



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Volume 133 Issue 40  
November 5, 2020

## Daylight Saving Time

Daylight saving time (DST) is the federally mandated period (from March to November) during which time is advanced by one hour and standard time is not observed. Under federal law, states may opt out of DST and adopt permanent standard time. However, federal law precludes the adoption of permanent DST by the states. Thus, an act of Congress is required to allow states to adopt permanent DST.

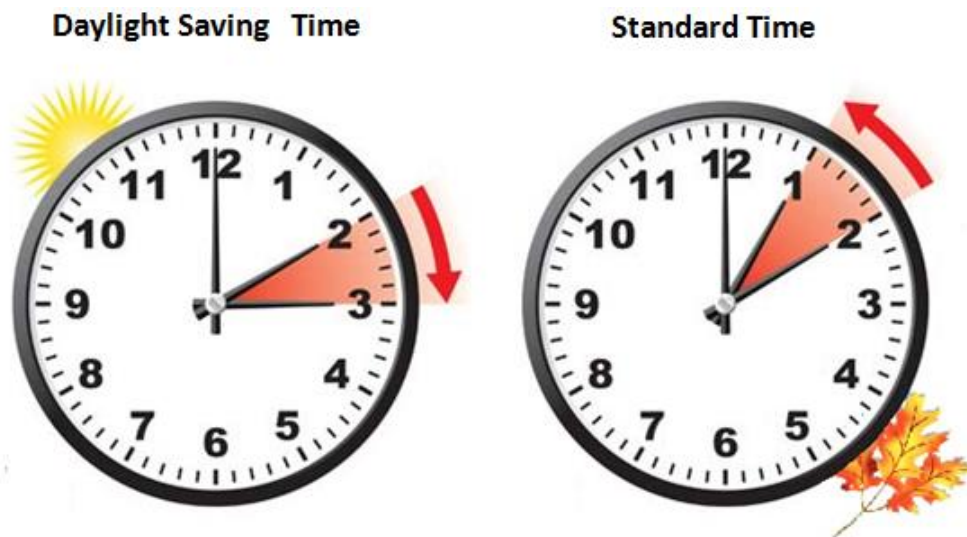
### Contents

Introduction: what is daylight saving time? .....	1
Figure 1: Daylight saving time and standard time .....	2
History of daylight saving time .....	2
Figure 2: Timeline of daylight saving time development.....	3
State legislation on DST .....	3
Figure 3: 2020 state legislative action regarding DST .....	4
Constitutionality of permanent DST state legislation .....	5
Federal action on DST .....	6

### Introduction: what is daylight saving time?

Under federal law, states are required to advance time by one hour during the period known as daylight saving time (DST). DST begins at 2:00 a.m. on the second Sunday of March of each year and ends at 2:00 a.m. on the first Sunday of November. Unless a state opts out of DST (see below), the time must be advanced as illustrated below.

## Figure 1: Daylight saving time and standard time<sup>1</sup>



The practical effect of DST is that from March to November, longer dark mornings are experienced in favor of longer sunlit evenings.

### History of daylight saving time

Until 1883, the U.S. did not have time zones or any form of standard time. Railroads ran on locally established times based on the sun's position. This proved difficult and was not always reliable. Thus, the development of the railroads made a standardized system of time necessary, and U.S. and Canadian railroad companies adopted four standard time zones: Eastern, Central, Mountain, and Pacific.<sup>2</sup>

In 1918, during World War I, Congress passed the Calder Act (or the Standard Time Act of 1918) that codified a standard time system. The Calder Act established a summer DST beginning on the last Sunday of March and ending on the last Sunday in October. However, after World War I, Congress abolished the summer DST.<sup>3</sup>

In 1961, Congress reevaluated the time system, which led to the Uniform Time Act of 1966 (Public Law (P.L.) 89-387). Standard time and DST observance were mandatory: clocks advanced one hour beginning at 2:00 a.m. on the last Sunday in April and turned back one hour at 2:00 a.m. on the last Sunday in October. The U.S. Interstate Commerce Commission (ICC) was charged with implementing the Act, and states could exclude themselves from DST. The Uniform

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<sup>1</sup> BBVA OpenMind, *The Tumultuous History of Daylight Saving Time*, October 17, 2018, <https://www.bbvaopenmind.com/en/science/scientific-insights/the-tumultuous-history-of-daylight-saving-time/>.

