States face decisions on their piece of food-safety system

New FDA rules will have big impact on farmers, food processors

by Carolyn Orr (corr@agandruralleaders.org)

Between 2003 and 2009, a string of high-profile foodborne illnesses hit consumers across the United States.

There were salmonella outbreaks from produce, hepatitis A infections from raw or undercooked green onions, and cases of pet foods contaminated with melamine. And nine people died and more than 700 got sick from eating salmonella-tainted peanut butter traced back to a single processing plant in Georgia.

In the wake of these deaths and illnesses, federal food-safety legislation that had been many decades in the making finally got signed into law.

The bipartisan Food Safety Modernization Act of 2010 marks the most sweeping change in government regulation of food production and processing in more than 70 years.

It is just now beginning to be implemented.

The law’s goal is to reduce the prevalence of foodborne illnesses by focusing more on prevention, rather than responding to outbreaks once they occur. (According to the U.S. Centers for Disease Control and Prevention, close to 48 million Americans get sick every year from pathogens transmitted through food; nearly 128,000 people are hospitalized and more than 3,000 die.)

To meet this objective, the U.S. Food and Drug Administration’s authority to regulate fruit and vegetable production has been greatly expanded. (The FSMA does not apply to meat, poultry and egg production; those industries are covered by other rules.)

The 2010 law and subsequent FDA rules apply to food processors and transporters, as well as the animal-feed industry. From the farmer to the distributor, new accountability measures are in place.

And for states, decisions will have to be made on whether to harmonize their own regulations on food safety with the FSMA, as well as how involved they want to be in areas such as producer education, inspection and compliance.

“There is an opportunity for states to help their businesses compete and be successful,” Jamie Clover Adams, director of the Michigan Department of Agriculture & Rural Development, said in July during a presentation to state lawmakers at the Midwestern Legislative Conference Annual Meeting. (CSG Midwest provides staffing support to the MLCC.)

Preventive controls a must

For the first time in the nation’s history, as a part of a set of new “preventive controls” being put in place, the FDA has established science-based, minimum standards for how fruits and vegetables (those typically eaten raw) are produced on the farm.

These standards specify everything from the use of biological soil amendments to animal contamination in the fields, and require documentation of every aspect of production.

For example, water that comes in

Final rules for the Food Safety Modernization Act are now in place. Designed to reduce the prevalence of foodborne disease outbreaks, the new law sets new standards for fruit and vegetable farmers and food processors, among others. It also requires inspections of facilities. States must decide how involved they want to be in implementing the act and helping the food industry adapt to it.
Economic Development

Through new statewide goals and policies, lawmakers look to boost education levels of workforce

Two years ago, Gov. Terry Branstad announced that he wants 70 percent of Iowa’s workforce to have education or training beyond high school by 2025. Since then, he and state legislators have taken a series of steps to meet that goal.

Most recently, an alliance of government, business and industry leaders was formed (via a Branstad executive order in August) and charged with developing a statewide plan to meet the state’s new objective. And as part of that plan, which is due next fall, Iowa’s new Future Ready Alliance must develop new metrics to track the state’s progress.

For example, is the state closing ethnic and racial achievement gaps in postsecondary attainment? Are more adult learners seeking postsecondary degrees and credentials? Do the opportunities at postsecondary institutions align with high-demand jobs? What are job-placement rates for various degrees, credentials and certificates?

Across the country, more emphasis is being placed on increasing postsecondary participation and attainment according to the Lumina Foundation, at least 28 states — including four in the Midwest — now have set specific goals to meet by 2025.

Minnesota’s SF 5, passed in 2015, says 70 percent of the state’s 25- to 44-year-olds should have postsecondary degrees or certificates by 2025. Illinois’ goal is to have 60 percent of its 25- to 64-year-olds with college degrees, while Indiana’s objective is to have a higher-education attainment rate of 60 percent among its adult population.

These targets are being set because more work in the future will require education and job training beyond high school. Many of these jobs will not require four-year degrees, and in Iowa, one focus has been on preparing its young people and workforce for success in “middle skill” jobs — for example, carpenters, machinists, surgical technologists or truck drivers.

“There is no corner or any other part of the state that is not covered by one of our community colleges,” Rep. Mary Ann Hanusa says, “and we believe that they are perfectly suited and situated to fill that area between high school and a four-year degree.” And this year, with passage of HF 2392, Iowa legislators made the first major revision of the state’s career-technical education system since 1989. In addition to setting new CTE standards (such as requiring individualized academic and career plans for students starting in the ninth grade), the law will increase student access to information about career opportunities and labor markets. It also will better align the state’s CTE programs with employers’ workforce needs.

Passenger Rail

Ridership on Midwest’s state-supported lines has dropped over past five years

Ridership on seven of nine state-supported Amtrak routes in the Midwest has grown by leaps and bounds over the last 10 fiscal years, but has dropped during the last five — a situation that state officials attribute at least in part to construction projects that aim to increase ridership and improve travel times over the long term.

Total ridership on the routes grew 42 percent from fiscal years 2006 to 2016 (up to a total of 2,705,848 passengers), but dropped 8 percent from FY 2011 to FY 2016.

Corridor improvement projects got underway after 2011, when federal funds from the American Recovery and Reinvestment Act of 2009 began flowing to state departments of transportation. Illinois saw the region’s greatest 10-year growth on state-supported routes (see table at right):

- The Chicago-St. Louis corridor, which hosts the state-supported Lincoln Service trains and the long-distance Texas Eagle (Chicago-San Antonio), jumped 109 percent.
- The Chicago-Carbondale corridor, host to the state-supported Illini/Saluki trains and the long-distance City of New Orleans (Chicago-Memphis-New Orleans) grew by 92 percent; and
- The Chicago-Quincy corridor, host to the state-supported Illinois Zephyr and Carl Sandburg trains plus the long-distance Southwest Chief (Chicago-Los Angeles) and California Zephyr (Chicago-Denver-Emeryville, Calif.), grew by 69 percent.

