounding water and land</td>
<td>not passed out of committee</td>
</tr>
<tr>
<td>Indiana</td>
<td>SB 325</td>
<td>provide explicit authority for the Kansas Corporation Commission to regulate hydraulic fracturing</td>
<td>signed into law</td>
</tr>
<tr>
<td></td>
<td>HB 476</td>
<td>establish presumption that person conducting fracking operation is liable if water well has been contaminated</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>HB 5149</td>
<td>remove exemption status for natural gas industry regarding water withdrawals</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>HB 5515</td>
<td>require state study of impact of hydraulic fracturing, with advisory committee recommending new state laws and rules</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>HB 5510</td>
<td>stop issuance of certain new fracking permits until state advisory committee has made recommendations (see above)</td>
<td>referred to committee</td>
</tr>
<tr>
<td>Nebraska</td>
<td>LR 504</td>
<td>establish interim study of statutes and regulations on hydraulic fracturing</td>
<td>did not pass</td>
</tr>
<tr>
<td></td>
<td>LB 877</td>
<td>require disclosure of chemicals being used and total volume of water being used in fracking process</td>
<td>did not pass</td>
</tr>
<tr>
<td>North Dakota (2011)</td>
<td>HB 1256</td>
<td>establish that hydraulic fracturing is an acceptable recovery process in the state</td>
<td>signed into law</td>
</tr>
<tr>
<td></td>
<td>HCR 3900</td>
<td>urge U.S. Congress to delegate fracking regulation to the states</td>
<td>passed</td>
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<tr>
<td></td>
<td>SB 1271</td>
<td>appropriate $1 million for potential legal costs to fight any attempts by U.S. EPA to regulate hydraulic fracturing (part of S&amp;F passed in special session)</td>
<td>signed into law</td>
</tr>
<tr>
<td>Ohio</td>
<td>HB 345/ SB 233</td>
<td>establish moratorium on horizontal stimulation of oil and gas wells until completion of U.S. EPA study on impact of practice on drinking water resources</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>HB 151</td>
<td>require 7% overriding royalty be paid to state and direct money to Clean Water Restoration Fund, require groundwater testing as well as disclosure of chemicals and water used in process, document plans for waste removal from operations, among other provisions</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>HB 464</td>
<td>require capture of methane gas released as result of well stimulation and new state agency rules</td>
<td>referred to committee</td>
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<tr>
<td></td>
<td>HB 474</td>
<td>establish permitting procedures and fees as well as new recycling and treatment requirements</td>
<td>referred to committee</td>
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<tr>
<td></td>
<td>HB 493</td>
<td>establish additional requirements and disclosure for wells drilled into the Marcellus shale formation or a deeper formation: groundwater testing, minimum royalty rates for landowners, disclosure of chemicals used, among other provisions</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>SB 252</td>
<td>establish requirements for oil and gas drilling and operation of wells on state land, establish 5% overriding royalty for each well stimulated</td>
<td>referred to committee</td>
</tr>
<tr>
<td></td>
<td>SB 318</td>
<td>require disclosure of all chemicals and substances used, require owners/operators to comply with local zoning laws, eliminate mandatory pooling, require a surety bond for an injection well, appropriate money for oil and gas taxing, among other provisions</td>
<td>referred to committee</td>
</tr>
<tr>
<td>South Dakota</td>
<td>HB 1231</td>
<td>establish that hydraulic fracturing is an acceptable recovery process in state</td>
<td>did not pass</td>
</tr>
<tr>
<td></td>
<td>HCR 1085</td>
<td>urge U.S. Congress to delegate fracking regulation to states</td>
<td>passed</td>
</tr>
</tbody>
</table>
Questions about severance taxes surface with rise in fracking

Most states already levy severance taxes on companies in the business of mineral extraction. Ohio is among that group of states, but Republican Gov. John Kasich says his state’s severance-tax structure reflects a time when it wasn’t a major oil and gas producer. That is changing, he says, and the severance tax should as well.

