Stateline Midwest

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THE MIDWESTERN OFFICE OF THE COUNCIL OF STATE GOVERNMENTS

Demand performance

States mull changes in college funding that focus less on enrollment, more on course completion and graduation

by Jennifer Ginn (jginn@csg.org)

Late last year, higher-education officials in Indiana got word that they would have to find $150 million in cuts in order to help balance the state's biennial budget.

What they did — and didn't do — tells a lot about the commitment in that state to fund higher education in a different way.

As Teresa Lubbers explains, the state's performance-based funding formula — a relatively small, but not insignificant, portion of the larger formula for postsecondary institutions — was kept intact.

"Our recommendation was to hold true to the performance funding formula even when you have cuts," says Lubbers, the Indiana commissioner of higher education and a former state senator. "We decided we did not want to walk away from the performance funding formula in a time of taking money away."

Teresa Lubbers

Interest in this performance-based model is taking hold not only in Indiana, but in other states in the Midwest and the nation as well.

"In the past, the vast majority of states have funded [based on] enrollments because we believed giving people college access was the most important thing," says Kevin Corcoran, program director at the Lumina Foundation for Education.

"In recent years," he adds, "the focus has shifted to what happens after they get there. We believe giving access is only the start."

Lumina lists performance pay as one option for policymakers to pursue in order to increase productivity in higher education — a critical goal for all states considering current fiscal conditions and economic trends pointing to the need for more people with postsecondary degrees and certificates.

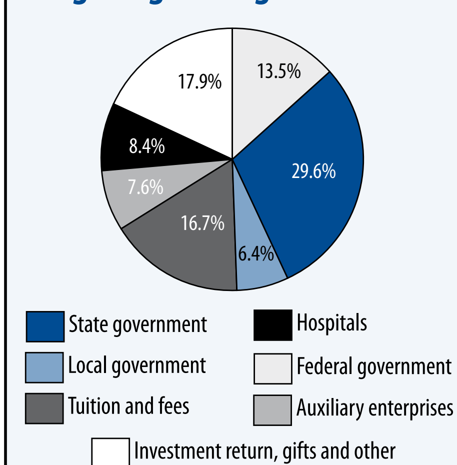
Currently, dollars are most often allocated to colleges and universities based upon the number of students who enroll at the beginning of a semester. What becomes of those students — whether they stay in their classes and whether they graduate — is usually not taken into consideration.

Performance-based funding fundamentally changes the way states provide money for higher education: Either all or part of an institution's funding is based upon how well it performs in areas such as credits completed by students, degrees earned or, in the case of two-year colleges, the number of students who transfer to four-year institutions.

"For us, it just seems like common-sense," says Corcoran, adding that it "does us no good" to have people go to college and leave with "debts and no degree."

According to the Southern Regional Education Board, fewer than one-third of freshmen entering a four-year university actually graduate in four years in this country. Only 55 percent of freshmen have graduated within six years.

Revenue sources for U.S. public degree-granting institutions



Source: National Center for Education Statistics

Improving those numbers — by giving higher-education institutions a financial incentive to do better — is a central goal of performance-based funding.

An old funding idea revisited

This isn't the first time that performance-based funding in higher education has caught the attention of policymakers.

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Elusive finish line: Data on college completion rates in Midwest

State	Two-year colleges: % of freshmen returning their sophomore year	Two-year colleges: Graduation rate for students after 3 years	Four-year colleges: % of freshmen returning their sophomore year	Four-year colleges: Graduation rate for students after 6 years
Illinois	50.5%	24.5%	71.7%	58.9%
Indiana	55.3%	27.1%	75.3%	56.6%
Iowa	50.7%	34.0%	65.0%	61.4%
Kansas	51.2%	32.3%	70.6%	52.8%
Michigan	50.3%	14.9%	72.9%	54.3%
Minnesota	53.1%	30.9%	77.3%	58.4%
Nebraska	58.0%	32.7%	75.7%	54.3%
North Dakota	60.1%	35.1%	75.1%	45.6%
Ohio	55.8%	25.2%	75.8%	55.6%
South Dakota	66.4%	56.7%	70.8%	46.9%
Wisconsin	56.4%	33.6%	77.7%	58.2%

Source: The National Center for Higher Education Management Systems

INSIDE

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

Agriculture & Natural Resources

South Dakota changing how it taxes farmland; Wisconsin re-examining its 15-year-old law

In most Midwestern states, taxes on farmland have been on the rise in recent years, partly because of increases in the assessed value of farmland.

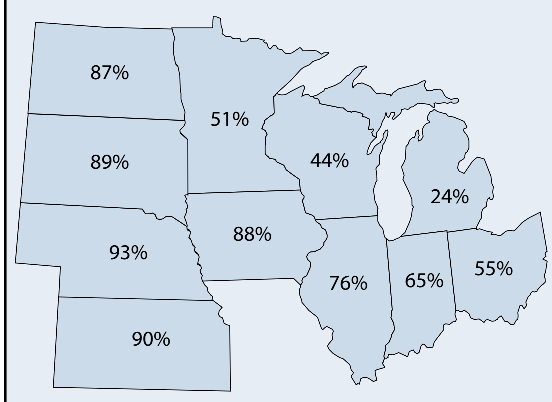
This trend has posed an ongoing policy challenge for state legislators: to strike the right policy balance between trying to preserve family farms — by taxing agricultural land differently — and raising enough revenue so that other property owners are not unfairly burdened and local governments receive the resources they need.

In South Dakota, next year will mark a new chapter in that state's ongoing efforts to find a fairer way of taxing agricultural land. As the result of a law enacted in 2009, tax bills on agricultural property will now reflect the fact that they are being assessed on "productivity value," which is based on the gross revenue of typical agricultural land in a given county.

"Tax assessments for agricultural property in South Dakota will no longer be based on market sale prices," Republican Sen. Larry Rhoden notes.

The idea behind the switch to use-value assessment is to create a more equitable, predictable tax system for the state's farmers.

Farmland as % of state's total land area



Source: American Farmland Trust (using 2002 Census of Agriculture data)

Most other U.S. states already use some form of use-value assessment as a way to keep land in agricultural production.

Under this system, property is assessed based on its current use, rather than its "highest and best use." (When agricultural property is near developing areas, or is in demand for recreational home sites, residential development would make the land more valuable and, as a result, be considered the "highest and best use.")

When states decide to lower the value of agricultural property relative to fair market value, they are, in essence, shifting tax burdens to other classes of property.

A July 2010 study of the Wisconsin Legislative Audit Bureau examined the impact of the state's use-value-assessment law in 14 different municipalities. If agricultural land zoned for other purposes had been assessed at fair market prices, the bureau found, taxes on the farmland would have increased by an average of $3,516. Taxes on all other parcels of property would have decreased, on average, by $38.

But what might appear on the surface as an unfair shift in tax burdens has been found constitutional by state supreme courts, and numerous Cost of Community Studies have reinforced the economic basis for differential taxation.

A 2009 review of 125 different COCS studies found that residential development imposes more costs than it pays in revenue, while the agriculture and business sectors entail fewer costs than they pay in taxes. (Costs include local services such as schools, roads, and police and fire protection.)

Adding to the complexity of farmland taxation is concern that some developers are exploiting existing laws: They purchase the land for development purposes but can continue to receive reduced taxes until the property is fully developed.

According to Wisconsin Democratic Rep. Peter Barca, the Audit Bureau report exposed some problems with the state's system of use-value assessment. Wisconsin could learn from other states, he says, on how to tighten up its 15-year-old law.

In the coming year, the Midwestern Legislative Conference Agriculture and Natural Resources Committee plans to help states in the region review how they assess and tax agricultural land. For more information, contact Carolyn Orr at *corr@agandruralleaders.org*.

Midwestern Governors Association

Region explores expanding use of enhanced oil recovery, CO_2 storage

Enhanced oil recovery is a decades-old, proven commercial activity already widely practiced in the Permian Basin of Texas, the U.S. Gulf Coast and elsewhere. But could EOR be more widely employed in the Midwest, and ultimately become a central part of this region's energy policy?

A group of policy leaders from the Midwest (appointed by governors via the Midwestern Governors Association and its Midwestern Energy Infrastructure Accord) has been exploring this question.

The promise of EOR is clear: While producing more domestic oil, EOR can help address the environmental problems associated with CO_2 emissions. That is because an EOR operation can prevent the CO_2 produced from coal, biofuels, natural gas processing plants and other industry sources from being released into the atmosphere. Captured and transported by pipeline to an EOR operation, the CO_2 is injected into the ground to re-pressurize older, depleted oil fields. Currently in the United States, more than 50 million tons of CO_2 are used to force over 250,000 barrels of oil per day to the surface.

> The Midwest has up to 7.5 billion barrels of oil that could technically be recovered through CO_2-EOR operations.

While the Midwest is not traditionally considered a major oil-producing region, estimates show that the region has up to 7.5 billion barrels of oil that could technically be recovered through CO_2-EOR operations. (To put that figure in perspective, the U.S. produced 5.31 million barrels per day in 2009.)

In Michigan and North Dakota, there already are commercial EOR plants in operation that use captured CO_2 (from natural gas processing in Michigan and lignite coal gasification in North Dakota).

