Bankruptcy case as reminder of states’ role in local governments, from debt limitations to financial aid and supervision

By Tim Anderson (tanderson@csg.org)

When his hometown of Detroit filed for bankruptcy this summer, Michigan Rep. David Nathan had two reactions. One, it was unfortunate. Two, it had to be done.

“My perspective is that it can help our citizens who have been sticking it out here, through thick and thin,” Nathan says.

From the trash that is no longer picked up in a timely manner to the slow response times of police and fire departments, Nathan says, city services have deteriorated to unacceptable levels.

“It is all related to a financial situation that the city is in,” Nathan says, “and it didn’t look like the creditors were going to help unless they were forced to.”

Detroit’s bankruptcy filing was a milestone in the 79-year history of Chapter 9. Municipal filings have been rare and, for the most part, inconsequential because they have involved small taxing bodies. Some states, in fact, do not even authorize municipal bankruptcies in statute and, in the case of Iowa, prohibit them (see map).

In the Midwest, not a single municipal bankruptcy filing occurred between 1980 and 2011 in seven states (see map on page 6). And only Nebraska had a large number of filings during that period (55, most in the nation), but those all involved special districts.

Detroit’s case is much different — and consequential.

The tradition has been that any city of size viewed Chapter 9 as an option to be avoided at all costs, because the city did not want to interfere with its ability to borrow and access markets at a low interest rate,” says James Spiotto, a partner with the firm Chapman and Cutler LLP and a national expert on bankruptcy law.

Detroit’s bankruptcy filing occurred between 1980 and 2011 in seven states (see map on page 6). And only Nebraska had a large number of filings during that period (55, most in the nation), but those all involved special districts.

“Detroit was counting on that revenue between workers, retirees, creditors and public officials over ‘a piece of a pie that isn’t much to begin with.’ That process, Spiotto says, keeps the parties involved from focusing on the most important goal — finding a path to long-term economic recovery and fiscal health. ‘You can adjust the debt without solving the systemic problems, and then you just repeat the problems,’ he warns.

Nathan says a long list of factors led Detroit down the road to bankruptcy, and he includes policy decisions made by the state in that list.

In the late 1990s, for example, the city agreed to reduce income tax rates in exchange for more revenue-sharing dollars from the state. But subsequent crises in Michigan’s fiscal conditions meant those dollars never came in at expected levels. ‘Detroit was counting on that revenue...’
Economic Development

States looking at ‘work-share’ benefits as way to give employers alternative to laying off workers

Work sharing, also known as short-time compensation, is an unemployment benefit that gives employers an alternative to laying off workers when business is slow or temporary cuts in costs are needed.

A group of workers is kept on the job at reduced hours. To replace the lost income, these employees are then eligible for partial unemployment benefits. The idea of work-share programs has won support across the political spectrum, with proponents seeing it as a win-win proposition. Employers are able to weather downturns by reducing payrolls while retaining skilled workers and avoiding the cost of hiring and training again when business rebounds. Workers, meanwhile, are able to stay on the job (about at reduced hours), maintain their skills, and often retain health and retirement benefits.

At the start of 2012, 23 states were operating work-sharing programs, including Iowa, Kansas and Minnesota in the Midwest. In February of that year, President Obama signed into law the Middle Class Tax Relief and Job Creation Act, which includes incentives for more states to adopt work-sharing programs. Under the law, the federal government provides 100 percent of work-sharing unemployment benefits for up to three years in states that had a program in place, and 50 percent for up to two years in states that did not.

The Center for Economic and Policy Research estimates that if every state took part, $1.7 billion in federal dollars would go into state insurance funds. And Mark Zandi, an economist at Moody’s Analytics, estimates that every dollar spent on work sharing could add $1.64 in economic growth.

Last year, Michigan, which has the highest unemployment rate in the Midwest, became the 24th state to adopt a work-sharing program with enactment of SB 1094.

In some ways, Michigan’s new initiative is similar to programs in place in other states. For example, Michigan businesses must continue providing health insurance and other benefits for their work-share participants, and the state will decide the portion of lost income it will cover and the cap on total benefits to workers.

But unlike other states, Michigan will allow businesses to keep workers on the program with no penalty as long as federal funds are available for the program. (In other states, employers may be penalized with higher unemployment insurance taxes for keep-


Unemployment and benefits in Midwestern states

<table>
<thead>
<tr>
<th>State</th>
<th>4th collecting unemployment benefits (as of Aug. 31, 2013)</th>
<th>Maximum weekly benefits amount</th>
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Source: U.S. Department of Labor, U.S. Employment and Training Administration

Health & Human Services

Glut of improper payments has states searching for new ways to weed out Medicaid fraud, abuse

In fiscal year 2010, 9 percent of state Medicaid payments — totaling $11 billion — were considered “improper” by federal standards. Many of these payments were due to clerical mistakes or flagged because of insufficient documentation, and were not necessarily payments that shouldn’t have been made. But the category of “improper” payments also includes spending attributed to fraud and abuse — the focus of a recent Pew Charitable Trusts report.

Matt Kilgill, a health policy expert at Pew, notes that abuse and fraud are different.

Fraud is intentional deception or misrepresentation on the part of the patient or provider — such as a beneficiary providing false information on an application or a provider billing for services not performed.

A patient or provider who commits abuse is using practices that are “inconsistent with sound fiscal, business or medical practices” and that result in an unnecessary cost. An example would be seeking reimbursement for services that aren’t medically necessary.

Fraud and abuse can be committed by both providers and patients, but most state anti-fraud strategies are focused on providers. States can get the most results out of closely monitoring how doctors, hospitals and other providers are paid, Kilgill says.

One way to do this is to more thoroughly vet providers and exclude those who have a history of questionable practices. Some states conduct random audits, criminal background checks and visits to providers.

Michigan prevents providers from billing Medicaid if they have not renewed their license. The program links a provider enrollment system with the state’s medical licensing bureau, which keeps providers who have lost their licenses (or have retired or moved) from receiving Medicaid dollars.

McKillop says that states must strike a balance between eliminating improper payments and avoiding burdens that discourage honest providers from accepting Medicaid patients, which could potentially decrease access to care.

Another option is to strengthen review of claims before they are paid.

According to the U.S. Centers for Medicare and Medicaid Services, vendors of medical equipment (such as wheelchairs), home health agencies, transportation providers and personal care services are more likely to commit Medicaid fraud. States can run these types of claims through additional checks to catch inconsistencies.

In the area of prepayment review, Kansas requires providers to verify medical necessity and having patients swipe a benefit card at each visit to prove they had an appointment.

Also, states can comb through past claims to detect improper payments and then recover funds, a practice sometimes called “pay and chase.” And Illinois has a predictive tool that can detect problem providers early on. Pew reports that this state also has hired a firm to examine its list of Medicaid beneficiaries and determine which ones no longer meet eligibility requirements and therefore should be taken off the rolls.