He has proposed increasing state revenue from oil and gas production in exchange for cuts in the income tax. With the proposed increase in the severance tax, Kasich says, Ohio’s severance tax rate would remain competitive with other oil- and gas-producing states. Under his plan, the tax rate would be as follows: for the first year of operations, a rate of 1.5 percent on the value of crude oil and natural gas liquids produced, and 1.0 percent for natural gas; and in subsequent years of operation, or following the initial cost-recovery period, a rate of 4.0 percent would be levied on the value of crude oil and natural gas liquids.

His proposal has not gained traction in the legislature. The table below lists Ohio’s existing severance tax, as well as those of the seven other states in the Midwest with such taxes. According to U.S. Census Bureau data, North Dakota is the only Midwestern state where severance taxes account for a significant portion of state tax collections: 49.3 percent of the state’s total in 2011.

**Severance tax structures in Midwest**

<table>
<thead>
<tr>
<th>State</th>
<th>Petroleum production tax</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indiana</td>
<td>1% of market value or $24 per barrel of oil or $0.50 per cubic foot of gas, whichever is greater</td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td>6.6% on value of oil, 5% on value of gas (up to 1% maximum additional fee on gross market value at the wellhead)</td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>3% of the value of natural gas</td>
<td></td>
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<tr>
<td>Nebraska</td>
<td>4.5% of the taxable value of any energy minerals, conservatism tax</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>5% of gross value for oil, $0.914 per metric cubic foot (1,000 cubic feet) of gas</td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td>1.0% of market value of oil or gas at the mouth of the well</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>2.4 mills of taxable value of all energy minerals</td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>7% of market value of oil or gas</td>
<td></td>
</tr>
</tbody>
</table>

Source: CSG’s “The Book of the States,” 2011

Most companies, though, consider their chemical mixtures to be proprietary information, a trade secret that they don’t want disclosed to competitors.

Some states now require fracking owners and operators to disclose basic information about the hazardous chemicals they use — sometimes through FracFocus, an online registry created by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission. (North Dakota recently began requiring such disclosure.)

In some cases, too, this information must be provided to regulators, who can then make the information available to the public.

But some say the exemptions being granted to companies — on the grounds that it is proprietary information — undercut the public’s right to know what is being injected underground. The Michigan DEQ is already requiring chemical disclosure through its newly developed regulations. However, Irwin says proposed legislation (HB 5565) would strengthen these rules by requiring public comment before a permit is issued and by calling for the least harmful chemicals to be used. Ohio, Nebraska and Indiana are among the other Midwestern states where new disclosure laws are under consideration or where new regulations are being developed.

Rep. Letson says disclosure is one of many policy strategies that merit consideration now in Ohio.

Another idea, he says, is to adopt a “bill of rights” for landowners, with guidelines and standards for the leases signed and the royalty agreements agreed upon between them and the companies that want to use their land.

Beyond specific new laws and regulations, Letson says, the state should attempt to raise public awareness about fracking as more and more communities are affected by it.
Wisconsin Sen. Mark Miller
Retired fighter pilot has led his caucus through a historic legislative session filled with adversity

by Kate Tormey (ktormey@csg.org)

“Wisconsin Senate Minority Leader Mark Miller says he used to be able to walk around most parts of the state without anyone recognizing him. But not anymore — not since the controversy that erupted last year in the state Capitol over the future of collective bargaining rights for public employees. “I’ll be in a store and someone will shake my hand or sometimes people will yell at me, but it’s not like I can go around anonymously,” he says. “I am amazed. That never used to happen before.”

The change occurred virtually overnight, after the decision by Miller and his Democratic colleagues to leave the state to prevent a vote on the collective bargaining bill. They stayed away from the Capitol for more than two weeks to prevent the quorum needed for a Senate vote, and Miller soon found himself at the center of a media frenzy.

But for him, the unprecedented moment in Wisconsin history was about preserving workers’ rights as well as important parts of the state’s legislative and political tradition.

“We were the first state to provide collective bargaining rights to public-sector unions,” he says, “and it has worked well here in Wisconsin.”