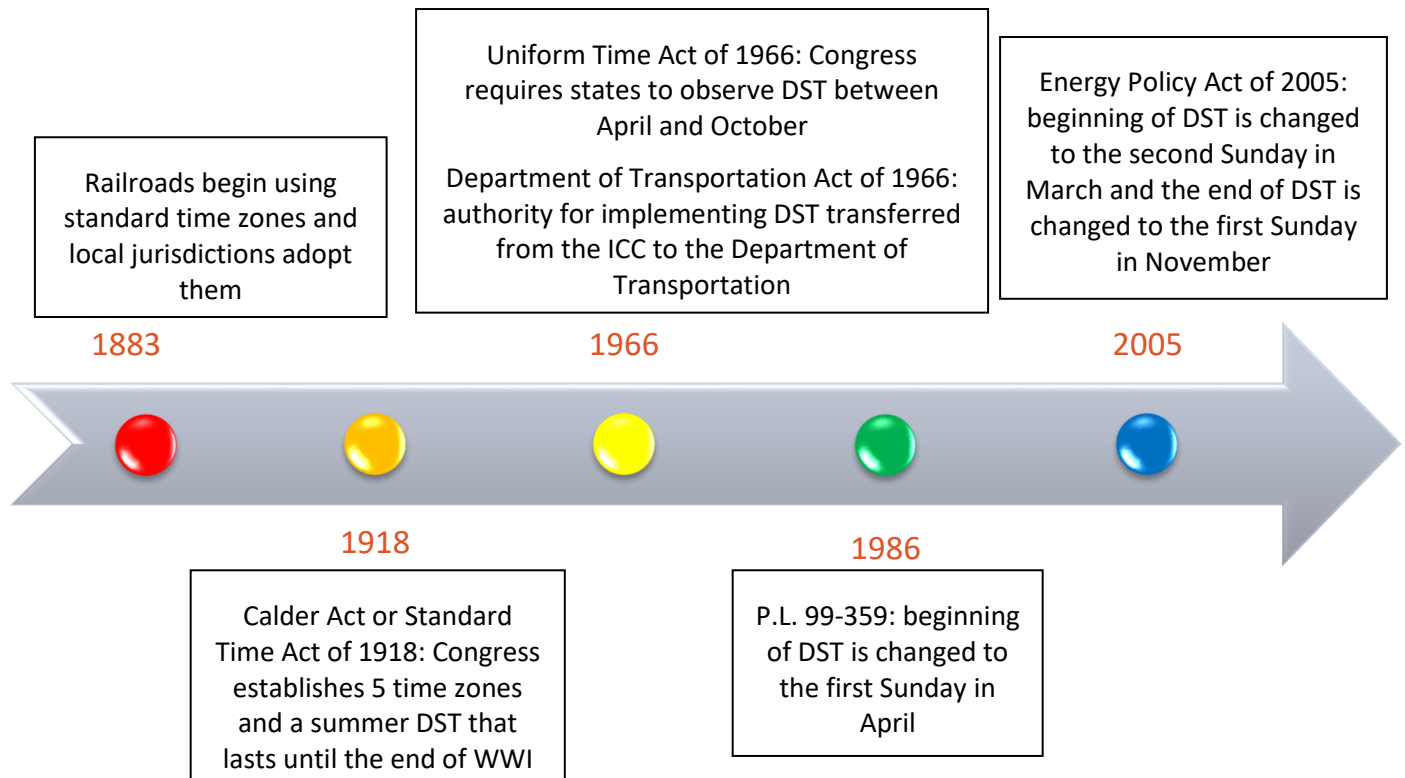
<sup>2</sup> U.S. Department of Transportation, *Uniform Time*, February 13, 2015, <https://www.transportation.gov/regulations/time-act>.

<sup>3</sup> Act, March 19, 1918, ch. 24, 40 Stat. 450 (15 United States Code (U.S.C.) 261 *et seq.*).

Time Act was later amended to transfer authority for its implementation from the ICC to the U.S. Department of Transportation and to adjust the dates on which the time is changed.<sup>4</sup>

The timeline below summarizes the major events in the development of DST.