Addressing fraud and abuse can be a delicate “balancing act”: preventing unnecessary spending while not overburdening honest providers. The rewards, however, can be great; in fiscal year 2009, Pew says, states spent $390 million on “program integrity” measures and recovered nearly six times as much — $2.31 billion.

Pew’s database of promising anti-fraud practices is available at www.prwstates.org/Medicaid-fraud.

A balance must be struck between eliminating improper payments and avoiding burdens that discourage honest providers from accepting Medicaid patients.

Brief written by Kate Tormey, who serves as staff liaison to the Midwestern Legislative Conference Health and Human Services Committee. She can be reached at ktormey@csg.org. The committee’s co-chairs are Iowa Rep. Joel Fry and Minnesota Senator Kathy Sheran.
Education

Minnesota nixes graduation exam; early intervention, post-secondary success are focus of new system

In graduate, Minnesota high school students have had to do more than complete the necessary coursework. They’ve also had to pass a statewide exit exam, one that assessed their skills in certain core subject areas. But that high-stakes test, known as GRAD (Graduation Required Assessment for Diploma), was shelved this year by the Legislature amid concerns that it was focusing students and schools on the wrong objective — passing a test rather than preparing for college and careers — and keeping some students from getting a diploma.

“Test scores will be used to advance and promote students’ growth and achievement academically,” says Minnesota Rep. Kathy Brynaert, vice chair of the House Education Policy Committee, says about the changes. “But we will no longer have the line in the sand for graduation.”

The new system, she adds, will focus on college and career readiness and early interventions for students. According to Rose Hermosdorff of the Minnesota Department of Education, state officials have long had concerns about a policy that made the results of one test “a single, defining factor that would prevent a student from graduating.”

A working group of leading Minnesota educators and legislators laid out those concerns in a study that helped lead to this year’s legislative actions.

The negative impact of high-stakes graduation tests — namely, acting as an obstacle to getting a diploma — is “disproportionately borne by low-income students, students of color and English learners,” the group’s final report noted.

With GRAD in place, nearly 40 percent of high school graduates needed remedial study when they went on to postsecondary school — a sign that changes were needed to better align Minnesota’s secondary and post-secondary systems, says Brynaert, a member of the working group.

Still, there was not unanimous support for abolishing a statewide graduation exam. Some business groups instead wanted GRAD realigned to better match college-entrance exams.

Only a handful of states now require students to pass tests in order to graduate from high school. Others, meanwhile, are starting to use end-of-course assessments — tests that students must take upon completing a course, regardless of the grade received.

In Minnesota, the focus will now be on developing new assessments tied to college and career readiness, with course requirements and standards used to keep students and schools accountable.

Agriculture & Natural Resources

Groundwater depletion looms as threat to future growth in Kansas

Farmers and lawmakers in Kansas are struggling to come up with solutions to a problem that threatens the economic future of the state — its primary source of groundwater is being depleted at unsustainable rates.

According to a recent study by Dr. David Steward of Kansas State University, given current usage, the amount of water Kansas farmers can extract from the Ogallala aquifer will start to fall in just 10 years. The aquifer is a vast underground lake that runs under parts of eight states and provides almost a third of the nation’s groundwater.

If current irrigation trends continue, only 31 percent of the original contents of the aquifer in Kansas would remain by 2060, the study found. And once depleted, it could take between 500 and 1,300 years to refill.

Without change in water use (Kansas pumped 1.3 trillion gallons in 2011), farmers will still be able to harvest more corn for another generation, though, because technology — better irrigation systems and genetically improved corn — will let them use the water more efficiently. Kansas is a top agriculture state — No. 1 in sorghum, No. 2 in wheat and in the top 10 for corn and cattle — but this production comes at a high water cost.

The report showed that while water-use efficiency is increasing about 2 percent a year, immediately cutting water use by 20 percent could extend the aquifer’s lifetime increasing about 2 percent a year, immediately cutting water use by 20 percent could extend the aquifer’s lifetime.

Even with conservation, though, water limitations are threatening future economic development.

“Water will be what limits growth in southwest Kansas,” says Kansas Sen. Larry Powell. “No matter how much we conserve and reduce, we will still be using more than the aquifer can recharge.”

The aquifer is declining everywhere, and in some areas, 15-foot declines in the water table have been observed. Irrigation is extracting nearly four times the water recharge.

In response, officials are exploring the feasibility of transferring water from the Missouri River (on the eastern side of the state) to western Kansas. This idea is not new; a 1982 U.S. Army Corps of Engineers study found that a river dam and pump station could move excess Missouri River water 295 miles west through Kansas.

An updated proposal replaces the dam with a number of collector wells and an aqueduct to move the water to western Kansas. The fee currently paid for water by irrigators would cover the estimated $36 billion cost.

However, for a Missouri River aqueduct to be built, many political, engineering and legislative hurdles would have to be overcome. For example, states that share the Missouri currently do not have an existing compact agreement governing its use.

“We aren’t even sure we can get water rights from the Missouri [River],” Powell says. “Still, there was not unanimous support for abolishing a statewide graduation exam. Some business groups instead wanted GRAD realigned to better match college-entrance exams.

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Unwelcome trends: Higher poverty rates and falling incomes

First, the good news for Midwestern states from recent U.S. Census Bureau data: Between 2011 and 2012, following multiple years of rises in poverty rates and drops in income levels in most of the region’s states, numbers have largely stabilized. No state in the Midwest had a “statistically significant” increase in poverty or a decrease in median household income, and gains were made in two states. Minnesota’s percentage of people living in poverty fell (one of only two U.S. states where a statistically significant decrease occurred), and median income levels in Illinois increased (one of only three U.S. states).

But now for the bad news: For most states in the region, numbers have stabilized at levels that reveal a significant decline in economic prosperity during the first 12 years of this century. Between 2000 and 2012, income levels fell in seven Midwestern states. These declines, too, have been more severe than the national average in Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. (Michigan’s median-income drop of 19.1 percent was the highest in the nation.) Over this same time period, poverty rates rose in every Midwestern state except North Dakota. Michigan and Ohio have higher rates of poverty than the U.S. average of 15.9 percent.

The two maps below show, too, how the Great Plains and Great Lakes states have fared much differently in recent years.

Food insecurity, food-stamp use rising; state and federal policies changing

In the shadows of the highly publicized congressional battle over the future of the nation’s largest food-assistance program, a handful of states in the Midwest have moved ahead this year with changes of their own. This heightened attention to the Supplemental Nutrition Assistance Program (SNAP) — or food stamps, as they are still often called — is occurring on the heels of significant rises in the number of “food-insecure” households and the number of people receiving assistance.

In every Midwestern state, for example, more households report having difficulty providing enough food to family members compared to a decade ago (see bar graph). And between 2008 and 2012, average monthly SNAP participation rates in the 11-state Midwest have risen anywhere from 21.4 percent in North Dakota to 83.1 percent in Minnesota (see map).