Miller and his fellow Democratic senators not only disagreed with the content of the bill — they also disagreed with the manner in which it was being handled. The Senate was being asked to vote on the bill just four working days after it was introduced, he says, and no time was being given for discussions, negotiations and amendments.

“I have no doubt that we did the right thing,” he says.

But he also hopes the next session of the Wisconsin Legislature will be different. Miller says one of his top priorities will be to work with Republican leaders on how the two sides can better govern the state together.

In the near term, however, Miller has a more pressing political situation on his hands: partisan control of the Wisconsin Senate is up for grabs.

The Senate is currently tied 16-16, and the resigning 33rd senator will be replaced in a June 5 election. The fates of three other seats hang in the balance, too, as three Republicans face recall elections that day. Democratic candidates in three of the races are current or former legislators, and Miller hopes that at least one of the seats will go to a member of his party.

Until the June elections, Miller continues to focus on some of his policy priorities — such as restoring public-employee bargaining rights and spurring economic development in his state. Last month, CSG Midwest talked with Miller about his legislative career and views on leadership. Here are some excerpts from the interview.

Q: How did you first get interested in politics and public service?
A: I started getting interested in politics when I was in high school. I ran for student council

Q: What are the first steps you would like to see the state take?
A: In Wisconsin, like in many other states, we have infrastructure needs that need to be addressed — such as highways, sewers and septic systems. These are things that need to be done, and it’s a really good way to get the public and private sectors back to work.

I think we also can improve our ability to foster new small businesses to operate in Wisconsin. We do quite a bit of spinoff from our higher-education system in terms of new businesses being created here in the state, and there are more opportunities for job and business creation.

Q: You have also talked about improving the internal processes of the Legislature. Why is that important to you?
A: We operate the best when we have a government that is open and that the people feel is responsive to their wishes. We have a whole spectrum of desires among the general electorate; but if there is suspicion that the government is only listening to special interests and is not listening to the people, then you have a distrust in government and that undermines the whole support system for a democratic society. The way that we govern ourselves, not only in terms of policy but how we actually arrive at those policies, is important. …

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Q: You say that the legislation you are most proud to have worked on is adopting the Great Lakes-St. Lawrence River Basin Water Resources Compact in Wisconsin. Why?
A: The Great Lakes are so important to the Midwest in terms of the whole understanding of who we are. They have been the avenue for our industrial development. A lot of commerce runs through the Great Lakes, and they are a huge recreational asset for our state.

There were some attempts to transport fresh water from the Great Lakes to other countries, which really brought this issue to a head. We had no real effective way of preventing that from happening. It turned out that through a compact agreement, the Great Lakes states could undertake and manage that resource cooperatively, and that’s what we’ve undertaken to do. I am glad that this is an asset that now is in our control, and the states who are affected by it are the ones who manage that resource.

Q: The bulk of the legislative work is complete for this session, so what are you looking forward to working on next?
A: There is one really important thing that is above all, and that is to get Wisconsin workers back to work. … We have had the worst job-creation record of all the states in the country. We have the resources here. We have a good workforce and we have a good education system, and we should be leading the country, not trailing it. We have really wasted a lot of time with this controversy that’s been raging in Wisconsin. … You cannot have economic recovery unless you get people back to work, and that’s what our primary focus has to be.

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Putting loopholes up in smoke

New South Dakota law makes tax-avoiding “roll-your-own” cigarette operations follow same rules as other tobacco sellers

by South Dakota Rep. Justin Cronin

T

here is a new challenge in the tobacco mar-

tketplace. And it is based purely on floating

the law. Specifically, I’m talking about what

are referred to as “roll-your-own” (RYO) retail

cigarette rolling machines.

These are commercial-grade, automated

machines installed in retail premises that produce

finished cigarettes. This is a part of the cigarette

industry that has rapidly developed from literally

out of nowhere in just the last few years.

And it is a segment of the cigarette industry

that we as policymakers have to address.

The business model underpinning these opera-
tions — which is being marketed by companies

that make these machines — is all about avoiding

the cigarette laws that manufacturers, wholesalers

and retailers have to follow.

