No end to death-penalty debate

In Nebraska, legislative repeal leads to push for statewide vote; in Ohio, new laws and policies center on lethal-injection protocol

by Tim Anderson (tanderson@csorg)

Thirty-seven during his long legislative career, Nebraska Sen. Ernie Chambers had introduced legislation to repeal the state’s death penalty. Every time, it had ended in defeat.

And for those outside Nebraska, there was little reason to believe the 38th time would be the charm for death-penalty opponents — the newly elected governor supported capital punishment, and the unicameral Legislature was still considered politically conservative.

Inside the state Capitol, though, legislators were well aware that 2015 could finally be the year for a successful repeal.

“I knew there would be a serious push,” says Nebraska Sen. Beau McCoy, who opposed the repeal and, two years ago, had led a filibuster to stop a similar measure from advancing.

Near the end of this year’s legislative session, supporters mustered not only enough votes to pass LB 268, but to over-ride the veto of Gov. Pete Ricketts as well. It marked the first time that a U.S. state’s repeal of the death penalty occurred over the veto of a governor.

“When I think about the debate on the floor [over LB 268], it really was mostly about conservative principles,” says Nebraska Sen. Sue Crawford, an opponent of the death penalty.

Is capital punishment more costly to the state than a sentence of life in prison? Does it work as a deterrent? Has it become impractical to implement? Is it better for the families of murder victims? Should we entrust the governor to execute someone? Those questions, Crawford says, drove legislative discussion.

Though Nebraska’s actions this year stood out in some ways (the veto override, for one), they also followed a pattern seen across the country, notes Robert Perkinson, executive director of the Death Penalty Information Center.

“There have now been seven states that have repealed or judicially abolished the death penalty over the past 10 years,” he notes, “and the one thing those states have in common is that they had largely abolished the death penalty in practice through disuse.”

Nebraska, for example, hasn’t executed anyone since 1997 (10 people were on death row when LB 268 became law), and when Illinois legislators repealed the state’s death-penalty statute in 2011, a moratorium had been in place for more than 10 years.

Of the four remaining states in the Midwest with the death penalty, Indiana, Ohio and South Dakota have all put someone to death by lethal injection within the past six years.

Kansas, on the other hand, hasn’t executed anyone since 1965, when two people were hanged in a murder case that captured international attention because of author Truman Capote’s book “In Cold Blood.”

Bills to abolish the death penalty were introduced this year in all four of those states: Indiana’s SB 136, Kansas’ HB 2129, Ohio’s SB 154 and South Dakota’s SB 121. None of those measures advanced.

And at least over the next year, discussion on the death penalty in the 11-state Midwest will not focus on more repeals. Instead, two other issues are looming — plans in Nebraska to challenge LB 268 via a 2016 ballot initiative, and Ohio’s attempts to secure a supply of drugs to execute people by lethal injection.

Death penalty on the ballot?

The Nebraska Legislature’s override of Gov. Ricketts’ veto did not end debate in that state over the death penalty; in some ways, it has just begun.

“This is a major enough issue that people should have a say in it,” says Sen. McCoy, who is helping lead a petition drive to get a repeal of LB 268 — and thus restoration of the death-penalty law — on the ballot in 2016.

Under state law, 5 percent of Nebraska’s registered voters must sign the petition by Aug. 27; LB 268 would be suspended with signatures by 10 percent of voters.

Nine years have passed since voters in any Midwestern state cast a vote for or against the death penalty. In 2006, 56 percent of Wisconsin residents voted in favor of a nonbinding referendum that called for a state constitutional amendment to repeal capital punishment.

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Flanked by state legislators and others, Nebraska Gov. Tom Ricketts announces his May 26 veto of a bill to repeal the death penalty. One day later, the unicameral Legislature overrode the veto, making Nebraska the seventh U.S. state over the past 10 years to end capital punishment. (photo: Nebraska governor’s office)
**Health & Human Services**

Conflicts over guardianship, visitation rights spark passage of first-of-kind law in Iowa

When they were unable to visit their brother due to opposition from his legal guardian, family members in the Iowa town of Cedar Rapids turned to their local state senator for help. And as Iowa Sen. Rob Hogg soon learned, that local family’s story was far from an isolated one; conflicts over visitation and guardianship rights were occurring across the state.

His response was to introduce SF 306, a bill that ultimately received unanimous approval in the legislature and was signed into law in April. The measure seeks to fix a law that many saw as too ambiguous to address conflicts that can occur between the legal guardian of an adult ward of the state and others.

Under the recently enacted changes, a legal guardian cannot deny visitation to an adult ward from other people unless the guardian can establish “good cause” for such denial in court. The guardian, though, maintains the authority to establish the time and place of such visitation, provided that these requisites are “reasonable” (the courts determine what is “reasonable”).

Under Iowa’s previous law, when individuals were unable to visit a loved one due to the decision of a legal guardian, the only remedy was to remove the legal guardian through litigation — often an unattractive alternative for both sides. Iowa’s new law seeks to circumvent costly court procedures, Hogg says, and to only involve courts under very specific circumstances.

In their testimony in support of SF 306, Iowa nursing homes and other groups noted that the problem of visitation was surprisingly widespread. For instance, a legal guardian would place restrictions on visitations while the ward was in a nursing home, and it was then the facility’s responsibility to enforce these visitation preferences. Hogg says SF 306 generated little opposition and quickly garnered bipartisan support. (The University of Iowa’s College of Law and College of Public Health provided Hogg with legal assistance and counsel.)

Iowa’s actions also captured national headlines. The issue of guardianship and visitation rights has become much more visible in recent months because of a high-profile dispute between the wife and children of the late Casey Kasem. Kerry Kasem, daughter of the radio celebrity and actor, has been advocating for changes similar to those made under Iowa’s new law.

In every state, too, the state’s elderly population is on the rise, and as a 2010 Government Accountability Office report notes, that means a larger number of citizens who “may become physically or mentally incapable of making or communicating important decisions for themselves.”

As result, state laws on guardianship and visitation are likely to impact many more families.

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**Economic Development**

Indiana encouraging urban strategies to attract residents by improving ‘quality of place’

With $84 million set aside in the new state biennial budget as incentive, Indiana is challenging its cities to work more closely together on projects that make their part of the state a more attractive place to live and work.

In emphasizing collaboration over competition, the Regional Cities Initiative marks a new approach to economic development in Indiana. But as Rep. Ed Clere notes, it seeks to address an old problem.