An increase in SNAP rates is not surprising considering the recent recession: Participation rises with economic downturns. During these periods, too, the federal government allows states to waive certain work requirements for able-bodied adults without children who live in high-unemployment areas. Without this waiver, these adults receive a maximum of three months of SNAP benefits over a three-year period; after three months, the benefits end without participation in work or job training.

Every state in the Midwest has sought and secured these federal waivers. However, states such as Kansas, Ohio and Wisconsin have now decided to end their waivers, citing improved economic conditions and a desire to tie SNAP benefits to work or job training.

“It is important that we do more than just provide a monetary food assistance benefit,” says Michael Colber, director of the Department of Job and Family Services in Ohio, where the waiver will still apply in some select economically depressed counties.

Under legislation passed by the U.S. House in September, the waiver would be removed as an option for all states.

That same measure would also restrain SNAP enrollment by eliminating another policy option — states — the authority to expand eligibility beyond traditional income and asset limits. As the map to the right shows, most states in the region have used this flexibility to expand the reach of their food-stamp programs. In Michigan, North Dakota and Wisconsin, for example, eligibility has been extended to households with gross incomes as high as 200 percent of the federal poverty line, according to a September 2013 Congressional Research Service study.

As of late September, the fate of the federal waiver and the flexibility of states to offer broad-based eligibility was unclear. Meanwhile, an expiring provision of the American Recovery and Reinvestment Act will mean lower benefits for all SNAP recipients beginning in November. Amid the talk about SNAP cuts, some states have explored ways to expand participation. For example, the Illinois Commission to End Hunger (the result of 2010 state legislation, SB 3158) released a series of recommendations last year that included improving SNAP outreach, hiring more caseworkers, and integrating SNAP eligibility into the process for determining health insurance eligibility under the Affordable Care Act.

“Thousands of eligible individuals are not accessing the [benefits] they are entitled to receive,” the Illinois commission said in its 2012 study.

Food insecurity, food-stamp use rising; state and federal policies changing

Source: U.S. Department of Agriculture

Average # of people receiving food stamps in fiscal year 2012 (monthly average); % change since FY 2008

% of households that received food stamps in 2011; state eligibility rules

Traditional eligibility only — Household must meet asset limits and have net income at or below federal poverty line or be eligible to receive needs-tested cash aid from Temporary Assistance for Needy Families, Supplemental Social Security or General Assistance programs

Traditional/narrow eligibility expansion — Eligibility expanded, but in way to limit number of households

Traditional/broad-based eligibility expansion — Eligibility expanded to make food stamps in /fiscal year 2012 (monthly average); % change since FY 2008

Source: U.S. Department of Agriculture


* U.S. total in 2012 was 46.6 million, a 72.2 percent increase since 2008.

<table>
<thead>
<tr>
<th>% of households that received food stamps in 2011; state eligibility rules</th>
<th>Traditional eligibility only</th>
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2 decades ago, charter schools got their start in Minnesota

by Mike McCabe (mmccabe@csg.org)

When lawmakers in Minnesota tweaked their state’s charter school law earlier this year, they weren’t just updating a statute in need of a tune-up. Instead, they were participating in an ongoing national debate about the purpose and role of charter schools as engines of education reform.

It’s a debate that began more than two decades ago, when charter schools were first conceived as a means of fostering innovation in education while offering students and their families more choices and alternatives to traditional public schools. And right from the start, Minnesota was in the thick of the fray.

A groundbreaking statute approved by the Minnesota Legislature in 1991 — the nation’s first charter school law — paved the way for the charter movement and triggered a flurry of action in legislatures across the country. Eventually, 42 states would approve charter schools. There are now more than 6,000 charter schools serving more than 2.3 million students.

Still hailed today as a model for the rest of the nation, the Minnesota statute was the product of a long and contentious process, and its fate remained uncertain until the very end.

According to the measure’s chief sponsor, former Minnesota Sen. Ember Reichgott Junge, the bill was severely compromised in conference committee, and after a three-year battle marked by previous failures, it appeared that it might not pass. But despite intense opposition from the state’s teachers unions, school boards and administrators, the measure was eventually approved by just three votes in the Minnesota House, which, like the Senate, was controlled by Democrats at the time.

The bipartisan coalition that provided the winning margin included 42 percent of the House majority that Democrats were controlling. That victory, however, did not necessarily mean that charter schools would succeed.

“I thought it was so weak that a charter school would never open,” she recalls of the final compromise legislation.

Her concern was based in part on provisions that allowed only local school districts to approve new charters. The authority for other entities to establish charter schools — a key to making the concept work, according to some proponents — would only follow later. Nevertheless, the first charter school opened in St. Paul a year after the law was passed.

Today, seven other Midwestern states (all but Nebraska, North Dakota and South Dakota) have charter school laws.

In North Dakota, for example, a provider who offers services at a free clinic is not liable for personal-injury civil action related to the care provided, except in the case of “intentional misconduct or gross negligence.” Other states with similar laws include Illinois, Indiana, Michigan, Ohio and South Dakota.

In a second group of states, there are programs in place to purchase professional liability insurance for volunteer physicians who are not otherwise covered. Under Minnesota’s Volunteer Health Care Provider Program, a physician agrees that he or she will not receive compensation for care and submits a statement that his or her medical license is active and without restrictions. The state, using funds derived from medical licensure fees, then purchases malpractice insurance policies for participating physicians.

In a third group of states, certain physicians are considered employees of the state when providing free care. Iowa, for example, provides for immunity when a physician enrolls in a state volunteer health care provider program.

Other states that have similar initiatives include Kansas and Wisconsin. Under Wisconsin’s Volunteer Health Care Provider program, physicians must submit a joint application with the nonprofit agency or school at which they plan to provide care. Once approved, the physician is considered an agent of the state of Wisconsin and is provided liability protection.

Some states have also adopted special licensing measures to encourage retired medical professionals to use their skills helping patients in free clinics. Indiana, for example, offers a special “inactive” license for retired physicians. Under this special reduced-cost license, the physician cannot receive compensation for care and cannot maintain an office or practice. And doctors from other states can receive clearance to provide free care in Indiana for a maximum of 30 total days under a “limited scope” license. Kansas also offers a limited-scope license for retired doctors and charges a reduced fee.

A retired physician in Michigan can receive a special volunteer license for no fee. Ohio offers a similar type of license to retired physicians who plan to provide free care, but there are some restrictions (they cannot deliver babies or perform surgery).

First in the Midwest: Minnesota’s law on charter schools

Every state in the Midwest, except Nebraska, has a law in place to help protect certain volunteer physicians from being sued in conjunction with care they provide, according to the American Medical Association. The goal of these state laws is to promote volunteerism in the medical community and help care for the uninsured.

A handful of states in this region, too, have special licensing programs for retired doctors wishing to serve their communities.

The cost of purchasing liability insurance or defending oneself against lawsuits can be a barrier for physicians who are considering providing services at no cost. (Some are not otherwise protected against civil liability because they are retired or their existing insurance policies are limited in scope.)