From my perspective there is no denying that

this growing business model is bad for my home

state of South Dakota and other states. It is drain-
ing revenues that otherwise would be generated

by the cigarette tax. These retail-manufactured

cigarettes pay only $2.39 a carton in tax, versus

the $15.30 per carton paid on regular cigarettes.

Conservative estimates place the state’s

annual revenue loss from RYO cigarettes at

well over $1 million, and likely much more.

I sponsored HB 1138 because it closes a

loophole in the South Dakota cigarette tax law

that is bad for the state and bad for the vast majority

of retailers and wholesalers. The bill was signed

into law by Gov. Dennis Daugaard on March 19.

The bill’s approach is simple — make sure

retailers that install and operate cigarette manu-

facturing machines on their premises are treated

just like any other cigarette manufacturer. That

means they have to be licensed, the cigarettes

manufactured in their machines have to follow the
cigarette tax, and their cigarettes have to follow all
other South Dakota laws.

The opponents of this bill would have you believe

that this business practice is about individual consum-
ers buying roll-your-own cigarette tobacco and making

their own cigarettes. But that’s just not the case.

What happens is that retailers buy cigarette-

manufacturing equipment, install it in their stores, sell

the customers cigarette tubes and tobacco, and help

the consumer operate the machines that produce the

cigarettes. These cigarettes are substantially cheaper

than conventional ones because the federal excise tax

on loose cigarettes is much lower than the cigarette tax. State excise taxes on loose tobacco are often much less than the cigarette tax as well.

And the production rate of these machines is fast:

around 200 cigarettes (a carton) in seven or eight

minutes. This is hardly “rolling your own” cigarettes.

A single retail cigarette manufacturing machine can

produce 15,000 cartons (150,000 packs) of cigarettes

a year. In South Dakota, for each carton of RYO-

manufactured cigarettes produced, the state forfeits

$14.17 in sales and excise taxes. So if each machine

operates only at half capacity, there is a loss of more

than $100,000 per machine. In South Dakota, very

conservative estimates place the annual revenue loss

at well over $1 million, and likely much more.

And make no mistake — the customer who walks

into these stores walks out with manufactured ciga-

rettes, not cigarettes that they rolled themselves. Just
imagine if a cigarette company like Philip Morris USA

or R.J. Reynolds opened its doors and allowed people
to come in and push a button to get their cartons, and

then claimed they didn’t have to follow the cigarette

cigarettes — that these were “RYO” cigarettes — and so they
didn’t have to pay the excise tax, they didn’t have to

make MSA payments (which tobacco companies make
to states under the 1998 Tobacco Master Settlement

Agreement) on them, or didn’t have to follow the

fire-safety laws. Of course we would not, and should

not, allow this.

Competitors demand equal treatment

umerous people and organizations agreed with

the bill’s approach. Members of the South Dakota

Retail Association testified in favor of the bill.

“In the last six months we’ve had competitors move

into the marketplace,” said one SDRA member.

“I have compared my November 2010 sales versus

my November 2011 sales, and I am down $50,000 in

sales volume. I’m not afraid to compete, but what I’m

asking for is a level playing field. My competition is

not paying the same taxes — the taxes that I pay and

my customers pay on a daily basis. I hear a lot of talk

from people that oppose this bill. They claim the bill

will put them out of business. What I feel strongly

about is that if this bill does not pass, myself and six

of my staff members will be forced out of business.”

One of my colleagues in the legislature, state Sen.

Mike Vehle, explained the problem this way to the Senate

State Affairs Committee: “We’ve basically got a situation

where we’re exploiting a tax loophole. Some contend that

this is the big tobacco companies versus the small guy ...

but that is not the case. We’ve got retailer versus retailer

here. We’ve got smoke shops out there that for years have

been paying the full tax, making the full reporting, and

now they’re being put in competition with someone that

sells theirs for considerably less money. And the reason

is that they’re not paying the same tax.”

So I introduced this simple, bipartisan legislation
to solve this growing problem for South Dakota before

it gets any worse. Waiting would have meant continued
tax evasion by these retail manufacturing stores and

continued revenue forfeiture by the state. In the end,

this law ensures that all cigarettes sold in South Dakota

pay the appropriate taxes and MSA settlement escrow

deposits, while also meeting the safety standards

designed to protect South Dakota residents.