Michigan’s Blue Water service (Chicago-Port Huron) also saw 10-year ridership rise 48 percent. The only routes in the Midwest to lose 10-year ridership were the Pere Marquette (Chicago-Grand Rapids) and Wolverine (Chicago-Detroit-Pontiac) trains. Tim Hoeffner, director of the Office of Rail at the Michigan Department of Transportation, said the drops were due to “infrastructure work and alternative operating schedules.”

In 2012, the Chicago-Detroit corridor became the first route outside the Northeast to be rated for 110-mph service, and now the line is being double-tracked in order to extend that service to another part of the route. Meanwhile, part of the Chicago-St. Louis corridor is expected to have up to 110-mph service by late 2017.

Derrick James, a senior manager for Amtrak, said another reason for the five-year ridership drop is lower gasoline prices: The nationwide average price per gallon fell from $3.40 in FY 2011 to $2.13 in FY 2016, according to the U.S. Energy Information Administration.

Ridership on corridor service in Midwest (fiscal years 2006-2016)

<table>
<thead>
<tr>
<th>Route</th>
<th>Ridership FY 2016</th>
<th>10-year growth</th>
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<td>9%</td>
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<td>Kansas City-St. Louis</td>
<td>178,751</td>
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<td>8%</td>
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<td>Chicago-Milwaukee</td>
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<td>39%</td>
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Source: Amtrak, Midwest Interstate Passenger Rail Commission.

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Source: Amtrak, Midwest Interstate Passenger Rail Commission.

Brief written by Jon Davis, who can be reached at jdavis@csg.org. CSG Midwest provides staff support to the Midwest Interstate Passenger Rail Commission, which was formed by an interstate compact agreement and includes nine member states. Tim Hoeffner, director of the Michigan Department of Transportation’s Office of Rail, serves as MPIRC chair; more information is available at mpirc.org.
Nuclear Energy

As more nuclear plants close, Illinois bill seeks better market conditions for power source

Three nuclear plants in the Midwest are scheduled to cease operations permanently over the next two years, on the heels of other recent, unexpected closures of plants around the country, including Kewaunee in Wisconsin.

Nebraska's Fort Calhoun nuclear station closed at the end of October, and the Quad Cities and Clinton plants in Illinois are on the chopping block, pending action from the state legislature this fall. The owners of the plants have cited economic conditions in their decisions to cease operations — specifically, cheap natural gas and the failure of energy markets to reward nuclear with the same zero-carbon emissions credit given to renewable energy sources.

Shutting down a nuclear plant is not a simple task and, in some cases, comes with economic and environmental consequences.

At a recent forum on nuclear energy organized by the University of Illinois, Illinois Sen. Donne Trotter said that the closure of the Clinton and Quad Cities plants would result in the loss of $21 million in property taxes, $1.2 billion in economic activity and more than 4,000 jobs.

Trotter is the co-sponsor of legislation (SB 1585) that would establish a new state energy plan and improve market conditions for nuclear power. As of late October, he was hoping to pass the legislation during the Illinois General Assembly's fall veto session.

The Next Generation Energy Plan would establish a Zero Emissions Standard, a legal framework for providing financial support to nuclear plants. This standard would require the Illinois Power Agency (which develops electricity procurement plans for residential and commercial customers) to procure contracts for zero-emissions credits from nuclear utilities.

Midwestern states' consumption of nuclear energy (2015), contributions to federal Nuclear Waste Fund

<table>
<thead>
<tr>
<th>State</th>
<th>Nuclear energy consumption (in millions of lbs)</th>
<th>Customer payments to Nuclear Waste Fund*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>1,023.5</td>
<td>$2.31 billion</td>
</tr>
<tr>
<td>Indiana</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Iowa</td>
<td>43.4</td>
<td>$141.2 million</td>
</tr>
<tr>
<td>Kansas</td>
<td>89.5</td>
<td>$228.9 million</td>
</tr>
<tr>
<td>Michigan</td>
<td>326.8</td>
<td>$884.1 million</td>
</tr>
<tr>
<td>Minnesota</td>
<td>132.9</td>
<td>$456.7 million</td>
</tr>
<tr>
<td>Nebraska</td>
<td>105.7</td>
<td>$301.3 million</td>
</tr>
<tr>
<td>North Dakota</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ohio</td>
<td>170.3</td>
<td>$386.6 million</td>
</tr>
<tr>
<td>South Dakota</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>98.9</td>
<td>$421.9 million</td>
</tr>
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</table>

* From the U.S. Department of Energy under Nuclear Waste Fund Act in May 2014.

Crain's Chicago Business reported in late October that a draft version of the bill would use the “social cost of carbon” (a formula developed by the U.S. Environmental Protection Agency to estimate the benefits of carbon dioxide reductions) to calculate the base subsidies for nuclear plants. Additional adjustments would then be made based on market conditions.

If the legislation does not pass, Exelon has promised to close the Clinton plant in 2017 and the Quad Cities plant in 2018. With the closures, both communities would lose not only their largest job provider, but also a major tax base.

“When you take that kind of money out of the local economy and schools, it’s really going to hurt,” says Illinois Rep. Pat Verschoore, who represents his state on The Council of State Governments’ Midwestern Radioactive Materials Transportation Committee.

The Fort Calhoun nuclear plant in Nebraska, which employed about 700 workers, officially closed at the end of October. Fort Calhoun was one of two nuclear plants in the state and produced a quarter of the state’s clean electricity.

The Nebraska Emergency Management Agency receives revenue from the state’s nuclear plants as reimbursement for developing radiological emergency preparedness plans and conducting training for first responders. With the closure of Fort Calhoun, funding for the plans and training will be cut in half.

Now that energy generation at Fort Calhoun has stopped, the plant will undergo a $1 billion decommissioning and decontamination to remove its nuclear fuel and place it in temporary on-site storage, a process that could take up to 60 years to complete. As at four other shutdown reactors in the Midwest (Zion in Illinois, Big Rock Point in Michigan, and La Crosse and Kewaunee in Wisconsin), the spent fuel will remain at Fort Calhoun until a centralized storage facility or a permanent repository for the nation’s waste is established. (Nuclear energy customers in the Midwest have contributed over $5 billion to a federal fund that is earmarked for construction of a repository or centralized storage facility.)

