A Supreme Court term to remember for states

Rulings in eight cases have immediate, and long-term, effects

by Lisa Soronen (lsoronen@iss.org)

The biggest news for states (and everyone else) from the recent U.S. Supreme Court term is that same-sex couples now have a constitutional right to marry and the Affordable Care Act is intact. But less well known cases also have a big impact on the states. From striking down Clean Air Act rules to upholding Texas’s decision to keep the Confederate flag off of license plates, the court was busy this term with cases of major consequence for states and policymakers.

Court rules that redistricting powers do not need to rest with state legislatures

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The court held that the U.S. Constitution’s Elections Clause permits voters to vest all congressional redistricting authority in an independent commission. Justice Ruth Bader Ginsburg’s majority opinion favors direct democracy over representative democracy. She noted that founding-era dictionaries typically defined legislatures as the “power that makes laws”; that includes voters who remember for states (and everyone else) from the recent U.S. Supreme Court term is that same-sex couples now have a constitutional right to marry and the Affordable Care Act is intact. But less well known cases also have a big impact on the states. From striking down Clean Air Act rules to upholding Texas’s decision to keep the Confederate flag off of license plates, the court was busy this term with cases of major consequence for states and policymakers.

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Fifteen years ago, Arizonans approved a constitutional amendment that took the power to redraw congressional and state legislative districts out of the hands of the Legislature. Instead, an independent redistricting commission was created.

Could similar changes to redistricting occur in the Midwest? Right now, no state in the region uses independent commissions; instead, the redistricting process is mostly controlled by state legislatures (see map). But in five Midwestern states — Michigan, Nebraska, North Dakota, Ohio and South Dakota — voter-initiated changes to the redistricting process are possible without approval by the legislature.

Historic ruling on same-sex marriage ends bans in several Midwestern states

Following the Supreme Court’s 5-4 decision in Obergefell v. Hodges, same-sex couples have a constitutional right to marry across the country.

All state laws and court decisions banning same-sex marriage are now invalid.

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Health & Human Services

Some states ramping up efforts to enroll inmates in Medicaid

As Indiana Rep. Charlie Brown sees it, a new plan to enroll eligible inmates in Medicaid has the chance to be a win-win for his state and its taxpayers: Reduce recidivism by giving more people the health services they need, and cut long-term costs in the criminal justice system.

Signed into law earlier this year, HB 1269 (of which Brown was a co-sponsor) received overwhelming legislative approval, and it is part of a broader trend that has states looking for new ways to improve outcomes for state and local inmates, who have disproportionately high rates of mental illness and substance abuse.

In Indiana, for example, an estimated 17 percent of the general prison population has a mental health diagnosis, and up to 85 percent of this group has a history of significant substance abuse.

A bill passed in Illinois earlier this year has a similar objective to the Indiana law: ensuring that inmates receive the treatment they need upon their return to the community. HB 3270 was still awaiting the governor’s signature as of July, but Illinois’ largest local jail system, Cook County, has already been enrolling uninsured, eligible individuals in Medicaid.

Medicaid eligibility among formerly incarcerated people has jumped in states that have chosen to expand the health insurance program under the Affordable Care Act. (Indiana and Illinois are among the expansion states, along with Iowa, Michigan, Minnesota, North Dakota and Ohio in the Midwest.)

That is because states’ expanded Medicaid populations can now include all adults with incomes up to 133 percent of the federal poverty level; in contrast, the health program previously only applied to certain low-income individuals (the elderly, children, parents, pregnant women and people with disabilities).

In Illinois, an estimated 95 percent of inmates would qualify for Medicaid upon release.

For individuals still incarcerated, the use of Medicaid is greatly restricted by a provision in federal law known as the “prisoner’s exemption.” Instead, the cost of care is borne by state prison systems or local jails.

But even with this provision, there is a new opportunity for states and their local governments to defray some of the costs of inmate care. Under federal rules, if a prisoner spends more than 24 hours in a hospital or other health setting, the cost of the care can be charged to Medicaid.

And with eligibility rising in expansion states, the potential cost savings for prisons systems have become greater.

States have an unprecedented opportunity to improve health outcomes, maintain continuity of care and reduce their health care costs for the criminal justice population, according to a 2013 policy brief by The Council of State Governments’ Justice Center.

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Education

Indiana looking to revise high-school diploma system, explore possible career/technical option

In response to a greater demand for high-school degrees that emphasize skills and include a more rigorous curriculum, Indiana high schools can expect to see a revised diploma system within the next few years.

In 2014, the Indiana General Assembly passed legislation (HB 1213) to study the state’s existing three-diploma system and explore a possible new graduation path for students, one focusing more on career and technical education. The Commission for Higher Education and the Indiana Board of Education will decide whether to approve the changes. Any changes to state statute would then be voted on by the legislature during its 2016 session.

The draft proposal, released this summer, would establish three new types of diplomas: Workforce Ready, College & Career Ready, and Indiana Honors.

Workforce Ready would replace the state’s existing “general” diploma option, while College & Career Ready and Indiana Honors would supplant the state’s Core 40 and Core 40 with Honors diplomas, respectively.

Students pursuing a Workforce Ready diploma would have to earn 40 academic credits and do at least one of the following: obtain an industry-recognized certification, complete a project-based capstone/work-based learning experience, or earn at least three college credits.

The other diploma options would increase the number of required credit hours, establish a more rigorous math program, and introduce two new mandatory courses: one on personal financial responsibility and another on college and career preparation.

The course on college and career readiness would have students evaluate themselves and their post-school options. It would also focus on the skills that students need to succeed after high school: learning to adapt, work independently and with others, manage time, and problem-solve.

By revising the three-diploma system, policymakers hope to better ensure that a high-school education aligns with the needs of students, postsecondary institutions and employers.

“We really did this because we thought the diplomas needed to be more rigorous and more relevant, and we also believe that they provide greater structure, while still providing flexibility to students as they prepare for the world of work or college,” said Teresa Lubbers, Indiana’s higher-education commissioner and a former state senator.

All states have standards for students to graduate from high school, and in a national study done in 2013 by the University of Illinois, researchers found that 17 U.S. states, including Indiana and Ohio, offer differentiated diplomas (with “advanced designations” or career/technical education options).