“The biggest economic issue we’re trying to address is attracting talent by improving quality of place,” he says. “Population stagnation has been identified as a significant threat to Indiana’s economic growth.”

Indiana’s increases in population lag behind the nation’s, and very little of the state’s growth has been due to population migration. Instead, 80 percent of the population rise between 2000 and 2010 was due to birth rates exceeding the number of deaths.

By improving “quality of place,” Clere says, the state and its various regions can attract more people and private investments. The $84 million in state funds will go to regions of the state where cities have developed collaborative, long-term strategies to attract new businesses and residents based on the area’s existing assets and strengths.

Regions will also be asked to leverage local financing to match the state’s investment. “It provides a strong economic incentive for communities to put aside differences and rivalries and come together to achieve much more than any single community could achieve on its own,” Clere says.

This new approach to economic development, he says, will lead not only to new regional partnerships, but to “bold, transformative thinking” as well.

In October 2014, the Indiana Economic Development Corp. released a study that helped lead to passage of this year’s Regional Cities Initiative and that could also assist local leaders as they develop new growth strategies.

In the study, researchers explored how 11 U.S. cities of varying size successfully transformed their economies and increased population. One of the study’s conclusions was this: Long-term, regional collaborations, guided by non-partisan thinking, help lead to economic growth.

Other factors, researchers say, include strong local leadership, private-sector investment and higher-education partnerships.

“The area I represent [in southern Indiana] is part of the Louisville metropolitan area,” Clere explains. “Much of our economic development focus in recent years has been on regionalism. I saw the initiative as a singular opportunity to continue to advance regional economic development in my area.”

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Brief written by Grant Gregory, who can be reached at ggregory@csg.org. The co-chairs of the Midwestern Legislative Conference Health & Human Services Committee are Kansas Rep. Susan Concannon and Illinois Rep. Robin Gabel.

**Projected increase in Midwest’s 65-and-older population, 2000-2030**

*Source: U.S. Census Bureau*

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**Population change in Midwestern states, 2012-13**

<table>
<thead>
<tr>
<th>State</th>
<th>% overall change*</th>
<th>Net domestic migration</th>
</tr>
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<tbody>
<tr>
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<td>Minnesota</td>
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<tr>
<td>Wisconsin</td>
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<td>+8,158</td>
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</tbody>
</table>

*Includes births, deaths and domestic migration*  
*Source: U.S. Census Bureau*

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Brief written by Laura Tomaka, staff liaison to the Midwestern Legislative Conference Economic Development Committee. She can be reached at ptomak@csg.org. The committee’s co-chairs are Michigan Sen. Ken Horn and Nebraska Smn. Heath Melo.

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Midwest-Canada Relations

As more Bakken oil moves by rail, rising accident risks put new focus on tanker safety standards

Two years ago, an explosive fire caused by a rail tanker car carrying crude oil took 47 lives and destroyed much of the downtown Quebec city of Lac Megantic. A number of nonfatal fires involving oil-carrying trains have followed, most recently this year in Illinois and North Dakota. These incidents have raised safety concerns on both sides of the border, as well as this question: What can governments do to prevent the accidents from occurring? This spring, a mix of new federal and state standards were unveiled that set new rules for tanker cars and what is being loaded on them.

Traditionally, much of the oil produced in the United States and Canada has been shipped via pipeline, but North Dakota lacks enough pipeline capacity to meet demand. As a result, as of mid-2014, about 60 percent of the crude oil produced in the Bakken region was being shipped by rail. (Average daily oil production in that region has grown from just under 310,000 barrels in 2010 to nearly 1.2 million for the first two months of 2015.) The recent accidents on both sides of the border have underscored the difficulty in containing explosions and fires caused by trains carrying crude oil. And they have also highlighted the safety problems with older tanker cars.

In May, U.S. and Canadian transportation officials unveiled new tanker car standards; they were developed collaboratively because of the two countries’ interconnected freight rail system. The College Board urges educators to focus on the rigor of college-level courses before graduation.

Education

State strategies expand student access to Advanced Placement

Since its inception in 1955, the Advanced Placement program has been used by millions of high school students who want to experience the rigor of college-level courses before graduation.

The long-running program continues to gain popularity. In fact, participation in AP classes by high school graduates in the United States nearly doubled over the past decade.

While AP courses are available in many high schools across the country, some states, like Indiana, require every high school to provide students with access to the classes.

Indiana high schools must, at the minimum, offer two AP courses — science and math. With federal grant assistance, the Indiana Department of Education is able to cover the costs for students with acute financial constraints.

A range of older tanker cars now in use will have to be either retrofitted or phased out within three to five years. And starting in October 2015, any tanker car manufactured for use in the two countries must meet a new binational safety standard — for example, new shields, stronger valves and other protective equipment that allow the cars to withstand fires without rupturing.

Major urban areas in the Midwest are part of the routes that bring the oil produced in this region to refineries nationwide. The amount of crude oil shipped from the Bakken to East Coast refineries alone tops more than 400,000 barrels a day, and many of those trains come through the Chicago area, the largest freight rail hub in the country.

According to the Chicago Tribune, about 40 trains a day, each carrying up to a million gallons of oil, pass through the area. In 2014, an average of seven trains carrying oil passed through Minnesota each day. The trains generally are 110 cars long and carry 3.3 million gallons of oil. Most pass through the Twin Cities area.

In April, North Dakota announced that certain gases and liquids would have to be removed before crude oil could be loaded onto trains. This rule will make the oil more stable for shipment; Bakken oil is more volatile than other types of crude oil.

"Some schools have zero AP courses, so they come to us for all of their AP needs," says Kristin Flanary, administrator of the IOAPA. "Some schools have multiple AP courses, but might not offer a particular one, so we have students take our courses that way."

With the help of programs like the IOAPA, the number of AP courses taken by Iowa students continues to rise. In 2014, 18,860 AP exams were taken by Iowa students, compared to only 8,192 in 2004.

Many other Midwestern states have also seen increased AP participation over the past 10 years. Illinois and Kansas both saw growth of more than 100 percent — higher than the national average of 95 percent — and Nebraska nearly tripled the number of students who took high school with AP Exam experience.

This growth trend can also be seen among certain populations of traditionally underrepresented high school students. According to an annual report by the College Board (a nonprofit association of educational institutions that administers the AP program), the number of low-income graduates who have taken AP courses has more than quadrupled since 2003.