In January, the U.S. Department of Energy launched a national effort to identify communities that would consent to hosting a storage or disposal site. CSG’s Midwestern Radioactive Materials Transportation Committee is involved in developing best practices for transportation of spent nuclear fuel and radioactive waste as part of DOE’s project.

Health & Human Services

Some states turning to provider taxes to pay their share of Medicaid expansion

Starting in January, states that chose to expand their Medicaid programs under the Affordable Care Act will have to begin paying part of the associated costs, and three of the Midwest’s expansion states say they will rely at least in part on revenue from their taxes on health care providers.

Under the 2010 law, the federal government has been fully funding state-enacted changes that increased the reach of Medicaid to include adults with incomes at or below 138 percent of the federal poverty level. (Low-income children and their parents, pregnant women, and the disabled must be covered by all states.)

But the federal match falls from 100 percent to 95 percent in 2017, and then to 94 percent in 2018, 83 percent in 2019, and 75 percent in 2020 and beyond. (In comparison, the federal share for all Medicaid spending is about 63 percent.)

In response to a recent nationwide survey conducted by the Kaiser Commission on Medicaid and the Uninsured, Illinois, Indiana and Ohio reported that they will rely on provider taxes or fees to “fund all or part of the state share of costs of the ACA Medicaid expansion.” These types of taxes are most commonly levied on nursing homes, hospitals and intermediate care facilities.

States have increasingly come to rely on provider taxes to fund Medicaid — 21 had such taxes in place in 2003, Kaiser reports; now, every state except Alaska has them. In the Midwest, Illinois, Indiana, Iowa, Minnesota, Ohio and Wisconsin had three or more provider taxes in place as of fiscal year 2015.

Seven states in the Midwest have chosen to expand their Medicaid populations under the Affordable Care Act: Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota and Ohio.

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Brief written by Katelyn Tye, who can be reached at ktye@csg.org. CSG’s Midwestern Radioactive Materials Transportation Committee includes representatives from the executive and legislative branches of government in 12 Midwestern states. The committee’s co-chairs are Kelly Horn of the Illinois Emergency Management Agency and Ten Engelhart of Wisconsin Emergency Management.

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Sources: Kaiser Commission on Medicaid and the Uninsured, Kaiser Family Foundation.

Brief written by Tim Anderson, who can be reached at tanderson@csg.org. The committee’s co-chairs are Illinois Rep. Robin Gabel and Kansas Sen. Susan Concaenon.
With passage of fall ballot proposals, big policy changes coming to Midwest

State constitutions were changed and policies on issues ranging from medical marijuana to the death penalty were decided on by voters across the Midwest this November.

In all, 20 ballot proposals were voted on in seven states in the region. Here is a review of some of the proposals that won voter approval.

**Nebraskans back death penalty**

Nebraska is one of five states in the Midwest that allows for a veto referendum — the chance for voters to override the actions of their state legislature. Nebraskans used that power to reject, by a margin of 61 percent to 39 percent, a decision made by legislators last year to eliminate the death penalty.

As a result of this vote, Nebraska remains one of five states in the region with capital punishment (Indiana, Kansas, Ohio and South Dakota are the others). Supporters of the death penalty also won important ballot victories this fall in two states outside the Midwest (Oklahoma and California).

**Independent board to set legislative pay**

Minnesota is one of five states in the region where ballot proposals must first receive legislative approval, and this year, the state’s lawmakers successfully sought a change in how their own salaries are set.

More than three-quarters of Minnesotans agreed to change the state Constitution so that legislators no longer have the power to determine how much they are paid. That task will now be handled by an independent, citizen-run board — eight appointed by the governor, eight by the Minnesota Supreme Court chief justice.

In most Midwestern states, the decision on legislator pay is ultimately left to the legislators themselves. However, there are other exceptions — a voter-approved constitutional change is required in Nebraska, and in Indiana, a statutory formula ties the pay of state lawmakers to that of trial court judges.

**Medical marijuana legal in North Dakota**

Over the past six months, two Midwestern states have legalized the use of medical marijuana. Ohio via legislative action, and now North Dakota through a vote of the people (64 percent to 36 percent). With passage of this citizen-initiated statutory measure, North Dakotans with specified medical conditions and written notes from their doctors will be able to purchase marijuana from licensed, nonprofit “compassion” centers. If individuals live 40 miles or more from a center, they can grow their own marijuana for medical use.

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**South Dakotans veto youth-wage law**

South Dakotans used a veto referendum to reject a legislative decision in 2015 to create a separate, lower minimum wage for workers under the age of 18 ($7.50 per hour). By a margin of 71 percent to 29 percent, South Dakotans decided that the minimum wage (currently $8.55 per hour) should apply to everyone.

In all, 20 ballot proposals were voted on in

South Dakota this fall (third most in the nation). Voters rejected two election-ref orm ideas: one to create an independent, nine-member commission to draw state legislative districts, and a second to make South Dakota’s elections nonpartisan. However, they did approve a major revision of South Dakota’s campaign-finance laws (by a vote of 52 percent to 48 percent).

In addition to strengthening disclosure and reporting requirements, the citizen-initiated measure creates a method for publicly financing political candidates: Every registered voter in the state will receive two $50 credits and assign them to candidates. To receive these credits, candidates must agree to limits on campaign contributions and expenditures.

**Right to hunt, fish in state constitutions**

The Indiana and Kansas constitutions now give individuals the right to hunt and fish. These legislatively referred amendments received the support of more than 80 percent of voters in both states.

According to the Congressional Sportsmen’s Foundation, the constitutions in Minnesota, Nebraska, North Dakota and Wisconsin also give residents the right to hunt and fish.