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Prevalence of mental health, substance abuse issues among state prisoners

<table>
<thead>
<tr>
<th>Condition</th>
<th>% of state prisoners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mental health problems only</td>
<td>14.5%</td>
</tr>
<tr>
<td>Substance abuse</td>
<td>24.4%</td>
</tr>
<tr>
<td>Both conditions</td>
<td>41.7%</td>
</tr>
<tr>
<td>Neither condition</td>
<td>19.5%</td>
</tr>
</tbody>
</table>

Source: U.S. Bureau of Justice Statistics (“Mental Health Problems of Prison and Jail Inmates”)

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Expanded diploma options for Midwestern high-school students

- State’s high schools offer expanded diploma options, such as advanced or career/technical
- State’s high schools do not offer such options

Source: University of Illinois at Urbana-Champaign

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MLC Chair’s Initiative: Leveraging the Senior Year

Brief written by Katelyn Tye, staff liaison to the Midwestern Legislative Conference Education Committee. She can be reached at Ktye@csg.org. The committee’s co-chairs are North Dakota Sen. Kyle Davison and South Dakota Rep. Jacqueline Sly. As MLC chair, North Dakota Sen. Tim Flakoll has chosen to focus on raising awareness about the importance of preparing soon-to-be high school graduates for college and careers. In support of the MLC chair’s initiative, articles highlighting state proposals and innovations in this policy area will appear regularly in Stateline Midwest in 2015.
Agriculture & Natural Resources

As land valuations outpace crop prices, region’s farmers look for relief from property-tax squeeze

In his home legislative district, Ohio Sen. Cliff Hite knows well the dilemma facing local agricultural producers: Their tax bills are skyrocketing (by an average of 62 percent this year), he says, while returns are declining and operational costs are rising. But finding a legislative fix to the problem is much easier said than done.

‘Discussion on use value could backfire on farmers,’ says Hite, noting that Ohio, like most states, has ‘an increasingly urban electorate and legislature not understanding why farmers should get a tax reduction.’

In Ohio, and most other Midwestern states, farmland is appraised using a formula based on ‘current agricultural use value.’ Based on factors such as commodity prices, soil productivity, rental rates, production expenses and interest rates, the state determines the income that a farmer can be expected to earn on his or her land. This formula allows farmland to be appraised at below true market value — in 2014, Hite says, the average discount on farmland property tax bills in Ohio was 50 percent.

Since the 1960s, every state (via ‘use value’ appraisals or other means) has provided preferential tax treatment for agricultural property. The reason: Farmland, especially that located on the fringes of growing urban areas, tends to jump in value beyond its ability to pay for itself.

In short, a farmer’s income often doesn’t keep pace with escalating property tax bills. And even with preferential taxing appraisals in place, farmers aren’t shielded from this problem. One reason is that most of these formulas use a multi-year rolling average, with tax calculations based on income earned over a period of five to seven years.

In 2015, crop prices (and thus farm incomes) have fallen, but property taxes are still being based on the record-high crop prices of a few years ago. The result is a real squeeze on rural landowners.

For now, some states are at least implementing short-term fixes to help. In Ohio, for example, an administrative change by the Department of Taxation will reduce the increases in farmland valuations for tax year 2016. By cutting in half (from four years to two) the lag time between data collection and finalization of tax values, the state will allow changes in crop prices to be reflected more quickly in land values and, thus, individuals’ property tax bills.

But for some, such changes are not coming quickly enough. In June, a group of farmers filed a lawsuit against the state seeking $1 billion in what they claim are illegally collected increased taxes.

“While not a fix, this approach will provide us some time to look at a formula that has never been tested in times of record-high crop prices,” says Indiana Sen. Jean Leising, chair of the Senate Agriculture Committee.

Agricultural property taxes have also been under scrutiny in Nebraska, which does not have a “use value” formula. That state’s preferential treatment for farmland comes by appraising it at 75 percent of market value.

But over the past decade, Sen. David Bloomfield says, the taxes on his Nebraska farm have increased by 300 percent due to the rise in land value. A legislative proposal this year to decrease the taxable value from 75 percent to 65 percent did not pass.

“People were concerned that this didn’t address the real issue,” Bloomfield says, “which in Nebraska is school funding.”

Compared to other states, Nebraska is much more reliant on local property taxes to pay for its K-12 schools. It also has some of the highest property taxes in the nation, according to the nonpartisan Tax Foundation.

And agriculture producers are paying a larger percentage of Nebraska’s total property tax bill — 29 percent in 2014 compared to 19 percent in 2004.

With disagreement this year on the details of a legislative fix, Nebraska lawmakers created two interim studies on farmland taxation. One will examine the possible imposition of a new sales or income tax upon the sale of agricultural land (the added revenue would then be used to provide property tax relief for agriculture producers); the second will explore the state’s reliance on property taxes to pay for its schools.

Great Lakes

Decision closer on proposed diversion of Lake Michigan water

Wisconsin town’s plan to divert an average of 10.1 million gallons of Lake Michigan water per day may soon be in the hands of the region’s eight governors.

The city of Waukesha’s request is expected to be an important test of how basinwide decisions are made under the Great Lakes-St. Lawrence River Water Resources Compact. To get to the governors, though, the plan must first be deemed “approvable” by environmental officials in Wisconsin. This summer, the state Department of Natural Resources’ preliminary review of the proposal concluded that Waukesha met all of the technical requirements — for example, returning treated wastewater to Lake Michigan and meeting water quality standards.

“Waukesha does not have a reasonable water supply alternative … and the community cannot meet water supply needs through conservation of existing supplies,” the department said of two other criteria for tapping into Great Lakes water.

Later this year, the department will release its final technical review and decision.

The next step is a declaration of finding process conducted by the Great Lakes basin’s eight states and two Canadian provinces. Lastly, all eight governors would have to approve the plan.

Though state legislators do not have a role in the decision-making process, they may decide to weigh in on the proposal as it moves to the compact’s regional body for review. Last year, a Michigan resolution was introduced (HCR 18) urging Gov. Rick Snyder to stop the diversion; it did not advance.

Opponents of Waukesha’s plan want the city to abandon the idea of diversion and instead employ radium-treatment technologies on its drinking-water wells. They contend that this alternative would save local ratepayers money and protect public health and the environment.

Waukesha has a radium-contamination problem in its drinking water and is under a court order to find a permanent solution by 2018.

Interbasin diversions of Great Lakes water, by jurisdiction*

<table>
<thead>
<tr>
<th>State/ province</th>
<th>Does not divert send water into or out of the basin?</th>
<th>Gallons of water per day (2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>Out</td>
<td>3.3 billion</td>
</tr>
<tr>
<td>Indiana</td>
<td>Out</td>
<td>23.4 million</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Out</td>
<td>2.7 million</td>
</tr>
<tr>
<td>New York</td>
<td>Out</td>
<td>2.3 million</td>
</tr>
<tr>
<td>Ohio</td>
<td>In sponsors</td>
<td>14.3 million</td>
</tr>
<tr>
<td>Ontario</td>
<td>In sponsors</td>
<td>3.0 million</td>
</tr>
<tr>
<td>Quebec</td>
<td>Out</td>
<td>2.9 million</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Out</td>
<td>20.4 million</td>
</tr>
<tr>
<td>Basin-wide</td>
<td>In sponsors</td>
<td>1.7 billion</td>
</tr>
</tbody>
</table>

* Michigan and Pennsylvania do not have interbasin water diversions.