One promising aspect of EOR-CO_2 is that the oil industry has an incentive to pay for the carbon dioxide needed for EOR operations. This revenue stream could help finance the build-out of a CO_2 pipeline infrastructure and accelerate the development of a carbon-capture-and-storage industry to serve the region's utilities and biofuels industries.

What can Midwestern legislators do to advance the use of CO_2-EOR? For one, they can support the development of a legal and regulatory framework that facilitates carbon-capture-and-storage projects and promotes the development of EOR operations. In 2009, North Dakota passed a bill (SB 2095) giving the state's Industrial Commission primary oversight of CO_2 geologic storage projects. And three years ago, with passage of HB 2419, Kansas legislators directed state regulators to develop rules for CO_2 geologic storage.

This brief was written by Jesse Heier, director of the MGA's Washington, D.C., office. He can be reached at *jheier@csg.org*. The current MGA chair is Ohio Gov. Ted Strickland. To learn more about the efforts of the Midwestern Governors Association on issues related to enhanced oil recovery and carbon capture and storage, visit *www.midwesterngovernors.org/ccs.htm*.

Passenger Rail

Passenger rail at a crossroads: More funding from feds, more questions about future

Travelers across the Midwest are taking the train in record numbers, according to Amtrak data released in October.

Ridership for short-distance corridor service (largely state-initiated and -supported) within the region reached almost 2.8 million in fiscal year 2010 — an 8 percent increase over 2009 numbers. Over the past five years, ridership on these corridors has increased by 55 percent. (See table for trends and ridership data for specific routes in the Midwest.)

The future of passenger rail, meanwhile, appears to be at a critical juncture.

On the one hand, the federal government has made an unprecedented funding commitment to expanding and enhancing service: In the first two rounds of funding under the High-Speed Intercity Passenger Rail Program, announced in January and October, the Midwest was awarded $3.1 billion, most of which will go to transforming five key interstate corridors. (Some money also has been awarded to Kansas in order to expand rail service in that state.)

On the other hand, the new governors of Ohio and Wisconsin have questioned whether their states' passenger rail projects should move forward, citing concerns about costs. (Many of the projects require some type of state funding commitment as well.) Here are some details on the corridor improvements envisioned by state and federal officials.

- ***Chicago-St. Louis-Kansas City:*** Track and signaling improvements will bring 110 mph service to the route between Chicago and St. Louis. On the St. Louis-to-Kansas City route, work on key congestion points will result in faster, more reliable service.
- ***Minneapolis/St. Paul-Madison-Milwaukee-Chicago***: In addition to conducting the environmental study needed to develop high-speed service between Chicago and the Twin Cities, a number of specific improvements will be made to tracks and bridges in order to improve service reliability and allow trains to travel at faster speeds. Plans also call for new service between Milwaukee and Madison. (Improvements in Wisconsin are currently on hold, but Minnesota is moving forward with its plans.)
- ***Chicago-Omaha***: A new passenger rail route between Chicago and Omaha — via the Quad Cities, Iowa City and Des Moines — is being planned. With the funding commitment announced in October, track improvements can be made, new stations can be built, and trains can be purchased to establish new service between Chicago and Iowa City.
- ***Cleveland-Columbus-Cincinnati***: Funding was awarded in January to link the state's three largest cities via passenger rail for the first time in 40 years.
- ***Detroit/Pontiac-Chicago***: Under the latest round of funding, almost 100 miles of rail line will be purchased and restored, a key connection track to separate passenger and freight service will be built, and environmental planning to establish 110 mph service will begin.

Improvements to these corridors are part of larger, long-term plans (the Midwest Regional Rail Initiative and the Ohio Hub) to implement faster, more frequent passenger rail service throughout the Midwest.

Ridership on short-distance corridor service in the Midwest

Route	Ridership in FY 2010	1-year change	5-year change
Chicago-St. Louis	572,424	+13%	+136%
Kansas City-St. Louis	172,554	+14%	+26%
Chicago-Milwaukee	783,060	+6%	+49%
Chicago-Detroit/ Pontiac, Mich.	479,782	+8%	+18%
Chicago-Grand Rapids, Mich.	101,907	-1%	+6%
Chicago-Port Huron, Mich.	157,709	+19%	+41%
Chicago-Carbondale, Ill.	264,934	+2%	+107%
Chicago-Quincy, Ill.	209,466	+3%	+77%
Chicago-Indianapolis	33,600	+7%	+66%

Source: Midwest Interstate Passenger Rail Commission (using Amtrak data)

Through the Midwest Interstate Passenger Rail Compact, as well as the multi-state planning efforts of state departments of transportation, the region has been working together for more than a decade to strengthen interstate passenger rail service.

These efforts got a significant boost when the High-Speed Intercity Passenger Rail Program was created. This program has been funded, in large part, by the American Recovery and Reinvestment Act. In July 2009, the governors of eight Midwestern states agreed to coordinate efforts to secure the federal dollars coming to the region via the Recovery Act.

Brief written by Laura Kliewer, director of the Midwest Interstate Passenger Rail Commission, which was formed by an interstate compact agreement in 2000 and now includes 11 member states. Laura can be reached at lkliewer@csg.org. Illinois Rep. Elaine Nekritz serves as the chair of MIPRC; more information is available at www.miprc.org.

Economic Development

Mix of North Dakota proposals seek to expand state's tech-based economy, strengthen workforce

When legislators return to state capitols in the Midwest, most will have to grapple with continued budget problems.

But as one lawmaker in North Dakota half-quipped about his state, "We respectfully declined to participate in the recession."

The state, in fact, has prospered — as evidenced by its budget surplus and low unemployment rates, and the fact that it has been able to cut property taxes while increasing education spending in recent years.

North Dakota, however, is not without its economic and workforce challenges; chief among them are maintaining and growing the state's population and workforce, and finding ways to create more high-tech, good-paying jobs.

"We need to continue to provide North Dakota with the tools to compete in the global economy," says Sen. Tony Grindberg, who served as chair of the General Assembly's interim Workforce Committee.

That committee, which met between July 2009 and September 2010, has produced a series of bills designed to further strengthen the state's economy. Grindberg says the measures, which will be considered by the full legislature in 2011, have three central goals: promote entrepreneurship, grow the state's technology-based economy, and strengthen the state's workforce.

One proposal would create an innovation award program to help commercialize new technologies being developed by entrepreneurs associated with North Dakota's higher-education institutions. These entrepreneurs would be eligible for "proof of concept" funding for early-stage projects with "high commercial potential."

Sen. Tony Grindberg

Other committee ideas include offering a matching grant program for startup technology businesses and establishing new tax credits tied to advanced manufacturing and technology-based economic development.

According to Grindberg, the bills closely align with a 10-year strategic plan developed by the state's Department of Commerce that targets five sectors for economic growth: advanced manufacturing, technology-based businesses, value-added agriculture, tourism and energy. The plan also identifies four strategies for the state to pursue: invest in university-based research and development; foster entrepreneurship; invest in workforce education, training, recruitment and retention; and promote state exports.

Grindberg says his top priorities for the next session are to pass measures that establish Centers of Entrepreneurship Excellence and create a higher-education trust fund.

The centers would help provide consulting and professional services to entrepreneurs. In addition to these entrepreneurship centers, the committee is proposing a Centers of Research Excellence program, which would provide funding for university-based research being conducted in partnership with the private sector.

The goal of the higher-education trust fund is to establish a permanent source of revenue for the North Dakota Academic Merit and Career and Technical Scholarship Program. Created in 2009, the program provides $6,000 scholarships for students based on academic qualifications.

Under the interim committee's proposal, the legislature would ask voters to use some money from the state's Education Foundation Aid Stabilization Fund to pay for the scholarships on an ongoing basis.

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

New K-12 standards adopted in eighth Midwestern state

As the result of a unanimous decision made in November by its Board of Education, South Dakota has become the eighth state in the Midwest to adopt the Common Core State Standards.

South Dakota's decision was the latest victory in a national, state-led movement to develop a single set of benchmarks that define the knowledge and skills students should have at different points of their K-12 education careers — regardless of where they live.

The Common Core State Standards — which are benchmarked to international standards and based on model standards already used in some states — apply to English-language arts and mathematics instruction. The goal of the standards is to ensure that high school graduates in all participating states are ready to succeed in college or the workforce.

As of late November, Minnesota, Nebraska and North Dakota were the only three Midwestern states that had not adopted the Common Core.

Earlier this year, Minnesota Gov. Tim Pawlenty said the math portion of Common Core would "water down" his state's existing rigorous standards, which include a requirement that students take algebra by eighth grade.

In contrast, the move in South Dakota will result in more demanding math standards for K-12 students in that state, according to Becky Nelson, a standards expert with the South Dakota Department of Education.

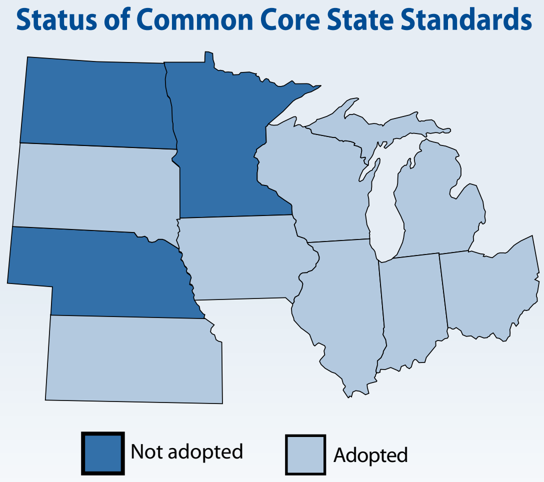
About 80 percent of the U.S. states have now adopted Common Core, an initiative led by the National Governors Association and the Council of Chief State School Officers.