**Illinois funding for roads put in ‘lock box’**

To ensure that revenue from Illinois’ road fund (gas taxes and license fees, for example) is used only for transportation purposes, the Illinois General Assembly asked voters to amend the state Constitution. After receiving near-unanimous legislative support this year, the “lock box” amendment was overwhelmingly approved by Illinois voters. In 2014, a similar change was made to the Wisconsin Constitution.
In Iowa, use of ‘funnel deadlines’ helps keep legislative process moving

by Ilene Grossman (igrossman@csg.org)

D ecades ago, after a session of Iowa’s part-time Legislature dragged into July, the state’s lawmakers agreed they needed to find a way to prevent that from ever happening again.

Their bipartisan solution at the time: Create a series of deadlines for when bills had to advance or die. First established in 1979, these “funnel dates” have been an important part of the legislative process ever since — closely tracked by constituents, interest groups, Capitol reporters and legislators themselves.

“Even within your own party caucus, an upcoming deadline forces people to work together,” says state Sen. Janet Petersen, adding that it’s “a good way for us to winnow down the bills we have to consider.”

In 2017, for example, the first big deadline for bill sponsors and legislative committees will come during the eighth week of Iowa’s legislative session. That’s when a measure must be reported out of committee or die. Two weeks later comes the crossover deadline, when bills fail if they are not passed by the House and Senate and sent to the other chamber for consideration. And once a bill crosses over, deadlines are in place for when a standing committee and the full legislative chamber can consider it. (Some measures, including appropriation bills, are exempt from these deadlines.)

“A lot of bills, not a lot of time

Like Iowa, many legislatures in the Midwest are considered “part time” and expect to meet for only a handful of months.

During this time, hundreds of measures are introduced; as a result, lawmakers rely on formal rules such as “funnel dates” to help manage the bills as well as the legislature’s limited time before adjournment. (Some states set dates for when session must end; Iowa does not.)

In this region, most states have deadlines for bills; action must be taken by a specific date — by a committee or the full legislative chamber, for example — or they die. Legislative rules can provide ways to keep bills alive past the deadlines.

For example, Illinois’ legislative leaders can reschedule or extend final action for specific bills, and Minnesota’s rules committees have similar powers.

In some states, too, the legislature must act on all bills that were introduced. North Dakota requires every measure to be heard in committee (which recommends a “do pass” or “do not pass” vote) and to be voted on by the full legislative chamber from which it originated. In South Dakota, each House and Senate bill receives a final disposition vote, and all introduced legislation in Nebraska must receive a public committee hearing.

In Indiana, the state tries to provide a signer or interpreter for deaf or hearing-impaired persons for floor debates, committee meetings, scheduled conference committee meetings, interim study committee meetings and meetings with legislators. It asks, however, that people make such requests for services at least two weeks in advance.

The National Association of the Deaf recommends that state legislatures take a number of steps to improve accessibility, including:

• Providing closed captioning for live broadcasts (and reruns) of legislative activities,
• Authorizing the purchase of portable assistive listening systems,
• Adopting a written policy that corresponds with state and federal disability laws,
• Making legislators and legislative staff aware of state and federal disability laws and the services available to persons with disabilities,
• Periodically reviewing activities and facilities to ensure compliance with disability laws and, if necessary, taking corrective actions to improve accessibility for deaf and hard-of-hearing constituents.

QUESTION OF THE MONTH

Most Midwestern legislatures provide sign-language interpreter services and/or closed captioning in order for the deaf and hearing-impaired to follow and take part in legislative activities such as committee hearings, floor debates and State of the State addresses.

To comply with state law and/or the federal Americans with Disabilities Act — Title II of which forbids discrimination by any public entity — many legislatures also provide these services for meetings between individual legislators and constituents, provided these services are requested in advance.

In a recent CSG Midwest survey of legislative staff from the region, some states reported having no formal policies in place — either because a request for services has not been made or because the request is simply handled as it arises.

But in states such as Minnesota, the Legislature details how it provides “special needs access.” For example, sign-language interpreters are made available for both individual and group meetings. Arrangements can be made for American Sign Language services for a citizen who is deaf, hard of hearing, or deaf-blind in order to allow them to:

• Meet with a legislator or legislative staff (a “meeting” includes events at which a legislator is speaking and where there is a defined need of a citizen in attendance) and
• Attend a legislative committee hearing (view or participate) or view a House or Senate floor session.

Nebraska provides interpreters (upon request) for committee meetings as well as for proceedings of the full unicameral Legislature. Requests for interpreters are typically handled through the Nebraska Commission for the Deaf and Hearing Impaired, which secures an interpreter for meetings between a legislator and a constituent. Plans also are afoot in that state to provide closed captioning to allow the deaf and hearing-impaired to follow debate on the floor of the Legislature.

The state of Michigan’s “Deaf Persons’ Interpreters Act has been in place since 1982. While this law principally addresses interactions with courts and law enforcement authorities, it also requires “an appointing authority, other than a court” to provide qualified interpreters if needed. Legislative staff has been reviewing the law to determine its applicability to the Legislature.

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QUESTION: Do legislatures provide sign-language interpreter services, including services needed by legislators in their work with constituents?

by Jon Davis (jdavis@csg.org), CSG Midwest assistant editor and policy analyst.

Article written by Jon Davis (jdavis@csg.org), CSG Midwest assistant editor and policy analyst. Question of the Month highlights an inquiry sent to the CSG Midwest Information Help Line: csgm@csg.org or 630-925-1922.
The Food Safety Modernization Act: What states should know

✓ Historic new federal rules in place — Seven new rules/regulations (to be enforced by the U.S. Food and Drug Administration) related to food safety have been finalized:

- science-based, minimum standards on how farms produce raw fruits and vegetables (see sidebar article on page 7 for details),
- requirements that food processors and manufacturers implement and document “risk-based preventive controls” to keep the food supply safe from contamination,
- a verification program for foreign suppliers of U.S.-consumed food,
- accreditation for third parties to conduct food-safety audits of foreign facilities where food is imported to the United States,
- requirements that animal-feed manufacturers implement “preventive controls,”
- standards on the safe transport of food (proper refrigeration and regular cleaning of vehicles, for example), and
- mitigation strategies to prevent intentional, wide-scale harm to public health

✓ Widespread impact on states’ producers — These new FDA regulations will affect a majority of states’ fruit and vegetable farmers, feed mills and food processors — either directly through new requirements and inspections, or indirectly through the demands of the buyers of their produce. The bottom-line expectations for producers is “to say what they do, do what they say, and then validate what they do and say” in developing procedures and written plans to comply with the new FDA rules.