Source: Great Lakes Commission, "Great Lakes Regional Water Use Database"

Brief written by Tim Anderson, who can be reached at tanderson@csg.org. CSG Midwest provides staffing services to the Great Lakes Legislative Caucus, a nonpartisan group of lawmakers from eight U.S. states and two Canadian provinces. The caucus chair is Wisconsin Rep. Cory Mason. More information on the caucus is available at www.greatlakeslegislators.org.

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Brief written by Carolyn Orr, staff liaison to the Midwestern Legislative Conference Agriculture and Natural Resources Committee. She can be reached at car@arl.us. The committee’s co-chairs are North Dakota Sen. Don Schaalbe and Iowa Sen. Mary Jo Wilhelm.
Three Midwest states near the top in study of fiscal solvency

In a new national analysis of the fiscal health of each of the 50 U.S. states, Nebraska, North Dakota and South Dakota ranked among the top five.

The study was released in July by the Mercatus Center at George Mason University. It ranked states in part on their levels of short- and long-term debt as well as unfunded pensions and health care benefits.

Medicaid is another source of fiscal worries. Between now and 2020, estimates show that spending in this public health insurance program will increase annually by 7 percent—a rate much higher than average yearly tax growth for states.

In the study’s measure of overall fiscal solvency, North Dakota ranked second, thanks largely to dramatic economic growth in its energy sector. A dependence on oil revenue, though, remains a long-term risk to its budget solvency, notes Eileen Norcross, a senior research fellow at Mercatus and the study’s author.

In South Dakota, where there is a constitutional ban on general-obligation bonds of more than $100,000, per capita debt is low. In addition, the state’s retirement system for public employees was funded at 100 percent in fiscal year 2014 (based on the ratio of actuarial asset value to actuarial accrued liability). In fiscal year 2013, Nebraska had the lowest long-term liability per capita, $254, among all U.S. states.

Ohio also placed in the study’s list of top-10 states, ranking seventh for overall fiscal solvency. On the flip side, Illinois’ high level of unfunded long-term liabilities placed it at the bottom of states.

“There are troubling signs that many states are still ignoring the risks on their books, mainly in unfunded pensions and health care benefits,” the study concludes.

Age gap: Voting rates fall among young, remain steady among old

In the last election cycle, partisan control of the U.S. Congress, the nation’s state legislatures and 36 governorships were all up for grabs.

A vast majority of the nation’s youngest eligible voters seemingly didn’t care. Only 23 percent of 18- to 34-year-olds voted—the lowest participation rate in elections among this group since the U.S. Census Bureau began collecting the data in 1978.

Over the past three-and-a-half decades, their voting rate has fallen by more than 30 percent. (Declines are occurring from nearly every non-presidential election year to the next.) Meanwhile, participation among the nation’s oldest voters, those 65 and older, had remained steady, at around 60 percent.

“These age differences cut across racial and ethnic groups as well,” notes Thom File, a U.S. Census Bureau sociologist and author of the July study on voting trends.

“Regardless of whether we’re looking at non-Hispanic whites, non-Hispanic blacks or Hispanics, voting rates tend to increase significantly with age.”

A host of factors can cause young people to stay out of elections: not knowing the candidates, not caring about politics or not trusting politicians, for example.

Another cause is not being registered to vote. Among all eligible voters, 71 percent are registered, but that number falls to 59 percent among 18- to 24-year-olds, according to the Center for Voting and Democracy.

To close this gap, the center recommends that states pre-register 16-year-olds and, at the same time, disseminate information to them about the elections process.

In recent years, many states have taken steps to make voter registration easier and, in the case of Oregon, “automatic.” In that state, with the passage of HB 217 earlier this year, every person who obtains or renews a driver’s license now becomes eligible to vote.

Six years ago, the Minnesota Legislature passed a similar measure, but it was vetoed by then-Gov. Tim Pawlenty.

While “automatic” registration isn’t yet common, the online option is now. According to the Brennan Center for Justice, at least 28 states offer online voter registration, including Illinois, Indiana, Iowa, Kansas, Minnesota and Nebraska.

Last year, too, Indiana offered a new way for its residents to register to vote — on their smartphone, via a “full-service app” created by the secretary of state’s office.

Same-day voter registration is also on the rise, with Illinois, Iowa, Minnesota and Wisconsin now offering it in the Midwest. (North Dakota does not have voter registration; it is the only state in the country without such a requirement.)

Last year, for the first time in Illinois, most of the state’s 17-year-olds had the chance to cast ballots in primary elections. Their participation was the result of a bill passed by the General Assembly (HB 226 in 2013) that opened up voting to 17-year-olds who will turn 18 before the general election.

According to the Center for Voting and Democracy, 17-year-olds can vote in primaries and caucuses in half of the U.S. states, including seven in the Midwest: Illinois, Indiana, Iowa, Kansas, Nebraska, North Dakota and Ohio.

Their participation is either the result of state law or party rules. (In Kansas and North Dakota, the center reports, 17-year-olds may take part in the Democratic caucuses, but are barred from participating in the Republican caucus.)

Rise of early voting

One other big change documented in the Census Bureau report is the rise in “alternative voting”: casting ballots before Election Day. Between 1998 and 2014, the percentage of people voting by mail or during a state-sanctioned early voting period rose from 10.5 percent to 31.2 percent.

With the exception of Michigan, every state in the Midwest now allows some version of in-person early voting, and in states such as Iowa, Kansas and Ohio, one-third or more of ballots were cast early in the 2012 election.

Article written by Tim Anderson, CSG Midwest publications manager. He can be reached at tanderson@csgr.org.
In Nebraska Unicameral, the filibuster helps shape legislative debate and negotiations

by Laura Kliewer (@kliewer@csg.org)

best known today for its use in the U.S. Senate, the filibuster is a legislative tactic that dates back centuries — even to the days of ancient Rome.

But for most legislators serving in the 11-state Midwest, this maneuver to stall debate or block a bill's passage is much more of a curiosity than a legislative reality or obstacle.

The one exception is Nebraska, home to perhaps the most unique legislative branch among the 50 U.S. state governments. In that state, where 49 senators serve in a one-house, nonpartisan chamber, the filibuster — or the threat of it — is a common occurrence.

"We operate more like a senate here rather than like a house in that we give the members great latitude to discuss, debate, cajole their colleagues," says Patrick O'Donnell, clerk of the Nebraska Unicameral Legislature.