The Council of State Governments has been at the forefront of educating policymakers on this issue through its Common Core State Standards Policy Initiative, which is funded through an educational grant from the Bill and Melinda Gates Foundation.

The goal of the CSG initiative is to inform and educate state legislators as well as K-12 and higher-education policymakers about the Common Core and raise awareness on the implications that the standards have for their state. CSG is also promoting collaboration among state boards of education, state-level departments of instruction, businesses, parents and community leaders.

More information is available at *www.corestandards.org* and *www.csg.org/policy/CommonCoreStateStandardsPolicyInitiative*.

Status of Common Core State Standards



Source: Common Core State Standards Initiative

Data show how far economy of Great Lakes region has sunk

The national recession didn't strike every part of the United States with equal force, and it appears the Great Lakes region got the worst of the severe economic blow.

Federal data released in November show that real gross domestic product in the five-state region fell 3.4 percent between 2008 and 2009 — the most of any of the eight regions tracked by the U.S. Bureau of Economic Analysis. This percentage-point drop in economic activity was nearly triple the decline experienced by the region's Plains states over the same time period.

The decline in one industrial sector stood out the most: the manufacture of durable goods.

Michigan, Indiana, Ohio and Wisconsin (in that order) had higher percentage-point declines of economic activity in this sector than any other states in the nation. Hard-hit states in the West and Southwest were impacted most by declines in the construction industry, the bureau notes in its November report on state GDP statistics.

A look at longer-term federal data shows that the Great Lakes region also entered the recession on relatively weak economic footing: For at least a decade prior to the national economic downturn, GDP growth in the Great Lakes states was lagging behind that of the nation's. For example, between 2003 and 2007, GDP in the Great Lakes region grew by 1.0 percent, compared to a U.S. increase of 2.8 percent.

For the seven-state Plains region of the Midwest, economic decline has either been less severe or nonexistent in recent years. Nebraska, North Dakota and South Dakota were three of only 10 U.S. states where GDP rose between 2008 and 2009.

All three of these states' economies have been bolstered by strong economic activity in agriculture; South Dakota also has benefited from robust growth in its finance and insurance sector.

Trends in states' per capita GDP

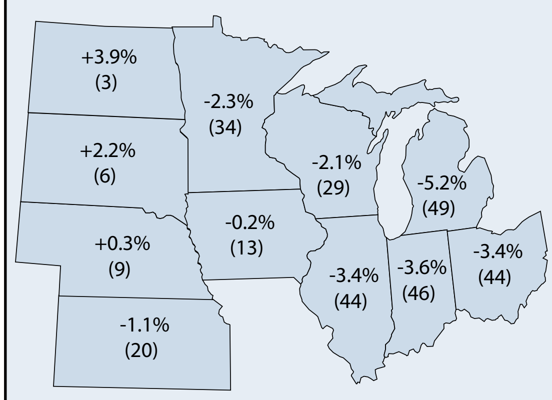
Another way to measure recent economic trends is to look at per capita real GDP in each state.

Between 2006 and 2009, this figure fell in Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

Minnesota still continues to have the highest per capita GDP in the Midwest ($45,392 in 2009, 14th highest in the nation). Over the past four years, North Dakota's U.S. ranking on this measure of economic wealth and activity jumped from 28th to 15th. Indiana, Iowa, Kansas, Nebraska, Ohio and South Dakota also have made gains relative to other U.S. states.

The Bureau of Economic Analysis report is available at *www.bea.gov*.

% change in state GDP, 2008-2009; state's U.S. ranking on GDP growth in parentheses



Source: U.S. Bureau of Economic Analysis

Regional trends in GDP: Data reveal long-time lag in Great Lakes economy*

U.S. region	1998-2002	2003-2007	2007-2008	2008-2009
Great Lakes	***+1.7%***	***+1.0%***	***-0.6%***	***-3.4%***
Plains	***+2.6%***	***+2.0%***	***+2.2%***	***-1.2%***
New England	+3.3%	+2.1%	+0.9%	-2.0%
Mideast	+2.9%	+2.6%	+0.5%	-2.5%
Southeast	+2.9%	+2.8%	-0.8%	-2.0%
Southwest	+3.6%	+3.8%	+0.5%	-1.2%
Rocky Mountain	+4.4%	+3.8%	+1.6%	-0.6%
Far West	+3.9%	+3.9%	+0.1%	-2.1%
United States	+3.0%	+2.8%	+0.1%	-2.1%

* Great Lakes states are Illinois, Indiana, Michigan, Ohio and Wisconsin. Plains states are Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota.

Source: U.S. Bureau of Economic Analysis

Percentage change in state GDP in select industry sectors, 2006-2009

State	Natural resources*	Construction	Manufacturing	Wholesale and retail trade	Finance and insurance	Real estate	Government
Illinois	+53.9%	-9.5%	-8.7%	-0.9%	+8.5%	+8.1%	+12.7%
Indiana	+47.0%	-6.6%	+1.6%	-1.5%	+25.0%	+10.4%	-1.5%
Iowa	+57.8%	-3.9%	-3.9%	+8.5%	+40.9%	+18.7%	+15.1%
Kansas	+33.9%	-1.3%	-2.8%	+5.7%	+29.7%	+20.1%	+18.8%
Michigan	+9.5%	-20.8%	-18.4%	-4.9%	+0.3%	+8.9%	+8.6%
Minnesota	+19.5%	-12.6%	-6.9%	-0.6%	+12.3%	+13.6%	+10.6%
Nebraska	+52.2%	+7.6%	+1.7%	+6.5%	+22.1%	+19.3%	+11.6%
North Dakota	+65.1%	+28.5%	+6.3%	+15.0%	+40.4%	+33.5%	+6.3%
Ohio	+3.9%	-11.3%	-14.1%	-1.3%	+20.5%	+12.0%	+11.6%
South Dakota	+101.1%	+4.3%	+1.7%	+9.6%	+17.8%	+29.1%	+10.7%
Wisconsin	+14.0%	-11.5%	-9.7%	-0.2%	+32.1%	+16.0%	+13.6%

* Natural resources category includes agriculture, forestry, fishing, hunting, oil and gas extraction, and mining.

Source: CSG Midwest calculations of U.S. Bureau of Economic Analysis data

QUESTION OF THE MONTH

One of the many services provided by the Midwestern Office of The Council of State Governments is its Information Help Line, a research service intended to help lawmakers, legislative staff and state officials from across the region. The CSG Midwest staff is always available to respond to members' inquiries or research needs regarding various public policy issues. The Question of the Month section highlights an inquiry received by this office. To request assistance through CSG Midwest's Information Help Line, call 630.925.1922 or use the online form available at www.csgmidwest.org.

QUESTION: How do states in the Midwest handle recounts in legislative and statewide elections?

Election recount laws vary greatly in the Midwest. In some states, recounts are automatically triggered in close races. In addition, a number of states in this region allow candidates, election officials or the voters themselves to request recounts.

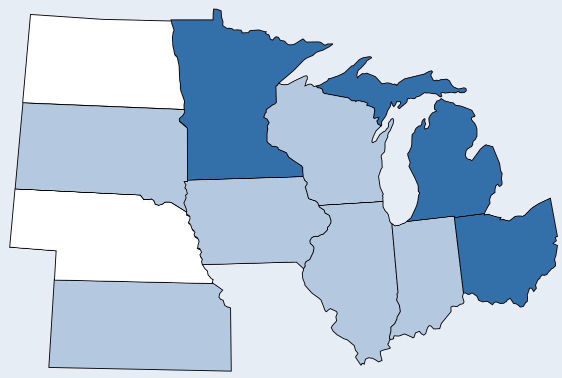
Illinois uses a unique system that involves discovery recounts, in which the loser of an election who comes within 5 percent of the apparent winner can request a review of ballots. The initiator may only request a recount in up to 25 percent of the precincts and must pay $10 per precinct.

These discovery recounts do not change the outcome of the election, but they allow candidates to collect information with which to contest an election. At that point, a public hearing is held and a judge must decide whether to request a full recount of all ballots.

In five Midwestern states — **Michigan**, **Minnesota**, **Nebraska**, **North Dakota** and **Ohio** — recounts are automatically launched when the difference between candidates' totals is small, according to Citizens for Election Integrity Minnesota, a nonprofit organization that advocates for transparent and accurate elections.

In Michigan, ballots are recounted if the margin between candidates is less than 2,000 votes, regardless of how many total votes were cast. In the other states, a recount is triggered based on vote margin. For example, in Minnesota, a recount is launched if the margin between candidates is less than 0.5 percent of total votes cast. In Ohio, the margin is 0.25 percent.