✓ Need for outreach and education — A state can help its entire food-production industry adjust to the new law by providing information and outreach about the new FDA rules.

✓ Possible new inspections role for states — The new federal law requires inspections of food-production facilities; states can leave this to the FDA or do the inspections themselves (through contracts with the federal government).

States in Midwest partnering with FDA to implement new food-safety rules

Under the Food Safety Modernization Act, states still have the authority to set stronger, more protective regulations on food safety. States, too, can determine how involved they want to be if all are carrying out the FSMA and the related new rules.

Michigan’s Jamie Clover Adams, a member of a National State Department of Agriculture Association working group on food safety, says states have three policy options.

The first is to not adopt any part of the FSMA into state statutes or rules. A second option would be for a state to adopt only a portion of the new FSMA. Under these two scenarios, the states could take a hands-off approach and leave it to the FDA to conduct outreach and educational activities, as well as the mandatory inspections. (In some cases, a state agency could do the inspections under contract with the FDA.)

The problem with these two options, Clover Adams says, is that producers and processors would have to meet the new FSMA regulations without the benefit of state assistance. She suggests a third option: full adoption of the FSMA rules related to human food, animal feed and produce safety. This could require legislative action, by changing existing laws or giving state agencies statutory authority to implement the FSMA through administrative rulemaking.

With this third option, a state would take responsibility for helping farmers and other parts of the food industry comply with the FSMA. It also could carry out the inspection of facilities.

Leah Wilkinson, vice president of the Animal Feed Industry Association, says many farmers, and feed mills in particular, would prefer that state personnel do the mandatory inspections. (The FDA is explicitly authorized in the law to rely on state or local inspectors.)

In fact, some cooperative arrangements between the FDA and states are already in place. The federal agency recently announced funding for 42 states (seven in the Midwest, see table on this page) to implement the new standards on produce safety for fruit and vegetable growers.

Under these new cooperative agreements, states will use the federal dollars to develop a system of inspections, compliance and oversight as well as provide education and technical assistance to farmers.

According to Mike Naig, Iowa’s deputy secretary of agriculture, his state expects to continue its current practice of performing feed inspections under contract with the FDA. It will do so by incorporating the FSMA standards into future state-led inspections. (Iowa has more feed mills than any other Midwestern state, but fewer produce farms.) Iowa officials are less certain about the states' ability to mitigate the risks of food contamination and ensure the safety of the food supply.
role in implementing the FDA’s new produce-safety rules.

The Department of Agriculture and Iowa State University Extension have been educating producers about the FSMA and its new standards. But no final determination has been made on inspections — whether to simply leave them to the FDA or not.

Inspections often a shared responsibility

Organizations such as the National Association of State Departments of Agriculture, meanwhile, are trying to help states prepare for the FSMA.

According to senior policy adviser Bob Ehart, his association is developing model legislation for states that choose to fully incorporate the FSMA. Likewise, the feed industry is developing state legislation related to the new animal-feed rules.

Option three — the one in which a state decides to take an active role in implementing the FSMA and providing assistance to its farmers and processors — appears to be a likely choice in the Midwest’s states where food production is high. This will likely mean, too, that states take on the role of performing the mandatory inspections of farms, food processors and animal feed producers.

In some ways, this role for states is nothing new — they already cooperate with federal agencies on food safety (see table below).

For example, state, local and tribal agencies have had the primary responsibility for regulating the retail food and food-service industry, inspecting more than 1 million food establishments.

In addition, most Midwestern states have already been inspecting food processors that engage in interstate meat sales, and the region’s four largest egg-producing states (Iowa, Indiana, Michigan and Ohio) contract with the FDA and inspect egg farms in an effort to prevent salmonella contamination.

With the FSMA now in place, state legislators and agencies must consider whether and how to expand the scope of their food-safety responsibilities.

Earlier this year, Michael Taylor, then the FDA’s commissioner for foods, said the success of the Food Safety and Modernization Act in reducing foodborne illnesses would depend in part on how well it collaborates with state government. And for state legislatures, this is the time to work with state agencies in order to ease the transition for food producers and processors as they adjust to the largest changes to the food and feed industry in at least 70 years.

FDA’s new produce-safety rule covers six areas of farm operations, with exemptions for certain fruit and vegetable growers

- **Water** — Must meet microbial quality with respect to E. coli
- **Biological soil amendments** — Final rule deferred until more research is done
- **Sprouts** — Must be tested for Listeria
- **Animals** — New standards in place to prevent contamination of produce by domestic or wild animals
- **Workers** — Food-safety training required; hygienic practices must be followed when handling produce
- **Equipment** — New standards for appropriate storage, maintenance and cleaning of facilities, tools and buildings

Farms exempt from new rule

- Any farm selling less than $25,000 in produce
- Any farm that only sells produce normally cooked before eating (sweet corn, beans, potatoes, etc.)
- Any farm that sells less than $500,000 and mostly to “end users” in the same state or within 275 miles

Note: The distributors of a farm’s products may require it to meet new federal regulations, regardless of the farm’s size.