The College Board urges educators to focus on the barriers that students from certain ethnic, racial and socioeconomic groups face regarding access to AP courses. For example, some states, like Illinois, use federal and state funds to provide the AP Exam for free to students who have acute financial constraints.

"Participation defined as having taken an AP Exam during high school. The 10-year U.S. increase was 95 percent."

Source: The College Board, “10th Annual AP Report to the Nation”

% growth in Advanced Placement class participation by students in Midwest, 2003-2013*

* Participation defined as having taken an AP Exam during high school. The 10-year U.S. increase was 95 percent.

Source: The College Board, “10th Annual AP Report to the Nation”

% growth in Advanced Placement class participation by students in Midwest, 2003-2013*
Another year, another fight over future of state union laws

T he future of some states’ decades-old prevailing-wage laws is in doubt this year, with one repeal already passed in Indiana and similar proposals under consideration in Michigan and Wisconsin.

Under these laws, government contractors must provide their employees with union-level wages and benefits for state or local public works projects. In Indiana, for example, a local five-person committee (representing contractors, industry, unions and local taxpayers) reviews wage data and then establishes a pay scale for workers on any project with a cost of more than $350,000.

But starting in July, this process for setting a “common construction wage” ends when Indiana’s HB 1019 takes effect. The bill’s proponents say this repeal of prevailing wage will cut local government spending and save taxpayer dollars. Similar arguments are being made by those in favor of proposed repeals in Michigan (SB 3) and Wisconsin (AB 32). The Michigan Senate passed SB 3, but Gov. Rick Snyder has indicated he would not support it. One alternative in Michigan is to seek the change via a ballot initiative.

In May, after a Senate committee approved the repeal, Michigan’s Building & Construction Trades Council called the vote a “sad state of affairs.” In addition to helping provide workers with adequate wages and benefits, the council says, prevailing-wage laws help maintain efficiency, quality and safety in government-funded projects.

In a fourth Midwestern state, Illinois, Gov. Bruce Rauner has made a repeal of prevailing wage part of his “turnaround agenda.” Ohio exempts school construction projects from the state law.

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Pension woes, pension successes seen in 11-state Midwest

In 1970, when they gathered to create a new constitution for Illinois, convention delegates decided to take on a fiscal problem that had been worsening for years.

Pension obligations were not being met, and as a result, the unfunded liabilities of governments in Illinois were rising at an alarming rate.

The delegates response: Establish a new constitutional clause that would not only protect the pensions of public employers, but presumably convince government leaders to meet the funding obligations.

Forty-five years later, this 40-word clause — which says in part that accrued pension benefits “shall not be diminished or impaired” — looms larger than ever in Illinois politics.

In May, the state Supreme Court struck down a 2013 law designed to shore up the nation’s worst-funded pension system by providing savings of more than $100 billion over the next 30 years. At the time of the law’s signing, proponents hailed it as “historic,” a long-sought-after fix to a funding crisis 70 years in the making.

One part of SB 1 established a “funding guarantee,” thus giving retirement systems the right to go to court if the state did not make its required pension payments. But other provisions included cuts in pension benefits — for example, changes in the cost-of-living adjustment and a cap on the maximum salary used to calculate a worker’s retirement annuity.

These reductions, the court ruled, “contravened the clear requirements” of the Illinois Constitution and its pension-protection clause.

This type of explicit constitutional guarantee is somewhat rare among the 50 U.S. states. Only six others, including Michigan in the Midwest, have it, according to a 2013 study by the Manhattan Institute for Policy Research.

Since being included in the Illinois Constitution, the pension-protection clause has helped protect workers’ benefits, but it has not guaranteed sound funding of the state’s retirement systems.

In a national review last year of state pensions, The Pew Charitable Trusts reported that only 40 percent of Illinois’ total pension liabilities were funded as of 2012. Nationally, the funded ratio in state pension systems was 72 percent; along with Illinois, five other Midwestern states — Indiana, Kansas, Michigan, North Dakota and Ohio — fell below this national average for 2012.

‘Broad awakening’ in the states

At the start of this century, most state pension systems appeared to be in excellent shape. Because of strong investment returns in the 1990s, pension funding levels were high and the required level of state contributions was at or near an all-time low (as a percentage of total state spending), notes Keith Brainard, research director for the National Association of Retirement Administrators.

But what came next was a “perfect storm”: downturns in the market and the consequences of policy choices made by state and local governments (for example, the decision to boost pension benefits during the strong economic period and/or divert contributions for other purposes).

These factors put a tremendous strain on states, which had to find a way of raising contribution levels while also dealing with larger budget crises in the early and late 2000s.

But as Brainard notes in a paper released earlier this year, most states rose to this fiscal challenge.

This challenge was met in part with new laws (some affecting current employees, others impacting only future hires) designed to shore up retirement systems: for example, raising contribution rates, lengthening vesting periods, raising the retirement age, reducing cost-of-living increases, capping benefits and changing how a worker’s “final average salary” is calculated.

Nearly every Midwestern state has made policy changes of some kind over the past decade, and most of these legislative actions withstood legal challenges.

But since 2001, Brainard says, states have also made a good-faith effort to fund their pension plans, and the tumultuous period of the past decade and a half appears to have had a lasting impact on public thinking about pension financing.

“There has been a broad awakening about the importance of making the necessary contributions,” Brainard says.

States have varying policies (via statute or the rules of a retirement system board) that require annual contributions to be made. This amount, known as the annual required contribution, is determined by calculating the retirement system’s costs and unfunded liabilities.

The strongest of these policies mandate that annual required contributions be made in full, and states with this legal structure have generally had the most success in keeping up with pension obligations, Brainard says.

In turn, the diligence of these states is paying off.

“We are really seeing a widening gap when it comes to the states’ experience,” Brainard says. “For those states that have faithfully been making contributions, states like Wisconsin, pension costs are going down. On the other hand, you have states where pension costs continue to rise.”

Indiana legislators took the first step this year to constitutionally guarantee that the state keep up with its pension obligations. They passed SJR 19, a constitutional amendment that would, in part, require every biennial budget “to actuarially fund the accrued liability of... pension funds during the budget period.”