State legislation aimed at easing concerns about liability generally fall into three different types. The first category includes laws that shield volunteer physicians from civil lawsuits. These laws typically provide exceptions for negligence or willful misconduct. Patients must generally be informed that physicians are immune from liability and must sign a waiver.

For School Change and one of the architects of the Minnesota statute, school districts across Minnesota have improved their offerings in direct response to the growth of charter schools.

And he is quick to add that “no single strategy is going to solve all the problems of public education,” and notes that while there have been some wonderful success stories in Minnesota, there have also been noteworthy failures. Since the law was enacted, for example, 30 charter schools in the state have closed.

The Minnesota law, as amended through the years, is still widely regarded as a standard for other states to follow. Earlier this year, the National Alliance for Public Charter Schools ranked the Minnesota statute No. 1 — the third time in four years that the Minnesota law claimed the top spot in the rankings.

According to Todd Ziebarth, the alliance’s vice president of state advocacy, the Minnesota statute compares favorably in providing flexibility to charters to innovate in exchange for closer accountability.

The wide variety of entities that can serve as charter school authorizers in Minnesota is also a relative strength, Ziebarth says, and the state provides “a decent amount of funding” for operations and facilities. He applauds, too, the state’s decision to lift the original cap on the number of charter schools that may be established in Minnesota.

Article written by Kate Torney, CSG Midwest assistant editor, who can be reached at ktormey@csg.org. Question of the Month highlights an inquiry received by CSG Midwest through its Information Help Line. To request assistance, please contact us at csgm@csg.org or 630.925.1922.
Legislators re-examine state laws that aid, supervise distressed local governments

Evolution of state policies continues

In fact, one reason for today’s heightened concerns about municipal bankruptcy is tight state budget conditions. States are an important source of revenue for local governments, and either because of fiscal choice or necessity, cuts have been made in recent years.

Ohio Rep. Lou Terhar points to recent reductions in local government funding as one cause of difficult financial conditions for some of his state’s political subdivisions. He also cites the impact of the recent recession, elimination of Ohio’s estate tax and “questionable financial decisions made at the local government level.”

Partly in response to Detroit’s bankruptcy, and his subsequent research into the financial health of Ohio’s local governments, Terhar crafted legislation — set to be ready for General Assembly consideration in the fall — that places new fiscal restraints on the state’s political subdivisions. The measure would require jurisdictions to maintain balanced budgets, adhere to stricter debt limits and meet new standards for funding locally administered pension systems.

“Municipal bankruptcies hurt not only the political entity going through bankruptcy and its local residents,” Terhar said in a statement announcing the new legislation, “they also negatively affect the economic health of the region.”

As Spiotto notes, too, the financial credibility of local governments — and their ability to access low interest rates in capital markets — “is at the heart of our system of federalism.”

“It’s essential to allowing decisions to be made locally on what local officials believe is right,” he says. “Imagine if you had to go to the federal government and ask permission to build a road or a school. Our infrastructure would be in the dark ages.”

States have long recognized the vested interest they have in maintaining the financial stability and health of their political subdivisions.

One traditional policy approach has been to set debt limits on municipal entities — either a set monetary amount or, more common in the Midwest, a percentage of assessed property values in the local taxing body. As the page 7 map shows, every state in the region has statutory or constitutional debt limits.

The efficacy of these state laws can be limited, however. Michigan, for example, sets a debt limit of 10 percent for its cities, but as a recent Wall Street Journal article points out, exceptions to the law allowed Detroit to accumulate a “mountain of debt,” with the city spending more than 40 percent of its revenue on borrowing costs and retirement benefits.

When push comes to shove, too, states might not see any other choice than to raise the debt limit. In recent years (including with passage of HB 2420 in 2012), Kansas lawmakers have established a higher debt limit for the town of Junction City because of concerns that the local government would otherwise not be able to pay its bills.

Beyond debt limits, Spiotto says, many states have been taking a more hands-on approach to local governments in financial distress — and even those simply at risk of falling into distress.

“The earlier states can detect potential problems and start to help, the better off they are and the more constructive their help can be,” he notes.

Two years ago in Ohio, lawmakers passed HB 153, which includes a “fiscal caution” provision that gives the state auditor authority to provide technical assistance to a local entity found with problematic fiscal practices and budgetary conditions.

This recently enacted legislation added a third layer to Ohio’s plan for dealing with local governments in distress. After “fiscal caution” comes “fiscal watch,” when jurisdictions are required to come up with a financial plan reviewed and approved by the auditor.

Bankruptcy option not available for states, which say they don’t want or need it

For local governments, the filing of Chapter 9 bankruptcy remains an option of “last resort.” For states, it is not an option at all — and that seems to be exactly how leaders in state government want to keep it.

The idea of giving state governments a path to declare bankruptcy last gained some momentum in 2011, and even became the subject of a U.S. House Judiciary Committee hearing. The hearing was held at a time of immense budget difficulty for states and after a crash of the nation’s financial markets had heightened concerns about the long-term solvency of public pension systems.

Any attempt to extend bankruptcy protection to states would have to overcome multiple political and legal hurdles, including whether it would be allowed at all under the Contracts Clause of the U.S. Constitution.

Since that congressional hearing, talk of state bankruptcy has quieted down; at the time, state leaders made it clear to the U.S. Congress that they could find solutions to their fiscal problems without federal intervention. And, in a Jan. 21, 2011, article that appeared in The Huffington Post, CSG Executive Director David Adkins wrote that states already were moving ahead with innovative solutions to address their short- and long-term fiscal challenges.

In the Midwest, most states over the past few years have adopted cost-cutting measures to shore up their retirement systems for public employees: 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.

In Illinois — the state with the worst-funded pension system (see table) — lawmakers continue to seek a legislative solution that would improve the system’s fiscal health and sustain a constitutional challenge in state courts. As of late September, Illinois lawmakers expected to once again take up pension reform during the legislature’s fall veto session.

Could a public retirement fund itself file for bankruptcy?

That question was addressed in a court case last year involving the Northern Mariana Islands, a commonwealth of the United States. (Commonwealths, like states, cannot file for bankruptcy.) A U.S. bankruptcy judge ruled that the commonwealth’s retirement system was not eligible for Chapter 11 bankruptcy because it was “a governmental unit.”

### Financial state of public pension systems in Midwest

<table>
<thead>
<tr>
<th>State</th>
<th>% of pension liability funded</th>
<th>Details on funding ratio/retirement systems</th>
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<tbody>
<tr>
<td>Illinois</td>
<td>40.4%</td>
<td>Ratio of five state-funded retirement systems</td>
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<tr>
<td>Indiana</td>
<td>76.6%</td>
<td>Ratio of Indiana Public Employees Retirement Fund</td>
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<td>Michigan</td>
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<td>Minnesota</td>
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<td>Nebraska</td>
<td>78.2%</td>
<td>Combined ratio of 5 state-administered systems</td>
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<td>62.8%</td>
<td>Combined ratio of 2 largest systems for public employees and educators</td>
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<td>65.5%</td>
<td>Combined ratio of 2 largest systems for public employees and teachers</td>
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<tr>
<td>Wisconsin</td>
<td>99.9%</td>
<td>Ratio of Wisconsin Retirement System</td>
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Percentage/ratio is based on the difference in the pension system’s assets and liabilities

Sources: Ballotpedia and latest state Comprehensive Annual Financial Reports

### # of Chapter 9 bankruptcy filings by municipal entities: 1980-2011

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Michigan Rep. David Nathan

Turning our attention to a state that is not in the Midwest.