Types of election recounts permitted



Close vote margin, candidate-initiated and voter-initiated

Candidate-initiated and voter-initiated

Close vote margin and candidate-initiated

Source: Citizens for Election Integrity Minnesota

In Nebraska and North Dakota, the number of total votes cast is not used in the recount formula. Instead, the vote margin is calculated by dividing the difference in the number of votes cast for the two candidates by the total number of votes garnered by the candidate who is in the lead. In these two states, a recount is less statistically likely. In Nebraska, a recount occurs if the margin is 1 percent or less. In North Dakota primary elections, the threshold is 1 percent or less; for general and special elections, it is 0.5 percent.

An election that results in a tie triggers an automatic recount in **South Dakota**.

All 11 Midwestern states allow candidates to request a recount, but they have different laws governing the process. In Illinois, Michigan, North Dakota and South Dakota, a close vote margin is required.

States also differ on the required time period for requesting a recount. In **Iowa**, for example, the request must come within three days of the election; in Nebraska, legislative candidates have up to four weeks.

In many Midwestern states (all but Illinois, North Dakota, South Dakota and **Wisconsin**), the payer of costs depends on the outcome of the recount. All of these states require the initiator to submit a deposit in advance to potentially cover the costs of reviewing ballots. For example, **Kansas** requires a deposit ranging from $100 to $1,000, depending on the office for which the ballots are reviewed. If the recount determines that the apparent winner did not actually garner the most votes, the fee is refunded.

In all but two Midwestern states (Nebraska and North Dakota), voters can initiate a recount of results for ballot initiatives and questions. For example, in Ohio, any five voters may join together to request a recount. In **Indiana**, any voter in an election that included a public question may petition for a recount; the petition must include the signatures of 10 percent of the people who cast ballots on the question.

In two Midwestern states — Iowa and Kansas — election officials may request a recount.

Federal aid coming to states to help small business

Improving access to credit, promoting exports goal of two new programs

One of the top priorities for the region's legislatures in 2011 will be finding ways to foster job creation during a period of economic uncertainty and limited resources for state government.

Gone will be the federal stimulus funds that over the past two years have, at the least, helped save some jobs and close budget gaps.

There will, however, be some new federal assistance coming to the states in 2011 — albeit on a much smaller scale.

At the end of September, President Obama signed into law the Small Business Jobs Act, which includes more than $1.5 billion for states to cultivate small-business job growth.

How crucial is this sector to the overall economic recovery of states?

Data on jobs in the Midwest underscore the importance of small businesses: Almost 75 percent of the region's workforce is employed in establishments with fewer than 100 employees, and almost 90 percent is employed by establishments with fewer than 500 employees.

The new federal law creates two new programs to help small businesses grow.

News from Washington, D.C.

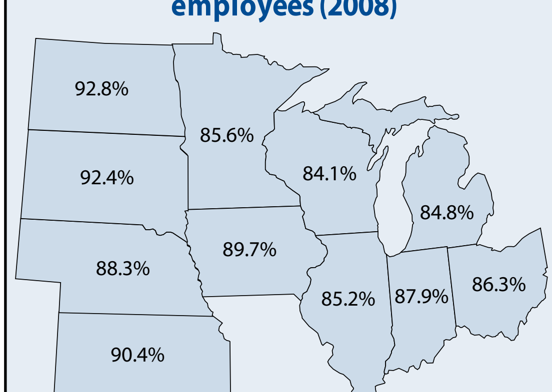
The first program, the State Small Business Credit Initiative, aims to help local entrepreneurs secure the credit they need to expand operations. States had to file notices of intent to apply for formula grant funds by the end of November (all Midwestern states except North Dakota applied); those states must submit applications to the U.S. Treasury by June 26.

The new initiative will allow states to expand their existing small-business lending programs or create new ones. Common existing programs include loan guarantees (the state provides partial guarantees on certain small-business loans) and capital access programs (the state matches the combined up-front premium paid by the bank and borrower into a reserve fund).

The second program created under the act is the State Trade and Export Promotion Grant Program. The goal of this three-year, $90 million initiative is to increase the number of small businesses exporting products to other countries. Grants will be awarded to states on a competitive basis.

Details of the application process and program structure will be finalized in a Small Business Administration report due to the U.S. Congress by Jan. 25. However, one guideline already has been set: The 10 states with the highest percentage of exporters that are small businesses may not receive more than 40 percent of total funding. Ohio and Michigan are among these 10 states.

% of workforce self-employed or in establishments with fewer than 500 employees (2008)



Source: YourEconomy.org (Edward Lowe Foundation)

Article written by Nell Etheredge, a legislative policy analyst in the Washington, D.C., office of The Council of State Governments. She can be reached at *netheredge@csg.org*.

CONTINUED FROM PAGE 1

Performance funding ties student outcomes to allocation of higher-education dollars

According to a study from the Community College Research Center at Columbia University, 26 states enacted some form of performance-based funding between 1979 and 2007, but 14 of them later dropped it. Factors causing states to abandon this approach have included declines in higher-education funding, a lack of institutional support and/or the loss of key proponents, and little support from the business community. In some states, too, the way the performance-based formula was established made it easier to abandon: Rather than being placed in statute, the formula was a budget proviso.

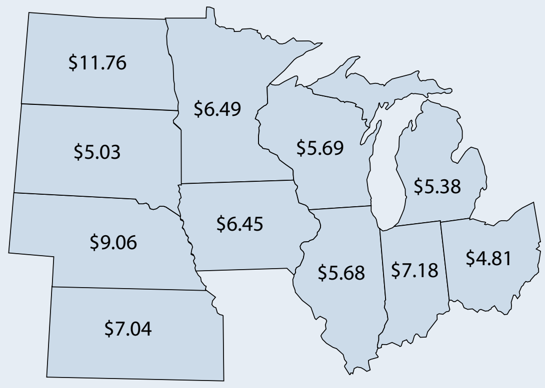
According to the center, the fact that so many state attempts at performance-based funding have been short in duration or limited in scope have made it difficult to measure the impact of this approach.

Opposition to performance-based funding has often centered on concerns about the cost of compliance as well as the pressure it could put on colleges to lower academic standards and/or narrow student access.

But with states facing record deficits, the demand for accountability and performance is high; as a result, legislators and education leaders are again taking a close look at new approaches to higher-education funding.

Indiana's efforts date back to 2003, while Ohio is in the second year of a new funding system. Illinois, which used performance funding from 1998 to 2002, is considering this model once again.

State support for higher education, per $1,000 in personal income*



* Data are for FY 2008-09. U.S. average is $6.26 in state support per $1,000 in personal income. State money does not include federal stimulus dollars or government service funds.

Source: Illinois State Center for the Study of Education Policy

> "States have funded [based on] enrollments because we believed giving people college access was the most important thing. ... In recent years, the focus has shifted to what happens after they get there."
>
> Kevin Corcoran, program director
> Lumina Foundation for Education

Incentives for colleges to perform

Earlier this year, Illinois lawmakers passed a resolution (SJR 88) establishing the Higher Education Finance Study Commission. Made up of legislators, finance experts, and education, business, labor and nonprofit leaders, the commission was tasked with, among other responsibilities, "analyzing best practices implemented in other states, such as Ohio and Indiana, for incentivizing certificate and degree completion, including incentives for students and for institutions."

Sen. Mike Frerichs

Donald Sevener, interim executive director of the Illinois Board of Higher Education, says his state's fiscal and economic problems are at least partly the reason for the renewed interest in performance funding.

"When you have a state unable to make its payments to institutions and lots of vendors on time, when you have resources dwindling year by year, it might be the most opportune time to evaluate what dollars we get and target them to state goals," Sevener explains.

He adds the state's colleges might welcome the opportunity to prove to legislators that what they're doing is valuable and that it is working.

"With more students completing courses, more students graduating, increasing numbers of minority and low-income students in college and succeeding, when we can show results like that ... we can show the dollars you're giving us are having positive outcomes," he says.

Michael Frerichs, vice chair of the Illinois Senate Higher Education Committee, says performance funding hasn't been high on the committee's to-do list, but he wants to learn more.

"I'm interested in taking a look at the recommendations of the commission [which were due by Dec. 1]," Sen. Frerichs says. "I think we definitely have a problem funding higher education, and we ought to be looking at different mechanisms."

Indiana has begun to do just that over the past seven years, as part of an effort to improve college completion and success rates.

Lubbers says her state's performance-based approach has been more of "an evolutionary process than a revolutionary process."

It started out with state incentives for universities that receive federal research funding. In 2007, the Indiana Commission on Higher Education added other factors, such as the number of degrees awarded, changes in the on-time graduation rate, and an incentive for community colleges to increase the rate of students transferring to four-year institutions.

During the 2009-11 budget cycle, Lubbers says, the state added another performance-based factor: course completion.

Colleges receive 90 percent of their usual funding for the number of students enrolled in courses, while 10 percent is based on students completing the courses. Another incentive encourages colleges to successfully serve low-income students.

"Through the course of this time period, we've had no new dollars really," Lubbers says. "We've had to carve out a portion of the base [funding] to do this, which makes it a little more challenging. We only have a little less than 7 percent of the higher-education budget which is performance-based."

Plans in Ohio are for performance funding to cover 100 percent of state funding for undergraduate education.

Eric Fingerhut

Ohio Board of Regents chancellor Eric Fingerhut says the state's performance funding system currently only applies to universities, but that community colleges will be brought into the system.