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State, local pension contributions as % of all direct general spending (2012)

Source: National Association of State Retirement Administrators (using U.S. Census Bureau data)

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State has prevailing-wage law

State does not have prevailing-wage law

$ threshold that triggers use of states’ prevailing-wage laws

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<thead>
<tr>
<th>State</th>
<th>Threshold ($) (value of project)</th>
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<tr>
<td>Michigan</td>
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<tr>
<td>Minnesota</td>
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<tr>
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<tr>
<td>Wisconsin</td>
<td>$48,000</td>
<td>$100,000 for projects requiring multiple trades</td>
</tr>
</tbody>
</table>

Source for map and table information: U.S. Department of Labor
First in the Midwest: Lottery revival in this region began in Michigan

by Mike McCabe (mmccabe@csg.org)

W ith the adoption of Public Act 239 in the summer of 1972, lawmakers in Michigan sought to generate new revenues in support of the state’s public education system by embracing a mechanism with a storied past in American history — the public lottery. In doing so, the Wolverine State became the first in the Midwest to establish a modern state lottery, following the lead of a handful of northeastern states and helping to usher in a new wave of interest in state-sanctioned gambling across the entire country.

Eight years earlier, New Hampshire had become the first state to establish a lottery, some seven decades after the last previous state lottery — in Louisiana — had disappeared. But the trend that New Hampshire and Michigan helped to ignite in the 1960s and ’70s was more of a revival than an innovation. Lotteries have long played an important role in this country, and their earliest use predates American independence. Shortly after Jamestown was settled in 1607, the struggling colony’s financier, the Virginia Company of London, was permitted by the British Crown to sponsor a lottery with proceeds earmarked for the benefit of the new colony. Eventually, lotteries were established in all 13 of the original colonies, usually for the purpose of funding capital projects, including the construction of roads, bridges and even churches.

In time, lotteries were also used to help finance the American Revolution, as well as the U.S. Civil War and the post-war reconstruction of the southern states. Over the years, lotteries fell in and out of favor with the public and lawmakers alike as needs changed and philosophical views related to state-sanctioned gambling clashed. In the mid-19th century, New York became the first state to constitutionally ban lotteries and other forms of gambling. Other states followed suit as the century came to a close, the trend often fueled by scandal and corruption in connection with existing lotteries. When the Louisiana lottery was abolished in 1894, not long after Congress outlawed all interstate lottery commerce, state-sponsored sweepstakes essentially vanished for 70 years.

The modern Michigan lottery, like its predecessor in New Hampshire, was intended to help fund education. According to Jeff Holifield, director of public relations at the Michigan Lottery, that’s exactly what it’s done. The lottery poured more than $742 million into the state’s School Aid Fund in fiscal year 2014 alone, he says. That figure represents 6.5 percent of the fund’s total revenues and amounts to $485 for every student in the state’s K-12 education system.

Between 1972 and 1992, nine of the other 10 Midwestern states followed Michigan’s lead, and in 2004, the region’s lone holdout, North Dakota, finally did likewise. Two years ago, Wyoming became the 44th U.S. state to establish a public lottery, and it would appear that state-sanctioned gambling — in a variety of forms — is here to stay.

Nationwide, state lotteries generated more than $70 billion in total sales in FY 2014. Some critics argue that the state share of this total should be higher (states retain less than 30 percent of the total take while paying out about two-thirds in prizes), but in an era of fiscal uncertainty, lottery revenues remain a welcome addition to the bottom line in cash-strapped states.

And lotteries remain very popular in the states that have established them. Holifield points to research indicating that 73 percent of all adults in Michigan buy at least one lottery ticket per year. The challenge, he says, is to keep players coming back — especially for a “mature lottery” such as Michigan’s, which depends on a constant infusion of new games to maintain player interest.

“A lottery is a different sort of critter compared to other agencies,” he says, “because we’re a business, and we’re in business to make a profit.”

Previous articles from CSG Midwest’s First in the Midwest series are available at www.csgmidwest.org

Juror compensation varies not only from state to state, but often from one county to the next. Other factors, such as time served and distance traveled, also determine the level of compensation.

According to the National Center for State Courts, pay for jurors can range from a high of $50 per day (in Illinois, North Dakota and South Dakota) to a low of $10 per day — the minimum rate set by Iowa, Kansas and Ohio. Individual county courts can pay higher than that amount.

Over the past year, at least three states in the Midwest have considered proposals to boost juror pay. Illinois SB 3075, signed into law in December, increased minimum compensation levels from $4 (first day) and $10 (subsequent days) to $25 (first day) and $50 (subsequent days). Michigan’s HB 4561, introduced in May, would give jurors a daily raise of $5 — up to $30 for the first day and $45 for each subsequent day of service.

In Minnesota, Gov. Mark Dayton proposed in his budget a pay increase for jurors (from $10 a day to $20). Since 2003, juror pay has been cut two times due to difficult fiscal conditions in the state. Dayton’s proposal would have restored pay to pre-2008 levels, but it was not included in the state’s final budget agreement.

Legislature’s final budget agreement.

Funding for juror pay comes from the state, the county or a combination of the two. Iowa, Minnesota and North Dakota are among the jurisdictions where juror compensation comes completely from the states’ funding of the judicial branch. In contrast, one of the concerns raised about the recent pay increase in Illinois is that it adds a financial burden on local courts, which must pay for the increase. (Gov. Bruce Rauner has proposed reversing the changes made under SB 3075.)

Michigan is among the states that rely on a mix of state and local funding to pay jurors. Twelve years ago, when the Legislature increased juror pay, it established a fund to reimburse local counties to cover the higher costs. Money for the fund comes from a fee charged to individuals seeking to have their driver’s licenses reinstated or requesting a jury trial.

In addition to the prescribed monetary compensation, states and the federal government provide job protections for jurors — for example, prohibiting employers from firing or reprimanding workers for their jury service.

Nebraska is the only Midwestern state that requires employers to provide paid leave for an individual serving jury duty. But although paid time off isn’t legally required in most states, 67 percent of employers voluntarily provide paid time off for jury duty, according to the U.S. Bureau of Labor Statistics.

Juror compensation in Midwest

<table>
<thead>
<tr>
<th>State</th>
<th>Compensation</th>
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<td>$10/day</td>
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<td>Minnesota</td>
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<td>South Dakota</td>
<td>$10/day, $50/day</td>
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<td>Wisconsin</td>
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* * * Some counties in state have varying rates.
Sources: National Center for State Courts; CSG Midwest research
Uncertain future for death penalty, lethal-injection policies in some states

for the use of capital punishment in first-degree murder cases where the conviction was supported by DNA evidence. (Wisconsin still does not impose the death penalty.)