Funding ratio is the difference in the pension system’s assets and liabilities. Source: Federal Funds Information for States (from book “Municipalities in Distress: How States Help Local Governments Handle Their Debts,” Ballotpedia, updated through 2011).
The last layer is “financial emergency,” when a local entity is overseen by a state financial planning and supervision commission. There currently are 24 local governments in fiscal emergency.

Like Ohio, other states in the Midwest have plans to manage or oversee financially strapped municipalities (see table on page 1). In Illinois, state legislators two decades ago passed a law to help the town of East St. Louis. The city gets special state assistance in the form of loans and state bonding authority, while a five-member state board oversees the city’s finances.

Illinois also has a separate statute for towns in “fiscal emergency”; its provisions include intervention by a state commission to change local budgeting and debt issuance.

In 2012, Indiana lawmakers added a provision to its law establishing the position of a state-appointed emergency financial manager to oversee the finances of a local government in distress. Under HB 1192, this emergency manager cannot raise taxes, but he or she does have the power to cut spending, including through a renegotiation of labor contracts. (In contrast, the Illinois commission does not have the power to change existing labor agreements.)

Michigan’s 2011 change in its law became the subject of a statewide vote in 2012, in large part because of the broad powers granted to a state-appointed emergency financial manager to oversee the finances of a local government in distress. Under HB 1192, this emergency manager cannot raise taxes, but he or she does have the power to cut spending, including through a renegotiation of labor contracts. (In contrast, the Illinois commission does not have the power to change existing labor agreements.)

Under the statute now in place, a state review team and the governor decide if a financial emergency exists in a local unit of government. If such an emergency is determined, the local government is given one of four alternatives:

- enter into a consent agreement that addresses the emergency;
- have a state-appointed emergency financial manager act in place of the local governing body;
- agree to move forward with a “neutral evaluation process” involving negotiations between local government officials, creditors and other interested parties; or
- file for Chapter 9 bankruptcy.

Spiotto says the most effective state laws and programs find the right middle ground between adequate state oversight and local autonomy. On the issue of debt limits, for example, limits that are too high are useless, while those that are too restrictive can impede local control.

State intervention into local financial affairs works best, he adds, with buy-in from the community and its elected leaders.

“They don’t want someone coming in who doesn’t know the neighborhood, so to speak,” Spiotto says. “They want somebody to give them the technical advice, and then they can make the policy decision.”

For state legislatures, he has proposed creation of a Municipal Protection Commission to deal with financial emergencies in local government. This independent state commission would start by offering recommendations on how to resolve a fiscal emergency. The recommendations would be voluntary and based on input from financial experts, local leaders, creditors, workers and other affected parties.

“Their first step didn’t work, the commission would then have the power to adopt a financial recovery plan, which could include a “pre-packaged” Chapter 9 plan.”

“This recent economic downturn helped crystallize the necessity of dealing with these problems early and the importance of having a recovery plan,” Spiotto says. “It’s not only, how do you control your budget and expenditures, but how do you stimulate your tax revenues and create jobs?”

The Council of State Governments congratulates the outstanding state leaders from the Midwestern Region selected to participate in the

2013 Henry Toll Fellowship Class

Grant Barry Anderson
Associate Justice, Minnesota Supreme Court

Philip Boots
Indiana Senator

Philip Cavanagh
Michigan Representative

Andrew Gerlach
Cabinet Secretary, South Dakota Department of Revenue

Mary Elizabeth Gill
Judge, Franklin County Court of Common Pleas, Ohio Domestic Relations Division and Juvenile Branch

James Holden
Chief Deputy and General Counsel, Office of the Indiana State Treasurer

Scot Kelsh
North Dakota Representative

Dan Lederman
South Dakota Senate Majority Whip

Tim Mapes
Chief of Staff, Office of the Illinois Speaker

Rena Moran
Minnesota Representative

Katrina Shankland
Wisconsin Representative

Valdenia Winn
Kansas Representative

Applications for the 2014 Toll Fellows Class will be open Oct. 1, 2013 – May 2, 2014. The program will run Sept. 5 – 10, 2014. For more information, visit the CSG National Leadership Center at www.csg.org/leadershipcenter.
Assistant majority leader is a key player in the effort to reform, preserve state's underfunded pension system

by Kate Tormey (ktormey@csg.org)

I n the mid-1990s, Elaine Nekritz was out to dinner with a friend who was helping search for a Democratic candidate for state representative. “She looked at me and she said, ‘What about you?’” Nekritz recalls. “And I said, ‘Well, that’s the most ridiculous idea I’ve ever heard.’” Nekritz says she hadn’t yet been involved in her community or with politics, so running for public office had never crossed her mind. But she was at a point in her life when she was looking for a new direction — and she joined the race.

Nekritz lost that 1995 election, but not her desire to enter public service. She became active in local politics and, in 2002, won a seat in the Illinois House representing a district in the northwest suburbs of Chicago. “I am passionate about issues at the state level, such as women’s reproductive rights, gun safety and environmental issues,” she says. “Those are the kinds of issues in which the state has a significant role.

“State legislators have a much greater opportunity to impact issues in a very hands-on way.”

In her first few years as a legislator, Nekritz focused on environmental issues, including eliminating toxic materials in consumer products. She has also worked on transportation issues and is a longtime advocate of improving the passenger-rail system in the Midwest.

“That is a very important role the government plays, in terms of economic development,” she says. “Economic development follows infrastructure investment, and I think that is a place where government belongs and should be investing.”

But in recent years, her focus has shifted to a different economic issue: the state’s underfunded pension system.

Now serving as Illinois House assistant majority leader, and as chair of the Personnel and Pensions Committee, she has led efforts to solve what is widely considered a crisis in the state’s retirement system for public employees. Nekritz, along with collaborator Sen. Daniel Biss, has been working nonstop on proposals to get the system back into fiscal shape. It’s been an uphill battle, she says, as policymakers disagree about the scale of the problem and how to fix it.

And lawmakers are walking a thin line between achieving cost savings and reforms and not violating the state Constitution. (The Constitution includes language preventing pension benefits from being “diminished or impaired.”)

A longtime biking enthusiast and former competitive racer, Nekritz brings to the debate a competitive edge, to the point of running for public office.

