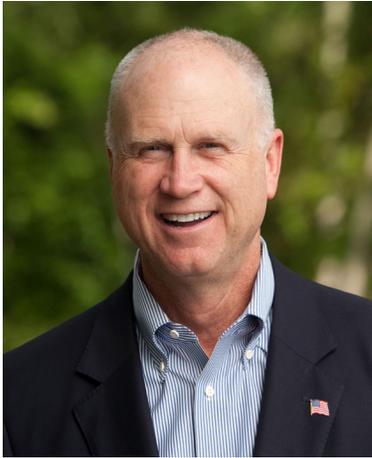


AT ISSUE

FEDERAL EDITION

2019 • Volume 4 • Issue 1



As summer months come to an end and we prepare for the 2019-2020 school year, Senate members are busy with meetings in their district and preparing for the upcoming session. The Lt. Governor's Office is in the process of appointing committee members to the 17 Senate Study Committees created during the 2019 session. In the next few months, these committees will begin holding meetings around the state to address a variety of issues that could potentially lead to new legislation during the 2020 session. These issues include reducing waste in health care, freight innovation and logistics, reducing Georgia's cost of doing business and the creation of a Georgia Agricultural Marketing Authority, among others. We will be providing an update on some of these topics in the next issue of *At Issue: State Edition*.

While we are working on issues affecting our state, we are also keeping a close eye on what is happening at the federal level. Legislative decisions made in D.C. will surely have an impact on our state and economy. The first topic we address in this issue of *At Issue: Federal Edition* is data as a driving component of the U.S. economy. For several years now, big data has had an impact on the way we identify workforce needs, diagnose health care issues, and underwrite insurance and even how policy decisions are made by elected officials on every level. In this article, we provide an overview of how big data has started making an impact on the legal field.

The second article addresses an issue that is critical to our state's economic success and is our number one industry – agriculture. In December of 2018, Congress passed the Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill. Along with impacting agricultural and food issues, this legislation will also now address legalization of hemp and improving broadband access and health care outcomes in rural Georgia. This article details how this legislation will have an impact on these three areas in our state.

I hope that you find this issue of *At Issue: Federal Edition* helpful and that it provides an overview of certain policies, so that you fully understand any implications they may have on the citizens of Georgia. I look forward to hearing your opinions on these topics, and as always, please do not hesitate to reach out to me if you have topics you would like future editions of *At Issue* to cover.

Butch Miller
Georgia Senate President Pro Tempore
butch.miller@senate.ga.gov

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Emerging Federal Policy Initiatives

Legal Analytics: A New Frontier in Data Use

James Beal, Policy Analyst
Senate Research Office
james.beal@senate.ga.gov

Big data drives the U.S. economy—from identifying workforce needs and consumer trends to health care diagnoses, insurance underwriting, and government policymaking. Big data is everywhere and is only getting bigger.

One industry to recently embrace big data as a tool is the legal field. Traditionally, attorneys know the law, know their judges, know their judicial districts and circuits, recognize possible outcomes of cases given local jury pools and community sentiments, and predict the general result of a case or controversy. All of this experience is what clients seek when choosing their lawyer. As former Supreme Court Justice Oliver Wendell Holmes wrote in his seminal Harvard law review article, a lawyer's study is of the "prediction of the incidence of the public force through the instrumentality of the courts."

How can a computer condense legal text into a data set? How can an algorithm take a certain judge in a certain district, input specific features of a case, and find the probability of various results? How can a legal team more efficiently comb through thousands, maybe millions of pages of documents to find relevant versus privileged documents in a discovery request? *Legal analytics* is the practice of collecting and managing data to assist attorneys and legal departments in answering these types of questions.

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Nationally, big data is being employed in both private legal practice and in the regulatory world. By bringing to bear data science methodologies, legal analytics is creating new tools for the traditional practice. Some of the prominent processes in which legal analytics are being adopted in legal practice are: 1) expertise automation; 2) legal research; 3) contracts analytics; 4) electronic discovery (popularly known as “e-discovery”); and 5) predictive analytics. In addition to these traditional legal practices, legal analytics also helps to ensure compliance with regulations—both for regulators and for those industries under regulation.

Highlighting E-discovery, Legal Research, and Predictive Analytics

Where private practice is concerned, e-discovery, legal research, and predictive analytics are moving to become central features in the use of legal analytics in medium and big law practices. Law schools across the nation have embraced teaching e-discovery, an electronic process for identifying and producing electronically stored information in response to lawsuits or investigations. Four of Georgia’s five law schools list e-discovery courses in their available course catalogs, and the Georgia Bar maintains a section specializing in e-discovery.