But since then, nationwide public support for the death penalty has dropped. Though a majority of Americans still favor it, levels of support have fallen from a high of 78 percent (in 1996) to a low of 56 percent (as of April 2015), according to the Pew Research Center.

Death penalty opponents also point to the 2014 results of a Washington Post-ABC News poll that asked the following: Which punishment do you prefer for people convicted of murder — the death penalty or life in prison with no chance of parole? On that question, a majority of respondents preferred the latter, by a margin of 52 percent to 42 percent.

“I don’t really think the policy question, as we just saw in Nebraska,” Dunham says. “The Legislature wasn’t deciding to abolish the death penalty in favor of freedom. They were abolishing in favor of life without the possibility of release.”

But in that same Washington Post-ABC News poll, about 60 percent of respondents still voiced support for the death penalty. In Nebraska, McCoy believes public support is even greater.

“I tried to make the point during [legislative debate] that the only thing that matters is what has happened in Nebraska with the death penalty,” he says. “It doesn’t cost more, and we haven’t wrongly executed anyone.”

A statewide vote on LB 268 would capture national attention, and if it happens, Sen. Crawford says “there will be the same broad discussion we had in the Legislature, and that might sway public opinion toward repeal.”

During this year’s debate, legislators talked about a “broken” system that had not delivered for taxpayers, about not giving the government the power to kill its citizens, and about the continuing problem of not being able to secure the drugs to execute people by lethal injection.

They also heard from victims’ families — both those who support and oppose the death penalty.

These families’ committee testimony and individual meetings with legislators were critical to building support for repeal, Crawford says, and she also points to the importance of a recent academic study on the death penalty’s impact. In that study, researchers followed the experiences of murder victims’ families in Minnesota, a state without capital punishment, and Texas, a state with the death penalty.

The Minnesota families showed higher levels of physical, psychological and behavioral health, as well as more satisfaction with the justice system. “In my mind, there just isn’t evidence to support the death penalty, and the evidence against it continues to mount,” Crawford says. “And then you get to the moral arguments, and the fact if the government executes an innocent person, it is the most grave injustice.”

But McCoy believes “the ultimate punishment should be available to people who commit the most heinous crimes.”

Voters in Nebraska may have the final say.

Ohio halts executions in 2015

In February 1989, Joy Stewart, 22 years old and eight months pregnant, was brutally raped, choked, stabbed and murdered.

Twenty-five years later, the murderer, Dennis McGuire, was executed by the state of Ohio. McGuire’s death has received international attention because of what has widely been called a “botched execution.” It took McGuire an unexpectedly long time to die, according to The (Cleveland) Plain Dealer, and some witnesses reported seeing him gasping, choking and clenching his fists. Ohio, like other states, has had to change its lethal-injection protocol due to drug shortages. To address this problem, Ohio lawmakers passed a bill in late 2014 that allows the state to get its drugs for lethal injection from compounding pharmacies. HB 661 also shields the identities of companies that provide these drugs to the state.

In 2013, South Dakota executed two people by lethal injection using drugs it had obtained from compounding pharmacies.

A year earlier, the state had revised its protocol to allow for a one-drug execution process. That change in policy came after the U.S. Drug Enforcement Agency had advised the South Dakota Department of Corrections that its imported sodiumpentothal was not long enough to be effective for a two-drug protocol. But it is the execution of McGuire that led to a series of judicial rulings, new policies and legislative actions in Ohio, including the passage of a bill sponsored by Buchy.

Earlier this year, the Ohio Department of Rehabilitation and Correction announced that none of the state’s death-row inmates would be executed in 2015. Ohio currently has 145 individuals on death row, and six executions had been planned for this year.

A few weeks prior to announcing the delay, the department said it was revising the state’s lethal-injection protocol. (In 2014, a federal judge issued a temporary moratorium on executions until a new protocol could be adopted and implemented.)

With the changes, the two-drug regimen of midazolam and hydromorphone — the mix used in McGuire’s “botched execution” — was removed from the protocol. The two drugs permitted for lethal injections in Ohio are now thiopental sodium and pentobarbital, and the state must secure a supply of those drugs before executions can resume.

Helping secure that supply is the goal of HB

CONTINUED FROM PAGE 1
663, introduced by Buchy in November 2014 and signed into law a month later. The bill shields from public record the identities of individuals who provide the state with the drugs used in lethal injection. HB 663, Buchy says, will allow Ohio to get the drugs it needs from compound pharmacists. “While the legislation was advancing, there was never any question that the state would be able to get the drugs it needs [with the changes],” Buchy says.

The new law also protects the identities of individuals involved in an execution and establishes a new legislative committee to study how the families of homicide victims can be better supported by the state.

Ohio is not alone in grappling with drug shortages and having to revise its lethal-injection protocol.

The problem of securing the drugs was raised during Nebraska’s debate over LB 268, and the use of midazolam is the subject of a U.S. Supreme Court case (see sidebar for details on the case and the causes of drug shortages). But Buchy says Ohio’s current delay in executions and transition to a new protocol shouldn’t be confused with any wavering about the future of the death penalty in his state.

“The issue here is lethal injection; it is not capital punishment,” he adds.

Last year, an Ohio Supreme Court task force gave state legislators 56 recommendations on how to improve administration of the death penalty. The list covers nearly all aspects of the death penalty — from tighter controls on how evidence is collected and interrogations are conducted, to more funding for defense services, to new rules for post-conviction proceedings.

U.S. Supreme Court ruling will have ‘great bearing’ on lethal-injection protocol

In April, the U.S. Supreme Court heard arguments in a case that could determine the future of how some states administer the death penalty. At issue is use of the drug midazolam in executions and whether it violates the constitutional prohibition on “cruel and unusual punishment.”

“It will have great bearing on what a number of states do, and I know the federal government itself is not proceeding with developing its own protocol [for lethal injection] until the court weighs in,” says Robert Dunham, executive director of the Death Penalty Information Center.

Seven years ago, the nation’s highest court ruled that the state of Kentucky’s use of a drug protocol that included sodium thiopental was constitutional.

But since then, states across the country have changed the combinations of drugs used to execute people because of shortages. Manufacturers have either enacted policies to prevent their products from being used to execute people, Dunham says, or they’ve stopped producing the drugs altogether. And in 2011, the European Union banned the export of certain anesthetics, such as sodium thiopental, to the United States and other countries with the death penalty.