I encourage my fellow legislators across the

Midwest to look closely at this issue and consider

our approach as a potential solution to help you

address this problem in your state.

Rep. Justin Cronin, a Republican from Gettysburg, is the
assistant majority leader of the South Dakota House of
Representatives. He was first elected in 2008.

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’s Washington, D.C., Office: A voice for states, and the Midwest, on Capitol Hill

With state budgets increasingly impacted by decisions in Washington, D.C., on Medicaid, transportation funding and a host of other issues, states will need to play an active role in federal policy in the years ahead. For more than 70 years, the Council of State Governments’ Washington, D.C., Office has worked to advance state interests in the national and international arenas.

The office works with CSG’s national and regional leaders to advocate for the states in legislation and regulatory decisions, to inform Supreme Court deliberations, and to connect the growing interests of states all over the world. Here is an overview of the ongoing activities of CSG’s D.C. Office.

Managing CSG’s policy resolutions

Resolutions passed by CSG, either at the national or regional level, create a mandate for the D.C. staff to support legislation, join in coalition with other groups (such as the Big Seven Coalition, which consists of the major state and local associations), or weigh in on rulemaking processes.

Advocating regional priorities

The D.C. Office recognizes that national decisions impact CSG regions differently: Issues that might be top priorities for one region can get lost in the shuffle when forming a one-size-fits-all list of priorities for 50 states. Members of the staff work directly with CSG’s regional leaders to advance unique regional policy positions — such as water policy in the West or passenger-rail priorities in the Midwest.

By providing a platform for region-specific input into federal decisions, CSG is uniquely able to ensure that the state-federal dialogue includes the nuances and individual preferences of our country’s regions as well as the 50-state issues that are the normal focus of national associations.

Analyzing federal legislation for states

CSG is a strictly nonpartisan organization, and some of the most important issues before the U.S. Congress are too controversial for CSG to weigh in on directly. On these issues, such as the Recovery Act or the Affordable Care Act, CSG plays a role as a neutral convener providing information to its membership as bills move toward passage. The D.C. staff then delivers in-depth analysis after enactment of key federal legislation, providing information about the impact on individual states through testimony in state legislatures, news alerts and webinars.

Keeping tabs on key court cases

Some of the most important decisions affecting states come from the court system rather than Congress. Recognizing a need for information on these issues, CSG joined with the other Big Seven organizations in 1983 to found the State and Local Legal Center. The SLLC reviews all cases before the Supreme Court, identifies cases with strong implications for states, and coordinates amicus curiae briefs to ensure that the voice of states is heard in court deliberations.

Decisions to join a brief are made by CSG’s Legal Task Force, a 12-member advisory body of lawyer-legislators from each of CSG’s regions.

Promoting state exports and trade

In the international arena, CSG has developed a reputation as a critical voice for states in the growing field of export promotion and investment attraction.

International markets are an increasingly important part of America’s economic future (exports accounted for more than half of all U.S. economic growth in 2010), and CSG is ideally positioned to ensure that states have a role in shaping how our nation works to create jobs at home by selling products abroad.

The D.C. Office works with the regions and the State International Development Organizations (an affiliate association of CSG) to ensure close coordination between state economic development efforts and the work of various federal agencies.

One of the D.C. Office’s most recent successes was advocating for creation of the State Trade and Export Promotion (STEP) grant program. This three-year pilot program is providing at least $60 million to state economic development agencies to grow their export programs. Collectively, this will increase the resources available to these agencies by more than 20 percent between 2010 and 2013.

To date, more than 47 states have received STEP funding — including every state in the Midwest except North Dakota. These grants have proven popular, even in the new era of austerity, perhaps in part because export promotion efforts historically generate more than $40 in export sales for every $1 in program funding.

CSG, meanwhile, also continues to help facilitate opportunities for legislators to participate in leadership development programs in Canada, the European Union, and elsewhere in the world.