Legal research giants LexisNexis and Thomson Reuters/Westlaw have acquired data analytics firms in recent years, giving them the technology to bring artificial intelligence (“AI”) to practitioners. According to a LexisNexis executive, integrating AI into their legal research platforms gives an attorney “insights about a variety of problems, from judicial tendencies to arguments that are effective in a judge’s chambers.”

As for predictive analytics, think of it as modeling out potential outcomes based on a specific set of facts and circumstances. The predictive features of legal analytics can help legal teams better advise clients of the outcomes should the client wish to take certain directions. This is likely the part of legal analytics which is most enticing—and divisive—to lawyers, clients, and stakeholders in the judicial system.

On one hand, lawyers and paralegals are given a tool to assist in collecting information, determining courses of action, and advising a client of the probability of multiple outcomes. In the most basic form, a predictive analysis can help answer the question: “Should we settle or go to court?” On the other hand, having the probability of various outcomes in front of litigants may shape the behavior of parties and, in turn, shape the behavior of our judicial system in unknown ways. In the criminal arena, predictive analytics has the potential to either improve the often cited disparities in our imperfect system or reinforce them. For instance, one fact regarding a criminal defendant’s past can change an entire outcome of a case. Variables such as trauma suffered as a child, an intervening action in the commission of a crime, or a particular community’s unique circumstances cannot always be accounted for by a computer. Furthermore, given that our constitutional system affords criminal defendants the right to challenge every element of a charge, a defense can generally be limitless in scope. Predictive analytics cannot account for every aspect of a crime nor the surrounding circumstances. The premium our system places on a criminal defendant’s right to defend themselves against the loss of life and liberty means predictive analytics, at least where criminal prosecution is concerned, faces pitfalls which can hurt more than help our criminal justice system.

Using Legal Analytics to Improve Regulation

In the regulatory space, legal analytics is showing strong potential for improving both government actors and private industry. For example, the U.S. Securities and Exchange Commission (the “SEC”), the federal body that regulates the buying, selling, and trading of stocks and other securities, has begun to embrace what one of their Commissioners calls “RegTech,” short for “regulatory technology,” a pun on “FinTech.” In a September 2018 speech at Georgia State University’s College of Law, SEC Commissioner Kara Stein touted the SEC’s recent embrace of data analytics to ensure compliance among their regulated entities. These regulated entities are required to provide audits and regular filings to the SEC under federal law. Leveraging its power as an industry regulator, the SEC adopted new rules for industry filings and now require they be made in a way that can be converted into a machine- and computer-readable format, specifically an “XML” format. Where proprietary or otherwise confidential information must be filed, that information is kept secured.

In this instance, the benefit to the SEC is more data in which to better carry out its regulatory duties—detecting fraud and protecting investors. The benefit for investors and for those who study investments is access to data easily read by a computer to find trends and calculate risk. Beyond the benefits for the investment players, the collected data can be used to make more informed policy decisions at the state and federal levels, policy decisions which may reverberate in our ever-fluctuating markets.

Today’s Gold Rush

Legal analytics is all about data—mining it, collecting it, sifting through it, and turning it into something useful. As SEC Commissioner Stein put it: “...Like the gold rush of old, people are fighting over the most valuable data sets.” In the legal world, data is being harnessed to *improve* the tools lawyers and regulators have at their disposal to better advise, represent, and protect their respective constituencies, not supplant the role of the lawyer and the regulator. As with any new tool, applying it in a practical way comes with its own set of challenges. Practitioners must become educated in legal analytics and its limitations. Where policy is concerned, taking into account constitutional boundaries in criminal prosecution and being mindful of budget considerations for developing and implementing new systems is essential as Georgia continues to embrace the growth of big data. - JB

Agricultural Improvement Act of 2018: Reaping from Seeds Planted in the 2018 Farm Bill

Katherine Russell, Senior Policy Analyst
Senate Research Office

katherine.russell@senate.ga.gov

In December of 2018, Congress passed the [Agricultural Improvement Act of 2018](#), better known as the 2018 Farm Bill. About every five years, a new Farm Bill is passed. They are usually introduced in the first session of a two-year Congress (in odd numbered years). Originally, the bills were designed to address agricultural and food issues, but today, they contain much, much more.

The origins of the first Farm Bill grew out of the Agricultural Adjustment Act of 1933, part of the New Deal era. That bill was focused on subsidizing farmers who were suffering from a market with a surplus of food supply. Since then, we have seen farm bills evolve into far more complex pieces of legislation, focusing on extending programming and funding for ongoing projects and programs that involve much more than farming. As these pieces of legislation have become more complicated and politically sensitive, their passage becomes prolonged and unpredictable. For example, the 1973 Farm Bill was passed in just three months while the 2014 Farm Bill took more than 21 months to pass through Congress. The most recent version, the 2018 Farm Bill, was not the most controversial Farm Bill we have seen, but it did take 8 months to pass. These prolonged negotiations make reauthorization of programs less certain and often leave some wondering what the final bill contained.