### Other state-federal partnerships on food safety and inspections of food operations

<table>
<thead>
<tr>
<th>Program</th>
<th>Midwest states involved</th>
<th>Year it began</th>
<th>Details</th>
<th>Funding source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal-State Meat and Poultry Inspection Program</td>
<td>Illinois, Indiana, Iowa, Kansas, Minnesota, North Dakota, Ohio, South Dakota (meat only) and Wisconsin</td>
<td>1967</td>
<td>Under agreement with U.S. Department of Agriculture, states inspect meat processors to enforce requirements “at least equal” to federal regulation (meat cannot be shipped across state lines)</td>
<td>States run inspection program with 50% of funding from USDA, state funding typically comes from general fund revenue</td>
</tr>
<tr>
<td>Cooperative Interstate Shipment of State Inspected Meats Program</td>
<td>Indiana, North Dakota, Ohio and Wisconsin</td>
<td>Part of 2008 farm bill</td>
<td>Allows meat products inspected under state inspection programs to be shipped across state lines; state inspections are overseen by a federal coordinator and must be “the same as” federal inspections</td>
<td>Federal government pays for coordinator as well as 60 percent of state costs, state funding typically comes from general fund revenue</td>
</tr>
<tr>
<td>Egg Safety Program</td>
<td>Iowa, Indiana, Michigan and Ohio</td>
<td>2010</td>
<td>Goal is to prevent salmonella contamination; states inspect shell egg producers with 3,000 or more hens</td>
<td>U.S. Food and Drug Administration covers costs, negotiates with each state on specific number of inspections</td>
</tr>
<tr>
<td>Inspection of animal feed mills (under Food, Drug and Cosmetic Act)</td>
<td>Illinois, Iowa, Kansas, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin</td>
<td>1965</td>
<td>States conduct inspections under their own authority, but state employees also inspect feed mills for the U.S. Food and Drug Administration</td>
<td>75% of FDA feed inspections are performed by state agencies (the FDA contracts with states for the reimbursement of costs); states with their own inspection requirements also charge feed mills a registration fee, generally based on tonnage</td>
</tr>
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</table>

### Total cash receipts from production of vegetables, melons, fruits and nuts (2015)

| State | Total cash receipts from vegetables, melons, fruits and nuts
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>CA</td>
<td>$578.0 million</td>
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<tr>
<td>CA</td>
<td>$496.2 million</td>
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<tr>
<td>CA</td>
<td>$638.6 million</td>
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<tr>
<td>CA</td>
<td>$375.2 million</td>
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<tr>
<td>CA</td>
<td>$91.5 million</td>
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<tr>
<td>CA</td>
<td>$39.2 million</td>
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<tr>
<td>CA</td>
<td>$2,022 million</td>
</tr>
<tr>
<td>CA</td>
<td>$914.6 million</td>
</tr>
</tbody>
</table>

### # of people employed in food manufacturing industry (2012)

<table>
<thead>
<tr>
<th>State</th>
<th># of people employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>CA</td>
<td>4,540</td>
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<tr>
<td>CA</td>
<td>8,790</td>
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<tr>
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<td>16,684</td>
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<td>45,115</td>
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<td>CA</td>
<td>62,292</td>
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<td>CA</td>
<td>48,826</td>
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<tr>
<td>CA</td>
<td>71,187</td>
</tr>
<tr>
<td>CA</td>
<td>10,846</td>
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<tr>
<td>CA</td>
<td>13,381</td>
</tr>
<tr>
<td>CA</td>
<td>50,962</td>
</tr>
</tbody>
</table>

Sources: U.S. Department of Agriculture and U.S. Census Bureau
The water crisis in Flint, Michigan, has had a profound impact on the state, with approximately 100,000 constituents affected. Senator Jim Ananich, who represents Flint, has been instrumental in addressing this crisis. Ananich, a native of Flint, moved from the state House to the Senate in 2014, where he has worked to find policy fixes for the water crisis. He has advocated for stronger oversight, new water testing protocols, and increased public funding for Flint. Ananich has been a strong advocate for Flint and its residents, and he has worked with both Democratic and Republican leaders to find solutions. He has emphasized the importance of working across the aisle to help Flint and has stated that leadership is trying to find a way to get to yes, so long as you don't compromise your principles.
North Dakota looking to help lower-wage employees work more hours without facing steep drop in government benefits

As I participated this summer in a CSG Midwest meeting hundreds of miles from North Dakota, talk among my fellow legislators from the region and business leaders turned to a workforce issue that hits very close to home.

Is the potential loss of government benefits — whether it be child care assistance, cash payments, aid for home heating, food stamps or tax credits — keeping some lower-wage employees from picking up more work and hours?

At the meeting, the then-president and CEO of Culver’s restaurant mentioned the issue as an aside during his presentation to the Midwestern Legislative Conference committees on agriculture and economic development. (CSG Midwest provides staff support to the MLC and its policy committees.)

Employees at some of Culver’s stores, he said, want to work more hours, but are unable to take extra shifts because it could cost them many of their benefits. If something could be done about it, he added, it would help employers like Culver’s in a very big way.

In my own state, this is enough of a problem that members of the North Dakota Hospitality Association asked me to introduce a study bill (HCR 3049) to shine some light on the issue. That bill passed last year, and as a result, our joint interim Health Services Committee has been exploring the relationship between employment and public assistance.

Part-timers could ease worker shortage

For the last decade, North Dakota has had some of the lowest unemployment rates in the country, and some of our employers have had to search every nook and cranny in an attempt to solve their workforce shortages.

One solution — for individual businesses and the state as a whole — is to convert some of our “part time” workforce to “full time.”

There are many reasons why someone can’t or doesn’t want to make the leap from part-time to full-time employment, and nobody should be judged for that. However, we’ve also heard of situations where employers offer extra work and employees want the extra hours — but losing significant government benefits stands in the way.

Options for states to prevent the ‘benefits cliff’

• Put a number on “financial self-sufficiency” — By determining how much income an individual or family must have in order to meet its basic needs, a state has a better idea of when public assistance should be provided, curtailed or eliminated.

• Raise income limits — With this type of policy change, a state allows individuals to work and earn more while remaining eligible for various public assistance programs, from child care and home heating, to food stamps and Temporary Assistance for Needy Families. For example, Illinois recently raised the “gross income limit” for its Supplemental Nutrition Assistance Program (food stamps) from 130 percent to 165 percent of the federal poverty level.