To help prevent schools from losing large amounts of funding while working to improve performance, stopgap measures have been built into Ohio's new formula.

Currently, a university cannot lose more than 2 percent of its previous funding due to poor performance.

"We will accelerate that pace," Fingerhut says. "At some point in the near future, that floor will go away completely."

Among the indicators being used in Ohio to gauge the performance of colleges and universities are course and degree completion. Community colleges will use "success points," which are major accomplishments for a student (such as completing the first 15 credit hours) that indicate he or she is on the right academic path.

"Everything we do is driven by our strategic plan for higher education, a plan which was required by the governor and General Assembly in statute [in 2008]," says Fingerhut, a former state legislator.

The goal of that plan, he adds, "is to leverage the assets of higher education to drive Ohio's future economic prosperity."

And that, in turn, has put less of a focus on student enrollment numbers and more of an emphasis on student outcomes.

"Only graduations and completions change the educational attainment of Ohio," he says. "It's necessary to align your funding, which is the principal incentive structure you have for your institutions, to your goal, which is graduation, not enrollment."

Fingerhut says Ohio's universities have generally supported this move toward performance-based funding because they were involved in its creation. He adds, too, that this model can help institutions point to the value that higher education brings to a state's economy.

"When you think about a state budget, everybody thinks about the bottom line, what has to be cut," Fingerhut says. "We are a top-line revenue generator. As long as we're demonstrating our commitment to be a top-line revenue generator, then we will continue to get support [from legislators]."

This article was written by Jennifer Ginn, a CSG education policy analyst. She can be reached at jginn@csg.org.

Got (raw) milk?

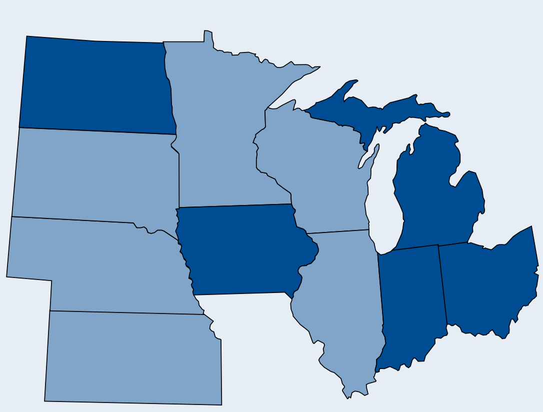
Debate over potential benefits, dangers of unpasteurized milk sales spurs controversy and legislation in Midwestern states

by Kathryn Tormey (ktormey@csg.org)

This spring, eight people in Minnesota became infected with *E. coli* — a potentially life-threatening bacteria often linked to food poisoning. When the state Department of Health investigated the illnesses, patients named a common source: "raw," unpasteurized milk from a Gibbons, Minn., farm.

In October, seven more illnesses — this time from bacteria *Campylobacter jejuni* and *Cryptosporidium parvum* — were linked to the same farm, leading the state to launch a campaign to inform the public about the risks associated with raw milk.

Laws governing unpasteurized milk sales in Midwestern states



Does not permit raw milk sales for human consumption

Raw milk can be sold on farms directly to consumers

Source: Weston A. Price Foundation

Raw milk has been lauded by consumers who believe that the product has health benefits. They believe that pasteurization decreases the nutritional value of milk and claim the raw version can cure everything from lactose intolerance to Crohn's disease. Proponents of raw milk sales add that consumers should have the choice to purchase it — and that farmers should be able to serve this niche market.

But health experts, including the U.S. Food and Drug Administration, have long warned the public about the dangers of raw milk. They maintain that pasteurization, which was developed more than a century ago to help eliminate pathogens in food, has little or no effect on milk's nutritional value. They add that by drinking raw milk, consumers run the risk of contracting bacteria and parasites that can pose serious health risks.

Children, pregnant women and the elderly are particularly vulnerable to the pathogens sometimes found in raw milk, which can cause a wide range of symptoms including fever, abdominal pain, malaise and vomiting that can last for weeks. According to the U.S. Centers for Disease Control and Prevention, about 1,500 illnesses were linked to the consumption of raw milk between 1993 and 2006.

The federal government prohibits the interstate sale of milk that is not pasteurized, but states can determine whether sales are legal within their own borders. Nationwide, about half of the states allow sales of raw milk.

Minnesota law difficult to enforce

In addition to the outbreaks linked to that Minnesota farm, at least 47 other people in the state have gotten sick after drinking raw milk so far this year.

Minnesota is one of the six Midwestern states that allow farmers to sell raw, unpasteurized milk to the public (Illinois, Kansas, Nebraska, South Dakota and Wisconsin are the others). In most of these states, the milk must be sold directly to consumers by farmers; in South Dakota, home delivery is permitted. (States such as California, Washington and Vermont allow retail sales, but no Midwestern states permit them.)

In Minnesota, sales must only be "occasional" and producers cannot advertise.

But the vagueness of Minnesota's law makes it more difficult to enforce, says Nicole Neeser, dairy inspection program manager for the Minnesota Department of Agriculture.

"[The law] has served us well for many years," she says. "It has allowed neighbors or friends to go to each other and purchase raw milk."

But with an uptick in the number of people searching for and purchasing raw milk, the state has struggled with a lack of resources to properly inspect facilities and ensure public health.

"We understand now more than ever that our law is a challenging one to enforce," she says. " … A change in policy, in that sense, would not necessarily be bad if it outlined more clearly what the expectations are for both parties."

Although she has heard talk of possible changes to the law, Neeser doesn't know of any formal efforts to put them into effect.

Wisconsin bill would allow milk sales

Wisconsin has legislation in place regarding raw milk that is similar to Minnesota's. But some policymakers in Wisconsin, including Democratic Rep. Chris Danou, are hoping to rework the 50-year-old law that bans most raw milk sales.

Danou would like to change state law to allow farmers, under certain guidelines, to regularly sell raw milk on the farm where it was produced.

Under legislation Danou introduced this year, farmers in the Dairy State would not be allowed to advertise the product and would have to label the product with warnings about its risks.

In addition, farmers would have to conduct monthly tests for pathogens.

Danou says that selling raw milk, which goes for a premium price of up to $10 a gallon, could be a lifeline for the state's small farms.

"[The bill would have helped] smaller farmers who have been wanting to generate additional revenue," says Danou, adding that they too often have to make one of two choices: "get big or get out."

The Senate version of the bill (SB 434) was approved by both legislative chambers. But it was vetoed by Democratic Gov. Jim Doyle in May.

Doyle echoed concerns raised by a number of public health groups, including the Wisconsin Public Health Association and the Wisconsin Academy of Family Physicians.

Doyle said that other states, such as California, have stricter standards for milk testing than the requirements set out in SB 434.

Danou, who drank raw milk from a family friend's farm as a child, says the health concerns are "overblown." He points to studies that suggest food contamination is more of a concern in large, central dairy-processing facilities where illness can spread quickly through the supply chain.

While he agrees that raw milk has its risks, Danou believes that consumers should be able to purchase it if they wish. He likens raw milk to cigarettes: As long as consenting adults know the risks, he says, they should be able to make their own choices.

Danou plans to tackle the issue again next legislative session. He says he would like to work on parts of the legislation that would give farmers immunity if consumers get sick from their products. His goal is to protect farmers from frivolous lawsuits, while at the same time leaving a method for punishing negligent vendors.

Ban in Iowa has been debated

Iowa Sen. David Johnson says that — in theory — he, too, would like to see farmers be able to capitalize on a growing niche market.

"But not at taking the risk of being sued," he says, "and certainly not at the cost of having health risks to the consumer."

Iowa is one of the Midwestern states (in addition to Indiana, Michigan, North Dakota and Ohio) where it is illegal to directly sell unpasteurized milk for human consumption.

Legislation was introduced in Iowa earlier this year that would have repealed the state's ban. The bill (HF 2044) never received a committee hearing.

Johnson is opposed to the measure. After working on a dairy farm for the past 15 years, Johnson says, he is well aware of the risks of raw milk sales — to the consumer and the farmer.

"In today's litigious society, you just don't know what's going to happen," he says. "You'd have to sell a lot of milk to make up your legal costs."

Johnson expects the issue to come up again in the upcoming legislative session, but believes that public support is low. Earlier this year, a nationwide egg recall was traced back to at least two Iowa farms. With that health scare fresh in the minds of Iowans, he says, policymakers are unlikely to consider opening up raw milk sales in the state.

But despite states' efforts to regulate raw milk sales, consumers are finding ways to get the product anyway. Some are taking part in "herd shares" — arrangements through which they pay farmers to care for cows in exchange for the rights to the milk the animals produce. In most cases, laws that regulate farm-to-consumer raw milk sales do not apply to herd shares.

Kansas Sen. Janis Lee

Longtime legislator focuses on taxes, education; recently appointed to new role in state government

by Laura Kliewer (lkliewer@csg.org)

To say that Janis Lee knows her legislative district well would be an understatement. She lives on the same land where she was raised as a child — and a mile and a half from where she was born in rural north-central Kansas.

Her close connections to the land, issues and constituents of rural Kansas have shaped her approach to public service.