“The first time I ever ran, it was a very big, comprehensive solution. If the Illinois Constitution is being violated, we can’t help that. I have to focus on what I can get done. If you don’t like it, you can go out and be opposed, but this is the best I think we can do for the state and that’s going to have to be good enough. Those have been some really hard, agonizing processes to go through.

Q: What are the moments that stand out?

A: One is the start of the 2009 session. I had not been happy. The way our House rules operate, I think they are more restrictive than any other legislature in the country and create a lot of control in the speaker. I voted against the rules, and the speaker was not surprised by my vote, but it was still a major deal to vote against Speaker [Michael] Madigan. I lived through it, and I am now in House leadership, and I am someone he turns to on major issues of the day. I feel that vote was a defining moment for me in that I was able to express my personal view in a very significant way and then thrive in the legislature after that.

One of the most special moments I remember on the floor was when we passed civil unions for same-sex couples in 2010. It was very emotional. It was one of those moments when I thought to myself, “This is why I am here and this is why I am doing what I am doing.” It was a wonderful feeling. It felt to me like a civil rights issue. We were creating greater equality and tolerance in society, and those are values that I care about.

Q: Do you have advice for other legislators on how to tackle such a complex issue?

A: On an issue of this complexity, really dig in and understand the details as much as you can. We rely on actuaries to tell us the impact of a given proposal so we have real data that we can use to make our argument, and then stand by the legislation we propose.

In terms of the politics of it, it has been a significant effort to keep people talking, keep people at the table and keep moving forward. And for me personally, I have had to really learn to let go of people that I thought were supporters … and to keep doing what I think is right and what is feasible to get done. That has been very hard. …

There are people who say, “Elaine, you’re doing such a great job!” And then we come out with something and they say, “We don’t like that.” Well, I can’t help that. I have to focus on what I can get done. If you don’t like it, go out and be opposed, but this is the best I think we can do for the state and that’s going to have to be good enough. Those have been some really hard, agonizing processes to go through.
Getting ‘smart on crime’

South Dakota justice-reform legislation aims to make public safer, hold offenders more accountable and save taxpayers money

by South Dakota Gov. Dennis Daugaard

In January of this year, South Dakota’s Legislature approved sweeping criminal justice reforms to save our taxpayers millions of dollars and keep our public safe. Thanks to some thorough research, outreach and discussion, this potentially controversial issue not only received passage, but garnered broad support in the process.

South Dakota has a higher imprisonment rate than any of its six neighboring states. Per capita, we lock up 75 percent more men than North Dakota and four times as many women as Minnesota.

When I heard this data, I figured, “Well, maybe our public is safer. More bad guys locked up — less crime.” Unfortunately, that isn’t the case.

Over the past 10 years, 17 states have lowered their imprisonment rate while simultaneously lowering their crime rate. In fact, the crime rates in those states have fallen twice as fast as the rate in South Dakota. Our approach wasn’t better, and our high rate of imprisonment came at a high cost.

Over the past 20 years, our spending on corrections had tripled. It had grown faster than every area of spending except Medicaid. Within the next 10 years, our state was projected to need a new women’s prison and a new men’s prison.

So we asked, is this the best way to spend the taxpayers’ money? As good stewards of state government, it is always our obligation to carefully consider this question.

Following the 2012 legislative session, I directed my staff to meet with stakeholders in criminal justice. We held more than 35 meetings with more than 400 stakeholders, including law enforcement, judges, defense attorneys, American Indian tribes, treatment providers, probation enforcement, judges, defense attorneys, American Indian tribes, treatment providers, probation officers, Supreme Court justices and prosecutors.

Maybe South Dakota was doing things the right way, but numbers so staggering warranted a reassessment. We came to stakeholders with no preconceived outcomes. To generate a solution, it was important that we not promote a particular solution — and quite frankly, we didn’t have one.

We also kept legislative leadership and key members apprised of our activities throughout the process so they would be more comfortable with the topic.

After three months of consulting with stakeholders to hear their ideas for improvement and to form policy, we formed a work group that included legislators, members of my staff and representatives of a cross-section of the criminal justice field. There were 18 members in total.

The group was charged with three goals: improve public safety, hold offenders more accountable and reduce spending on criminal justice.

Nuts and bolts, not hot buttons

We were also deliberate in letting the public and the group members know what the group would not address, such as drug legalization, the death penalty and other hot-button topics that could bog down the process or paint the work group in a “soft on crime” light.

The work group reviewed further data and looked for evidence-based practices that would provide real value for our specific problems. The policies were truly formed in a collaborative environment with our three goals guiding the entire process.

After the group offered policy recommendations, we immediately went to work, contacting nearly every legislator to explain the problem, the process and the proposed solutions. We also contacted the stakeholder groups to secure their endorsement for the package.

After a couple of months of tweaking and a compromise with prosecutors, we had a package and a coalition.

In the end, the Public Safety Improvement Act (SB 70) was sponsored by 70 of 105 legislators. It was formally endorsed by the chief justice, the attorney general, and the police chief, sheriffs, court commissioners and state’s attorneys’ associations, along with the State Bar, the Victims Network, the Council of Substance Abuse Directors and the Family Policy Council.

We had been in touch with these groups since the first months of work, and kept them updated throughout the process. Because we used an inclusive, palms-up effort, stakeholders were comfortable; and because stakeholders were comfortable, legislators were supportive.

The policies included new or improved probation accountability programs — drug and alcohol courts, for example. To focus prison space on violent and career criminals, the reforms restructured our sentencing framework for nonviolent offenders. We also made the largest investment in the history of our state into behavioral health for offenders with addictions and mental health needs.

Of all things undertaken in my first three years as governor, this is one of the efforts of which I am most proud. The process demonstrated the value of collaboration and an example of how the public would like to see policy made: with the involvement of both parties, support from affected stakeholders and adherence to fiscal prudence.

This effort is not about being soft on crime. It’s about being smart on crime.

The policies we passed will save our state tens of millions of dollars in the coming years. More importantly, these recommendations will hold offenders more accountable and make our state safer.

What more could we want? It’s a win-win-win.

W

Highlights of South Dakota’s Public Safety Improvement Act

According to an analysis by the Pew Charitable Trusts’ Public Safety Performance Project, South Dakota’s recent criminal justice reform legislation is structured around three primary goals: strengthening offender accountability and supervision, focusing prison space on violent and career criminals, and ensuring sustainability of the reforms.

✓ Accountability: The law makes more options available to the justice system to change offender behavior and reduce recidivism, such as establishing formal drug and DUI courts; expanding mental-health and substance-abuse treatment and intervention programs for offenders on probation or parole; and creating incentives (such as discharge from supervision) for compliance with conditions of probation or parole in order to allow the system to focus on higher-risk offenders.

✓ Prison space: The law differentiates between drug users and dealers and tailors the available penalties accordingly, and creates more-targeted punishments for property crimes, increasing or decreasing penalties depending on the circumstances of the offense. It also makes probation rather than imprisonment presumptive for certain nonviolent crimes, but increases potential prison sentences for fourth-time criminal offenders and adds potential penalties of five or 10 years’ additional supervision for repeated (six or more) DUI violations.