This article was written by Chris Whaley, director of CSG’s Washington, D.C., Office. He can be reached at cwhaley@csg.org or 202.624.5460. For more information on CSG’s D.C. Office, visit www.csgdc.org.

CSG’s Capitol Ideas magazine offers in-depth analysis of key state issues

Capitol Ideas, The Council of State Governments’ national award-winning magazine, keeps state policymakers apprised of the issues that are important to them.

Each edition of the magazine focuses on a “hot topic,” and articles explore the many aspects of that issue in greater detail in an easy-to-read format.

The May/June issue of Capitol Ideas features insights into the future of energy in the U.S. and explores the ways states are getting involved to power their economies, from new policies on renewable fuels and nuclear energy, to the implications of the Keystone XL pipeline and the oil sands of Canada.

Inside the issue, readers can find graphically explained timelines of the tracking process, find out which states are leaders in state economic production, and learn how some states are making changes to allow municipalities to turn trash into an energy resource.

With the summer travel season upon us, author Jim Stembridge shares some ideas for visits to state capitols around the country. He shares the back story on 10 captivating state capitols, complete with how the states have adapted the “ideal” capitol building in some atypical ways.

Look for the May/June issue of Capitol Ideas in your mailbox, or read it online at www.csg.org/publications/capitolideas.

Upcoming issues of the bimonthly magazine will also offer a wealth of information for state policymakers.

• The July/August issue will feature a mid-year wrap-up of legislative sessions and include analysis of the upcoming U.S. Supreme Court decision on the Affordable Care Act.

• The September/October Capitol Ideas will focus on education/children’s issues, and the November/December edition will feature a year-end review of 2012.

Capitol Ideas won two Excel Awards in 2011 from Association Media & Publishing, for Most Improved magazine, and Best Redesign. The magazine was recently notified that it will be recognized with a 2012 Excel Award for General Excellence.

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 Midwest 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.
Deadline to register for MLC meeting nears; education, economy sessions added to agenda

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awmakers are encouraged to register now for this summer’s Midwestern Legislative Conference Annual Meeting, which will be held July 15-18 in Cleveland and will offer attendees the opportunity to learn from some of the nation’s top policy experts while also sharing innovative ideas with one another in a welcoming, nonpartisan environment.

The registration deadline is June 11; all registration materials for attendees and their guests of all ages are available at www.csgmidwest.org.

One of the many ways that the four-day event fosters information-sharing and networking among attendees is through its popular series of public policy roundtables. Led by policy experts, the roundtables offer an extended period for questions and discussion. This year’s topics include:

- Economic Reinvestment: Creating Rural Wealth
- State Efforts to Combat Prescription Drug Abuse
- State Trends in Teacher Evaluation and Effectiveness Requirements
- Mental Health in the Criminal Justice System

Attendees are encouraged to come to these sessions with information and ideas on how their own states are addressing these issues. The meeting will also feature a roundtable on state budgets. The theme of this year’s meeting is economic reinvention. In addition to keynote sessions on the future of state infrastructure and higher-education policy, the meeting will kick off with a morning devoted to an examination of the future of the Midwest’s economy, including an opening speech by Charles Wheelan, former Midwestern correspondent for The Economist and author of “Naked Economics.”

Other meeting speakers include political satirist P.J. O’Rourke and political strategists Donna Brazile and Rich Galen.

36 lawmakers from Midwest selected by peers for prestigious BILLD program

Thirty-six legislators from 11 Midwestern states and three Canadian provinces have been selected to attend the 2012 Bowhay Institute for Legislative Leadership Development. The BILLD Steering Committee, made up of lawmakers from 11 Midwestern states, awarded the fellowships in April. The committee is led by co-chairs Michigan Rep. Mark Meadows and Illinois Rep. Elaine Nekritz. Its vice chairs are Ohio Sen. Cliff Hite and Indiana Rep. Edward Clere.

Started in 1994, BILLD has become a signature program of the Midwestern Legislative Conference. It is designed to develop the leadership skills of legislators in their first four years of service. This year, the program will be held Aug. 12-16 in Madison, Wis.