This difference in tradition makes sense in a legislature with only 49 members, and without another chamber to stand in the way of a bill getting passed. Even in Nebraska, though, the greater leeway granted to individual lawmakers does come with some limits.

In fact, on their face, Nebraska's rules governing floor debate appear fairly restrictive when compared to other legislative bodies. For "any one question" being deliberated during the legislative day, each member can speak up to three times, and for no more than five minutes on each occasion.

But as it is interpreted by the Legislature, that "any one question" includes any amendment or motion tied to the measure.

"So if I have a bill with 15 amendments," O'Donnell says, "an individual could theoretically speak 45 times on it, three times for each amendment."

In most other states, the vote of a simple majority of senators or representatives can cut off debate and thus prevent use of the filibuster. Nebraska, on the other hand, is one of only 10 U.S. states that requires more than a simple or absolute majority, according to a national study done in 2009 by the Connecticut General Assembly.

Under Nebraska's cloture rule, any attempt to end legislative debate requires approval of two-thirds of the members.

When this rule was first adopted, in 1992, the Legislature required that eight hours of debate pass before a cloture motion be made to end the filibuster. This eight-hour rule was removed in 2002, but the tradition of allowing ample time for debate has still been honored.

I think members by and large are comfortable with it," O'Donnell says of the state’s filibuster and cloture rules. "They may not always like it, but they understand why we do it. Everyone is small 'd' democratic. Everybody is equal; everybody gets to debate as long as they like.

He estimates that about one-third of attempted cloture votes are successful each year.

In other cases, legislative filibusters have effectively stopped some of the state's highest-profile bills from getting passed. For example, a concealed-carry gun measure was filibustered for 10 years before the bill's proponents finally mustered the 33 necessary votes for cloture in 2006.

Likewise, repeal of Nebraska's capital punishment law was successfully filibustered in past legislative sessions.

This year, a bill to replace the death penalty with life imprisonment without possibility of parole finally got through the Nebraska Legislature. Cloture on debate was successfully invoked twice this session, and the legislation received final passage with a veto-proof majority.

QUESTION OF THE MONTH

QUESTION: Which states in the Midwest have veterans treatment courts and how do these courts function?

Veterans treatment courts operate in most states in the Midwest, and there are more than 200 nationally. Most of these are run by county or other local court systems, and the treatment court usually convenes once a week, depending on the need. Currently, about 11,000 veterans are being served by these courts.

First adopted in Buffalo, N.Y., in 2008, veterans treatment courts are based on the drug-court model, and also include features of mental health courts. These courts integrate alcohol and drug treatment, as well as mental health services, into the justice system.

They are used to divert offenders into treatment programs instead of sending them to prison. These courts will not accept veterans whose crime results in serious bodily injury or death, according to the organization Justice for Veterans.

The organization reports that more than 700,000 veterans are caught up in the criminal justice system. The Substance Abuse and Mental Health Services Administration has found that up to one-sixth of returning Afghanistan and Iraq war veterans have drug and alcohol addictions, and 20 percent have mental health or post-traumatic stress disorders.

Veterans treatment courts involve a number of people in the treatment process. They include the prosecutor and the defense attorney (who operate as a team), a treatment provider, a probation officer and law enforcement officials, and are overseen by a judge who stays actively involved throughout the process. These roles are also a part of the drug-court model.

Veterans treatment courts add officials from the Veterans Administration, state department of veterans affairs, veterans organizations and volunteer mentors, who are also veterans.

This team seeks to provide structure and hold the veteran accountable for his or her actions. Veterans in the program are required to show up for regular court appearances (often twice a month), attend treatment sessions, and undergo random drug or alcohol testing. Mentors and other members of the team work to ensure that they meet these obligations. If the veteran consistently cannot comply, he or she will be turned over to the traditional criminal-justice system.

The National Center for State Courts finds that eight states, including Illinois and Michigan in the Midwest, have detailed and specific authorization for veterans courts in legislation. An additional seven states, including Indiana, have what the NCSC calls broad authorization, generally leaving it to the court system to operate veterans treatment courts. Other states, such as Minnesota and South Dakota, have diversionary programs that encourage courts to redirect veterans and other needing special services to the appropriate program.

Since veterans treatment courts are relatively new in most states, long-term evaluation may be several years away. But a recent Ohio study tracked 86 veterans with PTSD who were involved with such courts; 89 percent of these individuals were not rearrested while in the program. These veterans also had significant improvements in their symptoms of depression, PTSD, and substance abuse.

Article written by Rene Grossman, CSG assistant director, who can be reached at rgrossman@csg.org. Question of the Month highlights an inquiry sent to the CSG Midwest Information Help Line. To request assistance, please contact us at csgmids@csg.org or 630.925.1922.
Constitution’s Fourteenth Amendment Due Process Clause and the Equal Protection Clause in its opinion. It rejected the argument that sufficient debate had not occurred over this issue, noting that “individuals need not await legislative action before asserting a fundamental right.”

In the Midwest, same-sex marriage had already been permitted in six Midwestern states due to either state legislative action or state and federal court decisions. With this year’s U.S. Supreme Court decision, the right for gays to marry was extended to five other states in the region: Michigan, Nebraska, North Dakota, Ohio and South Dakota.

Supreme Court upholds use of tax credits in federally run health insurance exchanges

In its 6-3 decision in King v. Burwell, the U.S. Supreme Court held that health insurance tax credits can be available via the federally facilitated exchanges in 34 different U.S. states. In the Midwest, only Minnesota has established a state-run marketplace. In the region’s 10 other states, health insurance exchanges (established under the Affordable Care Act of 2010) are either facilitated by the federal government or run through a state-federal partnership.

As a result, King v. Burwell had implications for the delivery of health insurance across the Midwest. The Affordable Care Act allows the states and the federal government to sell insurance on health care exchanges, and under the law, tax credits are available when insurance is purchased through “an exchange established by the state.”

The question in this case was whether a federal exchange is “an exchange established by the state” and may offer tax credits.

The Supreme Court said “yes.”

In his majority opinion, Chief Justice John Roberts reasoned that if tax credits weren’t available on the federal exchanges, “it would destabilize the individual insurance market in any state with a federal exchange, and likely create the very ‘death spirals’ that Congress designed the act to avoid.”

As a result of this decision, the status quo remains: If an individual otherwise eligible for a tax credit buys health insurance on a state-based or a federally administered exchange, the tax credit will be available.

Ruling may pave way for greater supervision of many state boards and commissions

In North Carolina State Board of Dental Examiners v. FTC, the U.S. Supreme Court held that if the majority of members of a state board are “active market participants,” antitrust immunity applies only if the state actively supervises the board. In North Carolina, dentists make up the majority of members on the state’s Board of Dental Examiners. And this board sought to bar non-dentists from providing teeth-whitening services in North Carolina — a violation of antitrust law, according to the Federal Trade Commission.