✓ Sustainability: Among other provisions, the law mandates that reform implementation be monitored by an oversight council and that the state calculate the fiscal impact of future legislation or ballot initiatives affecting the criminal justice system.

Nuts and bolts, not hot buttons

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Submissions welcome

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

Prison populations and incarceration rates in Midwest, 2012

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<thead>
<tr>
<th>State</th>
<th>Prison population 2012</th>
<th>% change from 2011</th>
<th>Incarceration rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois*</td>
<td>48,627</td>
<td>N/A</td>
<td>136</td>
</tr>
<tr>
<td>Indiana</td>
<td>28,831</td>
<td>-0.3%</td>
<td>440</td>
</tr>
<tr>
<td>Iowa</td>
<td>8,713</td>
<td>-4.2%</td>
<td>282</td>
</tr>
<tr>
<td>Kansas</td>
<td>9,682</td>
<td>+3.8%</td>
<td>325</td>
</tr>
<tr>
<td>Michigan</td>
<td>43,616</td>
<td>+1.6%</td>
<td>440</td>
</tr>
<tr>
<td>Minnesota</td>
<td>9,918</td>
<td>+1.4%</td>
<td>184</td>
</tr>
<tr>
<td>Nebraska</td>
<td>4,705</td>
<td>+1.9%</td>
<td>247</td>
</tr>
<tr>
<td>North Dakota</td>
<td>7,512</td>
<td>+0.3%</td>
<td>213</td>
</tr>
<tr>
<td>Ohio</td>
<td>59,076</td>
<td>-6.2%</td>
<td>400</td>
</tr>
<tr>
<td>South Dakota</td>
<td>3,650</td>
<td>+3.3%</td>
<td>414</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>22,600</td>
<td>-0.3%</td>
<td>357</td>
</tr>
<tr>
<td>U.S. total</td>
<td>1,571,013</td>
<td>-1.7%</td>
<td>480</td>
</tr>
</tbody>
</table>

Number of prisoners per 100,000 residents of all ages

Source: U.S. Bureau of Justice Statistics
Justice reinvestment approach aims to cut costs, achieve reforms in public safety

Three states in the Midwest are pursuing policies to develop better public-safety outcomes while trimming costs, using an approach championed by The Council of State Governments’ Justice Center.

In one of those states — Michigan — leaders recently announced they are using a data-driven "justice reinvestment" approach to control corrections spending and reinvest a portion of the savings in strategies to reduce recidivism, hold offenders accountable and increase public safety. The process will include a review of the state’s 15-year-old sentencing guidelines.

With intensive technical assistance from CSG’s Justice Center, the Michigan Law Revision Commission will lead this effort and expects initial policy recommendations ready for review and discussion in the spring of 2014.

In May, Kansas Gov. Sam Brownback signed into law HB 2170, which will strengthen the state’s probation and post-release supervision policies with the goal of improving public safety while keeping corrections costs in check.

"I’ve made it a priority during my time in Congress and now as governor to ensure that we keep our communities safe and allow those individuals who are re-entering society to positively contribute to society once they return from prison or jail," Brownback said when he signed the bill. "These reforms will reduce recidivism, cut corrections costs and increase public safety. They also ensure that even in these tough fiscal times, we are making prudent decisions on behalf of Kansas taxpayers."

The new law stems from recommendations made by a bipartisan, interbranch work group of Kansans with assistance from the CSG Justice Center. It is projected to slow the growth in the prison population — averting $56 million in spending over the next five years. The state is reinvesting $2 million in additional community-based behavioral health treatment for people under supervision in FY 2014.

Midwestern states apply ‘justice reinvestment’ approach to reforms

Over the past several years, the CSG Justice Center has helped states across the country, including five in the Midwest (see map below), apply the “justice reinvestment” approach. The initiative is made possible by a partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance. Pew also provides assistance to states pursuing a justice reinvestment approach.

Facing continued growth of its prison system, South Dakota enacted comprehensive reforms to the state’s sentencing and corrections system. A bipartisan, interbranch group of state officials (the Criminal Justice Initiative Work Group) developed the reforms with help from Pew and its partners. The work group developed recommendations to strengthen supervision and interventions, focus prison space on violent and career criminals, and ensure the quality and sustainability of reforms. Legislation advancing the recommendations passed with overwhelming bipartisan support and was signed into law by Gov. Dennis Daugaard in February. SB 70 is projected to reduce anticipated prison growth in South Dakota and save $207 million in construction and operating costs through 2022. The legislation also redirects $8 million from the current corrections budget to programs and policies proven to reduce recidivism and improve offender accountability. (For more information on the South Dakota legislation, see page 9.)

For more information about the justice reinvestment initiative, visit www.csgjusticecenter.org/jr

CSG holds annual conference in Kansas City

State lawmakers from around the country gathered in Kansas City last month for CSG’s National Conference. Speakers included U.S. Secretary of Health and Human Services Kathleen Sebelius, historian David McCullough, and author and political forecaster Nate Silver.

The meeting, CSG’s new Federalism Task Force met for the first time. Over the next two years, the panel will discuss ways to improve the state-federal relationship.

Resolutions were also adopted at the conference on the following topics:

- calling for adjustments to federal “country of origin” labeling requirements;
- supporting construction of a border crossing between Detroit and Windsor, Ontario;
- urging promotion of domestic energy production;
- encouraging states to help combat obesity;
- calling for the reauthorization of the State Trade and Export Promotion program;
- supporting amendments to the federal Unfunded Mandates Reform Act;
- supporting the federal tax exemption for municipal bond interest;
- urging the U.S. Congress to pass a surface transportation bill in the next 12 months;
- supporting audited use of unmanned aircraft systems; and
- calling for a state-level pilot program to explore transportation funding alternatives.

Resolutions from the national conference can be accessed at the CSG Knowledge Center, http://knowledge.csg.org.

The Midwestern Legislative Conference Executive Committee met during the national conference in Kansas City. The group heard presentations about the upcoming Supreme Court session and cases that affect states; the federal-provincial relationship in Canada; and U.S.-Canada relations.
Delegation of state lawmakers travels to Alberta for study trip focusing on oil sands

As the federal government considers a proposed oil pipeline between Canada and the United States, a group of Midwestern legislators recently visited an area that would be a source of that energy.

Nine legislators from the region visited the Canadian oil sands in Alberta to learn more about how oil is recovered from the area and how the provincial government oversees the process.

The proposed Keystone XL pipeline would bring oil from the oil sands to the United States. A pending presidential permit is needed to move ahead with construction.

Participants explored the impact of the oil sands on the Midwestern economy. A number of refineries are already processing oil originating in Alberta — or expect to be doing so soon. In addition, 235 firms in this region supply trucks, machinery, truck engines, and other equipment and services used in the oil sands.