She is the first Democrat and the first woman to represent her district in the Kansas Senate. During her first Senate race, she started campaigning well over a year before the 1988 election — going door to door five to six days a week. Lee's hard work paid off: She garnered 67 percent of the vote.

Lee says she has a passion for the policy process, a trait that has served her well in her position as Senate assistant minority leader, in which she has served since 1996. She says she works well with minority leader Sen. Anthony Hensley and has identified her own role as a leader.

"[He] is very attuned to the political process, and I'm much more attuned to the policy process," she says. "… I could never be the political leader that he is, but I do very much enjoy being involved and helping to lead on the policy side of the issues. And my years of experience have helped me to develop a lot of background in policy."

Education issues first drew her to public service — she has a degree in elementary education from Kansas State University and served on the Kensington School Board when her three children were in school. While education remains a main focus, her interests have expanded to encompass a wide array of issues of concern to her constituents.

For example, in recent years she has come to learn a great deal about coal-fired power plants. Policymakers in her state became divided over a proposed plant in the western part of the state.

The ranking member of the Senate Utilities Committee, Lee has been a vocal proponent of the plant. The siting process was initially delayed when then-Gov. Kathleen Sebelius' administration denied a permit based on concerns about greenhouse-gas emissions.

After weighing factors such as economic impact, energy security and environmental concerns, Lee has developed a clear position on the issue: The project is good for her part of the state.

"If you look to the near future — the very near future — utilities in western Kansas do not have enough electric generation available," she says.

But soon Lee will be weighing a different key policy issue as a chief hearing officer on the Kansas Court of Tax Appeals. She was appointed to the position by Gov. Mark Parkinson in November.

Lee will have to be confirmed by the Senate and would then step down from the legislative seat she has held for more than 20 years.

"It was not an easy decision, but it was not too difficult to make either," she says. "It is an honor to have been asked by the governor to serve in this capacity, and one of the few things I would leave the Senate for."

Lee says she already has a hectic schedule, balancing her life as a lawmaker, legislative leader, wife and rancher/farmer. Lee and her husband have a farming operation with her brother and his wife. Lee contributes as much as time allows, cooking for the hired men when she's home and doing bookkeeping late at night and on the weekends.

Whenever she can, she also pursues her passion for gardening. The couple has an expansive yard with several large flower beds and a 3,000-gallon fish and lily pond.

> "I consider having been able to serve as a senator for 22 years a privilege, and something that I have dearly loved. I look forward to the new challenge."

This fall, Lee talked to CSG Midwest about her legislative career and her new role in state government. Here are some excerpts from the interview.

Q: What factors first motivated you to run for the Senate?

A: My parents had always been very interested in government. When I was about 8 years old, my father ran for the Kansas Senate, actually for approximately the same seat that I now hold. He didn't win that race, but at our dinner-table discussions, people who were elected officials were always considered to be public servants and were talked about with respect. …

Later in life, I had served about nine years on my local school board and realized that so much that affected what we did on the school board came from the state level. Those two things combined made me decide to run for the Senate.

Q: Looking back on your 22 years in the legislature, what pieces of legislation, or efforts to pass legislation, are you most proud of?

A: There are many things that I was glad I was a part of, from changes in school finance to changes in water law and utilities issues. Having had the opportunity to serve on the Kansas Electric Transmission Authority was one of the highlights of my legislative career. …

In 2004, we passed water legislation, which is something that I was a major player in, and I am very proud of that. It dealt with stream classification — which streams would be regulated by the Department of Health and Environment.

We put in place what I understand is a model being used in other states now. We put in standards that tell [the KDHE] how to determine which streams have enough water in them — enough "flow" — that they should be regulated. …

That was a huge project, but ultimately we were successful and came out with a very good product. … Since that time, I've had people who work at KDHE tell me that it was a good thing and it has really given them the tools that they need to be able to deal with that issue.

Q: Can you explain a bit about what you will be doing on the Court of Tax Appeals?

A: The Court of Tax Appeals is the highest tribunal that hears cases involving property, income, sales, compensating use, and inheritance taxes, along with other matters involving taxation by state and local authorities.

There are three judges and a chief hearing officer, and I will serve as the chief hearing officer. I will be in charge of the small claims and expedited hearing division. Small claims deals with single-family residential properties, as well as commercial properties appraised at $2 million or less. The expedited hearing division hears appeals from the Department of Revenue or the Division of Taxation if the amount of tax in dispute does not exceed $15,000.

Q: How did you feel when you heard you were being appointed by Gov. Parkinson, and how will you use your experience as a legislator in your new role?

A: It's very exciting. I spent 20 years on the Senate Assessment and Taxation Committee and I also chaired what was called the Use Value Advisory Committee, which deals with how agricultural land is taxed and valued in Kansas. I served on that from 1995 until about 2004, and served as chair under both Democrat and Republican governors. …

I have a wealth of background on what laws have been passed and legislative intent on many of those laws. So I will use the knowledge that I have gained over the years. ….

I've always very much enjoyed dealing with tax issues. I feel I have a very good understanding of our tax laws, so I'm looking forward to a new challenge.

Q: What will you miss most about being a legislator?

A: There are many things. I'll miss being a part of the process of making policy, I'll miss the camaraderie of my fellow senators, and I will miss the opportunities to individually serve the people of my district. …

I consider having been able to serve as a senator for 22 years a privilege, and something that I have dearly loved. I look forward to the new challenge.

North Dakota's oil boom helping state build solid financial foundation

Legacy Fund sets aside portion of revenue for future generations

by North Dakota Sen. Rich Wardner (rwardner@nd.gov)

North Dakota has been blessed with natural resources that are contributing to the positive financial climate in our state. The main resource is oil production from the Bakken and Three Forks shale formations in western North Dakota's Williston Basin.

The state has two oil taxes: a 5 percent tax on gross production, which was instituted by the Legislative Assembly in 1953 and assessed on the first barrel of oil produced in the state; and the 6.5 percent tax on extraction, which was added in 1980 by a vote of the people to help fund K-12 education.

All told, for the 2009-2011 biennium, our combined oil tax of 11.5 percent will collect an estimated $1.3 billion. That figure amounts to 25 percent of our state's general-fund expenditures. North Dakota — both its elected officials and the people of the state — have worked to use this revenue wisely.

This fall's passage by voters of a legislatively initiated constitutional amendment is another step in this direction. The newly created Legacy Fund puts money away for the next generation of North Dakotans, and complements previous policy decisions in our state to invest oil revenue in education, infrastructure improvements, economic development and property tax relief.

The idea behind the Legacy Fund is to provide a consistent revenue stream for our state in case of a downturn in its oil industry. Today, the industry is more than healthy: North Dakota now has more than 150 oil rigs and is fourth in oil production among the 50 states.

The legislature, though, believed state government could and should do more with the increased revenue from this booming economic sector. We liked how neighboring Wyoming was managing revenue from its natural resources, and we felt the time had come to follow suit by saving more of our oil tax revenue. Putting our proposed Legacy Fund in the state Constitution would limit future spending, we thought, and would ensure that the state is fiscally prepared for periods when our economy slows and tax revenues are down.

Focusing on the future

As a result, we passed the Legacy Fund constitutional amendment and sent it on to voters, who approved the proposal on Nov. 2 by a 28-point margin.

Under this new measure, 30 percent of oil taxes will be placed in the Legacy Fund. Principal and earnings cannot be spent until 2017, after which the interest will be transferred to the state's general fund. The legislature will also be able to spend up to 15 percent of the principal in any biennium with a two-thirds vote of both legislative chambers.

Prior to creation of the Legacy Fund, North Dakota had two constitutionally mandated funds that received a portion of oil tax revenue. These two funds specifically target spending on and saving for K-12 education (see below for details on the Common Schools Trust and Foundation Aid Stabilization funds).

We also already had in place the Permanent Oil Trust Fund, which was created by the legislature in 1997 as a mechanism for depositing tax revenues from oil extraction and production.

For any given biennium, money is deposited in this fund after $71 million in oil tax collections has gone to the general fund. It was not until 2004 that the $71 million threshold was reached and revenue could be placed in the Permanent Oil Trust Fund. This fund, though, is not, as "permanent" as its name implies; the legislature has spent revenue from it on special projects and property tax relief.

The newly created Legacy Fund, then, marks a significant change in how we manage our oil tax revenue. We will be saving much more. But we also will continue to spend some of the money on an ongoing basis in order to ease tax burdens, build our infrastructure and pay for K-12 education.

Projected 2011-13 deposits of oil tax revenue in North Dakota

Where revenue will be deposited	Amount	Purpose	Status
Legacy Fund	$613 million	General savings	Constitutional
Common Schools Trust Fund	$100 million	K-12 trust	Constitutional
Foundation Aid Stabilization Fund	$100 million	K-12 savings	Constitutional
Political subdivisions	$247 million	Infrastructure	Constitutional
General fund	$71 million	General needs	Legislative
Permanent Oil Trust Fund	$699 million	Property tax reduction, economic development	Legislative
Research and Impact funds	$12 million	General needs	Legislative
Resources Trust Fund	$200 million	Water/energy conservation	Constitutional

Source: North Dakota Legislative Council

How the oil taxes are used

Our 5 percent tax on gross production (imposed in lieu of property taxes on oil- and gas-producing properties) is distributed in two ways. Much of it goes back to the counties, cities and school districts in our state's oil-producing areas.