But the board then claimed it had “state-action immunity.”

In a previous case, the justices held that states receive this immunity from federal antitrust law when acting in their sovereign capacity.

In their 6-3 decision in the North Carolina case, however, the justices concluded that nonsovereign entities controlled by “active market participants” do not necessarily receive state-action immunity.

The state “must provide active supervision if state-action immunity ... is to be invoked,” Justice Kennedy wrote in the majority opinion.

This case reduces the authority of state legislatures to compose state agencies, boards and commissions as they prefer. It will require additional state resources to actively supervise boards.

Michigan, 22 other U.S. states prevail in lawsuit against EPA over regulation of mercury emissions

In Michigan v. EPA, the Supreme Court held 5-4 that the U.S. Environmental Protection Agency acted unreasonably in failing to consider cost when deciding whether to regulate mercury emissions from power plants.

Twenty-three states — including Indiana, Iowa, Kansas, Michigan, Nebraska, North Dakota and Ohio — had challenged the federal regulations. Under the federal Clean Air Act, the EPA has the authority to limit emissions from power plants if it finds that such regulation is “appropriate and necessary.”

But by deeming costs irrelevant to the regulatory decision, the EPA’s interpretation of the federal law was unreasonable, the majority of justices ruled.

“Agencies have long treated cost as a centrally relevant factor when deciding whether to regulate,” Justice Antonin Scalia wrote in the majority opinion.

“Consideration of cost reflects the understanding that reasonable regulation ordinarily requires paying attention to the advantages and the disadvantages of agency decisions.

“It also reflects the reality that ‘too much wasteful expenditure devoted to one problem may well mean considerably fewer resources available to deal effectively with other (perhaps more serious) problems.’”

Majority of justices decide states have authority to control content of specialty license plates

In Walker v. Sons of Confederate Veterans, the Supreme Court held 5-4 that Texas may deny a proposed specialty license plate featuring the Confederate flag.

License plates constitute government speech, the justices ruled, and a state is entitled to refuse issuing proposed designs of them.

In Texas, specialty plates can be proposed by the Legislature, the public or nonprofit organizations. They must receive final approval from a state board.

In the majority opinion, Justice Stephen Breyer insisted that “government would not work” unless the government may determine “the content of what it says.”

In his dissent, Justice Samuel Alito questioned
much of the majority’s analysis. He pointed out that only within the last 20 years has Texas allowed private groups to put messages on license plates. The state allows messages on license plates in order to make money, Alito argued, not to convey messages it supports.

Every U.S. state has a specialty license-plate program in place.

Supremacy Clause can’t be used to force states to increase rates for Medicaid providers

In Armstrong v. Exceptional Child Center, the Supreme Court held 5-4 that Medicaid providers cannot rely on the Supremacy Clause to sue states to enforce a Medicaid reimbursement statute.

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

However, a federal appeals court found that the U.S. Constitution’s Supremacy Clause offers a different type of recourse: allowing plaintiffs to sue if they believe federal and state policies conflict.

The appeals court found that Idaho must raise its Medicaid reimbursements to providers. But the nation’s highest court rejected the argument that the Supremacy Clause creates a private right of action.

“It instructs courts what to do when state and federal law clash, but is silent regarding who may enforce federal laws in court, and in what circumstances they may do so,” Justice Scalia wrote in the majority opinion.

The decision has implications well beyond this single case. Had the Supreme Court ruled otherwise, the Supremacy Clause would have provided a cause of action for every federal statute that arguably conflicts with state law.

Justice Kennedy: Courts should reconsider ruling that has stymied taxation of Internet purchases

In Direct Marketing Association v. Brohl, Justice Anthony Kennedy wrote a concurring opinion stating that the “legal system should find an appropriate case for this court to reexamine Quill.”

In that 1992 decision, Quill Corp. v. North Dakota, the court held that states cannot require retailers with no in-state physical presence to collect use taxes.

In Colorado, in order to improve tax collections, the Legislature began requiring remote sellers to inform their customers annually of the purchases that they made, with this same information also sent to the Colorado Department of Revenue.

The Direct Marketing Association sued Colorado in federal court, claiming that these new notice and reporting requirements are unconstitutional under Quill.

The question before the U.S. Supreme Court this year was whether this legal dispute could be heard in federal court (as opposed to state court). In a unanimous decision, the court held that a federal court has jurisdiction.

This case is significant for all states because the court’s most influential justice (Kennedy) expressed skepticism about whether Quill should remain the law of the land.

Sneak peek: Court will hear case next term with big ramifications for state redistricting process

The U.S. Supreme Court’s docket for next term is already about half full. So far, the show-stopper for states is Evenwel v. Abbott.

At issue is whether state legislatures are allowed to use total population when apportioning state legislative districts. As the Brennan Center for Justice notes, the long-standing practice of states has been to draw political maps that have the same total number of people in each district.

But in Evenwel v. Abbott, a group of Texas residents argues this practice violates the Equal Protection Clause. The reason: not everyone is eligible to vote — noncitizens, for example — and this population group is not evenly distributed among different districts.

Over the last 25 years, the court has repeatedly refused to hear cases arguing that voter population must be equalized. That has now changed.

Evenwel will be closely watched, the Brennan Center says, because it could impact minority representation as well as parts of a state with large numbers of people who are ineligible to vote.
Seven years ago, Cliff Rosenberger was approached about running for a seat in the Ohio House of Representatives. He flatly turned down the suggestion. “I’m a behind-the-scenes guy,” Rosenberger says now. “But once I started looking into it, I didn’t think my getting out and doing that would be a benefit.”

But fast-forward to today, and he not only finds himself in the House, but as its leader.

When he became speaker at age 33, Rosenberger had already packed an impressive list of accomplishments and experiences into a very young career — service in the Air National Guard and U.S. Air Force, work in the White House under President George W. Bush, and political events coordinator for presidential candidate Mitt Romney in 2008.

His transition from “behind-the-scenes guy” to speaker began while working as a special assistant for then-U.S. Secretary of the Interior Dirk Kempthorne. It happened while at an event with Kempthorne nearly 2,000 miles away from his home in southwest Ohio. “A news story came on talking about my hometown of Wilmington and how 10,000 jobs were going to be lost,” Rosenberger says.

The shipping company DHL Express was pulling out of the area — “a catastrophic event,” in the words of the town’s mayor. Not long after that announcement, Rosenberger’s mother was laid off from her job. “At that point, I decided to go home,” Rosenberger says. “So I packed up from Washington and moved back home and spent the next two years getting involved and running for state representative.”