• Phase out benefits — When a state uses a sliding scale to phase out eligibility for various public assistance programs, individuals or families don’t lose all of their benefits due to modest increases in their income levels.

• Provide more “work supports” and streamline the process for families to access them — Work supports include assistance with housing, transportation, health care and child care. And through the use of new technologies and better coordination among different agencies, a state can make it easier for low-income families to access these work supports.

• Provide earned-income tax credits to low- and moderate-income workers — These credits provide working families with more money to meet their basic needs. Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska and Wisconsin have refundable earned income tax credits. Ohio’s is nonrefundable.

The ‘cliff’: More hours, less net pay

States have the flexibility to address the “cliff effect,” or when it becomes more financially beneficial to not work at all, so that at least equals the benefits being foregone. But when you are basing your business on the ability to provide customers with a $2.50 hamburger or $40 per-night hotel room, there isn’t always enough of a margin to guarantee that the entire benefits gap gets covered.

It is in the state’s interest, then, to turn the potential benefits “cliff” for individuals into more of a “slide” — to ease the transition from public assistance to self-sustaining full employment.

Many programs provide assistance to individuals based on their income levels. The Supplemental Nutrition Assistance Program, the Temporary Assistance for Needy Families Program, child care assistance and some tax credits do not necessarily restrict work. However, when a participant’s pay rises above a program’s income threshold, participants may see a severe reduction in benefits or get cut off completely.

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 610.925.1922 or tanderson@csg.org.

<table>
<thead>
<tr>
<th>State</th>
<th>TANF (average monthly # of recipients in 2010)</th>
<th>SNAP (# of recipients in July 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>36,662</td>
<td>1,936,612</td>
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<tr>
<td>Indiana</td>
<td>16,308</td>
<td>714,006</td>
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<td>Iowa</td>
<td>26,249</td>
<td>377,179</td>
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<tr>
<td>Kansas</td>
<td>11,818</td>
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<td>Michigan</td>
<td>42,891</td>
<td>1,445,487</td>
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<tr>
<td>Minnesota</td>
<td>44,864</td>
<td>476,536</td>
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<tr>
<td>Nebraska</td>
<td>10,808</td>
<td>176,130</td>
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<tr>
<td>North Dakota</td>
<td>2,096</td>
<td>54,330</td>
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<tr>
<td>Ohio</td>
<td>108,177</td>
<td>1,566,937</td>
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<td>South Dakota</td>
<td>6,017</td>
<td>95,654</td>
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<tr>
<td>Wisconsin</td>
<td>42,639</td>
<td>713,063</td>
</tr>
</tbody>
</table>

CSG-lead group issues recommendations to make voting by Americans overseas easier

The Council of State Governments, in partnership with the U.S. Department of Defense’s Federal Voting Assistance Program, created the Overseas Voting Initiative in 2013 to help states make it easier for citizens abroad — whether or not on military duty — to vote.

Three years later, with the November release of “Overseas Voting: Strategies for Engaging Every Voter,” the nation’s state and local election officials have a new list of policy options to consider.

Available at csg.org/ovi/, the report was developed by a CSG policy working group of state and local election officials as well as other experts in election administration. In developing the recommendations, the working group examined successful programs and practices across the country.

It has identified three primary areas where state and local governments can improve the experience for military and other overseas voters: communication, registration, and engagement.

Voter communication

• Use plain language when communicating with overseas voters, avoiding the use of election jargon or acronyms;
• Ensure that election websites are easy to navigate and mobile-friendly (work well with smartphones, for example); Create user-friendly electronic ballot return envelopes;
• Communicate to voters when their ballot applications are accepted, and
• Provide information about what is on the ballot.

Voter registration

• Establish a standard validity period for when the Federal Post Card Application can be requested (this application is used by overseas voters to register to vote) and treat it as a permanent request for voter registration.
• Incorporate the use of online voter registration for citizens living abroad (this recommendation is intended only for states that provide online registration to other voters).

Engage the U.S. military community

• Establish partnerships between state and local election officials and local military installations and use social media platforms to reach service members (and their families) abroad.

Next step is state implementation

All of the recommendations are currently in place in some jurisdictions throughout the country and are considered best practices by the CSG policy working group. “The issue [of overseas voting] has particular resonance for me as one who voted from Germany when my Army Ranger husband was stationed there,” says Kim Wyman, the state of Washington’s secretary of state, who served as co-chair of the working group.

“We need the best possible outreach and voter services, and these recommendations certainly will help achieve that.” Washington Secretary of State Kim Wyman, co-chair of CSG’s policy working group.

North Dakota gets policy options from CSG Justice Center

In January, North Dakota officials asked the CSG Justice Center for help in avoiding a projected 75 percent increase in the state’s prison population through 2025.

If the state does nothing, the population (which had already grown 32 percent from 2005 to 2015) is expected to grow by 1,330 people by 2025. And spending on prisons, which had already grown from $83 million to $178 million, is projected to rise to $485 million to accommodate those additional people.

Enter the Justice Center. Center staff met with various stakeholders in North Dakota’s criminal justice system as well as members of the state’s Incarcerations Issues Committee, and in September, it presented four data-driven policy options to reduce the forecasted prison population in 2022 by 13 percent:

1. Divert people convicted of low-level drug and property offenses to probation rather than prison or jail.
2. Reduce recidivism cost-effectively by holding those violating supervision programs accountable with swift, certain and proportional sanctions followed by supervision and treatment as needed.
3. Increase public safety by focusing supervision and program resources on probationers and parolees who pose a high risk of reoffending.
4. Reinvest in expanding effective behavioral health treatment for probationers and parolees with substance abuse and/or mental health needs.

The Justice Center estimates that these steps, if implemented, would save North Dakota $36.3 million.

Bills incorporating the recommendations are being drafted in time for consideration next year by the North Dakota Legislative Assembly, says Sen. Ron Callie, chair of the multi-branched, bicameral Incarcerations Issues Committee, which also includes citizen members.