The rest of the tax goes to the state general fund and the Permanent Oil Trust Fund (a total of $113 million in the current biennium). About $8 million of the general-fund portion is put in the Energy Impact Grant Fund, which can be used by oil-producing counties for road, school-construction and public safety projects. Another $4 million is placed in the Oil and Gas Research Fund, which is used to finance projects that research new methods to enhance oil and gas production.

Revenue from the 6.5 percent extraction tax is distributed differently. Created by voters in the 1980 election, the tax was established to fund K-12 education and to bolster the state general fund. Over time, the legislature has made some changes in how the money is allocated. Here is the current breakdown.

- Ten percent is deposited in the Common Schools Trust Fund — a constitutionally created fund that has grown to over $1 billion. Along with the oil revenue, rental and lease income and other money collected from state lands are deposited in the fund. For the 2009-2011 biennium, the fund contributed $86.3 million to a $1.3 billion K-12 education general-fund appropriation.
- Ten percent is deposited in the School Foundation Aid Stabilization Fund. The principal of this fund may only be spent upon order of the governor to offset cuts in K-12 education spending due to shortfalls in general-fund revenue.
- Twenty percent is deposited in the Resources Trust Fund. Principal and income from this constitutional fund can only be spent upon legislative appropriations for water-related infrastructure projects and energy conservation programs. During the 2009-11 biennium, $51 million was generated to fund water projects.
- Sixty percent, or roughly $441 million, is deposited in the general fund and the Permanent Oil Trust Fund and is appropriated by the legislature. The amount is equal to 10 percent of the state's general-fund budget.
- Above and beyond its contribution to the general fund, oil tax revenue has allowed the legislature to build up its budget stabilization fund. State dollars are moved into this "rainy-day account" when our ending general-fund balance is over $65 million. (The fund is limited to 10 percent of general-fund expenditures.) We have $325 million in the stabilization fund, and one reason why is the positive impact that the oil industry has had on our state's overall economy and tax collections.

Our state's oil industry and economy likely won't always be as strong as they are today, As the table on this page shows, creation of the Legacy Fund will have a significant impact on how we manage our current oil tax revenue: over the next biennium, and beyond, much more revenue will be saved for the future.

Our goal is to build a sound financial foundation for the next generation of North Dakotans.

North Dakota Republican Sen. Rich Wardner is a past chair of the Midwestern Legislative Conference.

Submissions welcome

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

CSG joins presidential commission to discuss future of nuclear waste

Last month, a U.S. presidential commission heard from Midwestern experts about radioactive-waste facility siting and transportation.

The Transportation and Storage Subcommittee of the Blue Ribbon Commission on America's Nuclear Future gathered in Chicago last month to learn about storing and transporting highly radioactive spent fuel from the nation's nuclear power plants.

Appointed in January 2010 by President Obama, the commission is examining options for managing nuclear waste now that the plans for completing a repository at Yucca Mountain in Nevada have been cancelled. During the Nov. 2 meeting, the panel looked at shut-down plants, facility-siting processes and requirements for transporting spent fuel.

John Herron, president and CEO of Entergy Nuclear, shared a utility's perspective regarding the issue of nuclear waste storage and disposal. He cited the example of Michigan's Big Rock Point reactor, located on a 585-acre site on the shore of Lake Michigan. Shut down in 1997, the plant was decommissioned in 2006.

Workers move a cask loaded with spent nuclear fuel from the shut-down Big Rock Point nuclear plant to a temporary onsite storage facility. The waste will remain at the Michigan site until the federal government develops a facility for storing or disposing of the nation's spent fuel. Photo credit: Entergy Nuclear.

Remaining on the site, however, are eight radioactive waste storage casks, seven of which contain spent fuel. These casks will stay at the site until the federal government fulfills its obligation to remove them.

While the nation waits for a repository to replace Yucca Mountain, Herron believes the federal government should fund a demonstration project to move spent fuel from sites like Big Rock Point to a centralized storage facility. Such a project would benefit the utilities and their customers by eliminating the need for ongoing security and maintenance costs (which, for Big Rock Point, are $2.5 million annually).

Local communities, too, would benefit from the opportunity to use the property for other purposes, he said. In addition, the nation would benefit from the insights and experience gained and by building public confidence in the federal government's ability to manage highly radioactive waste.

CSG Midwest committee weighs in

Representatives of The Council of State Governments' Midwestern Radioactive Materials Transportation Committee were among the experts who addressed the Blue Ribbon Commission.

One of the committee members who spoke to the panel was Tim Runyon, a nuclear-safety expert from the Illinois Emergency Management Agency.

Runyon discussed the history of low-level waste disposal facility siting and presented lessons learned that could improve site selection for centralized spent-fuel storage. Like other state efforts, Illinois' attempt to establish a low-level waste facility was unsuccessful.

Runyon added that it is vital to involve state agencies in any siting process because they are responsible for protecting citizens and have firsthand knowledge of local conditions and infrastructure. Runyon asserted that the federal government should engage states and local governments very early in the process, conduct meetings and outreach locally, and work with organizations such as CSG Midwest.

Transporting spent fuel safely is possible, but it takes careful planning and coordination, said CSG Midwest's Lisa Janairo.

Based on the region's work on previous radioactive waste shipping campaigns, Janairo concluded it would take nine to 12 years to plan a national transportation program that would meet the states' expectation of being safe, secure, and efficient while meriting public confidence.

States also expect to receive financial assistance to help defray the costs of preparing for shipments. Under current draft guidelines, federal grants would be awarded after routes had been identified and at least four years prior to the first shipment.

After public meetings conclude in 2010, the Blue Ribbon Commission will release a draft report for public comment in mid-2011. The commission's final report is due to the U.S. secretary of energy in January 2012.

CSG's radioactive material transportation committee is the principal activity of the Midwestern Radioactive Materials Transportation Project, which brings states in this region together to work with each other, the U.S. Department of Energy and states in other regions to plan and prepare for shipments of radioactive waste and materials. The initiative is a joint project between CSG Midwest and the DOE and was established in 1989.

For more information, visit the committee's website at *www.csgmidwest.org/About/MRMTP.htm*.

Alberta becomes member of MLC

The Midwestern Legislative Conference will soon welcome the Canadian province of Alberta as its newest member.

The MLC Executive Committee voted at its August meeting to invite the province to join as an affiliate member. The province accepted the invitation this fall and will soon hold an official ceremony celebrating its affiliation with the MLC.

Alberta is the fourth Canadian province to join the MLC; Manitoba (2004), Ontario (2001) and Saskatchewan (2000) are already affiliate members.

Alberta's membership in the MLC will help strengthen ties between the province and the Midwest. This region is Alberta's most important export region, and Illinois is the province's most important export destination in the world, based mostly on natural gas and crude oil exports.

Alberta's main export is energy, with oil and gas accounting for 70 percent of the province's exports and one-quarter of its gross domestic product. The province's natural resources include oil, oil sands, natural gas and coal.

Apply now for Toll Fellows program

Applications for CSG's national leadership institute are now available. The Toll Fellowship Program, named for CSG founder Henry Toll, is one of the nation's premier leadership-development programs for state policymakers.

Each year, Toll Fellows brings 40 state officials from all three branches of government to Lexington, Ky., for a six-day "intellectual boot camp." The 2011 program will take place Sept. 9-14.

TOLL FELLOWS
BUILDING LEADERS

The agenda includes speakers and sessions designed to stimulate personal assessment and growth. The Toll program also provides networking opportunities.

Previous programs have included sessions on leadership personality assessment, media training, crisis management, appreciative inquiry and adaptive leadership.

Applications are due Feb. 25 and are available online at *www.csg.org/TollFellowsApplication*. For more information, contact Krista Rinehart at 859.244.8249 or *krinehart@csg.org*.

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 Governors Association and the Midwestern Legislative Conference. The 10-state MGA includes the governors of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, South Dakota and Wisconsin. The MLC is 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 Manitoba, Ontario and Saskatchewan are MLC affiliate members.

CSG MIDWEST

CSG center helps states improve criminal justice policy, reduce corrections spending

Since the 2006 creation of The Council of State Governments Justice Center, about half of the Midwestern states have received assistance from the center in improving criminal justice policy.

The Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. It provides practical, nonpartisan advice and consensus-driven, evidence-based strategies to increase public safety and strengthen communities.

The Justice Center specializes in taking on complex issues that involve criminal justice, mental health, and other related policy areas.

The board of directors is made up of state legislators and other policymakers who have extensive expertise in criminal justice issues. Kansas Rep. Pat Colloton currently serves as vice chair. Wisconsin Sen. Lena Taylor and Michigan Sen. Alan Cropsey are also members of the board.

JUSTICE ★ CENTER
THE COUNCIL OF STATE GOVERNMENTS

Staff and board members bring together their diverse range of professions and perspectives to ensure that recommended policy reforms are practical and effective.

The Justice Center supports a number of national projects, some of which have led to extensive work in the Midwest.

Focus on mental health and justice

The Criminal Justice/Mental Health Consensus Project is an unprecedented national effort to help policymakers, as well as criminal justice and mental health professionals, improve responses to people with mental illnesses who come into contact with the criminal justice system.