Some states then began using midazolam, a drug used in highly publicized “botched executions” in 2014, including in Ohio. Ohio has since delayed all scheduled executions and announced it would no longer use midazolam. The current case before the U.S. Supreme Court was brought by three death-row inmates in Oklahoma, where a year ago, Clayton Lockett was put to death with a drug mix that included midazolam. During the execution, Lockett awoke mid-execution to pain-inducing and paralyzing drugs in his system.

Midazolam is a central nervous system depressant and has been used in conjunction with two other drugs for lethal injections 15 times since its introduction; there have been complications in three of the 15 executions for which the drug has been used. Dunham says the case will have one of three outcomes: 1) the use of midazolam is not cruel and unusual punishment; 2) this particular drug is not appropriate for use in capital punishment (though lethal injection itself would still be constitutional); or 3) the case is sent back to the federal district court for further review.
By Cindy Andrews (candrews@scp.org)

**South Dakota Rep. Brian Gosch**

Listen and learn, then lead: Early experiences as legislator helped prepare him for success as head of party caucus

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**Q:** You were initially appointed to the House, but soon after your first election in 2008, you pursued a path in leadership. Why did you choose that path, and have you enjoyed being a leader?

**A:** I had a very difficult general election against a Democrat with a lot of name recognition (he was a former lieutenant governor candidate). I was feeling somewhat euphoric after that hard-fought win, so then I took a look at running for [party] whip.

Yes, I enjoy it. As you can imagine, [being in leadership] has its pluses and minuses. It is a lot more work for the same little pay. It’s got some difficult and stressful components to it, but someone’s got to do it, and I work hard and try to do a good job.

**Q:** You are now serving as House majority leader. How did you try to earn the trust and respect of colleagues to become a legislative leader?

**A:** Starting out, it’s doing a lot of listening and learning, seeing what works and what doesn’t work, and making friends and doing a good job with the things you’re involved with — whether it is bills you are carrying, or how you perform in committee and on the floor. It’s about asking intelligent questions and making intelligent points and votes.

By doing that, you earn the respect of your colleagues. And once you get a leadership spot, even an introductory one, it goes again to how you perform. … Your colleagues see that, and it rolls over to your next election.

**Q:** How would you describe your legislative leadership style?

**A:** Work hard. Still try to listen, to understand. Be as fair as possible, as objective as possible, and then be protective of my caucus and its wishes — to some extent be a lawyer for them.

**Q:** This past year, you were a primary sponsor of a bill that makes major changes to the state’s juvenile justice system, in part by creating new financial incentives for counties to divert more juveniles away from the courts and instead toward community-based programs. Why was it time for the state to make this policy change?

**A:** There wasn’t one particular incident, but we learned that we were incarcerating more juveniles than all our surrounding states and spending too much money at the county and state levels. We want to keep juveniles in the community when they are not a danger to themselves or members of the community. …

Focus on the different third-party providers in the community to work with those students to keep them out of prison, keep them in the community and help lower the rate of recidivism.

**Q:** Along with all of the work you do in Pierre, you have a job outside the Legislature and are the father of six children. How do you try to manage all of those responsibilities?

**A:** It is a delicate balance. My first session was just after we had our fifth child. My wife is a CPA who is incredibly busy with tax season during our session, which generally runs from early January to the end of March. That initial change — from having me around to help and communicating regularly, to not being around and communication becoming spotty with the demands of the Legislature — was very difficult.

She would call me sometimes with a baby crying into the phone and express frustration over me not being more accessible by phone at all times. I recall such a phone call after one floor session, and I offered to drive home that night and skip the rest of the week. “There was a long pause and she said, ‘No, you can stay.’”

The point is that family comes first, and I advise that to all of my caucus members. You have to be willing to walk away and take care of family.

**Q:** Do you have any other advice for new legislators?

**A:** To remain humble … to remember if they go two or three houses down their block, nobody knows who they are. And to work hard, but don’t try to do too much your first year. Don’t carry anything too difficult until you learn the process and learn the players.
Peace of mind at end of life

For individuals and loved ones, Michigan’s advance-directive registry makes medical wishes known everywhere in the county

by Michigan Sen. Jim Marleau (@jmmarleau@senate.michigan.gov)

Good public policy takes time. The Michigan “Peace of Mind” Registry has taken more than six years, from the time the concept was created until the registry website went live earlier this year.

During that time, I ran two elections, moved from the state House to the state Senate, moved from the minority party to the majority party, negotiated numerous iterations of the bill with multiple state departments and stakeholders, and renegotiated the bill as key staff changed throughout the years.

In July 2012, Gov. Rick Snyder signed SB 723 into law. Almost three years later, Michigan’s Peace of Mind Registry began accepting the first advance directives.

It began back in 2009. Michigan had been suffering years of budget deficits, and as the ranking Republican member of the House Health Policy Committee, I was given direction to find savings in Medicaid services. The statistic at the time, and probably will remain true, was that roughly 70 percent of the health care expenses in your lifetime will come within the last two years of your life. I thought that might be the best place to start.

An unexpectedly complex issue

This is when I first learned about the complexity around advance medical directives. When I thought about end-of-life decisions, the only thing that came to mind was a living will. Michigan law had a definition of an advance directive as a document that would allow for residents to designate their durable power of attorney for medical issues and outline their end-of-life decisions. I did a little research and found out that only a small fraction of our population had an advance directive, and of those, only about one-third had that directive utilized during hospitalization.

This is when it turned from a policy and budget issue into something much more personal.

Everyone I talked to on the subject had a personal story about dealing with difficult decisions at the end of life. I have never had to directly deal with a situation in which I had to make a decision regarding a loved one’s medical treatment, and I’m very fortunate to never have faced that process.

It was eye-opening to hear stories from friends and colleagues who shared details of families being torn apart over how someone wanted their life to play out. My mission then became to make this about the individual and what each person wanted his or her end-of-life wishes to be.

My first attempt at legislation would have created a statewide registry for advance directives that would be tied to one’s driver’s license. It seemed simple enough; the state had added heart icons to state IDs to designate organ donors. As it turns out, though, it is much more difficult and extremely expensive to add anything to a state document, let alone one that had no real support or any monetary return on investment.