Public service of some kind has long interested Rosenberger, in part because of his family’s military background. His father and grandfather had served in the Army National Guard, and when it came time to think about his future and how to pay for college, Rosenberger chose the Air National Guard. “At that point, I decided to go home,” Rosenberger says. “So I packed up from Washington and moved back home and spent the next two years getting involved and running for state representative.”

As a legislator, his support of the Ohio National Guard earned him the Major General Charles Dick Award for legislative excellence. Rosenberger also remains committed to the goal that helped bring him home and to the legislature in the first place: improving the economic competitiveness of his local district and the entire state.

Now in his third term, Rosenberger, a Republican, is the third-youngest House speaker in the state’s history. He was elected to this top leadership spot on the heels of his party’s having reached a historic high of 65 seats in the 99-seat chamber. This is the largest majority held by one party since 1967, when the chamber was reduced from 137 seats.

Ohio Speaker Cliff Rosenberger
One of youngest legislative leaders in state’s history seeks institutional shift that emphasizes long-term thinking and goals
by Laura Tomaka (ltomaka@csg.org)

When I came in as speaker, I said, “We have to build a longer-term vision and longer-term mission for what we are going to do here in Ohio.”

Bio-sketch of Ohio House Speaker Cliff Rosenberger
✓ first elected to Ohio House of Representatives in 2010
✓ elected speaker of House by peers in 2014; at age 33, became third-youngest speaker in state history
✓ U.S. Air Force veteran
✓ worked in the White House and on a presidential campaign (Mitt Romney’s 2008 run)
✓ served as special assistant to the U.S. secretary of the interior

Q: How has your military and White House experience contributed to your leadership style?
A: Military-wise, you get taught a lot of things about structure and chain of command and how to communicate effectively. I think a lot of those traits came from my experience. You get taught natural leadership roles [in the military]. But I also had the opportunity to learn from a lot of folks in politics — most importantly, Dirk Kempthorne. Being able to work under him for close to a year was a great experience.

I saw how you always want to make sure you take care of your staff and make sure you’re always thanking the men and women who are working with you — and not “for” you, I stress. You’re always in a team environment, and I think that was an important leadership trait that came from my experience not only in the military, but from learning from people like Dirk Kempthorne.

Q: What are some of the big challenges of leading a historically large majority in the Ohio House?
A: Keeping [members] together and moving all in the same direction is a tough challenge, but it can be overcome. I think we’ve done a pretty good job at it by communicating with them and working with them and hearing what they are passionate about.

At the end of the day, you have to remember that you are elected speaker because of those members, and you have to listen to them and visit with them — and not only the Republican caucus, but the Democratic caucus as well.

Q: You’ve focused quite a bit on developing a 2020 plan for Ohio. Why is that such a priority?
A: When I came in as speaker, I said, “We have to build a longer-term vision and longer-term mission for what we are going to do here in Ohio.” That is what we’re really focused on. We’re not just going to say [certain bills] are priorities. We are going to switch this up. We are going to create an Ohio 2020 plan.

If you look at Ohio as a stool, with Ohio being the top of that stool, what are the four legs or pillars that make it stable and sturdy? For us that was competitive-ness, energy, education and health care. And then we sat down and said, “What are the data drivers [in those four areas] that we want to continue to improve and start focusing our mission and our messaging on?”

For example, we know that we want to increase graduation rates and decrease dropout rates, so what is the path to get there? Those are the things that we are going to focus on; we’re going to do it holistically with long-term thinking.

Q: How has that approach driven budget discussions in Columbus?
A: The governor proposed the budget with some major tax plans in it, and we said, “No, hold on, we’re not going to do that yet, but we’re going to set up a 2020 tax commission that gives the Senate and House perspective, along with the governor’s [budget] director and the tax commissioner. Let’s work together to get a long-term tax policy for our state.”

For education funding, we’ve done the same. We’ve created the joint educational oversight committee that will constantly look at education funding in the state of Ohio.

Q: With term limits, you will be able to serve in the House for just one more term. With the short time you have left, what mark would you like to leave on the Ohio General Assembly?
A: My philosophy is that you have a little amount of time to make a huge difference in other people’s lives. So I dedicate my entire time to thinking about how I can improve the state of Ohio and the quality of life, especially for my district and the families I represent. At the end of the day, I hope people say, “He communicated effectively, he listened, and he set a long-term vision for how we should start to think about the future.”
reciently, it seems we have been bombarded with images from around the country involving law enforcement and the public, and these incidents have served to shake public and police confidence and oftentimes call into question the good work done by our men and women in law enforcement.

Unfortunately, there have been hundreds of deadly encounters involving citizens and police over the last several years; according to The Washington Post, nearly 600 people have been shot and killed by police so far this year. These disturbing statistics dictate that something be done by the federal and state governments to improve relations and provide new tools for members of law enforcement as they engage the public.

**Following the president’s lead**

In response to events last year, President Obama appointed a federal task force to focus on best practices, strengthen trust and collaboration, and enter the next phase of community-focused policing.

During the spring session of the Illinois General Assembly, we set out to come up with proactive, comprehensive solutions to increase public safety, provide for better delivery of police service, and improve trust and relations between officers and the communities they serve and protect. After months of negotiations, we were able to pass SB 1304, the Police and Community Relations Improvement and Law Enforcement Officer Worn Body Camera Act.

Building trust is an essential element of relations between the community and law enforcement — and one of the key goals of SB 1304. Despite police being better equipped, trained and organized to eliminate one of the key goals of SB 1304. Body cameras have emerged as an essential part of SB 1304. Body cameras can contribute to a drop in use-of-force issues addressed in the bill, too, is a prohibition on the use of chokeholds by law enforcement, unless deadly force is justified.)

New triennial training, meanwhile, will cover such issues as procedural justice, constitutional and proper use of police authority, civil rights, cultural competency, implicit bias, and identifying sexual abuse or substance dependency.

Improving insight into police performance requires adequate data, and SB 1304 includes various monthly data-collection requirements, such as on arrest-related deaths, firearm discharges by officers causing non-fatal injuries, instances of hate crimes and domestic crimes, and incidents reported to police by schools.

Further, the state’s current racial-profiling study is expanded to include pedestrian stops, with officers required to fill out “receipts” for individuals who are frisked or detained but not arrested; the receipts would detail the reason for the stop, demographic information about the person, the discovery (or lack) of any contraband, and the officer’s name and badge number.

**State database to track misconduct**

Another important part of SB 1304 is the creation of a statewide database, available to any chief administrative officer and subject to public disclosure, of each reported instance of official misconduct or violation of law resulting in the discharge, dismissal or resignation of an officer.