Complex legislation usually leads to hidden gems for some communities, and the 2018 Farm Bill was no exception. The programs directly affecting Georgia are numerous, but there are a few exciting and unexpected components, including (but certainly not limited to): the legalization of hemp, funding for broadband expansion into rural areas, and funding for improving healthcare outcomes in rural communities.

1. Legalization of Hemp

Many will be surprised to learn that the legalized production of a previously controlled substance appeared in the 2018 Farm Bill. According to the federal government, Hemp, or *Cannabis sativa L.*¹, can now be legally produced in the United States. Because it is the same plant used to produce marijuana, it will be heavily regulated at both the state and federal levels. The 2018 Farm Bill allows for states to set up their own regulatory systems designed to work in conjunction with the USDA, but each state must submit their plan to monitor and regulate production to the USDA with the consultation of the Governor and the Chief Law Enforcement Officer of that State.

The plans must include maintaining information on the land used to grow hemp (including a legal description), procedures for testing the hemp's THC levels, and procedures for effectively disposing of nonconforming plants or derivatives. Additionally, the plans must provide for procedures for annual inspections, procedures for submitting required information, and certification that the state has the resources and personnel to carry out the plan.

If a state does not receive plan approval (or does not submit a plan at all), farmers may apply for licensing from the USDA directly. Requirements for the USDA's plan are substantially similar to the requirements for state plans.

In conjunction with the federal laws, the Georgia General Assembly passed [House Bill 213](#), sponsored by Rep. John Corbett and Senator Tyler Harper, in the 2019 legislative session. This bill allows for the production of hemp in the state and establishes a state plan conforming to the federal requirements. Governor Brian Kemp signed the bill into law in May of 2019. Next, the plan will be submitted to the USDA for approval.



Governor Brian Kemp signs Georgia's Hemp Farming Act into effect on May 10, 2019 in Lake Park, GA

Source: WALB News 10

¹ Containing no more than 0.3 percent THC on a dry weight basis

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2. Broadband Expansion into Rural Areas

Another exciting and unexpected policy area the 2018 Farm Bill impacts is the advancement and expansion of internet services to rural areas. Section 6201 of the Farm Bill amends the Rural Electrification Act of 1936 to allow for greater broadband expansion and access funding. In addition to overall budget increases, three focused programs will channel funds to providers over the next five years: (1) the Middle Mile Infrastructure Grants, Loans, and Loan Guarantee Program; (2) the Innovative Broadband Advancement Grants and Loan Program; and (3) the Community Connect Grant Program.

The Middle Mile Infrastructure funding program is designed to encourage the expansion and extension of middle mile infrastructure to connect data centers, special access transports, interoffice transports, etc., with the backbone of the internet. These extensions are not intended to connect to last mile or end users. Loans can make up to 20% of the total project costs but must be completed within 5 years. The Farm Bill allocates \$10 million every year from 2019-2023 totaling \$50 million.

The Innovative Broadband Advancement Grant and Loan program¹ provides funding to eligible entities who create innovative technologies or methods to help decrease the cost of broadband deployment while providing faster speeds to rural areas. The Farm Bill provides for \$10 million a year for five years for this program as well, totaling \$50 million.

Finally, the Community Connect Grant Program offers funding to eligible service providers to construct, improve, or expand broadband networks in rural areas. Funding can be used for construction, acquisition, or leasing of facilities to deploy service. Applicants must provide broadband service to essential community facilities and provide free broadband services to community centers. The Farm Bill appropriates \$50 million every year for five years for this program, totaling \$250 million.

Additionally, the bill amends the Rural Electrification Act of 1936 by increasing the authorized appropriation to carry out Section 601 (also known as Access to Broadband Telecommunications Services in Rural Areas) from \$25 million a year to \$350 million a year from 2019-2023, totaling \$1,750,000.00.

The Georgia General Assembly passed a number of bills designed to help entities apply for these federal funding initiatives. For example, [Senate Bill 2](#), sponsored by Senator Steve Gooch, permits electric municipal corporations to provide broadband services either directly or through an affiliate to their customers. Similarly, [Senate Bill 17](#), also sponsored by Senator Steve Gooch, authorizes telephone cooperatives to expand their authority and include broadband services. These changes to state law make it possible for Georgia entities to apply for funding appropriated in the Farm Bill and serve the people of rural Georgia. Both of these bills have been signed by the Governor.

3. Improving Health Outcomes in Rural America

In conjunction with broadband expansion funds, the 2018 Farm Bill also allocated money to support telemedicine and distance learning for improved health care in rural areas. Ideally, the increased connectivity to rural areas through internet use will help the medical community reach people who are far removed from traditional offices.