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

Leaders of the Midwest’s nonpartisan legislative service agencies met in Chicago this fall to explore ideas to improve their operations and the work they do on behalf of state lawmakers.

CSG Midwest provides staff support to the Midwestern Legislative Service Agency & Research Directors Group. This year’s meeting, held Oct. 28 and 29, was sponsored in part by LexisNexis and Thompson Reuters.

George Angelone, executive director of Indiana’s Legislative Services Agency, currently serves as chair of this interstate group and presided over the October meeting. Topics included:

• the use of new technologies in publishing legal texts (for example, the long-term viability of current publishing models and what’s coming next);
• managing and developing staff (Chip Barton, human resources director of The Council of State Governments, served as guest speaker for this session);
• the training, orienting and mentoring of new staff;
• strategies on how to make meetings run more efficiently; and
• interacting with legislators and legislative committees.

Every state legislative branch in the Midwest relies on nonpartisan staff to handle much of the “behind the scenes” work of lawmaking, from policy research to bill drafting.

About the Midwestern Service Agency/Research Directors Group

✓ Interstate group of directors and other staff from Midwestern states’ nonpartisan legislative service agencies.
✓ These service agencies are responsible for handling numerous functions for the legislative branch — for example, research, bill drafting, committee staffing, membership services, information technology, staff management and training, and professional ethics.
✓ CSG Midwest provides staff support to the group and facilitates the interstate exchange of information among participating agencies.

Partners support regional passenger rail commission

Founded in 2001, the Midwest Interstate Passenger Rail Commission has nine member states: Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota and Wisconsin. Its representatives are state legislators, governors and their designees, and private-sector delegates. (CSG Midwest provides staff support to the commission.)

MIPRC would like to thank the members of its Partners program (see below). Partners are entitled to a number of benefits, including recognition on the MIPRC website, important information on regional and national passenger rail development, and complimentary registration at MIPRC events. For more information, visit miprc.org or contact director Laura Kliewer at lkliewer@csg.org.

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STATELINE MIDWEST NOVEMBER 2016

11
Illinois looks to ensure released prisoners have access to state ID

Easing ex-prisoners back into civilian life helps reduce recidivism, and one step states can take is to ensure that just-released inmates have a valid state identification card.

In a letter earlier this year to all 50 governors, the U.S. Department of Justice asked states to provide IDs for federal prisoners being released, and according to The Atlantic, Illinois, Michigan and Ohio are among 17 states that have had preliminary talks with federal officials about taking that step.

Pending legislation in Illinois (SB 1368), meanwhile, would ensure individuals get an ID upon their release from state prison if they present a birth certificate, Social Security card, and two proofs of address. Released Illinois prisoners without these documents would be provided with a temporary state ID. The bill is one of many recommendations made by a commission of state legislators, other state leaders and criminal justice experts on how to reduce the state’s prison population by 25 percent by 2025.

According to The Council of State Governments Justice Center, state-issued ID is frequently reissued upon a prisoner’s return to a prison. The November decision affirmed a lower court ruling that the prisoners had no standing because they couldn’t prove harm from the denial of information, The (Toledo) Blade reports.

Ohio suspended executions (by lethal injection) in January 2015 due to a lack of drugs used for them. Many pharmaceutical companies refuse to make or sell such drugs to states using them for executions. HB 663, signed into law by Gov. John Kasich in December 2014, shields drug suppliers (and the identity of people involved in the execution process) from public disclosure. The law took effect in March 2015.

According to The Columbus Dispatch, Ohio currently plans to execute two prisoners on Jan. 12 using a trio of drugs: the anti-anxiety medication midazolam, the paralytic agent rocuronium bromide and potassium chloride (to stop the heart).

Along with Ohio, Midwestern states with the death penalty are Indiana, Kansas, Nebraska and South Dakota.

Court upholds Ohio law that shields sources of lethal-injection drugs

A U.S. circuit court has dismissed claims by several Ohio death-row inmates that a state law on capital punishment unconstitutionally conceals information from them.

The November decision affirmed a lower court ruling that the prisoners had no standing because they couldn’t prove harm from the denial of information, The (Toledo) Blade reports.

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Minnesota inks deal to power Capitol with renewable energy

One-third of the electrical power used in Minnesota’s Capitol Complex will come from solar and wind sources under a new deal with Excel Energy.

State officials say the 20-year agreement with Excel locks in prices for renewable energy that will save about $100,000 over that time period. The state spends about $5 million on electricity annually for the Capitol Complex.

The Renewable*Connect Government Pilot Program deal must be approved by the state’s Public Utilities Commission. If successful, it could expand to other state or even local government buildings, says Lt. Gov. Tina Smith, who announced the deal with Excel Energy-Minnesota in September.

In 2011, Gov. Mark Dayton directed state agencies via an executive order to reduce their carbon footprints. Energy consumption at the Capitol Complex has decreased 25 percent since 2008, state officials say.

The state also created the Office of Enterprise Sustainability to reduce the state government’s overall carbon footprint, and launched a “Green Fleet Initiative” to improve fuel efficiency for state-owned vehicles.

Goal of Michigan law is to improve reading in early grades

Struggling young readers in Michigan will get more instructional help to reach levels of proficiency under a new law that also could keep some of them from entering fourth grade.

Signed this fall by Gov. Rick Snyder, HB 4822 requires students to perform well enough on a standardized reading test in order to be promoted to fourth grade. However, the law does provide for some “good cause exemptions,” including if parents and school officials agree it is in the child’s best interests not to be held back.

The Michigan Department of Education will develop a way to screen and assess students in kindergarten through third grade. School districts must then develop individual reading improvement plans for every student who is falling behind. As part of these plans, local schools must bring in an early-literacy coach to provide training to teachers and instruction to students.

(Michigan’s intermediate school districts will provide training to teachers and instruction to students.)

Iowa, Ohio and Wisconsin are among the other Midwestern states where new reading laws have been passed in recent years. In Iowa, for example, struggling third-grade readers will have to take summer school in order to move on to fourth grade. (That state, too, offers some “good cause” exemptions.)