Then, representatives of Michigan’s chapter of Gift of Life sat down with me. (The organization was the driving force behind adding the organ-donation option to driver’s licenses.) The group had a vested interest in advance directives, since there was no way for a person to refuse to have their organs donated once they were dead.

After a few years and countless discussions, they agreed to become a partner for the broader cause of advance directives. They offered free use of their extensive network with health care providers. We decided that a registry would need to be broad enough to accept any document for an end-of-life decision, whether it was about organ donation, durable medical power of attorney, or even disposition of remains.

I rewrote the legislation around this concept of a repository for these decision documents using the Gift of Life network. A federal rule states that when a hospitalized patient is checked for organ-donation status, they must be checked in their state of residence. This makes Peace of Mind the first registry accessible for residents anywhere in the country for any provider.

Peace of Mind is the first registry accessible for residents anywhere in the country for any provider.

However, there were still significant political hurdles to cross. We are now in a post-Affordable Care Act world where the media uses terms such as “rationing” and “death panels” when it comes to end-of-life care. Likewise, Michigan was once home to the infamous Jack Kevorkian, who brought the debate over physician-assisted suicide to national attention in the 1990s.

I spent countless hours with my legislative colleagues explaining the nature of the bill, and almost every time it ended in a personal story about one of their friends or family members. It had taken almost four years to get to this point, but the bill passed both legislative chambers nearly unanimously, with full bipartisan support and 34 of 38 senators co-sponsoring the bill.

It took more than two years for our Department of Community Health and Gift of Life to develop a website and to have the proper data-sharing agreements in place. I’m proud that you can log on today to www.mipaceofmind.org as a Michigan resident and sign up to have your advance directive available anywhere in the country.

However, my work is not over yet. The next step is to get the word out, and I’ve worked with hospitals, physicians, financial planners, retiree groups, and many others to educate people on advance directives. I’ve included language in statute for our Medicaid contracts in Michigan as well.

We need to do everything we can to ensure that someone’s end-of-life wishes are followed with respect and dignity. It was a good day for me when I could finally put up my advance directive so that my own family has that peace of mind.

Sen. Jim Marleau, a Republican from Lake Orion, was first elected to the Michigan Senate in 2010 and is a member of its Health Policy Committee. He previously served six years in the House.

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 tander@csigm.com.
Legislators chosen to lead interstate policy groups in 2015 and 2016

Midwestern Legislative Conference committees foster regional collaboration

State legislators from around the region have been selected to lead the Midwestern Legislative Conference’s policy committees. Photos of the committee chairs and vice chairs can be found below; full committee rosters are available at www.csgmidwest.org.

Appointing authorities in the Midwest’s legislative chambers can choose up to three members to serve on these bipartisan, regionwide policy committees. Based on these appointments, North Dakota Sen. Tim Flakoll, chair of the MLC, then chose a bipartisan mix of legislators to serve as committee chairs and vice chairs through 2016. The goal of these committees is to promote interstate collaboration and information sharing.

Each committee will meet on July 12 in conjunction with the upcoming MLC Annual Meeting, run from July 12-15 in Bismarck, N.D. The event will explore a wide range of issues of importance to the Midwest’s states and provinces. They will begin at noon on Sunday, July 12. Here is a list of planned topics for each committee.

### Agriculture & Natural Resources
- Committee chairs: North Dakota Sen. Don Schable, Iowa Sen. Mary Jo Wilhelm
- Vice chair: Nebraska Sen. Heath Mello

### Economic Development
- Vice chair: Colorado Sen. John Osmond

### Education
- Vice chair: Kansas Rep. Susan Concannon

### Health & Human Services
- Vice chair: Iowa Sen. Jim Stamas

### Midwest-Canada Relations
- Committee chairs: Indiana Sen. Ed Charbonneau, Saskatchewan MLA Wayne Elhard
- Vice chair: Manitoba Minister of Education and Training Drew Caldwell

### MLC committees will meet July 12 in North Dakota

The upcoming Midwestern Legislative Conference Annual Meeting will begin with a series of policy sessions hosted and led by the MLC’s five policy committees. Open to all meeting attendees, these sessions will explore a wide range of issues of importance to the Midwest’s states and provinces. They will begin at noon on Sunday, July 12. Here is a list of planned topics for each committee.

#### Agriculture & Natural Resources
- Outlook for the agriculture economy
- Avian influenza and livestock disease
- Future of the renewable fuels standard
- State investments in water quality

#### Economic Development
- Policies to help rural areas thrive and prosper
- Strategies to match worker skills, labor needs

#### Education
- Professional development workshop on legislators’ use of social media
- Telemedicine

#### Health & Human Services
- Health care cost containment
- Substance abuse and infectious disease
- Safety of shipping oil by rail
- Region’s interconnected energy system

#### Midwest-Canada Relations
- Policies to help rural areas thrive and prosper
- Strategies to match worker skills, labor needs
- Telemedicine
- Safety of shipping oil by rail
- Region’s interconnected energy system

#### About the MLC Annual Meeting
- July 12-15 in Bismarck, N.D.; register at www.csgmidwest.org
- Featured speakers include astronaut Buzz Aldrin and pollster John Zogby
- Policy sessions planned on state energy policy, early learning, public health, technology and government, police body cameras, juvenile justice, and college and career readiness
- Professional development workshop on legislators’ use of social media
- Family-friendly event with numerous activities for children, spouses and other guests

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.
Csg midwest facilitates workshops on Great Lakes policy in Ohio, Wisconsin

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to recently hosted the region’s second workshop of the year on Great Lakes policy, the result of an ongoing initiative of CSG Midwest and the work of the nonpartisan Great Lakes Legislative Caucus.

Designed for state legislators and their staff, these workshops raise awareness about the importance of the Great Lakes and state policies to protect and restore them.

Ohio’s workshop, held in April in Columbus, featured a presentation by Molly Flanagan, vice president for policy at the Alliance for the Great Lakes. She spoke about financing options and best practices to improve local stormwater and wastewater management systems.

Participants also learned about the Ohio legislature’s state-specific Lake Erie Caucus and had an opportunity to take part in a roundtable discussion of Great Lakes issues.

The workshop in Wisconsin, held in February, explored the impact of the Great Lakes on Wisconsin’s economy. Lawmakers also heard from experts on policies to prevent the introduction and spread of aquatic invasive species and to address the problem of emerging contaminants in the lakes.