## Figure 2: Timeline of daylight saving time development



## State legislation on DST

Forty-eight states observe DST as required by federal law.<sup>5</sup> Hawaii and Arizona are the two states that have opted out and follow standard time year-round.<sup>6</sup> A state may exempt itself from the requirement to implement DST, but only if the entire state observes the standard time. Federal law reflects Congress' intent to supersede any state law that does not comply with these requirements.<sup>7</sup>

<sup>4</sup> See 15 U.S.C. 260a; 1966 Department of Transportation Act (P.L. 89-670) (transferring implementing authority from the ICC to the Department of Transportation); P.L. 99-359 (1986), (changing the beginning of DST to the first Sunday in April); Energy Policy Act of 2005 (P.L. 109-58) (further changing DST to begin the second Sunday in March and end the first Sunday in November).

<sup>5</sup> 15 U.S.C. 260a. The Navajo Nation located in Arizona does observe DST. The territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands do not observe DST.

<sup>6</sup> Hawaii Revised Statutes Annotated § 1-31 and Arizona Revised Statutes § 1-242. Hawaii exempted itself from DST in 1967 and Arizona exempted itself in 1968.

<sup>7</sup> 15 U.S.C. 260a.

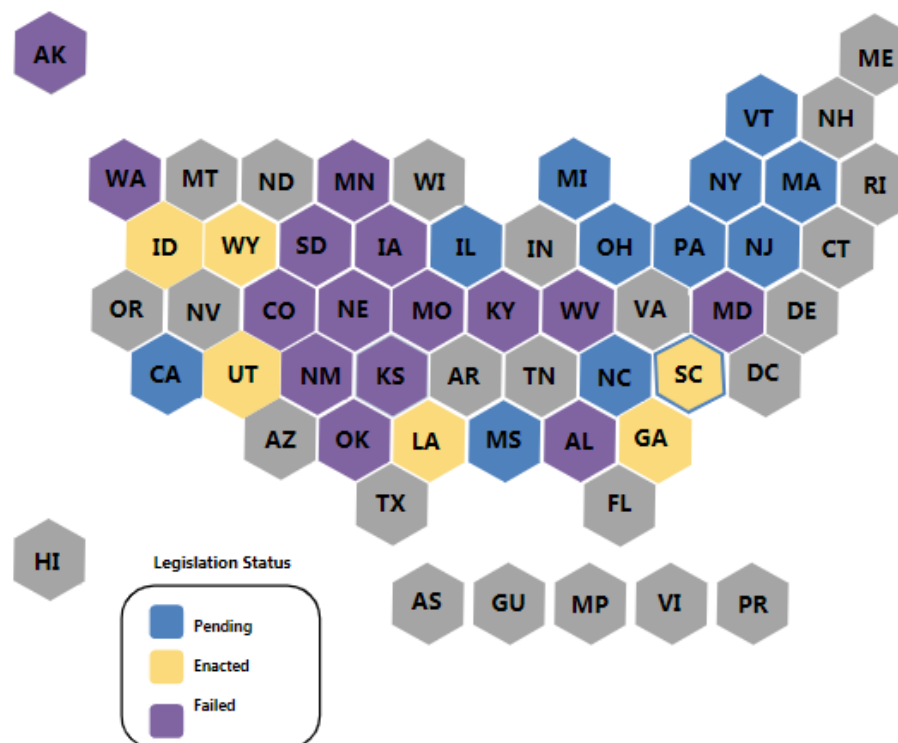
Studies reach varying conclusions regarding whether standard time or DST is the more beneficial form of time for policy reasons (including energy savings, human health, and public safety). However, a common rationale offered by proponents of changing the current time system is the impact of disruptions caused by changing the clock twice a year.

Since 2015, nearly every state has introduced legislation to make a change: to either permanently stay on standard time or convert to permanent DST. Though states may opt out of DST, federal law precludes states from adopting permanent DST. Thus, an act of Congress is required to allow states to adopt permanent DST.

In the last three years, multiple states have enacted legislation authorizing permanent DST should Congress authorize such a change. According to the National Conference of State Legislatures (NCSL):

So far in 2020, at least 32 states have considered 85 pieces of legislation, and six states—Georgia, Idaho, Louisiana, South Carolina, Utah and Wyoming—have enacted legislation. All of these would establish DST as the official time year-round, subject to an authorizing federal law and in some cases contingent on surrounding states enacting the same legislation.<sup>8</sup>

**Figure 3: 2020 state legislative action regarding DST<sup>9</sup>**



<sup>8</sup> National Conference of State Legislatures, *Daylight Saving Time State Legislation*, August 8, 2020, <https://www.ncsl.org/research/transportation/daylight-savings-time-state-legislation.aspx>.