The study trip was supported by a grant from the government of Canada to the Midwestern delegation of state lawmakers to spend several days in the other observing matters of common interest and concern.

The study trip was supported by a grant from the Canadian government. Until recently, oil in the area has been recovered through the mining process. But about 80 percent of the oil in the oil sands is too deep to be accessed by traditional mining.

In the last year or so, another recovery process has begun to surpass mining: the “in situ” process. Experts say that over time, in-situ processing will be much more common than traditional mining.

The “in situ” process uses steam to heat oil that is much deeper in the oil sands. The steam makes the oil more liquefied so that it can be collected, and in most areas, the surface soil is not disturbed. The MLC delegation visited such a facility and toured its control room (see photo below).

Members of the delegation met in Edmonton with Alberta government officials, who talked about the province’s environmental regulations and oversight of the oil sands. They also discussed some of the efforts to reduce greenhouse gases in oil sands recovery, an ongoing concern that may impact further development of the oil sands.

While the trip to the oil sands was specifically related to energy, the MLC also coordinates legislative exchanges between state and provincial lawmakers in the Midwest.

Next month, a delegation of U.S. state legislators will travel to Toronto, where they will learn about Ontario’s provincial government.

Midwest-Canada Relations Committee fosters cross-border talks

The recent study trip to the Alberta oil sands was sponsored in part by the MLC Midwest-Canada Relations Committee, which is made up of lawmakers from the 11 Midwestern states and the four provinces that are affiliate members of the MLC: Alberta, Manitoba, Ontario and Saskatchewan.

Created in 1991, the committee ensures that the perspective of state and provincial legislators is presented to federal officials. It does so through meetings with officials in Washington, D.C., and Ottawa, and with policy resolutions, letters and public comments. Another mission of this committee is to provide a cross-border forum for dialogue and information sharing on matters of common interest and concern.

The committee organizes and sponsors legislative exchanges between state and provincial legislators — allowing lawmakers from one country to spend several days in the other observing the legislative process and meeting legislative leaders and other officials.

Recent and upcoming legislative exchanges include trips to:

/ Regina, Saskatchewan (November 2012);
/ Winnipeg, Manitoba (December 2012); and
/ Toronto, Ontario (November 2013).

During a study trip to the Canadian oil sands, Midwestern state legislators visit a former mining site that is now a wildlife refuge. The group traveled to Alberta earlier this year to discuss environmental and economic issues related to the oil sands. The study trip was supported by a grant from the Canadian government.

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The group also visited the site of a former mining operation that is now a wildlife refuge, and met with researchers at CAMNet, a Canadian federal energy research center.

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Legislators tour the control room of an “in situ” processing operation in Alberta’s oil sands. From left to right: South Dakota Sen. Craig Tieszen, Kansas Speaker Ray Merrick and Indiana Sen. Ed Charbonneau.
Reading instruction continues to be a focus of states’ K-12 reforms

This fall, Iowa schools rolled out the state’s new plan to get more of its third-graders reading at grade level.

The Response to Intervention program, which has been launched in 10 percent of Iowa schools, assesses students on literacy skills as they enter kindergarten and then adapts instructional interventions based on the students’ individual needs. Launch of the program came a year and a half after Iowa lawmakers passed SF 2284, which calls for children in kindergarten through third grade to be tested at the beginning of each school year and, when needed, be offered intensive remedial reading instruction.

Other states in the Midwest have also made early literacy a focus of recent K-12 education reforms. Wisconsin is funding a universal reading screener for kindergarten students and requiring prospective teachers to pass a new licensure test on reading instruction (SB 461, passed in 2012). Ohio’s new Third Grade Reading Guarantee program (SB 316, passed in 2012) requires school districts to develop an individualized reading-improvement plan for students identified as reading below grade level. In Ohio and Iowa, too, the 2012 laws call on school districts to “retain” some third-graders reading below grade level.

Illinois first state in Midwest to ban indoor tanning by all teens

Illinois has joined the handful of U.S. states that ban tanning facilities from offering their beds and other tanning equipment for use by people under the age of 18.

HB 188 was signed into law in August.

According to the Melanoma Research Alliance, five other states — but none in the Midwest — have enacted similar prohibitions since 2012. This legislative push is the result, in part, of recent studies linking the use of indoor tanning beds to melanoma, USA Today reports.

In addition to Illinois’ new law, Wisconsin has a tanning-bed ban in place for people ages 15 and under. Teens are able to use tanning beds in the region’s nine other states. However, some type of parental consent is required in at least five states: Indiana, Michigan, Minnesota, North Dakota and Ohio.

Under Indiana’s law, a parent or guardian must be present in order for a person under the age of 16 to use a tanning facility. Written parental consent is required for ages 16 and 17.

Under-18 parental consent is also the law in Michigan and Ohio. In Minnesota, no such restrictions are in place for anyone 16 and over.

Michigan legislators eye expanded use of mental health courts

It didn’t take long for Michigan legislators to take notice of a state Supreme Court study examining the efficacy of mental health courts.

Less than a month after the study’s release, the House unanimously passed a four-bill package (HB 4044-4047) that statutorily creates mental health courts, thus paving the way for judicial circuits across the state to operate them, MLive.com reports. The legislation would also establish guidelines for these courts; for example, violent offenders could not be served by them.

The three-year Supreme Court study, which evaluated 10 mental health courts, found that the recidivism rate of participants was 300 percent lower compared to similar offenders. Participants also had better work and employment outcomes. Mental health courts offer treatment programs to offenders with severe mental illnesses as an alternative to lengthy jail or prison terms.

According to the nonprofit Treatment Advocacy Center, 48 percent of Michigan’s population resides in a jurisdiction with a mental health court — same as the U.S. average. In the Midwest, two states are above the national average: Illinois (78 percent, fifth-highest rate in the nation) and Ohio (63 percent). In the region’s eight other states, the availability of mental health courts falls below the national average.

E15 pumps pop up in Midwest; North Dakota latest state with fuel mix

Three months after an effort to block the sale of E15 stalled in the U.S. Supreme Court, the fuel blend began being offered in another Midwestern state.

North Dakota Gov. Jack Dalrymple announced in September the availability of E15 (a mix of 15 percent ethanol and 85 percent gasoline) at six gas stations. He welcomed E15 as another way to grow the biofuels industry in North Dakota, where, since 2005, ethanol production has risen from about 10 million gallons per year to about 37.7 million.

A year ago, Kansas became the first U.S. state where E15 was sold. The fuel blend is also now available in Illinois, Iowa, Michigan, Nebraska, South Dakota and Wisconsin. According to the Renewable Fuels Association, more than 30 gas stations (nearly all in the Midwest) offer E15 blends.

A mix of groups unsuccessfully sought court action to overturn a U.S. Environmental Protection Agency decision permitting E15 sales. The American Petroleum Institute has called the EPA’s decision “premature and irresponsible.”

Concerns about E15 include its impact on older car models. In its decision, the EPA limited the use of E15 to cars with a model year of 2001 or newer.