In addition, SB 1304 establishes a new commission of lawmakers and law enforcement to review police training and performance standards, with a report due by Jan. 31, 2016. The bill also adds funding to help relieve our state’s evidence backlog at the State Police crime laboratory. The department would have to provide quarterly reports on its progress in processing forensic and DNA evidence.

In addition to the aforementioned reforms, the authorization of officer-worn body cameras was an essential part of SB 1304. Body cameras have emerged as an evidence-collection and training tool that can provide an objective review of interactions between officers and citizens. Studies suggest, too, that these cameras can contribute to a drop in use-of-force incidents and citizen complaints.

SB 1304 creates standardized protocols for police use of body cameras and imposes a surcharge on fines for criminal and traffic offenses to underwrite grants to help police departments purchase the devices.

**Body-camera use has few exceptions**

The bill specifically requires police officers to activate a body camera any time they are engaged in “law enforcement related encounters or activities.” Exceptions exist for interactions with victims, witnesses or confidential informants, or when an officer is engaged in “community care taking” functions.

Recordings must be retained for at least 90 days, and for at least two years if the cameras capture the discharge of a firearm, an injury, a death or the arrest of a subject. Should SB 1304 become law (it was still awaiting the governor’s signature as of early August), Illinois would become the first state in the nation to authorize the use of body cameras on a statewide basis.

SB 1304 represents a comprehensive attempt to address and improve relations between law enforcement and the communities it protects and serves.

While this legislation could itself become a model for the nation, the bipartisan, civil deliberations between legislators, the executive branch and interested stakeholders that resulted in its creation and passage should most assuredly become a model for legislative discourse throughout the nation.

Rep. Elgie Sims, a Democrat from Chicago, was first elected to the Illinois House of Representatives in 2012.
New Toll Fellows class includes eight legislators from seven Midwest states

Program brings together rising leaders from all 3 branches of government

Eight state legislators from the Midwest, as well as four officials from the region’s executive and judicial branches, are part of CSG’s 2015 Toll Fellows class. These 12 rising leaders in state government were chosen earlier in the year by a group of Toll Fellowship Program alumni. Held every year in Lexington, Ky., and named after the founder of The Council of State Governments (former Colorado state senator Henry Toll), the program provides participants with six days of intensive leadership training.

The agenda includes a lineup of dynamic speakers and sessions designed to stimulate personal assessment and growth — for example, leadership personality assessments, as well as workshops on media training, crisis management, appreciative inquiry and adaptive leadership.

CSG’s “intellectual boot camp” also provides Toll Fellows with invaluable networking and relationship-building opportunities.

This year’s program runs from Aug. 28-Sept. 2. In all, 48 U.S. state legislators and other officials (12 from each region) were chosen as 2015 Toll Fellows. The Midwest’s eight legislators come from seven different states; four are Republicans and four are Democrats. The 2015 class also includes Iowa Secretary of State Paul D. Pate, Minnesota District Court Judge Bev Benson, South Dakota Secretary of Agriculture Lucas Lentsch and Minnesota Family Court Presiding Judge Anne K. McKeig.

CSG and legislative leadership

- The Council of State Governments runs five leadership programs: one national and one in each of CSG’s four regions
- Toll Fellows is CSG’s national program for officials in all three branches of state government
- The Bowhay Institute for Legislative Leadership Development, or BILLD, is for state legislators from the Midwest in their first four years of service
- BILLD and Toll Fellows are selected through a competitive application process
- Nearly a quarter of the top leadership posts in the Midwest’s 21 state legislative chambers are held by BILLD graduates
- The Toll alumni list includes several current governors, lieutenant governors, secretaries of state, chief justices and members of U.S. Congress

Midwest’s Toll Fellows Class for 2015

- Minnesota District Court Judge Bev Benson
- Kansas Rep. Blaine Finch
- Indiana Rep. Dan Forestal
- Iowa Rep. Chris Hall
- South Dakota Agriculture Secretary Lucas Lentsch
- Minnesota Family Court Judge Anne K. McKeig
- Iowa Secretary of State Paul D. Pate
- Minnesota Rep. Joyce Peppin
- Kansas Rep. Tom Phillips
- Wisconsin Rep. Melissa Sargent

Region’s Great Lakes legislators to meet in late September

What strategies are states and the federal government employing to prevent the introduction of Asian carp into the Great Lakes?

What policy options can help reduce phosphorus loadings into the lakes and stop harmful algal blooms?

What kind of risks are posed by the transport of crude oil across the freshwater system?

These and many other questions will be explored at the annual meeting of the Great Lakes Legislative Caucus. Designated for policymakers with an interest in Great Lakes protection and restoration, the event will be held Sept. 25-26 in Buffalo.

Registration remains open, and a limited number of travel scholarships are available. An agenda and registration information can be found at www.greatlakeslegislators.org.

The caucus meets annually in order to provide a forum for the region’s legislators to explore policy strategies with leading scientists, other experts and each other.

The nonpartisan group of state and provincial lawmakers is led by a bipartisan Executive Committee and its two officers: Wisconsin Rep. Cory Mason, chair; and Michigan Sen. Darwin Booher, vice chair. Caucus membership is free and open to all legislators from the Great Lakes basin’s eight states (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin) and two Canadian provinces (Ontario and Quebec).

CSG Midwest provides staffing services for the caucus.

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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 Midwest 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.
Ohio Sen. Cliff Hite chosen to join CSG’s regional leadership team in 2016

C hief Hite, a third-term senator from Ohio, has been chosen by fellow state lawmakers to join the Midwestern Legislative Conference leadership team.

The election took place in July during a business session of the MLC.

The MLC is an association of all legislators in the region’s 11 states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.

Prior to joining the legislature, Hite spent three decades teaching high school history and coaching football. He is a member of the Hancock County Sports Hall of Fame.

The current MLC leadership team is as follows: North Dakota Sen. Tim Flakoll, chair; Wisconsin Rep. Joan Ballweg, first vice chair; Iowa Sen. Janet Petersen, second vice chair; and Nebraska Sen. Beau McCoy, immediate past chair.

Rep. Ballweg will take over as MLC chair in 2016. (A rotation of MLC officers typically takes place every year.) Her duties will include helping lead planning efforts for next year’s MLC Annual Meeting, which will be held July 17-20 in Milwaukee.

About the Midwestern Legislative Conference and its services

- Nonpartisan group of legislators from 11 Midwestern states and four Canadian provinces; staffing services provided by The Council of State Governments’ Midwestern Office
- Led by a bipartisan Executive Committee of region’s legislators and its four-member team of officers
- Offers in-state policy training and professional development through the ongoing Under the Dome initiative
- Holds a four-day event for the region’s legislators in a different state each year; the 2016 MLC Annual Meeting will be held July 17-20 in Milwaukee
- Provides customized research assistance to legislators and legislative staff

Improving overseas voting process for military personnel, others focus of upcoming CSG webinar

A s part of its ongoing efforts to improve overseas voting procedures, The Council of State Governments will hold a Sept. 15 webinar to explore promising policy strategies.