<sup>9</sup> National Conference of State Legislatures, *Daylight Saving Time State Legislation*.

## Constitutionality of permanent DST state legislation

While states have enacted laws establishing permanent DST, those laws could be subject to challenge on two constitutional grounds:

- The Supremacy Clause of the U.S. Constitution; and
- Unlawful delegation of legislative authority under state constitutions.

The Supremacy Clause of the U.S. Constitution declares that laws made by Congress are “the supreme law of the land.”<sup>10</sup> A court may rule that a state law that conflicts with federal law is unconstitutional under the Supremacy Clause, particularly when Congress has included an express statement of intent to supersede any conflicting state law.<sup>11</sup>

Federal law prohibits states from establishing permanent DST and expressly states Congress’ intent to supersede all state laws on the matter:

It is the express intent of Congress by this section to **supersede any and all laws of the States** or political subdivisions thereof insofar as they may now or hereafter provide for advances in time or changeover dates different from those specified in [federal law].<sup>12</sup>

Moreover, federal law authorizes the U.S. Secretary of Transportation to obtain an injunction against any state that attempts to implement permanent DST.<sup>13</sup> For this reason, many states that have enacted permanent DST have delayed the effect of those laws or made them contingent on the actions of other states or Congress.<sup>14</sup>

However, a state law that is contingent on Congressional action or the actions of other states could also present a different constitutional conflict. Most state constitutions contain a general provision stating that the state legislature is the sole governmental body responsible for making decisions about what the law should be.<sup>15</sup> Courts have held that when a legislature passes a law that delegates that authority too far, that law is unconstitutional.<sup>16</sup> Thus, a court could view

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<sup>10</sup> U.S. Constitution, Article VI, cl. 2.

<sup>11</sup> *Puerto Rico v. Franklin Cal. Tax-Free Trust*, 136 S.Ct. 1938, 1946 (2016).

<sup>12</sup> 15 U.S.C. 260a(b), *emphasis added*.

<sup>13</sup> 15 U.S.C. 260a(c).

<sup>14</sup> See S.B. 1267, 65<sup>th</sup> Leg. Sess. (Idaho 2020) (conditioning permanent DST on action by the state of Washington); S-11 123<sup>rd</sup> Sess. (South Carolina 2020) (conditioning permanent DST on Congressional action); S.B. 59, 2020 Gen. Sess. (Utah 2020) (conditioning permanent DST on Congressional action and the action of other western states).

<sup>15</sup> See Ohio Constitution, Article II, Sections 1 and 26; Idaho Constitution, Article III, Section 1; Vermont Constitution, Chapter II, Section 2; Hawaii Constitution, Article III, Section 1.

<sup>16</sup> See *Hobbs v. Jones*, 2012 Ark. 293, 412 S.W.3d 844 (2012); *Gumbhir v. Kansas State Board of Pharmacy*, 228 Kan. Sup. Ct. 579, 618 P.2d 837 (1980) (striking down laws as unlawful delegations of legislative authority).

a state law that delegates that state's decision-making regarding the time system to Congress or other states as unconstitutional under the state constitution.

## **Federal action on DST**

On March 6, 2019, Senator Marco Rubio introduced the "Sunshine Protection Act of 2019." This bill creates permanent DST for all of the U.S. As of this brief, it has been referred to the Senate Committee on Commerce, Science, and Transportation but has not yet had a hearing.<sup>17</sup> Three other bills have also been introduced in the 116<sup>th</sup> Congress regarding DST. According to the Congressional Research Service:

H.R. 1601 and H.R. 2389 would provide additional flexibility in DST observance by adding an option for year-long DST observance. S. 4582 would temporarily extend the DST observance period that began on March 8, 2020, through November 7, 2021.<sup>18</sup>

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<sup>17</sup> Sunshine Protection Act of 2019, S. 670, 116<sup>th</sup> Cong. (2019).

<sup>18</sup> Congressional Research Service, *Daylight Saving Time (DST)*, September 30, 2020, p. 12 available at: <https://fas.org/sgp/crs/misc/R45208.pdf>.