In previous years, Illinois, Michigan and Minnesota have held Great Lakes policy workshops in their state capitals with assistance from CSG Midwest and its Under the Dome initiative. The Great Lakes Legislative Caucus has partnered with CSG Midwest on these workshops.

The goal of CSG Midwest’s Under the Dome initiative is to deliver customized programming to state legislators in their capitals. Legislators choose the topic, and CSG Midwest then sponsors and helps organize the event.

In addition to workshops on the Great Lakes, Under the Dome programs have been held on legislative civility, health policy, state budgets and strategies to promote entrepreneurship.

Grant secured for Great Lakes Legislative Caucus

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SG Midwest has secured a new two-year grant for the Great Lakes Legislative Caucus, a nonpartisan group of legislators committed to protecting and restoring the freshwater system.

The Chicago-based Joyce Foundation agreed earlier this year to continue its support of caucus-related activities and services. The caucus also receives some financial backing from The Council of State Governments’ 21st Century Fund. CSG Midwest provides staff support.

Wisconsin Rep. Cory Mason, chair, and Michigan Sen. Darwin Booher, vice chair, currently lead the caucus. At least one legislator from each of the Great Lakes basin’s 10 jurisdictions (eight U.S. states and two Canadian provinces) serves on the group’s Executive Committee. Caucus services include:

• An annual meeting that focuses on policies to protect the Great Lakes. This year’s meeting will be held Sept. 25-26 in Buffalo, N.Y. General registration for this meeting is now open; please contact Lisa Janairo at gllc@csg.org or visit www.greatlakeslegislators.org for information.

• A “Great Lakes, Great Webinars” series for legislators and legislative staff.

• State and federal legislative trackers that monitor Great Lakes-related bills.

• State-specific workshops on Great Lakes policy (see story at top of the page).

• A quarterly, electronic newsletter sent to all members of the caucus.

Members of the caucus have also signed on to letters expressing concern about the potential sitting of a geologic repository for nuclear waste in Ontario near Lake Huron;

• supporting the Great Lakes Restoration Initiative;

• opposing federal legislation that would preempt states from establishing their own treatment standards for ballast water; and

• calling for the Army Corps of Engineers to complete a study related to the movement of Asian carp and other invasive species between the Great Lakes and Mississippi River basins.

About 170 legislators are caucus members. Membership is free and open to any legislator from the Great Lakes states and provinces. A membership form is available at www.greatlakeslegislators.org.
Goal of new state laws is to keep victims of violence safer at home

Hoping to better protect victims of stalking, sexual assault, domestic violence and other crimes, legislators in Iowa and Minnesota adopted new “Safe at Home” laws this year.

Iowa’s HF 585 was signed into law in May after receiving unanimous legislative approval.

It creates an address confidentiality program for certain crime victims. Under the program, victims can have their mail sent to the Iowa secretary of state’s office, which then forwards it to their home addresses. The program will allow victims to keep their home addresses confidential when registering to vote and conducting other official business.

According to The National Center for Victims of Crime, 36 states have Safe at Home programs in place, including Indiana, Iowa, Kansas, Minnesota, Nebraska and Wisconsin. (Wisconsin is for voter registration only.)

This year’s Minnesota legislation provides more clarity on when the addresses of Safe at Home participants should be disclosed as part of legal proceedings. Courts sometimes order the disclosure if an address is needed for an investigation, prosecution or litigation. SB 878 provides more protections for victims by establishing a framework for courts to use when making their address-disclosure decisions.

Illinois legislators OK wide-ranging plan to prevent drug overdoses

Last summer, lawmakers in the Illinois House declared a “heroin emergency” in the state. This year, the legislature overwhelmingly approved a comprehensive plan (HB 1) to deal with it.

According to The State Journal-Register (Springfield), the state’s new fight against drug abuse will cost between $25 million and $58 million. The bill’s components include:

- requiring that first-responders in Illinois have in their possession naloxone, which is used to treat drug overdoses;
- allowing a pharmacist to dispense naloxone to prevent heroin overdoses,
- establishing a heroin and opioid drug prevention program for schools,
- covering rehabilitative services in Medicaid,
- creating a statewide “take-back” program to help people safely and conveniently dispose of prescription drugs, and
- expanding the use of drug courts and the availability of drug treatment programs.

States across the country have been experiencing a rise in heroin overdose deaths. Between 2010 and 2013, the number of these deaths increased from 3,036 to 8,257.

Three states in Midwest establish new rules on ride-sharing services

Indiana, Kansas and Wisconsin have joined the growing number of states with new rules to govern ride-sharing services such as Uber and Lyft.

These services now operate in all 50 states and in up to 30 metro-politan areas in the Midwest. They allow individuals needing a ride to connect with a driver via an application on a smartphone or other Internet-enabled device. The driver’s personal vehicle is used for the service.

For a brief time in Kansas, Uber halted operations due to its opposition to SB 117, a bill that passed the Legislature and then withstood a gubernatorial veto. The company’s concerns centered on requirements that drivers submit to criminal background checks and carry additional auto insurance. But services soon returned to Kansas with passage of SB 101, which has licensing and insurance requirements acceptable to Uber. The company also supported measures passed this year in Indiana (HB 127B) and Wisconsin (AB 143).

These laws include requirements that ride-sharing companies check driving records, have zero-tolerance alcohol policies, and disclose fare information on their websites. One concern raised about the Wisconsin law is that it bars local communities from setting their own regulations.

Nebraska paves way for some immigrants to get driver’s licenses

The Nebraska unicameral Legislature’s override of a gubernatorial veto will give certain immigrants access to state driver’s licenses. LB 623 covers immigrants who have been granted “deferred action” status by the federal government.

Deferred Action for Childhood Arrivals, or DACA, applies to individuals under the age of 31 who came to this country before their 16th birthday. According to The National Immigration Law Center, Nebraska is one of only two U.S. states where DACA recipients have been denied driver’s licenses. (Arizona is the other state, and a district court ended that policy earlier this year.)

Nebraska Gov. Tom Ricketts vetoed LB 623 because it would require the state to issue driver’s licenses to more immigrants if the federal government expands deferred action. President Obama, for example, wants to make the parents of childhood arrivals eligible. His executive action has been halted due to recent court rulings in a lawsuit brought by multiple states, including Indiana, Kansas, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.

Illinois is currently the only Midwestern state that offers a driver’s license to residents regardless of immigration status.