Two years ago, CSG launched the Overseas Voting Initiative, a four-year, $3.2 million initiative with the U.S. Department of Defense to improve the return rate of overseas absentee ballots from service members and U.S. citizens abroad. Since then, two different working groups (one on policy, the other on technology) have been meeting.

The work of those groups will be highlighted as part of the webinar, which will begin at 2 p.m. Eastern Time. Registration for the free online event can be completed at www.csg.org/events/webinar.

U.S. military and civilian overseas voters are often located in remote areas abroad; as a result, they may lack access to the voting information and technology used by stateside voters in their home precincts.

In addition, variations in how states conduct elections — in particular, how absentee ballots are provided, returned and counted — can make voting for overseas voters even more complex.

About CSG’s eCademy

- A free, bimonthly webinar series that is held on Tuesdays at 2 p.m. Eastern Time and that covers a wide array of policy topics of interest to leaders in all three branches of state government
- Recordings of past webinars, as well as information on upcoming events, are available at www.csg.org/events/webinar

Breaking provincial legislatures news

- British Columbia Premier Christy Clark introduced new legislation to implement a new electoral system that would make a majority government more likely to form. The vote on the bill is scheduled for Aug. 28.
- The Yukon legislature approved a resolution to establish a Yukon Coordinating Committee to bolster the region’s climate change efforts.
- Saskatchewan’s Crown-First Nations Education Alliance released its first report on the implementation of the Treaty 6 Education Program. The report includes recommendations to improve education outcomes for First Nations students.

The MLC is an association of all legislators in the region’s 11 states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. Provincial lawmakers from Alberta, Manitoba, Ontario and Saskatchewan are affiliated members.

The Council of State Governments’ Midwestern Office provides staff support to the MLC.

Sen. Hite is scheduled to become the MLC’s second vice chair in 2016; he is in line to lead the nonpartisan group as its chair in 2018.

A 2008 graduate of the MLC’s Bowhay Institute for Legislative Leadership Development, or BILLD, he currently serves as co-chair of its bipartisan Steering Committee.

In the Ohio General Assembly, Sen. Hite serves as chair of the state Senate Committee on Agriculture. He previously served two terms in the Ohio House.

Prior to joining the legislature, Hite spent three decades teaching high school history and coaching football. He is a member of the Hancock County Sports Hall of Fame.

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In response to teacher shortage, North Dakota offers hardship waivers

With school districts in North Dakota scrambling late into the summer to fill open teaching positions, the state has stepped in to help.

As of early August, emergency administrative rules were being developed for districts to apply for hardship waivers. These waivers would allow districts to bring on individuals without education degrees to be teachers. The new hires would instead be "community experts" — for example, an experienced farmer in the community teaching vocational agriculture. According to The Forum of Fargo-Moorhead, neighboring Minnesota already has a community-expert program in place.

North Dakota established a task force earlier in the year to address the state’s teacher shortage. A local state superintendent told Education Week that three factors are contributing to the problem: more K-12 students because of the state’s population growth, fewer in-state residents entering the profession due to relatively low wages, and difficulty in attracting residents entering the profession due to relatively low wages, and difficulty in attracting

The North Dakota task force plans to work on finding longer-term solutions. Teacher shortages were also being reported this summer in Indiana, Kansas and South Dakota.

New laws in Illinois seek to ‘right-size’ juvenile justice system

Illinois lawmakers say a series of legislative reforms this year will help "right-size" the state’s juvenile justice system. The bills were signed into law in July.

Under SB 1560, minors will not be committed to Department of Juvenile Justice facilities for misdemeanor offenses, and minors cannot be detained in a county jail for "status offenses." HB 3718, meanwhile, gives judges more discretion on how to sentence minors. For example, they can take various mitigating factors into account: maturity level, presence of a developmental disability, home environment, history of childhood trauma, prior criminal record and potential for rehabilitation.

In addition, juveniles in Illinois charged with certain felony offenses will no longer be automatically prosecuted in adult criminal court. In 2011, the U.S. Department of Justice analyzed the different methods that states use to transfer juveniles to adult courts. One is "automatic transfer": granting criminal courts exclusive jurisdiction over certain classes of cases involving minors. Illinois, Indiana, Iowa, Minnesota (murders only), South Dakota and Wisconsin all had automatic transfer laws, the federal study found. Some states, on the other hand, leave the transfer decisions to local prosecutors or juvenile courts.

Grants, tax policies and uniform rules aim to expand broadband

Iowa and Indiana are moving ahead with a mix of new programs and tax policies designed to expand broadband development in the state's rural areas.

In Iowa, Gov. Terry Branstad made his "Connect Every Acre" proposal a top priority this past legislative session. With passage of HF 655, the state is establishing a grant program for service providers that install broadband in areas that connect farms, schools and communities. The equipment used in these targeted service areas will be fully exempt from property taxes for 10 years, The Des Moines Register reports. The new law also establishes uniform rules that will determine how local governments manage the sitting of cell phone towers.

Indiana’s HB 1318, signed into law earlier this year, also seeks to streamline the siting of wireless facilities, and a second new law (HB 1101) gives local governments the opportunity to be certified as "broadband ready." To receive this classification, they must have certain procedures and rules in place to review broadband projects.

Last year, the Minnesota Legislature created the Border-to-Border Broadband Development Grant Program. Eligible applicants include businesses, political subdivisions, nonprofit groups and cooperatives. A total of $10.6 million in grants will be available this year.

States defend their role in protecting consumers from data breaches

As the U.S. Congress considers legislation to better protect consumers from the threats posed by data breaches and identity theft, the nation’s state attorneys general have delivered a unified message: Don’t pre-empt state laws.

Forty-four attorneys general (including 10 from the Midwest) signed the July letter to lawmakers. “Additional protections afforded consumers by a federal law must not diminish the important role states already play,” they wrote.

Currently, 10 of the 11 states in this region (all but South Dakota) have laws requiring consumers to be notified when a data breach occurs. In Illinois, a recently passed bill would expand the state’s notification law — for example, adding geolocation and consumer marketing to the definition of “personal information.” SB 1833 also would require entities that collect and store personal consumer data to adopt “reasonable security measures.” The bill was still awaiting the governor’s signature as of early August.

One potential benefit of federal legislation is improving the response to breaches that occur across state lines. Forty states, though already participate in the Privacy Working Group, an organization that facilitates collaboration and joint investigations regarding data breaches.