The overall funding for distance learning and telemedicine projects increased from \$75 million to \$82 million for five years. Priority of direct loans and grants will be given to those projects that focus on providing development of telehealth facilities and systems for substance use disorder treatment, like opioid addiction. The legislation placed emphasis on prioritizing those facilities and programs that provide prevention services, treatment services, recovery services, and employ staff with appropriate expertise and training.

There are many opportunities for Georgians buried away in the five hundred-plus pages of the 2018 Farm Bill. With a little diligence and attention to detail, those benefits can be reaped and provide a brighter future for our rural communities. We've seen the Georgia legislature act to support several changes necessary for the advancement of our state and can expect to see this again in another five years with the 2023 Farm Bill. - KR



Senator Gooch sponsored both SB 2 and SB 17 which focused on broadband expansion into rural areas

Source: Senate Press

¹ This program retrofits the Rural Gigabit Network pilot program.

Recent Appointments to Interim Studies

Of the legislation creating study committees and commissions adopted during the 2019 legislative session, the following appointments have been made:

[HR 37 – Georgia Commission on Freight, Innovation, and Logistics](#)

• Members: Senator Beach of the 21st (Co-Chair), Rep. Tanner of the 9th (Co-Chair), Senators Gooch of the 51st, B. Jones of the 25th, Reps. Smyre of the 135th, Rutledge of the 109th, Mr. Brad Skinner, Ms. Rebecca Brewster, Mr. Rick Toole, Mr. George Powers, Mr. Derrick Johnson, Ms. Stephanie Smith, Mayor Eddie DeLoach, Atlanta City Council President Felicia Moore, Commissioner Steve Taylor and Commissioner Mark Wisenbaker, Jr.

[SR 153 – Senate Study Committee on Revising Voting Rights for Nonviolent Felony Offenders](#)

• Members: Senator Robertson of the 29th (Chair), Senator H. Jones of the 22nd (Sponsor), Dugan of the 30th, B. Jones of the 25th, and Rhett of the 33rd.

[SR 202 – Study Committee on Evaluating and Simplifying Physician Oversight of Physician Assistants and Advanced Practice Registered Nurses](#)

• Members: Senator Hufstetler of the 52nd (Chair), Butler of the 55th, Kirkpatrick of the 32nd, Unterman of the 45th, and Watson of the 1st.

[SR 304 – Senate Athletic Association Study Committee](#)

• Members: Senator Thompson of the 14th (Chair), Jackson of the 2nd, Karinshak of the 48th Payne of the 54th, and Tillery of the 19th.

[SR 353 – Senate Study Committee on Community Schools](#)

• Members: Senator Martin of the 9th (Chair), E. Jones of the 10th (Sponsor), Brass of the 28th, Orrock of the 36th, and Tippins of the 37th.

[SR 366 – Senate Passenger Vehicle Seat Safety Belt Study Committee](#)

• Members: Senators Albers of the 56th (Chair), T. Anderson of the 43rd (Sponsor), Cowsert of the 46th, James of the 35th, Payne of the 54th

[SR 371 – Senate Protections from Sexual Predators Study Committee](#)

• Members: Senator Unterman of the 45th (Chair), Kirk of the 13th (Sponsor), Albers of the 56th, Kirkpatrick of the 32nd, and Robertson of the 29th.

[SR 442 – Senate Study Committee on Creating a Georgia Agricultural Marketing Authority](#)

• Members: Senator Walker of the 20th (Chair), Black of the 8th, Harper of the 7th, Powell-Sims of the 12th, and Wilkinson of the 50th.

[SR 452 – Senate Study Committee on the Financial Efficiency Star Rating](#)

• Members: Senator Tippins of the 37th (Chair), E. Jones of the 20th (Sponsor), Black of the 8th, Jordan of the 6th, and Stone of the 23rd.

[SR 479 – Senate Evaluating E-Scooters and Other Innovative Mobility Options for Georgia Study Committee](#)

• Members: Senator Gooch of the 51st (Chair), Albers of the 56th, Beach of the 21st, Ginn of the 47th, and Miller of the 49th.

Please click on the link below for the latest Senate Study Committee appointments, livestream archives, presentations and documents: <http://www.senate.ga.gov/committees/en-US/2019StudyCommittees.aspx>

Senate Research Office

Elizabeth Holcomb, Director

elizabeth.holcomb@senate.ga.gov

204 Coverdell Legislative Office Building
404.656.0015

Senate Budget & Evaluation Office

Melody DeBussey, Director

melody.debussey@senate.ga.gov

208 Coverdell Legislative Office Building
404.463.1970

Senate Press Office

Ines Owens, Director

ines.owens@senate.ga.gov

201 Coverdell Legislative Office Building
404.656.0028