Fellowships are awarded via a nonpartisan competitive process overseen by the MLC’s BILLD Steering Committee. Below is a list of the 2012 BILLD class. (The BILLD fellow from the province of Alberta had not yet been announced as of April.)
New Nebraska laws aim to remake child-welfare system

Tackling an issue that many of them viewed as the most important policy priority of 2012, Nebraska lawmakers have adopted a series of reforms to a child-welfare system mired in controversy and turmoil.

According to the Omaha World-Herald, the changes will, in part, upend an effort undertaken in 2009 to privatize child-welfare services. In most parts of Nebraska, cases will now be handled by the state itself. The Legislature’s actions took place amid concerns about costs, how caseloads were being managed, and the outcomes for abused or neglected children in the system.

Other components of the five-bill package, signed into law in April, include:

- reducing caseloads for child-welfare workers to the standard set by the Child Welfare League of America;
- requiring more data and reporting on the system’s performance;
- creating the new position of inspector general for child welfare and establishing a statewide Children’s Commission to develop a child-welfare plan for the state; and
- boosting payments for foster care parents.

Illinois, Minnesota look to help returning veterans find work

Illinois and Minnesota are among the states this year considering new measures to help war veterans find work upon their return home from service.

In Illinois, a bill passed unanimously by the state Senate in April (SB 3241) would provide employers with a tax credit of up to $5,000 for hiring an unemployed veteran. Under current state law, the maximum credit is $1,200.

Minnesota’s SF 1599, signed into law in April, allows employers to set hiring preferences for veterans and for the spouses of deceased or disabled veterans. Another measure (HF 2909/SF 2488) would expand the reach of the state’s GI bill, allowing it to help pay for postsecondary education expenses.

In March, the U.S. jobless rate among Gulf War Era II veterans was 10.3 percent, compared to 7.5 percent for all veterans and 8.2 percent for the general U.S. population. There is an especially large gap in employment rates between younger veterans (18 to 24) and their peers.

Great Lakes states collaborating on offshore wind energy

Five Great Lakes states have signed a memorandum of understanding with one another and the federal government to work more closely on proposed offshore wind energy projects.

The goal of the agreement, federal officials say, is to streamline the regulatory review of these projects. Illinois, Michigan, Minnesota, New York and Pennsylvania are part of the new agreement. Michigan Gov. Rick Snyder cautions that it will not create any regulatory processes or review requirements for the member states, and adds that his state has no plans to authorize new offshore facilities.

Michigan, Illinois and Wisconsin are among the Great Lakes states that have formed councils to examine various regulatory issues related to offshore wind energy: siting, environmental and economic impacts, and compensation for lakebed leasing, for example. The Great Lakes account for one-fifth of the nation’s offshore wind-energy potential. However, there are no turbines on the lakes, due in part to local opposition in recent years to proposed projects in Michigan and New York, the Chicago Tribune reports.

There are plans in Ohio, however, to install turbines in Lake Erie just a few miles off the coast of downtown Cleveland.

Michigan removes helmet requirement for motorcyclists

Michigan has repealed a state law requiring all motorcyclists to wear helmets, leaving Nebraska as the lone state in the Midwest with such a law on the books.

According to the Insurance Institute for Highway Safety, most state laws in this region only require that helmets be worn by riders who are 17 years old and younger. (Illinois and Iowa are the only two states in the Midwest — two of only three nationally — with no helmet requirements for any ages.

Michigan’s new law allows people 21 and older to ride without a helmet, but these individuals must also meet specific requirements. These riders have to pass a safety course, the Detroit Free Press reports, as well as carry $20,000 in medical insurance.

Nationwide, 19 U.S. states have laws requiring all motorcyclists to wear helmets. Michigan had been among this list of states until the governor’s signature of SB 291 in April. Efforts to repeal the helmet law date back decades; former Gov. Jennifer Granholm twice vetoed similar legislation.

In 2010, there were a total of 818 motorcycle fatalities in the 11-state Midwest, ranging from a low of 14 in Nebraska to a high of 170 in Ohio. Sixty-three percent of these fatalities involved unhelmeted riders.