The Justice Center is the technical assistance provider for the U.S. Bureau of Justice Assistance's Justice and Mental Health Collaboration Program, which forms partnerships between criminal justice, juvenile justice, mental health treatment and substance abuse systems to improve outcomes in the criminal justice system for people with mental illness.


Kansas Rep. Pat Colloton

Two projects completed in the Midwest have served as pilots for national initiatives.

Consensus Project staff worked with local leadership and Rep. Colloton to analyze the jail population in Johnson County, Kan., and to develop customized policy options, including new processes for regional collaboration.

The Consensus Project has worked with policymakers in Illinois to develop training on mental illness for state trial judges. Assistance from the Justice Center was requested by Illinois Supreme Court Appellate Justice Kathryn Zenoff, who is chair of a committee on mental health and the courts. Staffers are working with other judicial leaders, the American Psychiatric Foundation, and the National Judicial College to explore offering this training to interested jurisdictions in 2011.

Justice Reinvestment project

The Justice Reinvestment initiative assists state policymakers in using a data-driven approach to reduce spending on corrections and reinvest savings in strategies that decrease crime. The Justice Center's experts provide states with comprehensive, independent analyses of their criminal justice data and provide them with practical policy options that can reduce crime and save tax dollars.

The Justice Center has assisted policymakers from 14 states, including Kansas, Michigan and Wisconsin. In the past year, the center has undertaken projects in Indiana and Ohio.

In Indiana, Gov. Mitch Daniels and judicial and legislative leaders announced the launch of the first comprehensive review of the state's criminal code and sentencing policies since 1976. State leaders have established a bipartisan, inter-branch committee to work with Justice Center staff using a justice-reinvestment approach.

In Ohio, the Justice Center has been working with state leaders since December 2009. In July, state policymakers and stakeholders reviewed and discussed the Justice Center's research findings. The Justice Center is currently developing with policymakers a framework to hold offenders accountable, target crime-fighting strategies and strengthen probation supervision.

Improving reentry programs

In 2008, Congress passed, and President Bush signed, the Second Chance Act. The legislation authorized funding to state and local governments, as well as community and faith-based organizations, working to improve outcomes for people returning from prisons, jails and juvenile facilities. The SCA also established the National Reentry Resource Center to deliver technical assistance to SCA grantees and other reentry policymakers and practitioners dedicated to improving public-safety strategies.

Building on CSG's previous work in reentry, including the 2005 publication of the influential "Report of the Reentry Policy Council," the Justice Center applied for and received the grant from the U.S. Department of Justice's Bureau of Justice Assistance to host the NRRC.

The NRRC's website (*www.nationalreentryresourcecenter.org*) provides information on reentry policy and practice. The NRRC also publishes a monthly newsletter (subscribe by entering your name and e-mail address on the website's front page).

The Justice Center's assistance is made possible through a partnership with the Pew Center on the States and with the financial support of organizations such as the U.S. Department of Justice's Bureau of Justice Assistance.

For more information about CSG's Justice Center, visit *http://justicecenter.csg.org*.

CALENDAR

UPCOMING MIDWESTERN LEGISLATIVE CONFERENCE AND COUNCIL OF STATE GOVERNMENTS EVENTS

CSG 2011 SUMMIT
Uncasville, Conn.
March 26-30, 2011
Contact: *registration@csg.org*
800.800.1910
www.csg.org/events

66TH ANNUAL MEETING OF THE MIDWESTERN LEGISLATIVE CONFERENCE
Indianapolis, Indiana
July 17-20, 2011
Contact: Gail Meyer (*gmeyer@csg.org*)
630.925.1922
www.csgmidwest.org

17TH ANNUAL BOWHAY INSTITUTE FOR LEGISLATIVE LEADERSHIP DEVELOPMENT
August 12-16,2010

(Application deadline: March 28)

Contact: Laura Tomaka (*ltomaka@csg.org*)
630.925.1922
www.csgmidwest.org/ About/BILLD.htm

LOOKING FOR MORE?

TO LEARN MORE ABOUT KEY POLICY ISSUES IN THE STATES, TURN TO ***FIRSTLINE MIDWEST***. PAST EDITIONS CAN BE FOUND AT ***WWW.CSGMIDWEST.ORG***. RECENT EDITIONS HAVE EXPLORED:

STATE STRATEGIES FOR PROMOTING INNOVATION, ENTREPRENEURSHIP
(October/November 2010)

THE FUTURE OF STATE EMPLOYEE RETIREMENT SYSTEMS: POLICYMAKERS LOOK AT RETIREE HEALTH BENEFITS
(August/September 2010)

THE FUTURE OF STATE EMPLOYEE RETIREMENT SYSTEMS: STATES REVAMP PENSION PLANS
(June/July 2010)

EDUCATION REFORMS SPURRED BY THE RACE TO THE TOP PROGRAM
(April/May 2010)

CAPITOL *CLIPS*

Minnesota streamlines committee structure

The number of legislative committees in **Minnesota** will be significantly reduced over the next biennium, a move that leaders say will save the state money and free up lawmakers to spend more time with constituents.

The changes were announced in November and will take effect in early January.

The streamlining of legislative committees is expected to result in savings of $500,000 or more. Legislative leaders say the change also should make it easier for the public to follow the lawmaking process.

The House will have 24 legislative committees and divisions, down from 36. The number of Senate committees and divisions was cut from 25 to 16, the St. Paul *Pioneer Press* reports.

According to The Council of State Governments' "The Book of the States," the number of legislative committees varies widely from state to state. **Nebraska**, the only U.S. state with a unicameral legislature, had 14 legislative committees in 2009 — fewest among the 50 states. In contrast, **Illinois** had 85. Here are the number of standing committees in the eight other Midwestern states (as of 2009): **Indiana**, 43; **Iowa** and **Michigan**, 46; **Kansas**, 63; **North Dakota**, 23; **Ohio**, 48; **South Dakota**, 27; and **Wisconsin**, 64.

Illinois OKs civil unions for same-sex couples

Illinois became the first state in the Midwest with a civil-union law for same-sex couples as the result of a bill (SB 1716) passed during the legislature's fall veto session.

According to the Human Rights Campaign, New Jersey is the only other U.S. state with such a law, which provides the equivalent of state-level spousal rights to same-sex couples. Those rights, the *Chicago Tribune* reports, include making end-of-life decisions, handling probate matters, sharing nursing-home rooms, and having guaranteed access to visit an ailing partner in the hospital. (In some cases, hospitals limit patient access to families only.)

One year ago, **Wisconsin** lawmakers extended some statewide spousal rights to same-sex couples through a new domestic-partnership law.

Iowa is the only Midwestern state (and one of five in the nation) that issues marriage licenses to same-sex couples. In 2009, that state's Supreme Court ruled in a unanimous decision that defining marriage as a union between a man and a woman violated the Equal Protection Clause of the Iowa Constitution. In November, Iowa voters ousted all three Supreme Court justices who were up for retention election. Never before in the state's 48-year-old history with retention elections had an Iowa Supreme Court justice lost his or seat on the bench, *The Des Moines Register* reports.

Close-up on state tax credits for film industry

Tax incentives to attract the filmmaking industry are expected to receive close scrutiny in 2011 by legislatures and newly elected governors in at least three Midwestern states.

In **Michigan**, incoming Gov. Rick Snyder has said his state's incentives — the most generous in the nation — need to be scaled back. A recent analysis done by the state's Senate Fiscal Agency found that in FY 2010, Michigan spent an estimated $100 million in film tax credits to generate $59.5 million in private sector activity and an additional $10.3 million in state tax revenue.

Last year in **Wisconsin**, the state cut back on its film incentive program, but incoming Gov. Scott Walker has said he would like to find ways of luring more film projects — and the jobs and economic activity that come with them — to the state. In contrast, newly elected **Iowa** Gov. Terry Branstad told the *Sioux City Journal* that he plans to eliminate his state's incentive program. The Iowa program was suspended in 2009 after reports of abuse in how the tax credits were being used. A subsequent report by the state auditor found that $25.6 million in film tax credits were improperly issued by the state.

According to a November report by the Center on Budget and Policy Priorities, 43 states now have tax incentives in place for television and film production. Those incentives cost states about $1.5 billion last year, the center found.

States at forefront of fight over foreclosure

The practice of "robo-signing" by banks and other loan servicers in the mortgage foreclosure process has resulted in new legislation in **Illinois** and a first-of-its-kind lawsuit in **Ohio**.

The goals of Illinois HB 6951 are to ensure the integrity of foreclosure documents and to make certain that lenders are complying with federal loan-modification requirements, Attorney General Lisa Madigan, who introduced the measure in November, said in a press release.

Under the bill, lenders would have to verify the efforts they have made to help homeowners, including proof that they have considered loan modification. In addition, any affidavit filed as part of the foreclosure process would have to contain a detailed description showing that the person who signed the document has personal knowledge of the facts of the case. A bank would also have to prove that it holds the loan on the home and has the right to foreclose.

In October, all 50 states joined forces to investigate concerns about "robo-signing": the signing of affidavits and other documents in foreclosure proceedings (judicial or non-judicial) without confirmation of the accuracy of these documents. One week before this investigation was announced , Ohio became the first U.S. state to file a lawsuit against a mortgage servicer over fraudulent affidavits filed in foreclosure cases.

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